



OFFICE OF  
THE CHAIRMAN

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

July 21, 2017

The Honorable Charles E. Grassley  
Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Grassley:

Thank you for your May 24, 2017 letter concerning the U.S. Citizenship and Immigration Service's (USCIS) EB-5 Immigrant Investor Program. I appreciate the opportunity to address the questions raised in your letter.

As you know, while the SEC has no role in administering the EB-5 program or in enforcing the U.S. immigration laws, it is within the SEC's authority to investigate potential violations of the federal securities laws. In the last few years, the Commission has brought a number of enforcement actions involving securities fraud claims arising out of EB-5 investments and unlawful unregistered broker-dealer activity related to EB-5 investments.

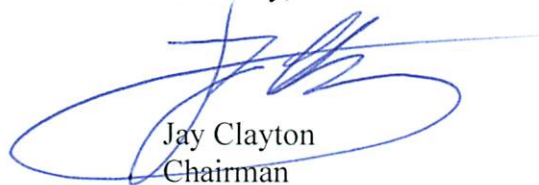
In your letter, you write with respect to the U.S. Immigration Fund and the Qiaowai Group, a Chinese company, in connection with the One Journal Square EB-5 project in Jersey City, New Jersey. You ask about potential investigations into these entities for potential violations of the U.S. securities laws. I have forwarded a copy of your letter to the Division of Enforcement in connection with the agency's statutory and regulatory responsibilities. As a matter of policy, the Commission conducts investigations on a confidential basis and does not acknowledge the existence or non-existence of any investigation unless or until charges are filed. We do so in order to protect the integrity of our investigations, safeguard the privacy of witnesses, and avoid damaging the reputation of persons who may not be charged. Accordingly, I cannot comment specifically on the matters raised in your letter.

Additionally, you ask whether either Qiaowai Group or U.S. Immigration Fund would be considered broker-dealers under Section 15 of the Securities Exchange Act of 1934 (Exchange Act). While I cannot comment on specific individuals or entities, I have sought general guidance from the staff of the Division of Trading and Markets which administers the agency's broker-dealer registration rules. According to the staff, determining whether an entity is a broker-dealer requires a facts-and-circumstances analysis but, as a general matter, domestic individuals or entities acting from within the United States that refer potential investors to issuers or related parties for compensation may have to register as brokers.

The federal securities laws contain an exemption from broker registration for certain affiliates of an issuer, often referred to as the "issuer exemption." To come within this non-exclusive exemption, a person must satisfy a series of conditions set out in Rule 3a4-1 of the Exchange Act. Individuals or entities physically present and engaged in the business of effecting transactions in securities in the United States generally are subject to the SEC's broker registration requirements, even if their activities are directed only to foreign investors outside of the United States. However, those who are physically located and operate exclusively outside of the United States, and who direct all of their activities towards foreign investors outside of the United States, may not be subject to broker registration requirements. Similarly, Rule 15a-6 of the Exchange Act provides a conditional exemption from U.S. registration for foreign brokers that only engage in certain limited activities, such as effecting unsolicited transactions with U.S. investors.

Please do not hesitate to contact me at (202) 551-2100, or have a member of your staff contact Bryan Wood, Director of the Office of Legislative and Intergovernmental Affairs, at (202) 551-2010 if you have any additional concerns or comments.

Sincerely,



Jay Clayton  
Chairman