

February 5, 2021

Secretary Alejandro N. Mayorkas
Department of Homeland Security
Washington, DC 20528

Dear Secretary Mayorkas:

We the undersigned organizations write in strong support of the International Entrepreneur Rule (IER). We encourage you to formally withdraw the proposed rule from the previous administration to remove IER, and to fully implement IER for the first time. The International Entrepreneur Rule would allow world-class foreign entrepreneurs to launch high-growth companies in the United States by utilizing the parole authority of the Department of Homeland Security (DHS). Unfortunately, the Trump Administration repeatedly sought to remove IER and block implementation before the program launched, thereby costing the United States jobs and innovation that are needed for our country to recover from the effects of the COVID-19 pandemic.

In January 2017, the Obama-Biden Administration published the International Entrepreneur Rule to “increase and enhance entrepreneurship, innovation, and job creation in the United States.”¹ After being finalized by the Obama-Biden Administration, IER was set to take effect in July 2017. The Trump Administration published a delay rule to push the effective date to March 2018.² However, in *National Venture Capital Association v. Duke* the U.S. District Court for the District of Columbia found that DHS violated administrative law with its delay order, thereby allowing immigrant entrepreneurs to apply for the program. In May 2018, DHS proposed eliminating IER and was met with resistance by hundreds of comments in favor of IER and its economic benefits.³

Importantly, the Trump Administration did not issue a final rule removing IER before its term ended. Therefore, we strongly encourage your administration to withdraw the proposed removal rule and fully implement IER as set forth in the Code of Federal Regulations.⁴

The International Entrepreneur Rule would bolster U.S. job creation and innovation

IER allows foreign entrepreneurs to apply for parole, which permits the recipient to be physically present in the United States for a limited period of time. IER is reserved for only the most

¹Department of Homeland Security, *International Entrepreneur Rule*, available at <https://www.uscis.gov/humanitarian/humanitarian-parole/international-entrepreneur-parole#:~:text=Under%20the%20International%20Entrepreneur%20Rule,and%20that%20they%20merit%20a>.

² Department of Homeland Security, *International Entrepreneur Rule: Delay of Effective Date*, available at <https://www.federalregister.gov/documents/2017/07/11/2017-14619/international-entrepreneur-rule-delay-of-effective-date>.

³ Department of Homeland Security, *Removal of International Entrepreneur Parole Program*, available at <https://www.federalregister.gov/documents/2018/05/29/2018-11348/removal-of-international-entrepreneur-parole-program>.

⁴ 8 C.F.R. § 212.19.

qualified and talented entrepreneurs. Applicants must show they have a substantial role and ownership stake in a company founded in the United States in the last five years, and that the company received a substantial amount of funding from qualified U.S. investors or present other comparable “evidence of the start-up entity’s substantial potential for rapid growth and job creation.”⁵

In finalizing IER, DHS under the Obama-Biden Administration wrote that:

[T]his rule will encourage entrepreneurs to pursue business opportunities in the United States rather than abroad, which can be expected to generate significant scientific, research and development, and technological impacts that could create new products and produce positive spillover effects to other businesses and sectors. The impacts stand to benefit the economy by supporting and strengthening high-growth, job-creating businesses in the United States.⁶

DHS was correct in 2017 when it concluded that IER would lead to tremendous growth in the American economy. Immigrant entrepreneurs, such as those IER is designed to attract, have made incredible contributions to the American economy. More than half of U.S. startup companies worth \$1 billion or more have at least one immigrant founder.⁷ Some of America’s most prominent companies have foreign-born founders, including Tesla, Google, eBay, and AT&T. Both companies with an approved COVID-19 vaccine – Moderna and Pfizer—had immigrant founders. In the case of Moderna, the company’s founder, CEO, and Chief Medical Officer are all immigrants.⁸

But foreign-born entrepreneurs have made these contributions *despite* U.S. immigration policy, not because of it. There is currently no visa category designed for foreign-born entrepreneurs who want to found companies in the U.S. and deliver all the benefits of new company formation to our country.⁹ More than a dozen countries—including Canada, Israel, and the U.K.—recognize the benefit that startup activity brings and created startup visas to recruit entrepreneurs to their shores. The competition for top entrepreneurial talent is now a global one, with the U.S. share of global venture capital investment having dropped from over 90 percent to just over 50 percent in the last twenty years.¹⁰ If a world-class entrepreneur cannot enter the U.S. due to our immigration policy, then that individual now has a wealth of other jurisdictions where capital can be raised. For this reason, during the previous administration’s attempt to remove IER, 82 economists at leading universities warned of the “consequences of turning away promising

⁵ See 8 C.F.R. §§ 212.19(a)(1), (b)(2)(i)-(iii).

⁶ International Entrepreneur Rule, 82 Fed. Reg 5238, 5242 (Jan. 17, 2017).

⁷ Stuart Anderson, *Immigrants and Billion Dollar Startups*, National Foundation for American Policy (March 2016) available at <https://perma.cc/6ZTT-UX43>.

⁸ Jeff Farrah, *Creating the Next Moderna: What VC Offers the World and 3 Public Policy Lessons* (November 30, 2020), available here <https://nvca.org/creating-the-next-moderna-what-vc-offers-the-world-and-3-public-policy-lessons/>.

⁹ For example, the H-1B visa requires an employer-employee relationship and therefore is very difficult for a founder to obtain; the O-1A visa is not accessible to startup founders who have not yet achieved acclaim or are not academic researchers; the E-2 visa requires capital and is not available to entrepreneurs from India or China; the L-1 visa requires an international branch, parent, subsidiary, or affiliate, which is not applicable for startup founders that are focused on the U.S.; and the green card system generally is too backlogged.

¹⁰ Pitchbook – NVCA data.

entrepreneurs at a time when international competition is at an all-time high—endangering our entrepreneurial edge and undermining the long-term health of our labor market.”¹¹

COVID-19 has destroyed millions of American jobs that must be recovered. One economic analysis estimates that IER could create more than 429,000 jobs in the first 10 years, account for more than \$25 billion of direct additional wages over 10 years, and inject more than \$18 billion of indirect value into the U.S. economy.¹² That estimate may be conservative, given that even one hyper growth company created due to IER can lead to massive job creation and spillover benefits.

We encourage you to act swiftly to implement IER and ensure adjudication is done in an equitable manner. Thank you for your service and attention to this important matter for our country.

National Venture Capital Association

Biotechnology Innovation Organization

Center for American Entrepreneurship

TechNet

Information Technology Industry Council (ITI)

Economic Innovation Group

Ewing Marion Kauffman Foundation

New American Economy

American Immigration Council

Niskanen Center

State Science & Technology Institute (SSTI)

Internet Association

Engine

FWD.us

National Immigration Forum

Medical Device Manufacturers Association

¹¹ Letter from academic economists re Notice of Proposed Rule: “Removal of International Entrepreneur Parole Program.” DHS Docket No. USCIS-2015-0006, available at <https://nvca.org/wp-content/uploads/2021/01/Economists-supporting-IER-letter-opposing-rescission.pdf>.

¹² New American Economy Research Fund, *Opportunity Lost: The Cost of Rescinding the International Entrepreneur Rule* (June 27, 2018), available at <https://research.newamericaneconomy.org/report/opportunity-lost-the-cost-of-rescinding-the-international-entrepreneur-rule/>.