CENTER for AMERICAN ENTREPRENEURSHIP

Date: June 21, 2018

To: Samantha Deshommes
Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue, NW
Washington, DC 20529

From: John R. Dearie
President, Center for American Entrepreneurship

Re: DHS's Proposed Rule to End the International Entrepreneur Parole Program
DHS Docket No. USCIS-2015-0006

The Center for American Entrepreneurship (CAE) respectfully submits this letter of comment in response to the announcement in the Federal Register on May 29, 2018 by the Department of Homeland Security (DHS) of its intention to terminate the International Entrepreneur (IE) parole program. CAE very much appreciates the opportunity to provide comment.

CAE is a nonpartisan, Washington, DC area-based 501(c)(3) research, policy, and advocacy organization. CAE's mission is to engage policymakers in Washington and across the nation regarding the critical importance of entrepreneurs and startups to innovation, economic growth, and job creation – and to pursue a comprehensive policy agenda intended to significantly enhance the circumstances for new business formation, survival, and growth.

In this comment letter, CAE respectfully asserts that DHS' proposed rule to end the IE parole program is unwise and ill-advised for a number of important reasons:

1) The proposed rule does not take adequate account of the vital importance of entrepreneurship to innovation, economic growth, and job creation in the United States and is, therefore, inconsistent with the Administration's stated policy goal of accelerating economic growth;

2) The proposed rule is inconsistent with Executive Order 13767, Border Security and Immigration Enforcement Improvements, issued by President Trump on January 25, 2017, which requires the Secretary of DHS to exercise parole authority when an applicant demonstrates that "significant public benefit" will be derived from such parole;

3) The proposed rule overlooks an alarming decline in rates of new business formation in the United States over the past 40 years;

4) The proposed rule does not sufficiently recognize the importance of immigrant entrepreneurs to American entrepreneurship and is, therefore, inconsistent with the Administration's stated policy objective of moving toward an immigration system focused on the economic value of admittees;[1]

5) The proposed rule's enumerated justifications for terminating the IE parole program are wholly insufficient given the critical importance of entrepreneurship to U.S. economic strength and vitality, the alarming decline of entrepreneurship in America, and the importance of immigrant entrepreneurs to revitalizing American entrepreneurship.

As critical context for this comment letter, it is important to emphasize that the United States is one of only a few industrialized nations that does not have a visa category specifically designated for foreign-born entrepreneurs. In recent years, many other nations – including China, Canada[2], Germany, France, New Zealand, Australia, and Chile – have overhauled their immigration laws to attract foreign-born entrepreneurs, including American entrepreneurs. Most recently, on June 13, 2018, the United Kingdom announced the creation of a Startup Visa to attract and retain foreign born entrepreneurs. [3]

CAE acknowledges that the IE parole program is imperfect, and entails certain deficiencies in its approach, structure, requirements, and administration. Those deficiencies notwithstanding, no law or regulation is a perfect policy solution to the problem it seeks to address, and policymakers should not, as the saying goes, "allow the perfect to be the enemy of the good."

More fundamentally, given the importance of thriving entrepreneurship to the vitality of the U.S. economy, and the historical importance of immigrant entrepreneurs to American entrepreneurship, the Administration, and DHS on its behalf, should do everything possible to attract foreign-born entrepreneurs to launch their businesses in the United States and to create jobs and opportunity for American citizens.

Background

On January 17, 2017, DHS published the IE Final Rule, with an effective date of implementation of July 17, 2017. The IE Final rule followed the publication of a notice of proposed rulemaking (NPRM) on August 31, 2016. The IE Final Rule amended DHS regulations to include criteria that would guide the DHS Secretary's discretionary parole authority for international entrepreneurs who demonstrate that their temporary parole into the United States under section 212(d)(5) of the Immigration and Nationality Act (INA) would provide "significant public benefit" to the United States.

