

# NEW VISA RULE PROPOSED FOR INTERNATIONAL ENTREPRENEURS

The Secretary of the Department of Homeland Security recently signed a proposed rule that would allow certain international entrepreneurs to temporarily enter the U.S. to start their businesses. The U.S. Citizenship and Immigration Services (USCIS) will use its existing discretionary statutory authority to grant parole (temporary permission) to entrepreneurs of startup entities whose stay in the U.S. would provide a significant public benefit through substantial and demonstrated potential for rapid business growth and job creation. Eligible entrepreneurs will be paroled for up to two years to oversee their startup entity. However, they must be able to demonstrate:

- Significant ownership in the startup (at least 15 percent) and have an active and central role in its operations;
- The startup was formed in the U.S. within the past three years; and
- The startup has substantial and demonstrated potential for rapid business growth and job creation, as evidence by:
  - Receiving significant investment of capital (at least \$345,000) from qualified U.S. investors;
  - Receiving significant awards or grants (at least \$100,000) from certain 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.

The startup must be a U.S. business entity, which includes any corporation, limited liability company, partnership or other entity that is organized under U.S. laws. The entity cannot be an investment vehicle primarily engaged in the offer, purchase, sale or trading in securities, futures contracts, derivatives or similar instruments.

A qualifying investor is one who has a history of making similar or greater investments on a regular basis over the last five years and who can demonstrate that at least two of the entities receiving such investments have subsequently experienced significant growth in revenue or job creation. A qualified investor may be an individual U.S. citizen or lawful permanent

## PEOPLE

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resident, or an organization organized under U.S. laws. If the investor is an organization, then the organization must be owned and controlled by U.S. citizens or lawful permanent residents.

If the entrepreneur relies on government funding, then the entrepreneur must demonstrate that the government entity regularly provides such funding to U.S. businesses for economic development, innovation, research and development or job creation reasons. The USCIS will also consider grants and awards from local economic development corporations.

The USCIS will consider a subsequent request for re-parole (for up to three additional years) if the startup continues to provide a significant public benefit as evidenced by substantial increases in investment, revenue, or job creation. An investment is substantial if during the initial parole period the startup entity receives an additional \$500,000 from a qualified investor. A startup will have substantial revenue generation, if it reaches at least \$500,000 in annual revenue, with at least 20 percent average annual revenue growth during the initial parole period. The startup will demonstrate job creation if it establishes at least 10 full-time, qualified jobs for U.S. workers.

The proposed rule will take effect on the date indicated in the final rule when it is published in the Federal Register.