

Canadian Practice Law Update

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New Opportunities for Immigration Through Investment in the US May Be Expanding

The Director of the Department of Homeland Security, Janet Napolitano, and the Director of U.S. Citizenship and Immigration Services, Alejandro Mayorkas, are promoting “a series of new policy, operational and outreach efforts that will help fuel the nation’s economy and stimulate investment by making it easier for high-skill immigrants to start and grow companies and create jobs here in the United States.” Meanwhile, Congressman Zoe Lofgren introduced the Immigration Driving Entrepreneurship in America (“IDEA”) Act. The efforts to spur foreign investment are gaining interest and some traction.

Currently, the primary investor options that exist include the following:

- E-2 temporary investor visas, available based on citizenship in countries with bilateral investment treaties with the U.S., including Canada;
- L-1 temporary transfers of executive, managerial and specialized knowledge personnel to U.S. parent, subsidiary, affiliate or branch offices of foreign entities;
- EB-1 permanent transfer (and green card) for multinational managers and executives from a related company abroad to a U.S. subsidiary or affiliate; and
- EB-5 permanent resident status (and green card) for \$1 million investment, or \$500,000 under some circumstances, with job creation.

Other creative investor options may be available, including the following:

- H-1B temporary status for investors who are employed in professional positions requiring at least a bachelor's degree;
- EB-1 permanent resident status (and green card) for investors with extraordinary ability and at the top of the field of endeavor; and
- EB-2 permanent resident status (and green card) for investors who serve the national interest and create job opportunities.

While the timeline for immigration reform is unclear, the sluggish U.S. economy may prompt creative solutions from U.S. lawmakers that present opportunities for foreign investors. A U.S. immigration stimulus plan that boosts the economy and sparks innovation could benefit Canadian enterprises and entrepreneurs seeking access to U.S. markets and resources.

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