

New Immigration Rule to Welcome Start-Up Foreign Entrepreneurs

by Ieva Aubin

Following up on President Obama's proposal to acknowledge the global marketplace of ideas and leverage current immigration law to encourage entrepreneurship and economic growth, the U.S. Citizenship and Immigration Service issued a groundbreaking proposed rule on immigrant entrepreneurs; the rule is expected to be formally published in the Federal Register next week.

The rule would allow start-up foreign founders who could show a significant public benefit to the U.S. from the development of their new companies a temporary "parole" immigration status (not a "visa" status) for up to five years so that the founder can grow that company and create jobs. This is a welcoming and significant change for a large number of foreign entrepreneurs who otherwise would be forced to leave the US or prevented from coming to the US because of unavailability of US visas and would develop the business outside of the US. The US has experienced countless missed opportunities for economic development, particularly in the technology field, due to the outdated immigration laws. *

Please contact Saiko McIvor, Immigration Practice Lead, if you require further information.

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*Under the proposed rule, entrepreneurs must meet the following criteria:

- The entity was created within 3 years preceding the date of the filing of the initial parole application.
- The applicant possess at least 15 percent ownership interest in the business and has an active and central role in the operation.
- The business evidences substantial potential for rapid growth and job creation through (1) investment of capital totaling \$345,000 or more from established U.S. investors with a history of substantial investment in successful start-up entities, (2) Federal, State or local government grants totaling \$100,000 or more, or (3) satisfying at least one of the above criteria in addition to other reliable and compelling evidence of the entity's substantial potential for rapid growth and job creation.

- No more than three entrepreneurs are eligible to receive parole with respect to any one qualifying entity.
- The entrepreneur must meet additional criteria to be eligible for re-parole.

The initial duration of the parole would be granted for up to two years, with a subsequent request for re-parole possible for up to three years.

Dependent family members may also apply to accompany the entrepreneur applicant. Spouses of entrepreneurs would be eligible to apply for employment authorization to be permitted to work in the U.S.