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Startup visa will boost economy

By Eli M. Kantor

Last month, the Department of Homeland Security published a proposed International Entrepreneur Rule creating a "startup visa." The rule would allow DHS to use its discretionary statutory parole authority for entrepreneurs who found startup entities whose stay in the U.S. would provide a substantial public benefit to the American economy. DHS would be able to parole, on a case-by-case basis, eligible entrepreneurs of startup enterprises. There is no cap on the number of people who could be admitted under this program.

Tech start-ups are pillars of the U.S. economy, and immigrants have founded of the majority of startups in Silicon Valley. According to a study by the National Foundation for American Policy, over half of American tech start-ups valued at \$1 billion or more had at least one immigrant founder. Studies suggest that more than 40 percent of Fortune 500 companies were founded by immigrants or the children of immigrants. Many startups in the U.S. were founded by Chinese and Indian immigrants. According to Venk Shukla, president of Indus Entrepreneurs' Silicon Valley chapter, Indian-American entrepreneurs have created billions in wealth and over half a million new jobs. However, these founders have often returned to India and China to create businesses there because their immigration status in the U.S. was not secure. Many tech industry leaders claim restrictive immigration policies prevent the U.S. from competing with other countries and stifle economic growth.

According to the State Department, the backlog for immigrants from China for receiving a green card for EB-2 persons whose jobs require an advanced degree and EB-3 skilled workers is six years. The backlog for India for EB-2, EB-3 is 11 years. An E-2 treaty investor visa is not a viable option for either a Chinese or Indian entrepreneur because the U.S. does not have an E-2 investor treaty with either country. Founders of companies with H-1B skilled temporary work visas have also faced difficulty because they have to prove they are still employees of the H-1B petitioning company in order to keep their visa.

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Under the proposed startup visa, (1) an immigrant entrepreneur must own at least 15 percent of a U.S. startup and have an active and central role to its operations; (2) the startup must have been formed within the past three years; and (3) the company must have substantial and demonstrated potential for rapid business growth and job creation as evidenced by: (a) receiving investments of at least \$345,000 from certain qualified American

investors with established records of successful investments; (b) receiving significant awards or grants of at least \$100,000 from certain federal, state or local government entities; or (c) 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.

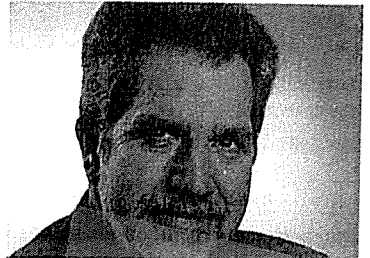
With the startup visa, entrepreneurs would be able to stay in the U.S. for up to two years. After the two years, the entrepreneur would be able to apply for an additional three years with a maximum cap of five years if the company showed continued benefit to the American public such as job creation, revenue, etc. DHS will also publish guidance for when entrepreneurs may petition for lawful permanent residence.

This rule will incentivize foreign entrepreneurs to create and grow innovative businesses in the United States. The addition of startups created by foreign entrepreneurs will help boost America's economy, increase jobs, and increase the GDP. Foreign businessmen will have more options when creating business. Instead of working for established companies, international entrepreneurs will have the flexibility to start their own businesses in the U.S. American investors will feel more confident investing in these businesses knowing that the founders have a secure immigration status. Entrepreneurs whose countries of origin have not been signatories to the E-2 visa treaty would have the potential to create their businesses in the U.S. And foreign entrepreneurs who came to the U.S. for college and began working on a business now have an avenue to

stay.

The notice of the proposed rulemaking, issued Aug. 26, invites public comment for 45 days.

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