



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 16004809

Date: JULY 12, 2023

Appeal of Immigrant Investor Program Office Decision

Form I-526, Immigrant Petition by Alien Entrepreneur

The Petitioner seeks classification as an immigrant investor pursuant to the Immigration and Nationality Act (the Act) section 203(b)(5), 8 U.S.C. § 1153(b)(5) (2017). This fifth preference (EB-5) classification makes immigrant visas available to noncitizens who invest the requisite amount of qualifying capital in a new commercial enterprise that will benefit the U.S. economy and create at least 10 full-time positions for qualifying employees. Noncitizens may invest in a project associated with a U.S. Citizenship and Immigration Services (USCIS) designated regional center. *See* Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993, section 610, as amended.

The Chief of the Immigrant Investor Program Office denied the petition, concluding that the record did not establish that the capital, which has been invested by the Petitioner or which the Petitioner is actively in the process of investing, is capital obtained through lawful means. The matter is now before us on appeal. 8 C.F.R. § 103.3. On appeal, the Petitioner contends that the Chief's request for a third party's path of funds is a mistake of law because such a request constitutes new rulemaking in violation of the Administrative Procedures Act (APA), because USCIS has approved similar cases for many years without requiring any documents from third parties and such requirements should not be retroactively applied to the Petitioner, and because such a request applies a clear and convincing standard of evidence to the Petitioner.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Any assets acquired directly or indirectly by unlawful means, such as criminal activity, will not be considered capital. 8 C.F.R. § 204.6(e). A petitioner must demonstrate by a preponderance of the evidence that the capital was his or her own and was obtained through lawful means. 8 C.F.R. § 204.6(j)(3); *see also Matter of Ho*, 22 I&N Dec. 206, 210 (Assoc. Comm'r 1998). To show that the capital was his or her own, a petitioner must document the path of the funds. *Matter of Izummi*, 22

I&N Dec. 169, 195 (Assoc. Comm'r 1998). A petitioner cannot establish the lawful source of funds merely by submitting bank letters or statements documenting the deposit of funds in the new commercial enterprise. *Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195. The record must trace the path of the funds back to a lawful source. *Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195.

II. ANALYSIS

The Petitioner indicated on page 2 of his petition that on December 13, 2016, he invested \$500,000¹ in [REDACTED] the new commercial enterprise (NCE), which is associated with [REDACTED] [REDACTED] (Regional Center) pursuant to the Immigrant Investor Pilot Program. According to the Confidential Private Offering Memorandum of the NCE, the NCE proposed to pool \$334,000,000 from 668 immigrant investors and lend the entire amount to [REDACTED] the job-creating entity (JCE).

The offering memorandum further states that the JCE intends to develop, construct, and operate a new greenhouse facility comprised of 15,246,000 square feet of solar greenhouses and 90,000 square feet of support areas on a 370-acre plot of land and that the facility will have designated space for cultivating vegetables, an office area, and processing and storage areas and will be located in [REDACTED] [REDACTED] California. The offering memorandum also indicates that the project will be constructed in three group stages, each consisting of two phases, and implemented concurrently by three subsidiary companies of the JCE, [REDACTED] Limited Partnership,² [REDACTED] [REDACTED] Limited Partnership,³ and [REDACTED] Limited Partnership.⁴

A. Sources of Funds

The Petitioner asserted that he derived his investment funds through a gift of 3,700,000 Chinese renminbi (RMB) from his father, [REDACTED]⁵ The Petitioner further asserted that his father obtained the gift funds through his accumulated employment income from [REDACTED] from October 2010 to April 2014.⁶

¹ On March 15, 2022, President Joe Biden signed the EB-5 Reform and Integrity Act of 2022, which made significant amendments to the EB-5 program, including the designation of a targeted employment area (TEA) and the minimum investment amounts. See section 203(b)(5) of the Act, 8 U.S.C. § 1153(b)(5) (2022). In this case, the Petitioner filed his petition in 2016 and indicated that the project is located in a TEA. Therefore, the requisite amount of qualifying capital was downwardly adjusted from \$1,000,000 to \$500,000. See 8 C.F.R. § 204.6(f)(2) (2015).