[1] https://www.whitehouse.gov/issues/immigration/

[2] https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/start-visa.html

[3] https://www.gov.uk/government/news/new-start-up-visa-route-announced-by-the-home-secretary

In the IE NPRM of August 31, 2016, DHS recognized that it has historically exercised its parole authority on an ad hoc basis and with respect to individuals falling within certain classes of aliens identified by regulation or policy.[4] DHS further noted that its statutory parole authority is broad and that Congress did not define "significant public benefit" in the INA.[5] Based on various studies, DHS determined that "allowing certain qualified entrepreneurs to come to the United States as parolees on a case-by-case basis would produce a significant public benefit through substantial and positive contributions to innovation, economic growth, and job creation."[6]

The IE Final Rule published on January 17, 2017 established a period of initial parole of up to 30 months to facilitate the applicant's ability to oversee and grow his or her new business in the United States. The rule further provided that this initial 30-month parole period could be extended by up to an additional 30 months, for a potential total of 60 months or five years.

On January 25, 2017, President Trump issued Executive Order (EO) 13767, Border Security and Immigration Enforcement Improvements.[7] Section 11(d) of the EO requires the Secretary of DHS to "take appropriate action to ensure that parole authority under section 212(d)(5) of the INA (8 U.S.C. 1182(d)(5)) is exercised only on a case-by-case basis in accordance with the plain language of the statute, and in all circumstances only when an individual demonstrates urgent humanitarian reasons *or a significant public benefit derived from such parole*" (italics added).

On July 11, 2017, DHS published a final rule with request for comments to delay the effective date of the IE Final Rule to March 14, 2018. In December 2017, DHS issued a proposed rule to remove the IE Final Rule from the fall 2017 Unified Agenda. Finally, on May 29, 2018, DHS proposed to eliminate the IE parole program, citing EO 13767.

As mentioned above, CAE respectfully asserts that history makes clear that immigrant entrepreneurs contribute highly significant public benefit to the United States by launching new businesses that create jobs and opportunity for American citizens. DHS' proposed elimination of the IE parole program, therefore, is inconsistent with the "significant public benefit" language of EO 13767. It is also inconsistent with the Administration's stated policy objectives of accelerating economic growth and moving toward an immigration system focused on the economic value of admittees.

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[4] 81 FR at 60134.

[5] *Ibid.*

[6] *Ibid*. at 60136.

[7] 82 FR 8793.

The Importance of Entrepreneurship to Economic Growth

For more than a decade the U.S. economy has been mired in a pattern of below-historical trend economic growth. Since emerging from the Great Recession more than eight years ago, the U.S. economy has grown at an average annual rate of just 2.2 percent – more than a percentage point slower than the post-WWII average of 3.4 percent. Indeed, the U.S. economy has not grown at 3 percent or better on an annual basis since 2005, thirteen years ago.

In its most recent budget and economic outlook, the Congressional Budget Office (CBO) announced that economic growth is projected to "expand by 3.3 percent this year and by 2.4 percent in 2019…After averaging 1.7 percent from 2020 through 2026, real GDP growth is projected to average 1.8 percent in the last two years of the 2018–2028 period."

Many private sector economists agree, cautioning that long-term trends in population growth and worker output, or productivity, mean the U.S. economy's potential long-term growth rate is only in the 2 percent range, despite tax reform legislation passed in December of last year.[8]

An economy that grows at a healthy pace of 3 percent or better on a sustained basis provides the opportunity necessary for the American people to pursue their dreams and achieve their potential. Slower growth – particularly over an extended period – means less economic opportunity, slower job creation, lower wages, and greater economic anxiety.

Indeed, the weak economic growth experienced since 2005 is the principal cause of America's most serious, politically difficult, and, in some ways, mutually reinforcing challenges, including:

- persistent underemployment;[9]
- high and rising long-term debt;
- stagnant middle-class wages;
- wide and worsening income, wealth, and opportunity inequality;
- the highest poverty rates since the late-1960s; and,
- record numbers of Americans reliant on government programs like food stamps and disability insurance.

To meaningfully address these challenges, America must accelerate economic growth back to the historical average *on a sustained basis*.

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[8] "U.S. Economic Growth Slowed To 2.3 Percent," John Ydstie, NPR, April 27, 2018.

[9] "The Idle Army: America's Unworking Men," Nicholas Eberstadt, *The Wall Street Journal*, September 1, 2016.

And indeed, the Trump Administration has appropriately made accelerating economic growth its top domestic priority.[10] While complete solutions to the challenges listed above require progress on a number of fronts, there is little doubt that our ability to address these and other problems would be greatly enhanced by faster economic growth. Growth at or above the post-WWII rate of 3.4 percent on a sustained basis would produce the jobs necessary to end underemployment, the opportunity necessary to accelerate socio-economic mobility, the rising real wages needed to narrow the income gap and reduce poverty, and the additional tax revenue necessary to narrow budget deficits and substantially reduce the nation's long-term debt.

