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International Entrepreneur Parole Program



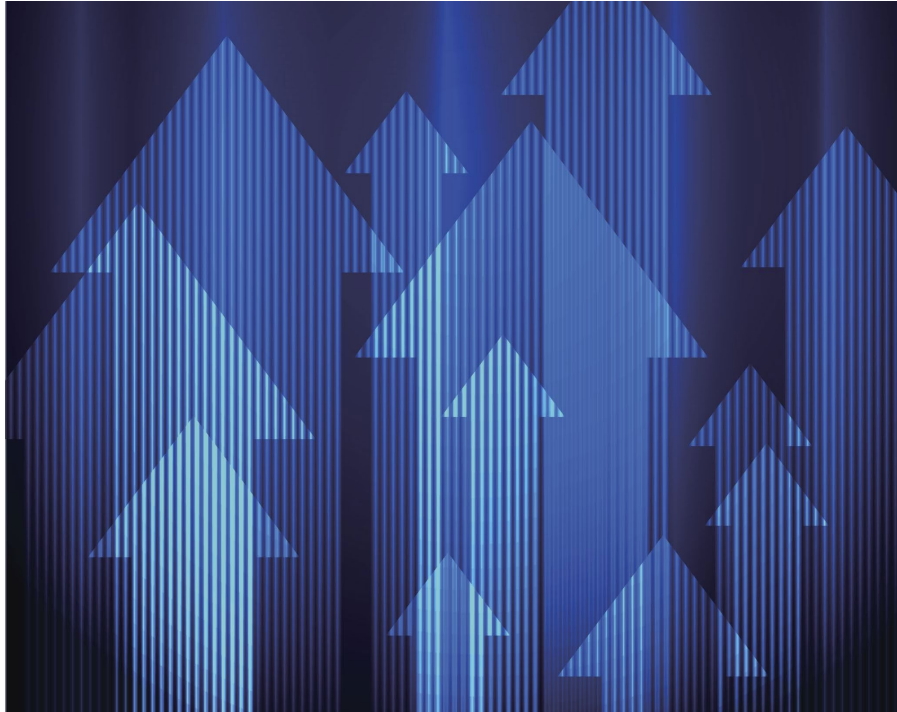
Stakeholder Webinar

June 16, 2021

Overview of the Program



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International Entrepreneur (IE) Parole provides a framework for DHS to use its parole authority to grant a period of authorized stay, on a case-by-case basis, to foreign entrepreneurs who demonstrate that their stay in the United States would provide a significant public benefit through their business venture, and its potential for rapid business growth and job creation, and that they merit a favorable exercise of discretion.

Background



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- **January 2017** – final rule with July effective date
- **July 2017** – final rule delaying the effective date
- **December 2017** - delay rule vacated by a federal court
- **May 2018** - proposed rule to rescind the January 2017 rule
- **May 2021** - withdrawal of the May 2018 proposed rule



2018 Notice of Proposed Rulemaking



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Why Did DHS Withdraw the 2018 NPRM?

The withdrawal is consistent with the Biden Administration's goal of promoting access to legal immigration, which includes qualified entrepreneurs who would benefit the United States by growing new businesses and creating jobs for U.S. workers.

Authority



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Includes the Secretary’s authority to grant parole for a “significant public benefit” under section 212(d)(5) of the Immigration and Nationality Act (INA) and his general authority to extend employment authorization to noncitizens in the United States under section 274A(h)(3)(B) of the INA.

General Parole Statutory Authority



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INA 212(d)(5)(A) (Paraphrased)

The Secretary may, in his discretion, parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons *or significant public benefit* any applicant for admission to the United States, but such parole shall not be regarded as an admission.

The IE parole program falls under the significant public benefit provision.

IE Parole Framework



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The IE parole program provides a transparent framework under which DHS may exercise its discretion to adjudicate requests for parole on a case-by-case basis, to entrepreneurs of startup entities whose entry into the United States would provide a significant public benefit through the substantial and demonstrated potential for rapid business growth and job creation.



Parole vs. Admission



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Parole is not an admission.

IE Parole instead provides a temporary initial period of authorized stay of up to 30 months (which may be extended up to an additional 30 months) to facilitate the entrepreneur's ability to oversee and grow their startup entity in the United States. 82 Fed. Reg. 5238 (Jan. 17, 2017)



Next you will hear from our Immigrant Investor Program Office (IPO) about the specifics of the program and the application process.

International Entrepreneur Parole



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8 CFR § 212.19 Criteria Overview

An applicant must demonstrate that their parole would provide a ***significant public benefit*** because he or she is an entrepreneur of a qualifying startup entity in the United States that has significant potential for rapid growth and job creation.

