

## OUR DUE DILIGENCE PROCESS



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# Today's Discussion

What is due diligence in EB-5 context?

What are the procedures involved in performing due diligence?

Why do it? What are the benefits?

# What is Due Diligence in EB-5?

Pursuant to the federal securities laws, an issuer and any parties acting for that issuer, must exercise reasonable care in ensuring that the information given to the offerees and purchasers about a deal is complete and accurate.

Due diligence is the process of ensuring - to the best of the investigator's ability - that the statements, documents and other information passing from the issuer to the purchasers are correct and devoid of any false or misleading information, to the same degree that the investigator would if evaluating his own property.

*Doug Hauer (Mintz Levin) authored article "EB-5 Due Diligence Matters: Industry at Point of Inflection Regarding Securities Compliance" - November 3, 2015*

# Highlights

NCE Structure	Limited Liability Company
Type of Investment in JCE	Preferred Equity
Type of Offering	Reg S
Approval of I-526 Exemplar	Yes
Total Project Cost	\$225 million
Total EB-5 Capital to be Raised	\$35 million
Minimum Raise Requirement	Nil
Total EB-5 Investors	70
TEA Designation	Yes
Investment Amount per EB-5 Investor	\$500,000
Administrative Fee	\$50,000
Number of Jobs Estimated	1,850
Total Jobs Required for all Investors	700
Job Cushion	1,150 or 164%
Use of Escrow	Yes
Use of Broker-Dealer	No
Use of Third-Party Fund Administrator	No
Independence Between Manager and JCE	Yes
# of EB-5 Offerings Completed or in Progress by Manager	2
# of I-526 / I-829 Approvals to Date by Regional Center	142/0
# of I-526 / I-829 Denials to Date by Regional Center	0/0
Return on Investment to EB-5 Investor	0.50% per annum
Estimated Duration to Exit	Minimum of five years

# Our Due Diligence Process

1. Investment Structure
2. Key Management (JCE) and (NCE)
3. Project Overview & Condition
4. Project Financing and Use of Funds
5. Market Feasibility Review
6. Financial Projections & Exit Strategy
7. Economic Impact Analysis Review
8. Status of Major Agreements
9. EB5 Investment Flow of Funds
10. Management Systems
11. Corporate Governance
12. Regional Center Designation & Compliance
13. Consultants and Advisors
14. Documents Reviewed
15. SWOT Analysis
16. Conclusion and Recommendations

# Civil Litigation Risk

“Investors who lose their money may well file lawsuits against issuers and any other party who induced them into a deal including lawyers, brokers and regional centers.”

*Doug Hauer - Mintz Levin (Law firm)*

# SEC Litigation or Investigations

“SEC complaints (with their Section 17(a) negligence standard) are almost a daily occurrence with respect to private placements.

Given the likelihood that we will continue to see litigation and regulatory actions in this area, due diligence is essential.

Issuers, regional centers and broker-dealers will find due diligence helpful in future litigation or investigations. Regardless of where you stand in a deal, due diligence is more important now than ever.”

*Doug Hauer - Mintz Levin (Law firm)*

# Reputation Risk

“As a service provider, whether an economist, business plan writer, or what have you, it’s important that the weaknesses of a deal are pointed out.

If you’re a good securities attorney or a good immigration attorney, it’s almost guaranteed; you bring credibility to a deal, and potentially to someone who may not deserve it. That’s how I look at it anyway. I don’t want to lose credibility, and I think taking that approach as a group we can vet bad transactions by not providing a service.”

*John Leo - Primary Capital (Broker Dealer, FINRA & SIPC member)*



# Liability Coverage

“No matter how hard we try to delve into every aspect of a potential client’s risk profile, we always become much more comfortable (or terrified) by the insight provided by a third party due diligence report prepared by a non-conflicted third party.”

*Dave Souders - Todd Associates (Commercial Insurance Brokerage)*

# Exemplar Addendum

“A well developed third party due diligence report, that verifies claims made by the issuer, cross references each aspect of the project, and summarizes its investigative findings, is bound to make an adjudicator’s job easier and should expedite the approval process”.

*Anonymous*