In 1957, American economist Robert Solow demonstrated that most of economic growth cannot be attributed to increases in labor or capital, as economists had previously thought, but only to gains in productivity – more output per unit of input – driven by innovation. As businesses and workers become more efficient, costs fall, profits and incomes rise, demand expands, and economic growth and job creation accelerate.[11]

Solow's identification of innovation-driven productivity gains as the driver of economic growth is one of the great economic insights of all time and has been echoed by economists ever since. As Nobel Laureate economist Paul Krugman has observed: "Productivity isn't everything, but in the long run it's almost everything."

> A country's ability to improve its standard of living over time depends almost entirely on its ability to raise its output per worker...Compared with the problem of slow productivity growth, all our other long-term economic concerns – foreign competition, the industrial base, lagging technology, deteriorating infrastructure, and so on – are minor issues.[12]

For his work Solow was awarded the Nobel Prize in economics in 1987, the National Medal of Science in 1999, and the Presidential Medal of Freedom in 2014.

The great significance of Solow's work is that it not only defined the *nature* of economic growth, it also identified its principal *source*. That's because economists have long understood that innovation – particularly major, transformative, or "disruptive" innovation – comes disproportionately from new businesses, or "startups."

Economists Robert Litan and Carl Schramm emphasized this reality in their 2012 book *Better Capitalism*:

> [E]ntrepreneurs throughout modern economic history, in this country and others, have been disproportionately responsible for truly radical innovations — the airplane, the railroad, the automobile, electric service, the telegraph and telephone, the computer, air conditioning, and so on— that not only fundamentally transformed consumers' lives, but also became platforms for

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[10] https://home.treasury.gov/policy-issues/top-priorities. See also Testimony of Kevin Hassett, Chairman of the Council of Economic Advisers, before the Joint Economic Committee, October 25, 2017: https://www.jec.senate.gov/public/_cache/files/b25b92e1-0089-4479-909b-278aac7decfd/hassett-testimony.pdf

[11] Robert M. Solow, "Technical Change and the Aggregate Production Function," *Review of Economics and Statistics* (The MIT Press) 39, no. 3, 1957: 312–320.

[12] Paul Krugman, *The Age of Diminished Expectations*, The Washington Post Company, 1990, pp. 9–13.

> many other industries that, in combination, have fundamentally changed entire economies... Large companies, with their large fixed costs of plant, equipment, and to some extent personnel, have perfected the economic arts of economies of scale production and incremental innovation. But...most large companies are less eager to pursue radical innovations — those that disrupt current business models in which the firms are heavily invested.[13]

In addition to innovation, research conducted in 2009 by John Haltiwanger, Ron Jarmin, and Javier Miranda, followed by further analysis by scholars at the Kauffman Foundation, has shown that startups also account for virtually all net new job creation.[14]

From the standpoint of innovation, economic growth, and job creation – arguably the three most important metrics of economic health and vitality – thriving entrepreneurship is the beating heart, the very soul, of any economy.

The Engine of Innovation and Growth is Breaking Down

After remaining remarkably consistent for decades, the number of new businesses launched in the United States peaked in 2006 and then began a precipitous decline – a decline accelerated by the Great Recession. From 2000 to 2006, the economy produced an average of 511,000 new employer firms every year. Since 2009, however, the number of new business launched each year has dropped to about 400,000 – meaning the United States currently faces a start-up deficit of 100,000 missing new firms *every year*.[15] Research by the Kauffman Foundation indicates a rebound in 2015 and 2016, but the recovery is from a very low level and the number of start-ups remains well below pre-recession rates.[16]

Even more alarming, economists Robert Litan and Ian Hathaway have shown that entrepreneurship rates have fallen near a 40-year low – and that this decline is occurring in all 50 states, in all but a handful of the 360 metro areas examined, and across a broad range of industry sectors, including high-technology.[17]

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[13] Robert E. Litan and Carl J. Schramm, *Better Capitalism: Renewing the Entrepreneurial Strength of the American Economy*, Yale University Press, 2012.