Criteria for Consideration



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Entrepreneur Qualifications (Initial Parole)

- Central and active role in the startup entity
- Minimum 10% ownership stake in the startup entity at time of adjudication of the initial parole application
- Well-positioned, due to their knowledge, skills, or experience (or combination thereof), to substantially assist the start-up entity with its growth and success

Criteria for Consideration



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Start-up Entity Qualifications (Initial Parole)

- Recently formed (i.e., within five years of filing Form I-941)
- Lawfully conducting business since inception
- Has substantial potential for rapid growth and job creation

Criteria for Consideration



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 Must Also Meet One of the following Three Criteria

- Minimum of \$250,000 in Qualified Investments; or
- Minimum of \$100,000 in Qualified Government Awards or Grants; or
- Partially meets one or both of the above criteria, along with reliable and compelling evidence of the start-up entity's substantial potential for rapid growth and job creation.

Qualified Investments



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Criteria

- Must be lawfully derived capital
- Must be made within 18 months prior to filing Form I-941
- Must be from one or more ***Qualified Investors***

Qualified Investor



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Criteria

- **Individual** (U.S. citizen or U.S. lawful permanent resident); or
- **Organization** (legally owned and operated in the United States and majority owned and controlled by U.S. citizens or U.S. lawful permanent residents)

Qualified Investor



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Criteria

- An Investor must regularly make substantial investments in start-up entities (no less than \$600,000 in total in applicable 5-year period)
- The startup entities must exhibit substantial growth in terms of revenue generation or job creation. For example: two start-up entities each created at least five qualified jobs or generated at least \$500,000 in revenue with average annualized revenue growth of at least 20% after the investment from the Investor.

Qualified Government Award or Grant



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Criteria

- Must be made by a federal, state, or local government entity that regularly provides such awards or grants to start-up entities
 - Excludes foreign government entities
 - Excludes any contractual commitment for goods or services
- Must be for economic development, research and development, job creation, or other similar monetary awards
- Must be made within 18 months prior to filing Form I-941

Alternative Criteria



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Partial Qualified Investments and/or Partial Qualified Government Awards or Grants



Startup entity received qualified investments, grants or awards, but less than \$250,000 in Qualified Investments from a Qualified Investor and/or less than \$100,000 in Qualified Government Awards or Grants

- Additional reliable and compelling evidence of the start-up entity's substantial potential for rapid growth and job creation, such as evidence of the start-up entity's rapid growth, social impact, national scope, positive impact, etc.

IE Parole is Discretionary



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Applicants Must Merit a Favorable Exercise of Discretion

- Even though demonstrating parole would result in a significant public benefit, the Department of Homeland Security may nevertheless deny parole as a matter of discretion based on other factors
- USCIS evaluates the totality of the evidence in each case to determine whether the applicant's presence in the United States will provide a significant public benefit and that they otherwise merit a favorable exercise of discretion
- A denial of parole cannot be appealed

IE Parole Application



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Form I-941, Application for Entrepreneur Parole

- Completed I-941 application must be filed, along with associated fees and supporting documentary evidence, in accordance with 8 CFR § 212.19 and Form I-941 instructions
- Entrepreneur parole may be granted for up to three entrepreneurs per start-up entity
- Entrepreneurs granted parole under the International Entrepreneur parole program are employment authorized incident to parole

Parole for Dependents



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Spouse and Children

- Completed I-131 application must be filed, along with associated fees and supporting documentary evidence of the qualifying relationship
- Spouses of an entrepreneur paroled into the United States under the International Entrepreneur parole program are not employment authorized incident to parole but may apply for employment authorization, after being paroled into the United States, by filing Form I-765, Application for Employment Authorization

Length of Parole



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Initial Parole and Re-parole

- Initial parole may be granted for up to 2 1/2 years, and re-parole, if granted, may provide up to an additional 2 1/2 years
- **IMPORTANT REMINDER:** Filing and obtaining approval of a Form I-941 application under this program will not, by itself, constitute a grant of parole. If your Form I-941 application is approved, you must visit a U.S. consulate abroad to obtain travel documentation (e.g., a boarding foil), unless you are a Canadian national, before appearing at a U.S. port of entry for a final parole determination. These ports of entry can be viewed at this link: <https://www.cbp.gov/contact/ports>

Important Reminder



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The International Entrepreneur parole program does not offer a direct path to permanent residence or U.S. Citizenship for individuals who are not already eligible.

About this Presentation



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