

# New Rule Proposed for International Entrepreneurs

By Erin P. Brown

With economic issues taking center stage in ongoing public discourse and election year politics, the U.S. Citizenship and Immigration Service (USCIS) has recently announced a new proposed rule to drive increased investment in the United States by foreign entrepreneurs. On Aug. 26, 2016, USCIS proposed a new rule to welcome international entrepreneurs as part of President Obama's 2014 plan for executive action in immigration. If properly implemented, the rule holds the potential of encouraging thousands of individuals from across the world to come to the United States to start new business ventures, which will spur job growth and investment into local communities.

According to USCIS, the new rule would permit 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 here in the United States. This International Entrepreneur Rule was published in the Federal Register Aug. 31, 2016, and allows for a 45-day public comment period. The proposed rule will take effect on the date indicated in the final rule published in the Federal Register.

The proposed rule would allow the Department of Homeland Security (DHS) to use its existing discretionary statutory parole authority for entrepreneurs of startup entities whose stay in the United States would provide a significant public benefit through the substantial and demonstrated potential for rapid business growth and job creations. Under this rule, DHS may discretionarily parole entrepreneurs on a case-by-case basis. In order to qualify for consideration entrepreneurs must demonstrate: (1) a significant ownership interest in the startup (at least 15 percent) and have an active and central role to its operations; (2) startup was formed in the United States within the past three years; and (3) startup has substantial and demonstrated poten-

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tial for rapid business growth and job creation as evidence by receiving significant investment 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.

Entrepreneurs may be granted parole for an initial stay of up to two years to oversee and grow their startup entity in the United States. A second request for re-parole for an additional three years would be considered only if the entrepreneur and the startup entity continue to provide a significant public benefit as evidence by substantial increases in capital investment, revenue or job creation. USCIS' expansion of its parole authority could be a boon for global investors seeking the creative economic environment and ubiquitous talent pool available to U.S. employers. Chinese and Indian investors may prove to gain the most, as investor visa options for those countries remain limited and demand remains high. A traditional investor visa (E-2) is based upon the grant of a treaty between the United States and only specific foreign countries – USCIS' use of its parole authority now unlocks individuals from non-treaty countries from investing into the United States and also being able to oversee their investment.

The proposed rule provides the spouses

and children of an entrepreneur granted parole under this rule may also be granted parole for the same period as the entrepreneur. The entrepreneur who is paroled into the United States would be authorized for employment incident to his or her parole with the startup entity. The DHS is also proposing to extend eligibility for employment authorization to the accompanying spouse of the entrepreneur parolees. While both presidential candidates have made retaining American jobs a centerpiece of both campaigns, both would likely agree that more investment and more jobs certainly are not bad things.

Attorney Erin P. Brown received her Juris Doctorate, magna cum laude, from Cleveland Marshall School of Law and is admitted to practice law in the states of Florida and Ohio. Erin has been with Robert Brown LLC since 2002 and provides legal assistance for immigration matters such as adoption, employment, family, removal and citizenship. For more information, visit [www.brown-immigration.com](http://www.brown-immigration.com).