² On July 31, 2017, [REDACTED] Limited Partnership filed a certificate of cancellation with the State of California, Secretary of State. Therefore, the [REDACTED] Limited Partnership is no longer authorized to transact intrastate business in California. See California Secretary of State, *Business Search – Frequently Asked Questions*, <https://www.sos.ca.gov/business-programs/business-entities/cbs-field-status-definitions> (last visited June 5, 2023).

³ On June 19, 2017, [REDACTED] Limited Partnership filed a certificate of cancellation with the State of California, Secretary of State. Therefore, the [REDACTED] Limited Partnership is no longer authorized to transact intrastate business in California.

⁴ On June 19, 2017, [REDACTED] Limited Partnership filed a certificate of cancellation with the State of California, Secretary of State. Therefore, the [REDACTED] Limited Partnership is no longer authorized to transact intrastate business in California.

⁵ See the Petitioner's source of funds report, undated.

⁶ See a statement from the Petitioner's father, [REDACTED], and mother, [REDACTED] dated October 23, 2016.

To support claims regarding his father's accumulated employment income, the Petitioner submitted an income certificate of his father from [] the human resources manager of [] which states that the Petitioner's father worked as a general manager of the company from October 2008 to April 2014, earning a total of RMB 4,965,840.74. The income certificate further states that the Petitioner's father's salaries were deposited into his wife, [] Bank of China (BOC) account ending in []. The income certificate also states that the Petitioner's father's income tax was withheld and paid by the company. While the income certificates demonstrate the Petitioner's father's employment and income from 2008 and 2014, the Petitioner did not submit sufficient evidence to support the claim that his father's salaries were deposited, accumulated, and maintained in his mother's bank account.

The Petitioner also submitted tax payment certificates of his father for the tax periods covering from January 2010 to July 2015. While helpful, the tax payment certificates are insufficient to demonstrate claims of accumulation and maintenance of funds from lawful sources because tax records show income taxes paid but do not evidence retention of after-tax income over periods of time.

The Petitioner submitted a bank statement of his mother from BOC for her account ending in [] for the period covering from April 25, 2016 to September 18, 2016. This bank statement shows that on September 18, 2016, the Petitioner's mother transferred RMB 3,700,000 from her BOC account ending in [] to a third-party exchanger, [] Industrial and Commercial Bank of China (ICBC) account ending in []. However, the bank statement of the Petitioner's mother does not show that his father's salaries were deposited, accumulated, and maintained in his mother's BOC account ending in [] as claimed.

The gift of RMB 3,700,000 has not been shown to derive from lawful means because the funds used by the Petitioner's mother to transfer to a third-party exchanger's account for the claimed gift to the Petitioner have not been shown to derive from lawful means.

B. Informal Value Transfer

The Petitioner asserted that to facilitate his EB-5 investment, his mother entrusted her friend, [] to assist her with the currency exchange and transfer of funds.⁷

The Chief found that the Petitioner transferred his investment funds to a third-party exchanger, [] bank account in China and [] then traded those funds for other funds belonging to [] and located in the United States and determined that the Petitioner has not submitted evidence regarding the source of funds actually invested in the NCE. The Chief also found that the Petitioner did not establish that any RMB funds were transferred to the secondary exchangers who provided U.S. dollars to the Petitioner and determined that the Petitioner did not provide evidence to demonstrate the lawful sources of the secondary exchangers' U.S. dollars.

On appeal, the Petitioner maintains that he established eligibility for the immigrant investor visa classification and submits statements from various exchangers without supporting documentation.

⁷ See the Petitioner's source of funds report, undated; see also a transfer statement from [] dated December 21, 2016.

On appeal, a third-party exchanger, [REDACTED] claims that on April 10, 2017, she transferred RMB 865,000 to a secondary exchanger, [REDACTED] bank account; that to protect [REDACTED] privacy, she cannot provide any more documents; and that the source of the U.S. dollars is legitimate.⁸ However, the Petitioner does not submit sufficient evidence to demonstrate the claimed transfers of funds and that the claimed lawful source of the U.S. dollar in the secondary exchanger, [REDACTED] bank account. Statements made without supporting documentation are of limited probative value and are not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Assoc. Comm'r 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg'l Comm'r 1972)).