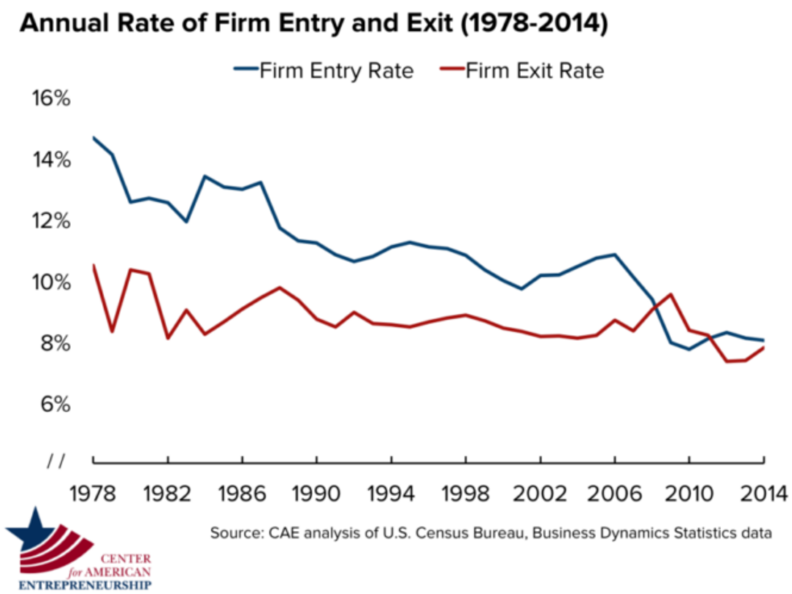
[14] John Haltiwanger, Ron Jarmin, and Javier Miranda, "Business Dynamics Statistics Briefing: Jobs Created from Business Start-Ups in the United States," Ewing Marion Kauffman Foundation, 2009; Dane Stangler and Robert Litan, "Where Will the Jobs Come From?" Ewing Marion Kauffman Foundation, November 2009; Tim Kane, "The Importance of Start-Ups in Job Creation and Job Destruction," Ewing Marion Kauffman Foundation, July 2010.

[15] Business Dynamic Statistics, Census Bureau, https://www.census.gov/ces/dataproducts/bds/data.html.

[16] Index of Start-Up Activity, Ewing Marion Kauffman Foundation, August 2016. Also see testimony by Dane Stangler, Vice President for Research & Policy, Ewing Marion Kauffman Foundation, before the Committee on Small Business and Entrepreneurship, U.S. Senate, June 29, 2016.

[17] "Declining Business Dynamism in the United States: A Look at States and Metros," Robert Litan and Ian Hathaway, The Brooking Institution, May 5, 2014. Also see John Haltiwanger, Ian Hathaway, and Javier Miranda, "Declining Business Dynamism in the U.S. High-Technology Sector," the Ewing Marion Kauffman Foundation, 2014.

The chart below, taken from Litan and Hathaway's May 2014 paper, shows that the number of new firms as a percentage of all firms has been in steady decline for nearly four decades – and, from 2008 to 2012, actually fell below the rate of business failure. In other words, over that brief period, more businesses were failing in America than launching.



As Solow's growth model would predict, U.S. productivity has fallen along with the decline in rates of new business formation. Annual productivity gains averaged about 2.5 percent from 1948 to 2006, but have fallen to about 1.1 percent since 2011— less than half the historical rate. Growth in output per hour slowed to just 0.5 percent in 2014, 0.3 percent in 2015, and just 0.2 percent in 2016.

Nobel Prize recipient Edward Prescott and his colleague Lee Ohanian from Stanford University have argued that the economy's anemic performance in recent years is due largely to the plunge in productivity growth – caused by the dramatic decline in start-ups:

> The remarkable productivity growth that has enabled the U.S. to become the wealthiest country on earth has slowed considerably in recent years.
>
> The most recent period of rapid productivity growth in the U.S. — and rapid economic growth — was in the 1980s and '90s and reflected the remarkable success of new businesses in information and communications technologies, including Microsoft, Apple, Amazon, Intel, and Google. These new companies not only created millions of jobs but transformed modern society, changing how much of the world produces, distributes and markets goods and services.
>
> Sadly, the annual rate of new business creation is about 28 percent lower today than it was in the 1980s, according to our analysis of the U.S. Census Bureau's Business Dynamics Statistics annual data series. Getting the U.S. economy back on track will require a much higher annual rate of new business start-ups. [18]

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[18] Edward C. Prescott and Lee E. Ohanian, "U.S. Productivity Growth Has Taken a Dive," *The Wall Street Journal*, February 3, 2014.

