Information Technology and Innovation Foundation
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Comments of the Information Technology and Innovation Foundation

Before the

Department of Homeland Security

Washington, DC 20528

In the Matter of

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	)	
Proposed Rule: International Entrepreneurs	)	MB Docket No. USCIS-2015-0006
8 CFR Parts 103, 212 and 274a	)	
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INTRODUCTION AND SUMMARY

The U.S. Department of Homeland Security has proposed to amend its regulations "implementing the Secretary of Homeland Security's discretionary parole authority to increase and enhance entrepreneurship, innovation, and job creation in the United States," by extending parole exemptions to entrepreneurs whose start-ups would provide a value to the United States. This letter provides comments to the proposal from the Information Technology and Innovation Foundation (ITIF). ITIF is an independent, nonpartisan research and educational institute focusing on the intersection of technological innovation and public policy. Recognized as one of the world's leading science and technology think tanks, ITIF's mission is to formulate and promote policy solutions that accelerate innovation, boost productivity, and increase economic competitiveness.

ITIF applauds the intention of the Department of Homeland Security's proposed rule to amend regulations implementing its discretionary parole authority for entrepreneurs engaged in start-ups with high growth potential. Such a rule, if crafted appropriately, could help boost U.S. global economic competitiveness. Unfortunately, as currently written, the rule could be applied to individuals and companies that would have negligible impact on U.S. job growth, innovation, and productivity.

IDENTIFING THE RIGHT INVESTMENTS, JOBS, AND SECTORS

The United States is engaged in increasingly stiff global economic competition where other nations are using a host of fair and unfair means to gain global market share in a range of high value-added traded sectors. Traded sectors are those industries where a not insignificant share of output is sold abroad, such as software, aerospace, and automobiles.

Growing the U.S. economy will depend in part on boosting U.S. competitiveness and innovation. That means attracting immigrant entrepreneurs who start traded-sector companies that export a not insignificant share of output to other nations. Unfortunately, the proposed rule uses definitions that would make it impossible to target investment and entrepreneurship in traded sectors. The rule hopes to attract entrepreneurs whose companies comprise "significant public benefit through the substantial and demonstrated potential for rapid business growth and job creation." The proposed rule clarifies that: "such potential would be indicated by, among other things, the receipt of significant capital investment from U.S. investors with established records of successful investments, or obtaining significant awards or grants from certain Federal, State or local government entities." This includes a minimum of $345,000 from established U.S. investors, $100,000 in government grants, or a combination or partial meeting of the two along with "reliable and compelling evidence that his or her entry would provide a significant public benefit to the United States." This compelling evidence can include significant job creation.

But gross job creation is the wrong metric, and investment is the wrong intermediary measure. For instance, establishing a gas station, a restaurant, or a retail store could all require significant investment and could create jobs. But these would not create any net new jobs. Any jobs created by an entrepreneur in these domestic serving sectors would simply replace jobs in existing domestic serving firms. Adding another restaurant, for example, does not expand the demand for food services and will likely have the outcome of displacing as many or more jobs as it creates (with only minimal benefits to local consumers). In contrast, if an entrepreneur moves to the United States and starts a company that sells a not insignificant portion of its output overseas, that creates net new jobs, not only in the firm, but at other firms through the multiplier effect of the firm's and its employees' spending.

But not all investments in traded-sector firms amount to net expansion of economic activity and jobs. Potential immigrants may make an investment involves that purchasing an existing company. If an immigrant entrepreneur buys a U.S. traded-sector firm as a path to a visa, this does much less for U.S. competiveness than if they establish a new firm. These types of "brownfield" investments, as opposed to "greenfield" investments, which break ground on new projects, can be used to superficially meet the proposed standards for qualifying for an exemption under the proposed rule.

The proposal, as it stands, gives few if any provisions for guiding the allocation of exemptions along traded-sector industry lines. This is troubling because the United States does not face an investment deficit; there is a surfeit of capital available for investment. It faces an entrepreneurial talent deficit. Therefore, the rule should seek to use investment as a metric to judge the growth potential of traded-sector start-ups, but not allow the prospect of simply attracting investment to be the key determinate of giving exemptions.

CONCLUSION

ITIF urges the Department of Homeland Security to significantly narrow the proposed rules to allow parole exemptions for entrepreneurs who invest in the creation of new industries in traded sectors. While there is no 100 percent hard and fast rule regarding the definition of traded sectors, we propose that the following industries would qualify: manufacturing, software publishers, Internet publishing, and research and development services. In addition, only "greenfield" investments to create new companies should qualify for allowing exemptions. This rule, if amended in this way, would help spur the competitiveness of the U.S. economy.

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