

IMMIGRATION POLICY BRIEF

Entrepreneurial Visas

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Introduction

Entrepreneurs in the U.S. economy are responsible for the greatest wealth creation. There is enormous opportunity for new goods and services in the United States—and financial success—for those willing *and able* to take entrepreneurial risk.

Some of the most powerful and effective innovators are immigrant entrepreneurs looking to capitalize on the unique opportunities the United States offers. Businesses led by foreign-born talent creates jobs for Americans and brings in revenue that propels our economy.

Immigrants are twice as likely to start a business, and immigrants and their children created 40 percent of the Fortune 500 companies. Forty-two spots on the Forbes 400 list are occupied by U.S. billionaires from 21 foreign countries, who have a combined net worth of \$250 billion.¹ All but two of these entrepreneurs made their fortunes in the United States. Without them, America can't lay claim to successes such as Tesla, PayPal, eBay, Yahoo, Nordstrom, Panda Express, and many others.²

Unfortunately, the only opportunity for most foreign entrepreneurs to come to America to start is a business is to secure an H-1B visa and launch a venture on the side—a notoriously difficult endeavor—or to secure work authorization through a family visa.

Just 85,000 H-1B visas—20,000 of which are reserved for master's degree holders—are granted annually, but the past few years have seen increasing demand. Applications for the visa opened

¹ Jennifer Wang. *More Than 10% Of The Forbes 400 Are Immigrants, 14 Of Whom Are Richer Than Trump*. Forbes. October 2016. Available at:

<https://www.forbes.com/sites/jenniferwang/2016/10/04/more-than-10-percent-of-the-forbes-400-are-immigrants-14-of-whom-are-richer-than-trump/#13eb451e4235>.

² Huffington Post. *16 Iconic American Companies Founded by Immigrants*. April 2013. Available at:

http://www.huffingtonpost.com/2013/04/22/american-companies-founded-by-immigrants_n_3116172.html?slideshow=true#gallery/292963/0.

on April 3, 2017, and for the fifth consecutive year, the cap was met within five days. During that period, 199,000 applications were received. In 2016, USCIS received 236,000 applications.³

Not only is there high demand for a solution—an entrepreneurial visa— but significant economic research supports a new visa. In 2013, the Kauffman Foundation released a report⁴ evaluating the startup visa's job creation potential under three possible scenarios.

Hypothetically, if startup visas were available in 2014, 75,000 would be filled, and after four years, 37,108 firms still would be operating. The report predicts that companies founded by startup visas holders would create between 500,000 and 889,000 jobs, equating to 0.5 percent to almost 1 percent of GDP, respectively. Half of the firms are expected to be technology and engineering firms established by H-1B holders, who typically are employed in science, technology, and engineering.

In order to compete with other countries and allow foreign immigrants to start businesses more efficiently in the United States, we need a new visa that makes it easier for entrepreneurs to contribute positively to the economy.

Current Policy

Currently, out of dozens of immigration channels, there does not exist an entrepreneurial visa, but there are regulations in place that provide some opportunity for a limited number of immigrant entrepreneurs.

In August 2016, the United States Citizenship and Immigration Services (USCIS) proposed a rule allowing certain international entrepreneurs to be considered for parole—temporary permission to be in the United States—so that they may start or scale their businesses.⁵

Under this proposed rule, DHS may parole, on a case-by-case basis, eligible entrepreneurs of startup enterprises:

³ Sarah Ashley O'Brien. *H-1B visa applications decline for first time in 5 years*. CNN Tech. April 2017. Available at: <http://money.cnn.com/2017/04/17/technology/h-1b-visa-applications/>.

⁴ Dane Stangler and Jared Konczal. *GIVE ME YOUR ENTREPRENEURS, YOUR INNOVATORS: Estimating the Employment Impact of a Startup Visa*. Ewing Marion Kauffman Foundation. February 2013. Available at: <http://www.kauffman.org/newsroom/2013/02/startup-visa-could-create-at-least-16-million-us-jobs-in-next-10-years-according-to-kauffman-foundation-report>. Using the most recent data from the U.S. Census Business Dynamics Statistics, the study's authors evaluated the Startup Visa's job creation potential under three possible scenarios.

⁵ Department of Homeland Security. *International Entrepreneur Proposed Rule*. August 26, 2016. Available at: https://www.uscis.gov/sites/default/files/USCIS/Laws/Articles/FR_2016-20663_793250_OFR.pdf. The final rule is available at: <https://www.federalregister.gov/documents/2017/01/17/2017-00481/international-entrepreneur-rule>.

- Who have a significant ownership interest in the startup (at least 15 percent) and have an active and central role to its operations;
- Whose startup was formed in the United States within the past three years; and
- Whose startup has substantial and demonstrated potential for rapid business growth and job creation, as evidenced by:
 - Receiving significant investment of capital (at least \$345,000) from certain qualified U.S. investors with established records of successful investments;
 - Receiving significant awards or grants (at least \$100,000) from certain federal, state or local government entities; or
 - Partially satisfying one or both of the above criteria in addition to other reliable and compelling evidence of the startup entity’s substantial potential for rapid growth and job creation.

Under the proposed rule, entrepreneurs may be granted an initial stay of up to two years to oversee and grow their startup entity in the United States. A subsequent request for re-parole (for up to three additional years) would be considered only if the entrepreneur and the startup entity continue to provide a significant public benefit as evidenced by substantial increases in capital investment, revenue or job creation.

The rule is scheduled to take effect in July, 2017. However, as of May 2017, USCIS purportedly sent the proposed rule back to the Office of Management and Budget for review. The status of implementation of the rule remains unknown.

On the legislative front, a number of startup bills have been introduced, including the Startup Visa Act in 2010, 2011, and 2013, and the Startup Act, although none were successful.

Proposed Changes to Current Policy

Providing for an entrepreneurial visa is the first step towards improving our immigration system in this field, but it must be accompanied by a number of other pragmatic policy reforms, including:

- Ensuring that conditional immigrant admission of qualified entrepreneurs—within and outside the United States—includes authorization for accompanying spouses and children, which do not factor into the number of visas available;
- Increasing enforcement provisions to ensure that entrepreneurs whose visa is revoked departs within 90 days;
- Complying with the conditional basis of the immigrant visa is required for at least two years, after which the alien is eligible to remain permanently in the country;

- Requiring all qualified alien entrepreneur visa recipients are involved in the business entity to ensure that this visa is not an pathway to remain in the United States without a legitimate business interest;
- In addition to other eligibility requirements, like employing at least two full-time U.S. citizens, every qualified entrepreneur must invest or raise a capital investment of not less than \$250,000;
- Adding significant protections for U.S. workers to ensure that entrepreneurs are providing employment and growth opportunities; and
- Implementing an annual study that focuses on localities, types of enterprises, types and number of jobs created, and the total amount of capital invested as a result of this visa.

Conclusion

To effectively compete with other countries—like Canada,⁶ China, U.K., Australia, Italy, Singapore, and New Zealand, to name a few—and allow foreign immigrants to start businesses more efficiently in the United States, we need a new visa that makes it easier for immigrant innovators to positively impact the economy of the United States.

A simple, straightforward pathway for international entrepreneurs will provide more jobs for American citizens and continue funnelling the top talent from around the globe to work here.

⁶ Kim Hart. *Canada's play for immigrant tech talent*. July 5, 2017. Available at: <https://www.axios.com/canada-aims-to-lure-talent-from-silicon-valley-2450964438.html>. Highlights Canada's "Go North" campaign targeting individuals who are considering Silicon Valley, but want a smoother immigration process.