Circumstances in rural areas of America are particularly acute. A recent report by the Economic Innovation Group shows that most of the new business formation that has occurred since the Great Recession has been highly concentrated, clustered mostly in high-density urban or suburban areas. Fully half of the net increase in U.S. business establishments between 2010 and 2014 occurred in just 20 counties, and 17 of those 20 counties are in just four states – California, Florida, New York, and Texas. This pattern of concentration stands in stark contrast to previous recoveries. From 1992 to 1996, for example, 125 counties generated the same 50 percent of new businesses.[19]

Given the critical role start-ups play as the principal source of disruptive innovation, productivity growth, economic growth, and job creation, such circumstances amount to nothing short of a national emergency.

The Importance of Immigrants to American Entrepreneurship

Immigrants – and specifically foreign-born entrepreneurs – are essential to the revitalization of American entrepreneurship. Research has repeatedly shown immigrants to be highly entrepreneurial. To immigrate requires a willingness to pick up one's life and move, often at great personal and financial risk, to a different country, with a different culture, and often a different language – a profoundly entrepreneurial act. It should be no surprise, then, that immigrants remain highly entrepreneurial once they arrive.

Research by the Kauffman Foundation has shown that immigrants are twice as likely as native-born Americans to start a business. Though just 15 percent of the population, immigrants account for a quarter of all small businesses.

Foreign-born entrepreneurs have been a prominent feature of America's economic landscape for decades. Iconic American companies founded or co-founded by immigrants include Dow, AT&T, DuPont, Levi Strauss, Anheuser-Busch, Pfizer, Sun Microsystems, Google, Yahoo, eBay, YouTube, PayPal, Tesla, Facebook, and LinkedIn.

A study released by the Center for American Entrepreneurship in December of 2017 found that 43 percent of Fortune 500 companies – and 57 percent of the top 35 companies – were founded by immigrants or a child of immigrants. These companies are headquartered in 68 metro areas across 33 states and employ millions of Americans.[20]

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[19] "A New Map of Economic Growth and Recovery," Economic Innovation Group, May 2016.

[20] "The Immigrant Founders of the Fortune 500": http://startupsusa.org/fortune500/

Immigrant entrepreneurs are particularly important to rapidly growing, high-impact startups. For example, research has shown that more than half of Silicon Valley startups are historically founded by at least one immigrant entrepreneur.[21] Immigrants are nearly three times as likely to found a venture-backed company compared to native-born Americans.[22] Most recently, an analysis from leading venture capital firm Kleiner Perkins found that 56 percent of the most highly valued public- and privately-held technology companies were founded by 1st and 2nd generation Americans.[23]

And yet, as mentioned above, the United States is one of only a few industrialized nations that does not have a visa category specifically designated for foreign-born entrepreneurs. In recent years, many other nations – including China, Canada, Germany, France, New Zealand, Australia, and Chile – have overhauled their immigration laws to attract foreign-born entrepreneurs, including American entrepreneurs. Most recently, on June 13, 2018, the United Kingdom announced the creation of a Startup Visa to attract and retain foreign born entrepreneurs.[24]

Given the Trump Administration's altogether appropriate focus on accelerating economic growth, the critical role of thriving entrepreneurship to achieving that objective – and the historical importance of immigrant entrepreneurs to American entrepreneurship – DHS should preserve, not eliminate, the International Entrepreneur parole program.

