



Date and Time: Saturday, December 2, 2017 9:34:00 PM EST

Job Number: 57653284

Document (1)

1. [U.S. Immigration Proposes Solution for International Entrepreneurs](#)

Client/Matter: -None-

Search Terms: U.S. Proposes Immigration Rule Aimed at Entrepreneurs

Search Type: Natural Language

Narrowed by:

Content Type
News

Narrowed by
-None-

[U.S. Immigration Proposes Solution for International Entrepreneurs](#)

JD Supra

September 1, 2016 Thursday 2:36 PM EST

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Length: 852 words

Byline: Carlton Fields

Body

Sep 01, 2016(JD Supra: <http://www.jdsupra.com> Delivered by Newstex) Current visa options limit the ability of foreign national **entrepreneurs** to start and grow companies in the United States. As a result, the United States is less able to attract the world's very best and most innovative **entrepreneurs**, who would, in turn, grow their companies and create jobs. That may soon change.

On August 26, the United States Citizenship and **Immigration** Services (USCIS) published a **proposed** international **entrepreneur rule**, and invited the public to comment on the **rule** through October 17. The 155-page **rule** details the varied steps and criteria necessary to enter the United States under this **proposed** program. After October 17, the USCIS will issue a final **rule** that will not likely take effect until first-quarter 2017. What Would the **Proposed** International **Entrepreneur Rule** Allow? It will not create a new visa and there will be no visa stamp issued to foreign nationals seeking to enter the United States under this program. Entry into the United States would be for a temporary time period of up to two years with a possible extension for another three years, and would not lead to a green card. The USCIS **proposes** to allow those qualified under the program to enter under 'parole' provisions. These provisions would enable **entrepreneurs** of startup entities to enter the United States if they provide a significant public benefit through the substantial and demonstrated potential for rapid business growth and job creation. **Entrepreneurs** would need to establish the potential by evidencing, among other things, the receipt of significant capital investment from **U.S.** investors with established records of successful investments; or by obtaining significant awards or grants from certain federal, state, or local government entities. If the USCIS grants the parole, the **entrepreneur** would be able to enter the United States to oversee and grow their startup entity. This **proposed rule** will mostly assist foreign national students in the United States who begin working on a venture, develop a new technology, or invent a product and cannot work due to the severe limitations on the types of work they can do as students, and on the visas available after graduation. What are the Criteria for the International **Entrepreneur**? The **proposed rule** will consider the following to show the required significant public benefit: 1) the recent formation of the startup entity (within three years of filing the parole application); 2) the applicant is an **entrepreneur** who has a central and active role in the startup's operation, and is well-positioned to advance the startup entity's business by showing a substantial ownership interest; 3) capital investment or government funding to show the substantial potential for rapid growth and job creation by evidencing substantial investment (meeting or exceeding \$345,000) from established **U.S.** investors such as venture capital firms, angel investors, or startup accelerators, received within 365 days of the parole application; or 4) substantial government awards or grants (\$100,000 or more) may be used to show the substantial potential for rapid growth and job creation and not just contracts for goods and services, which would not evidence a 'significant public benefit' but instead a benefit to the government entity. USCIS also **proposes** alternative criteria when the international **entrepreneur** applicant cannot meet the above criteria, and will accept 'reliable and compelling' evidence of the startup entity's substantial potential for rapid growth and job creation. The USCIS will need to review the entire

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parole application to determine what other supplementary evidence would suffice to meet the burden of establishing that the applicant's parole into the United States will provide a significant public benefit. How many ***Entrepreneur*** Parolees per Start-Up Entity? The ***proposed rule*** seeks to limit the number of ***entrepreneur*** parolees to three per startup entity. Each parolee applicant must meet the ***proposed*** criteria ***proposed*** discussed above to protect the program's integrity and prevent a startup entity from being used as a means to fraudulently allow individuals to enter the United States. Can Spouses and Children Enter with the International ***Entrepreneur***? The USCIS will allow spouses (same sex and legally married) and children (21 or under) to apply for parole and for the same period as the principal applicant under this program. Further, the USCIS ***proposes*** to extend employment eligibility to the spouses but not to the children. The spouses would need to file a separate employment authorization document (EAD) application. Note that the principal parole applicant would not be required to apply for an EAD, but their parole grant will be employment-specific to their startup entity, and they cannot work for another employer in the United States while in parole status as an international ***entrepreneur***. Conclusion This ***proposed rule*** provides at least a step toward much-needed reform that would bring business, wealth, and jobs to the United States.

Classification

Language: English

Publication-Type: Web Blog

Journal Code: JSUP-5263

Subject: ENTREPRENEURSHIP (92%); PASSPORTS & VISAS (89%); EMPLOYMENT GROWTH (89%); PAROLE (88%); ***IMMIGRATION*** (78%); CITIZENSHIP (78%); BUSINESS INCUBATION (78%); REGIONAL & LOCAL GOVERNMENTS (77%); JOB CREATION (76%)

Organization: US CITIZENSHIP & ***IMMIGRATION*** SERVICES (90%)

Industry: VENTURE CAPITAL (89%); BUSINESS INCUBATION (78%)

Geographic: UNITED STATES (94%)

Load-Date: September 1, 2016