

**Written Questions of Senator Jeff Flake**

“Nominations”

U.S. Senate Judiciary Committee

May 24, 2017

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**Questions for Francis Cissna**

1. The USCIS is currently finalizing new regulations pertaining to the EB-5 visa program.
  - a. To the best of your knowledge has USCIS conducted a cost-benefit analysis of these regulations?
  - b. If not, to the best of your knowledge, why not?
    - i. Under your leadership will USCIS intend to undertake any preliminary cost-benefit analysis before promulgating its EB-5 rules?
    - ii. If not, what other actions does USCIS intend to take in order follow the “General Principles of Regulation” suggested in Executive Order 13,563, “Improving Regulation and Regulatory Review”? (“Our regulatory system ... must take into account benefits and costs, both quantitative and qualitative.”)

**Response:**

**It is my understanding that a cost-benefit analysis was included in the Notice of Proposed Rulemaking (NPRM), 82 Fed. Reg. 4,738 (Jan. 13, 2017).**

2. As it relates to the Department of Homeland Security’s pending EB-5 rules, does USCIS under your leadership intend to “identify and assess alternative forms of regulation and ... to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt” as suggested by Executive Order 12,866 (“Regulatory Planning and Review”)?
  - a. If so, please provide my staff with that assessment at the appropriate time.
  - b. If not, why not?

**Response:**

**It is my understanding that the NPRM includes an extensive discussion of the requirements of E.O. 12866. If confirmed, I commit to remaining engaged with you on this matter, as appropriate.**

3. Please explain with particularity if and how USCIS intends to comply with the President Clinton and President Obama Executive Orders on Regulation with respect to the EB-5 regulations. In particular:
  - a. What specific steps will USCIS take to comply with Executive Order 13,619 (“Identifying and Reducing Regulatory Burdens”)?
  - b. What specific steps will USCIS take to comply with Executive Order 13,609 (“Promoting International Regulatory Cooperation”)?

- c. What specific steps will USCIS take to comply with Executive Order 13,579 (“Regulation and Independent Regulatory Agencies”)?
- d. What specific steps will USCIS take to comply with Executive Order 13,563 (“Improving Regulation and Regulatory Review”)?
- e. What specific steps will USCIS take to comply with Executive Order 12,866 (“Regulatory Planning and Review, and Amendments”)?

**Response:**

**I am not familiar with the details of all of the executive orders cited above. If confirmed, I will consult with USCIS attorneys and ensure, to the best of my ability, that every regulation promulgated by USCIS complies with all relevant legal requirements.**