(a) The Petitioner's investment of \$190,000 in the NCE on December 13, 2016

On September 18, 2016, the Petitioner's mother transferred RMB 3,700,000 from her BOC account ending in [REDACTED] to a third-party exchanger, [REDACTED] Industrial and Commercial Bank of China (ICBC) account ending in [REDACTED]

On December 12, 2016, [REDACTED] transferred RMB 347,000 from her ICBC account ending in [REDACTED] to a secondary exchanger, [REDACTED] ICBC account ending in [REDACTED] On December 12, 2016, [REDACTED] exchanged RMB 345,233.56 to \$49,800 and transferred \$49,800 from his ICBC account ending in [REDACTED] Bank of America (BOA) account ending in [REDACTED]

On December 12, 2016, [REDACTED] transferred RMB 347,000 from her ICBC account ending in [REDACTED] to a secondary exchanger, [REDACTED] ICBC account ending in [REDACTED] On December 12, 2016, [REDACTED] exchanged RMB 346,620 to \$50,000 and transferred \$50,000 from his ICBC account ending in [REDACTED] BOA account ending in [REDACTED]

On December 12, 2016, [REDACTED] transferred RMB 347,000 from her ICBC account ending in [REDACTED] to a secondary exchanger, [REDACTED] ICBC account ending in [REDACTED] On December 12, 2016, [REDACTED] exchanged RMB 346,630 to \$50,000 and transferred \$50,000 from his ICBC account ending in [REDACTED] BOA account ending in [REDACTED]

On December 12, 2016, in addition to the \$149,800 deposited into [REDACTED] BOA account by the three secondary exchangers as noted above, \$50,000 was deposited into [REDACTED] BOA account ending in [REDACTED] On December 12, 2016, [REDACTED] transferred \$190,000 from her BOA account ending in [REDACTED] to the Petitioner's BOA account ending in [REDACTED] On December 13, 2016, the Regional Center confirmed the receipt of \$190,000 from the Petitioner for his investment in the NCE.

Regarding the source of the \$50,000 deposited into [REDACTED] BOA account on December 12, 2016, in response to a request for evidence (RFE), [REDACTED] claimed that on December 12, 2016, she borrowed \$50,000 from a friend who had enough U.S. dollars in his U.S. bank account.⁹ However, the Petitioner did not identify the claimed friend of [REDACTED] nor did he provide a loan agreement, bank statements, or other sufficient evidence to support the claim that the \$50,000 deposited into [REDACTED] BOA account on December 12, 2016 was a loan obtained by [REDACTED] from the

⁸ See a statement of [REDACTED] dated December 8, 2018.

⁹ See a declaration of [REDACTED] undated.

friend. The Petitioner also did not provide sufficient evidence to show that the funds used by the friend to lend to [] were lawfully obtained.

On April 11, 2017, **\$120,000** was deposited into [] First General Bank (FGB) account ending in []. On April 11, 2017, a secondary exchanger, [] transferred **\$119,983** to [] FGB account ending in []. On April 11, 2017, [] transferred \$240,000 from her FGB account ending in [] to the Petitioner's BOA account ending in [].

Regarding the source of the \$120,000 deposited into [] FGB account on April 11, 2017, in response to the RFE, [] claimed that on April 11, 2017, she borrowed \$360,000 from a friend who had a U.S. bank account.¹⁰ However, the Petitioner did not identify the claimed friend of [] nor did he provide a loan agreement, bank statements, or other sufficient evidence to support the claim that the \$120,000 deposited into [] FGB account on April 11, 2017 was a loan obtained by [] from the friend. Also, the record is unclear whether the friend who had a U.S. bank account and loaned \$360,000 to [] or whether [] is referring to another individual. Moreover, the Petitioner did not provide sufficient evidence to show that the funds used by the friend to lend to [] were lawfully obtained.

In response to a notice of intent to deny (NOID), [] claimed that on April 11, 2017, [] loaned \$120,000 to her from [] work income. However, the Petitioner did not provide employment and income certificates of [] earning statements, income tax returns, social insurance payments record, bank statements, or other sufficient evidence to support the claim that the \$120,000 used by [] to lend to [] derived his employment income. Statements made without supporting documentation are of limited probative value and are not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165.

(b) The Petitioner's investment of \$360,000 in the NCE on April 15, 2017

On April 10, 2017, [] deposited **\$49,985** into a secondary exchanger, [] BOA account ending in []. The record does not contain sufficient documentary evidence to support claims of the lawful source and claims of the path of how [] obtained the \$49,985.

