

## **Immigration Advisory: Attention Foreign Entrepreneurs: New StartUp Visa Act of 2010 Introduced in Congress**

3/3/2010

On February 24, 2010, Senators John Kerry (D-MA) and Richard Lugar (R-IN) introduced the StartUp Visa Act of 2010. This proposed legislation, if passed into law, would create a second immigrant (“green card”) investor visa category for foreign entrepreneurs.

The current immigrant investor category, known as the EB-5 category, requires an investment of \$1 million of the foreign investor’s personal, at-risk funds which must be used to create 10 new jobs for U.S. workers. The investment amount can be lowered to \$500,000 if the investment is made in an area designated as a high-unemployment area. Very few foreign investors take advantage of this option because of the relatively high amount of at-risk, personal funds needed to qualify.

Senators Kerry and Lugar’s proposal modifies the EB-5 requirement and would create a new EB-6 category. Visas allotted for the EB-6 category would come from the existing EB-5 allotment of up to 10,000 per fiscal year. The EB-6 category would allow a foreign entrepreneur to qualify for a two-year conditional permanent residency status with \$250,000 in investment funds secured from qualified U.S. investors. The foreign entrepreneur would qualify for lawful permanent residence (“green card”) if, during the two-year conditional period, he or she attracts additional investment totaling \$1 million or has \$1 million in revenue, and creates five new jobs.

As the Chairman and the ranking member of the Senate Foreign Relations Committee, respectively, Senator Kerry and Senator Lugar have heard from numerous foreign entrepreneurs willing to put their talents to work in the U.S., and from U.S.-based venture capital firms willing to invest in their ideas. However, the current immigrant investor category does not allow the foreign entrepreneur to utilize venture-backed funding as part of the investment, because that type of funding is not at the personal risk of the entrepreneur. The result has been that many good ideas from foreign entrepreneurs do not get off the ground in the U.S., but succeed in other countries, putting the U.S. at a competitive disadvantage. This new category would allow foreign entrepreneurs to qualify for status in the U.S. under a real-world investment model. A group of 160 venture capital and angel investors has signed on in support of the legislation.

If you are interested in showing your support for this legislation, you can contact Senator Kerry’s or Senator Lugar’s offices directly with the contact information below, and please don’t hesitate to voice your support for this proposed legislation to your own congressional representatives.

Senator John Kerry  
218 Russell Building  
Second Floor  
Washington, DC 20510  
t. (202) 224-2742

f. (202) 224-8525

For e-mail: <http://kerry.senate.gov/contact/email.cfm>

Senator Richard Lugar  
306 Hart Senate Office Building  
Washington, DC 20510

t. (202) 224-4814

f. (202) 228-0360

For e-mail: <http://lugar.senate.gov/contact/contactform.cfm>

A special website for information and support of the legislation has been created at  
<http://startupvisa.2gov.org/>.

Please contact a member of the Mintz Levin Immigration Section for additional information about this proposed legislation.

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For assistance in this area please contact one of the attorneys listed below or any member of your Mintz Levin client service team.

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