



Fact Sheet

Aug. 3, 2011

USCIS Initiatives to Promote Startup Enterprises and Spur Job Creation

Background

On Aug. 2, 2011, Secretary of Homeland Security Janet Napolitano and USCIS Director Alejandro Mayorkas outlined a series of policy, operational, and outreach efforts to fuel the nation's economy and stimulate investment. These initiatives will allow our nation to realize the potential of current immigration laws to attract the best and brightest from around the world to invest their talents, skills, and ideas to grow the U.S. economy and create American jobs.

Introduction

The following actions mark the six-month anniversary of [Startup America](#), a White House-led initiative to reduce barriers and accelerate growth for America's job-creating entrepreneurs. These measures have been one key focus of the [President's Council on Jobs and Competitiveness](#), which has recommended taking action to help ensure that America can out-innovate and out-compete the world in a global economy.

Availability of EB-2 National Interest Waivers to Entrepreneurs

Entrepreneurs may obtain an employment-based second preference (EB-2) immigrant visa if they satisfy the existing requirements, and also may qualify for a National Interest Waiver under the EB-2 immigrant visa category if they can demonstrate that their business endeavors will be in the interest of the United States. USCIS has issued Frequently Asked Questions to clarify this issue. USCIS will also conduct internal training on the unique characteristics of entrepreneurial enterprises and startup companies and incorporate input from the upcoming stakeholder engagements detailed below.

The EB-2 visa classification includes foreign workers with advanced degrees and individuals of exceptional ability in the arts, sciences, or business. Generally, an EB-2 visa petition requires a job offer and a Department of Labor certification. These requirements can be waived under existing law if the petitioner demonstrates that approval of the EB-2 visa petition would be in the national interest of the United States.

Availability of H-1B Visas to Entrepreneurs

Entrepreneurs with an ownership stake in their own companies, including sole employees, may be able to establish the necessary employer-employee relationship to obtain an H-1B visa, if they can demonstrate that the company has the independent right to control their employment. USCIS has updated existing FAQs to clarify this issue.

New Procedures for Processing EB-5 Petitions

USCIS is enhancing the EB-5 immigrant investor program by transforming the intake and review process. In May, USCIS proposed fundamental enhancements to streamline the EB-5 process which include: extending the availability of premium processing for certain EB-5 applications and petitions; implementing direct lines of communication between the applicants and USCIS; and providing applicants with the opportunity for an interview before a USCIS panel of experts to resolve outstanding issues in an application. After reviewing stakeholder feedback on the proposal, USCIS will begin implementing the first of these enhancements within 30 days.

Premium Processing Service Available to Additional Employment-Based Visa Categories

USCIS will also expand its Premium Processing Service to immigrant petitions for multinational executives and managers (often referred to as “E13”). The Premium Processing Service allows employers to expedite processing of their petitions, absent evidentiary deficiencies, fraud or national security concerns. With this addition, nearly all employment-based petitions and applications will have the option of Premium Processing.

New Engagement Opportunities for Entrepreneurs and Startup Companies

USCIS is committed to open and transparent communication with stakeholders. The Office of Public Engagement will host a series of meetings to discuss issues of importance to foreign entrepreneurs and start-up companies. These engagements will provide USCIS with valuable stakeholder feedback on how entrepreneurs and start-up companies can be eligible for employment-based visa categories. USCIS will host the first of these engagements on Aug. 11, 2011.

USCIS is also launching Conversations with the Director, a new series of small group meetings with Director Mayorkas to discuss immigration issues important to communities around the country. The first meeting will take place Aug. 15, 2011, and will focus on economic development and the EB-5 investor program.