On April 10, 2017, [] transferred **\$50,000** from his ICBC account ending in [] [] BOC Macau Branch account ending in []. On April 11, 2017, [] transferred **\$122,000** from his or her BOC Macau Branch account ending in [] to a secondary exchanger, [] BOA account ending in []. The record does not contain sufficient documentary evidence to support claims of the lawful source and claims of the path of how [] obtained the \$50,000. The record also does not contain supporting documentary evidence to support claims of the lawful source and claims of the path of how funds arrived in [] BOC Macau Branch account ending in [].

On April 11, 2017, a secondary exchanger, [] issued a check for \$125,000 to [] using funds in his BOA account ending in []. On April 11, 2017, [] deposited the check for \$125,000 into her BOA account ending in []. On April 12, 2017, [] issued a check

¹⁰ See *id.*

\$120,000 to the Petitioner using funds in her BOA account ending in [REDACTED]. On April 12, 2017, the Petitioner deposited the check for \$120,000 into his BOA account ending in [REDACTED].

On April 13, 2017, the Petitioner withdrew \$360,000 from his BOA account ending in [REDACTED]. On April 15, 2017, the Regional Center confirmed the receipt of \$360,000 from the Petitioner for his investment in the NCE.

Regarding the source of the \$125,000 check issued by [REDACTED] on April 11, 2017, on appeal, [REDACTED] claims that on April 10, 2017, [REDACTED] transferred RMB 865,000 from her ICBC account to [REDACTED] bank account in China; and that on April 11, 2017, [REDACTED] transferred \$125,000 from his BOA account ending in [REDACTED] BOA account ending in [REDACTED]. [REDACTED] further claims that to protect his privacy, he cannot provide any more documents and that the source of the U.S. dollars is legitimate.¹¹

While we acknowledge the privacy claim, the Petitioner does not present sufficient evidence to establish the claimed lawful source of the U.S. dollars in the secondary exchanger, [REDACTED] BOA account. Statements made without supporting documentation are of limited probative value and are not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. A petitioner must demonstrate by a preponderance of the evidence that the capital was obtained through lawful means. 8 C.F.R. § 204.6(j)(3); see also *Matter of Ho*, 22 I&N Dec. at 210.

On appeal, [REDACTED] claims that on April 10, 2017, she transferred \$50,000 from her ICBC account to [REDACTED] BOA account; and that on April 11, 2017, [REDACTED] transferred RMB 346,200 from his bank account in China to [REDACTED] bank account in China. [REDACTED] further claims that to protect her privacy, she cannot provide any more documents and that the source of the U.S. dollars is legitimate.¹²

While we acknowledge the privacy claim, the Petitioner does not provide sufficient evidence to establish the claimed lawful source of the U.S. dollars in the secondary exchanger, [REDACTED] ICBC account. Statements made without supporting documentation are of limited probative value and are not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. A petitioner must demonstrate by a preponderance of the evidence that the capital was obtained through lawful means. 8 C.F.R. § 204.6(j)(3); see also *Matter of Ho*, 22 I&N Dec. at 210.

On appeal, [REDACTED] claims that on April 11, 2017, [REDACTED] transferred RMB 842,000 from his bank account in China to [REDACTED] bank account in China; and that on April 11, 2017, [REDACTED] transferred \$122,000 from his ICBC account to [REDACTED] BOA account. [REDACTED] further claims that to protect his privacy, he cannot provide any more documents and that the source of the U.S. dollars is legitimate.¹³

While we acknowledge the privacy claim, the Petitioner does not present sufficient evidence to establish the claimed source of the U.S. dollars in the secondary exchanger, [REDACTED] ICBC

¹¹ See a statement from [REDACTED] dated December 8, 2018.

¹² See a statement from [REDACTED] dated December 8, 2018.

¹³ See a statement from [REDACTED] dated December 8, 2018.

account. Statements made without supporting documentation are of limited probative value and are not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. A petitioner must demonstrate by a preponderance of the evidence that the capital was obtained through lawful means. 8 C.F.R. § 204.6(j)(3); *see also Matter of Ho*, 22 I&N Dec. at 210.

