

Immigration Minister Announces Consultations for a Canadian Start-Up Visa Program

Date: April 25, 2012

Original Newsletter(s) this article was published in: Blaneys on Immigration: April 2012

On April 18, 2012, Citizenship, Immigration and Multiculturalism Minister Jason Kenney launched consultations on the possible creation of a new program to attract immigrant entrepreneurs. Citizenship and Immigration Canada ("CIC") will consult with industry associations in the development of a "start-up" visa program for innovative entrepreneurs in the coming months.

A "start-up" visa program differs from existing investor and entrepreneur options to the extent that the entrepreneur is not required to be the source of investment capital. Such a program would enable entrepreneurs who establish start-up businesses using capital contributed by third parties, such as venture capital firms or angel investors, to seek permanent residence in Canada.

Although the Government is only initiating consultations at this point, the proposed "start-up" visa program may ultimately resemble *S. 565: StartUp Visa Act of 2011* (introduced in the United States Senate on March 14, 2011) and *H.R. 1114: StartUp Visa Act of 2011* (introduced in the United States House of Representatives on March 15, 2011). *S. 565* and *H.R. 1114* (collectively, the "StartUp Visa Bills") offer three options for immigrant entrepreneurs:

1. Immigrant entrepreneurs living outside the U.S. would be eligible to apply for a StartUp Visa if a qualified U.S. investor agreed to financially sponsor their entrepreneurial venture with a minimum investment of \$100,000. After two years their business must have created five new jobs and raised not less than \$500,000 in additional capital investment, or generate not less than \$500,000 in revenue.
2. Immigrant entrepreneurs currently in the U.S.: (1) on an unexpired [H-1B](#); or (2) who have completed a graduate level degree in science, technology, engineering, math, computer science,

or other relevant academic discipline from an accredited United States college, university, or other institution of higher education, would be eligible for a StartUp Visa if:

- a) They demonstrate annual income of not less than 250 percent of the Federal poverty level, or the possession of assets of not less than 2 years of income at 250 percent of the Federal poverty level; and
- b) Have proven that a qualified U.S. investor agrees to financially back their entrepreneurial venture with a minimum investment of \$20,000.

After two years, their business must have created three new jobs and raised not less than \$100,000 in additional capital investment or generated not less than \$100,000 in revenue.

3. Immigrant entrepreneurs living outside the U.S. would be eligible to apply for a StartUp Visa if they have controlling interest of a company in a foreign country that has generated, during the most recent 12-month period, not less than \$100,000 in revenue from sales in the U.S. After two years, their business must have created three new jobs and raised not less than \$100,000 in additional capital investment or generated not less than \$100,000 in revenue.

Although these StartUp Visa Bills are unlikely to be passed by Congress, it is hoped that the Government of Canada will implement its own “start-up” visa program soon. If it does, it will gain a significant competitive advantage over the United States.

According to CIC, this “start-up” visa initiative is an example of the type of small-scale programs that will allow it to try innovative approaches to economic immigration. Under the proposed changes, CIC can create new, short-term programs under the Economic Immigration Class. These programs would be limited to no more than 2,750 applications per year and would end after five years. If a program proves successful during the five-year trial period and CIC wishes to maintain it, CIC would be required to formally introduce the new economic class in the *Immigration and Refugee Protection Regulations*.