Responding to DHS' Specific Criticisms of the IE Parole Program

In its May 29, 2018 announcement in the Federal Register of its intention to terminate the IE parole program, DHS offered several arguments for its decision:

1) The IE parole program is not the appropriate vehicle for attracting and retaining foreign-born entrepreneurs;

2) The IE parole program is limited in duration, permitting participants only up to a maximum of 60 months (five years) in the United States;

3) Other avenues of legal entry for foreign-born entrepreneurs already exist; and,

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[21] "America's New Immigrant Entrepreneurs," Vivek Wadhwa, Duke University; AnnaLee Saxenian, University of California, Berkeley; Ben Rissing, Duke University; and Gary Gereffi, Duke University, January 4, 2007: http://people.ischool.berkeley.edu/~anno/Papers/Americas_new_immigrant_entrepreneurs_I.pdf

[22] "Immigrant Entrepreneurship," Sari Pekkala Kerr and William R. Kerr, NBER Working Paper No. 22385, July 2016: http://www.nber.org/papers/w22385

[23] "Internet Trends 2018," Mary Meeker, Kleiner Perkins, May 30, 2018: http://www.kpcb.com/file/2018-internet-trends-report

[24] New Start-Up Visa Route Announced by the Home Secretary: https://www.gov.uk/government/news/new-start-up-visa-route-announced-by-the-home-secretary

4) Administering the IE parole program is not an efficient and effective use of DHS' limited resources.

"Not the Appropriate Vehicle"

In its May 29, 2018 proposed rule to eliminate the IE parole program, DHS states that "this program is not the appropriate vehicle for attracting and retaining international entrepreneurs" because "this sort of complex and highly-structured program…is best left to the legislative process rather than an unorthodox use of the Secretary's authority to temporarily parole."

DHS is certainly correct that legislation by Congress would be the most direct, effective, and, therefore, preferred means of attracting foreign-born entrepreneurs to the United States. That preferred legislative vehicle is the Startup Visa, by which foreign-born entrepreneurs with a verifiable business plan that has attracted private capital would be admitted into the United States on a contingency basis and permitted to stay in order to continue building their business, as long as the business is creating a designated number of non-family jobs. Again, the United States is one of only a few industrialized nations that does not have a visa category specifically designated for foreign-born entrepreneurs. A 2013 study by the Kauffman Foundation concluded that a Startup Visa would create between 500,000 and 1.6 million new American jobs within 10 years.[25] Other studies have estimated that a Startup Visa could create as many as 3 million new American jobs over a decade.

The Startup Visa is a provision of the Startup Act, bipartisan legislation that was introduced by Senators Jerry Moran (R-KS) and Mark Warner (D-VA) on September 28, 2017.[26] However, Congress has tried and failed for years to pass legislation to improve and modernize U.S. immigration policies. While polls indicate that creation of a Startup Visa enjoys strong support among both Republicans and Democrats, other issues, such as enhancing boarder security and addressing the status of millions of undocumented immigrants, have frustrated efforts to achieve comprehensive immigration reform, including the creation of a Startup Visa.

Until a legislative solution is achieved, other non-legislative means of admitting foreign-born entrepreneurs are both appropriate and warranted. As DHS noted in the IE NPRM of August 31, 2016, DHS has historically exercised its parole authority on an ad hoc basis and with respect to individuals falling within certain classes of aliens identified by regulation or policy. Moreover, DHS' statutory parole authority is broad, and Congress did not define "significant public benefit" in the INA.

Most importantly, history has clearly demonstrated that immigrant entrepreneurs, by launching new businesses and creating jobs and opportunity for American citizens, contribute "significant public benefit" to the United States and, therefore, implementation of the IE parole program is altogether consistent with EO 13767, issued by President Trump on January 25, 2017.

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[25] "Give Me Your Entrepreneurs, Your Innovators: Estimating the Employment Impact of a Startup Visa," Dane Stangler and Jared Konczal, Ewing Marion Kauffman Foundation, February 2013.

[26] https://www.moran.senate.gov/public/index.cfm/news-releases?id=2A5982C7-CD7D-4102-95C1-9AB60DB5991B

"Not a Durable Solution"

DHS' proposed rule of May 29, 2018 states that "the IE Rule does not provide durable immigration solutions" because "although parole under the IE Final Rule may be granted for up to 30 months, with the possible re-parole for an additional 30 months, it is highly uncertain whether paroled entrepreneurs, including those who successfully start or grow a business in the United States, would qualify for an existing employment-based nonimmigrant or immigrant classification after an approved period of parole ends."