On appeal, [redacted] claims that on September 18, 2016, the Petitioner's mother transferred RMB 3,700,000 from her ICBC account in China to [redacted] ICBC account in China; that on April 10, 2017, [redacted] transferred RMB 827,700 to [redacted] bank account in China; that on April 11, 2017, [redacted] transferred \$120,000 from her FGB account ending in [redacted] FGB account ending in [redacted] and that on April 11, 2017, [redacted] transferred \$120,000 to the Petitioner's BOA account. [redacted] further claims that to protect [redacted] privacy, she cannot provide any more documents and that the source of the U.S. dollars is legitimate.¹⁴ [redacted] also claims that on April 10, 2017, [redacted] transferred RMB 827,700 from her ICBC account in China to [redacted] bank account in China; and that on April 11, 2017, [redacted] transferred \$120,000 from his FGB account ending in [redacted] FGB account ending in [redacted] further claims that to protect his privacy, he cannot provide any more documents and that the source of the U.S. dollars is legitimate.¹⁵

While we acknowledge the privacy claims, the Petitioner does not present sufficient evidence to establish the claimed lawful source of the U.S. dollars in the secondary exchanger, [redacted] FGB account. Statements made without supporting documentation are of limited probative value and are not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165.

On appeal, [redacted] claims that on April 11, 2017, he transferred \$120,000 from his bank account in Macau to [redacted] FGB account in the United States; and that on April 15, 2017, [redacted] transferred RMB 827,500 from his bank account in China to [redacted] bank account in China. [redacted] further claims that to protect his privacy, he cannot provide any more documents and that the source of the U.S. dollars is legitimate.¹⁶

While we acknowledge the privacy claim on appeal, the Petitioner does not present sufficient evidence to establish that the source of the U.S. dollars in the secondary exchanger, [redacted] bank account in Macau is legitimate as claimed. Statements made without supporting documentation are of limited probative value and are not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. A petitioner must demonstrate by a preponderance of the evidence that the capital was obtained through lawful means. 8 C.F.R. § 204.6(j)(3); *see also Matter of Ho*, 22 I&N Dec. at 210.

On appeal, [redacted] claims that on September 18, 2016, the Petitioner's mother transferred RMB 3,700,000 from her ICBC account in China to [redacted] ICBC account in China; that on April 10, 2017, [redacted] transferred RMB 827,700 to [redacted] bank account in China; that on April 11, 2017, [redacted] transferred \$120,000 from his overseas bank account to [redacted] FGB account

¹⁴ See a statement from [redacted] dated December 8, 2018.

¹⁵ See a statement from [redacted] dated December 8, 2018.

¹⁶ See a statement from [redacted] dated December 8, 2018.

ending in [] and that on April 11, 2017, [] transferred \$120,000 to the Petitioner's BOA account. [] further claims that to protect [] privacy, she cannot provide any more documents and that the source of the U.S. dollars is legitimate.¹⁷ [] also claims that on April 10, 2017, [] transferred RMB 827,700 from her ICBC account in China to [] bank account in China; and that on April 11, 2017, [] transferred \$120,000 from his overseas bank account to [] FGB account ending in [] further claims that to protect his privacy, he cannot provide any more documents and that the source of the U.S. dollars is legitimate.¹⁸

While we acknowledge the privacy claims, the Petitioner does not submit sufficient evidence to establish the claimed lawful source of the U.S. dollars in the secondary exchanger, [] overseas bank account. Statements made without supporting documentation are of limited probative value and are not sufficient to meet the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. at 165. A petitioner must demonstrate by a preponderance of the evidence that the capital was obtained through lawful means. 8 C.F.R. § 204.6(j)(3); *see also Matter of Ho*, 22 I&N Dec. at 210.

On appeal, the Petitioner contends that the Chief's request for a third party's path of funds is a mistake of law because it constitutes new rulemaking in violation of the APA, because USCIS has approved similar cases for many years without requiring any documents from third parties and such requirements should not be retroactively applied to the Petitioner, and because such a request applies a clear and convincing standard of evidence to the Petitioner.