DHS is correct in its assertion that the IE parole program does not provide permanent access to the United States for paroled immigrant entrepreneurs. But it does provide up to five years for a foreign-born entrepreneur to launch and build a new American business. Five years can be a sufficient period of time for viable new businesses to take root, begin to grow, and to create and support new jobs for American citizens – even if the immigrant founder were required to leave the country after five years and apply for re-entry under some other visa program. Indeed, many highly successful startups are launched and grow to become public companies within five years, and startup experiments that fail often run their course in less time. It is also true that the most significant contributions of an individual entrepreneur are most often during a new venture's early years – and, therefore, a program that provides parole during that critical period is well-targeted. Most fundamentally, while not ideal, the IE parole program's five-year term is far superior to barring entry of the immigrant entrepreneur at the outset and thereby precluding any chance of launching a potentially important new American business.

"Other Avenues of Legal Entry for Foreign-born Entrepreneurs Already Exist"

DHS' proposed rule of May 29, 2018 states that "the United States has visa classifications that can be used by certain entrepreneurs or investors coming into the United States, e.g., E-2 treaty investor nonimmigrant classification, EB-5 immigrant classification."

DHS critiques its own assertion on the same page of the proposed rule, stating that "DHS recognizes that some foreign entrepreneurs may face difficulty establishing eligibility under existing nonimmigrant and immigrant categories," and that "these classifications do not encompass the entire population of entrepreneurs addressed in the Final IE Rule."

Indeed, the E-2 nonimmigrant and EB-5 immigrant classifications are designed for foreign investors, not foreign-born entrepreneurs. An E-2 visa allows an individual to enter and work in the United States based on an investment in the United States that he or she will be controlling – and is only available to citizens of certain countries.[27] An EB-5 visa ("employment-based fifth preference" category or EB-5 Immigrant Investor Visa Program), created in 1990 by the Immigration Act of 1990, provides a method for eligible immigrant investors to become lawful permanent residents (green card holders) by investing at least $1 million to finance a business – not necessarily their own – in the United States.[28] While intended to encourage foreign investment and economic growth in the United States, the visa is not specifically intended to

[27]E2- Visa: https://en.wikipedia.org/wiki/E-2_visa

[28] EB-5 Visa: https://en.wikipedia.org/wiki/EB-5_visa

attract entrepreneurs. Moreover, the required investment of at least $1 million bars many would-be applicants.

More fundamentally, even if some foreign-born entrepreneurs are able to gain entry to the United States by way of the E-2 or EB-5 visa programs, the existence of these programs – particularly given their highly imperfect application to foreign entrepreneurs – should not preclude other avenues of entry, given the significant value contributed by immigrant entrepreneurs by launching new businesses in the United States and creating jobs and opportunity for American citizens.

"Not an Efficient and Effective Use of DHS' Limited Resources"

DHS' proposed rule of May 29, 2018 states that "the Secretary believes that limited agency resources should not continue to be expended on this program, especially given the sort of difficult, complex, resource-intensive adjudications that the IE Final Rule requires."

Once again, DHS critiques its own assertion on the same page of the proposed rule, stating that "the Department may eventually recover the costs relating to the administration of the International Entrepreneur Rule, through fees paid by the applicants for parole under the policy." Moreover, DHS completely overlooks the additional revenue that would accrue to the federal government through the income and payroll taxes paid by new immigrant-founded businesses and their employees. Adding these significant revenues to the fees paid by IE program applicants, there is little doubt that the program would be revenue positive, and by a wide margin.

Conclusion

As stated at the outset of this letter, CAE acknowledges that the IE parole program is imperfect, and entails certain deficiencies in its approach, structure, requirements, and administration. These deficiencies notwithstanding, no law or regulation is a perfect policy solution to the problem it seeks to address, and policymakers should not allow the perfect to be the enemy of the good. More fundamentally, given the importance of thriving entrepreneurship to the vitality of the U.S. economy – and the historical importance of immigrant entrepreneurs to American entrepreneurship – the Administration, and DHS on its behalf, should do everything possible to attract foreign-born entrepreneurs to launch their business in the United States and to create jobs and opportunity for American citizens.

With these facts and arguments in mind, CAE respectfully urges DHS to preserve and implement – and as quickly as is feasible – the IE parole program.

CAE is grateful for the opportunity to submit this comment letter. Should you have any questions about this letter or any of the information or arguments contained herein, please contact me at (202) 821-9448 or at john@startupsUSA.org.