However, the Petitioner does not present evidence that the Chief has not examined the source of funds used by third-party exchangers in the currency exchange or has approved other visa petitions without making an inquiry into the claimed lawful sources of funds used by third-party exchangers. Moreover, petitions are not required to be approved where the petitioner has not demonstrated eligibility because of prior approvals that may have been erroneous. *See, e.g., Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm. 1988). USCIS or any agency need not treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

As the Chief stated, because the Petitioner's funds were routed through third-party exchangers [] and there is insufficient documentation to demonstrate the legitimacy of the exchangers and the funds in the exchangers' accounts in the United States, Macau, or any other countries, the Petitioner bears the burden of demonstrating that the funds transferred to the Petitioner's BOA account were obtained through lawful means. Here, the Petitioner has not met this burden. Based on the evidence in the record, it appears that the Petitioner's funds sent to the exchangers' bank account in mainland China have never left mainland China. While the exchangers claim that the sources of the U.S. dollars in their accounts are legitimate, the record does not contain sufficient evidence to support these claims. The sources of the U.S. dollars in the exchangers' bank accounts in the United States, Macau, or any other countries have not been sufficiently demonstrated.

¹⁷ See a statement from [] dated December 8, 2018.

¹⁸ See a statement from [] dated December 8, 2018.

A petitioner must demonstrate by a preponderance of the evidence that the capital was his or her own and was obtained through lawful means. 8 C.F.R. § 204.6(j)(3); *see also Matter of Ho*, 22 I&N Dec. at 210. To show that the capital was his or her own, a petitioner must document the path of the funds. *Matter of Izummi*, 22 I&N Dec. at 195. The record must trace the path of the funds back to a lawful source. *Matter of Ho*, 22 I&N Dec. at 210-11; *Matter of Izummi*, 22 I&N Dec. at 195. USCIS' complete path interpretation of the regulations is its authoritative position as explained in the 1998 precedential decisions. *See Borushevskiy v. USCIS*, No. 19-3034, 2023 WL 2663006, at 19-20 (D.D.C. Mar. 27, 2023). These decisions require the petitioner to establish the complete path of funds to demonstrate that the funds were obtained through lawful means. *See id.* at 20. The plain language of 8 C.F.R. §§ 204.6(e) and 204.6(j)(3) supports USCIS' requirement that the petitioner identify the source of funds, which is demonstrated through documentation evidencing the complete path of funds. *See Truong v. USCIS*, No. 21-316, 2023 WL 4232658, at 5 (D.D.C. June 28, 2023). USCIS' path of funds requirement involves a substantive component and an evidentiary showing - what petitioners must prove and how they must prove it. *See id.* at 6. The relevant path includes tracing the funds from their point of origin through any intermediary accounts. *See id.*

In the present case, it appears that the Petitioner's funds sent to the exchangers' bank accounts in mainland China have never left mainland China. The exchangers transferred U.S. dollars from their bank accounts in the United States, Macau, or any other countries to the Petitioner's bank account in the United States. There are breaks in the paths of the Petitioner's funds. Since the Petitioner is unable to establish the complete path of his funds from mainland China to the United States, the Petitioner must demonstrate by a preponderance of the evidence that the funds occurring after the breaks in the paths derived from lawful means. While the exchangers claim that the sources of the U.S. dollars in their accounts are legitimate, the Petitioner does not present sufficient evidence to support these claims. The Chief's request for evidence of the source of funds used by third-party exchangers as part of her examination of the lawful source of funds of the Petitioner is supported by regulations and precedent decisions.

For the reasons we have discussed above, the record remains insufficient to establish by a preponderance of the evidence that the capital, which has been invested by the Petitioner or which the Petitioner is actively in the process of investing, is capital obtained through lawful means.

In light of our discussion on the Petitioner's failure to sufficiently document the lawful sources and the paths of funds he purportedly invested in the NCE, we need not consider other eligibility issues in this case, including deference and the Petitioner's failure to establish that the JCE is principally doing business and creates jobs in a targeted employment area, that he has invested or is actively in the process of investing the required amount of capital in the NCE, that he has placed the required amount of capital at risk for the purpose of generating a return on the capital placed at risk, and that the investment of the required amount of capital in the NCE will create full-time positions for at least 10 qualifying employees within two years. We will reserve these and other eligibility issues for future consideration should the need arise.¹⁹

¹⁹ *See INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach); *see also Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternate issues on appeal where an applicant is otherwise ineligible).

III. CONCLUSION

The Petitioner has not demonstrated by a preponderance of the evidence that the capital, which has been invested by the Petitioner or which the Petitioner is actively in the process of investing, is capital obtained through lawful means. Accordingly, the Petitioner has not established by a preponderance of the evidence eligibility for the immigrant investor visa classification.

The appeal will be dismissed for the above-stated reasons, with each considered as an independent and alternate basis for the decision.

ORDER: The appeal is dismissed.