

**USCIS ANNOUNCES INITIATIVES TO PROMOTE STARTUP ENTERPRISES
AND SPUR JOB CREATION
Press Conference**

**Moderator: Edna Ruano, Chief, Office of Communications
U.S. Citizenship and Immigration Services (USCIS)
August 2, 2011
3 P.M. EDT**

Coordinator: Welcome and thank you for standing by. At this time, all participants are in a listen only mode until the question and answer session. If you would like to ask a question at that time, please press star 1 on your touchtone phone and clearly record your name when prompted. Today's conference is being recorded. If you have any objections, you may disconnect at this time.

I'd like to go ahead and turn the call over to your host for today, (Edna Ruano), USCIS Chief of the Office of Communications. You may begin.

(Edna Ruano): Thank you, Jose. This is (Edna Ruano), the Chief of the Office of Communications. I am happy to welcome everybody onto the phone call. As to the format and the time frame, we have about 30 minutes with USCIS Director Alejandro (Ali) Mayorkas. So we will have him introduce the topic of today's announcement and then open it up to questions when his remarks are finished.

Thank you again for joining us today.

Alejandro (Ali) Mayorkas: Thank you very much (Edna) and I should also note that I am joined here in Washington, DC by a number of our subject matter experts should you pose questions that I myself cannot answer. Good afternoon to all of you and thank you very much for joining us to discuss some important issues that impact our nation. How we can continue to attract the best and

brightest from around the world to invest their talents, skills and ideas to grow our economy and create American jobs.

Today at a meeting hosted by the president's council on jobs and competitiveness in Palo Alto, California, the administration announced the series of efforts that the Department of Homeland Security and US Citizenship and Immigration Services will undertake to ensure that the potential of our existing immigration laws is fully realized.

Before I summarize these new efforts, I want to share with you some key findings from a recent study commissioned by the National Venture Capital Association entitled "American Made - The Impact of Immigrant Entrepreneurs and Professionals on US Competitiveness." The study includes a number of impressive findings that illustrate the significant contribution to the US economy made by immigrant entrepreneurs and foreign born professionals, scientists and engineers.

I'd like to specifically highlight its' findings at the current market capitalization of publically trading immigrant-founded, venture-backed companies in the United States exceeds \$500 billion. This is an example of the significant wealth creating abilities of immigrant entrepreneurs. Another finding supports what our president spoke about in El Paso, Texas earlier this year.

Many of the largest US venture-backed public companies such as Intel, Selectron, Sanmina, SCI, Sun Michael Systems, Ebay, Yahoo, Google and many, many others were started by immigrants. Moreover, today, immigrant-founded US publically-traded companies employ approximately 220,000 people in the United States and more than 400,000 people worldwide.

These companies are concentrated in cutting edge sectors such as high technology, manufacturing, information technology and life sciences. Our current immigration laws support foreign talent who will invest their capital, create new jobs for American workers and dedicate their exceptional talent to the growth of our nation's economy.

We at USCIS are dedicated to ensuring that the potential of our immigration laws is fully realized and initiatives we announce today are an important step forward. I trust that all of you have received our press release that outlines the initiatives, the efforts that we have made and our announcing today. And if I may just run through them very quickly, I would like to dedicate as much of the time as we allocated to your questions.

And I also appreciate again your joining us. The first is the EB2 visa often referred to as the visa for advanced degree - for individuals with advanced degrees or exceptional ability. The EB2 visa classification includes foreign workers with advanced degrees and individuals of exceptional ability in the arts, sciences or business. And generally, an EB2 visa petition requires a job offer and a certification from the Department of Labor.

These requirements relevant to entrepreneurs can - well it's relevant to others - but it is something that we have heard from the entrepreneurial community as a concern or a lack of understanding that these requirements can be waived under existing law if the petitioner demonstrates that approval of the EB2 visa petition would be in the national interest of the United States.

And so an example of that would be an individual whose endeavor would create jobs for workers in the United States on a scale that would benefit the national interest. We have received feedback with respect to another visa, the specialty occupation visa or H1B visa. Questions whether an entrepreneur or

an individual was a sole owner of a petitioning company may establish the - a valid employer/employee relationship for the purpose of qualifying for an H1B non-immigrant visa; a visa which is used by US businesses to employ foreign workers in specialty occupations that require theoretical or technical expertise in specialized fields such as science, engineering and computer programming.

And we have published today, an FAQ of frequently asked questions which answers the question that a sole owner of a petitioning company may indeed qualify for an H1B non-immigrant visa if that petitioning company satisfies the requirements of the visa and establishes the employer/employee relationship as is required.

We also have announced the - our intention to expand our premium processing service to immigrant petitions for multi-national executives and managers. We will also be expanding that premium processing service to immigrant investors qualified for the EB5 visa. There are other important reforms to the EB5 immigrant investor visa program that we will be unveiling.

Those include the ability of petitioners to have direct contact with the adjudication team to resolve issues and address questions or concerns that arise in the course of the processing of the petition. And also the opportunity to have an interview with an expert panel to address issues and concerns when the case is further along and we're refining those proposals and intend to begin their implementation in 30 days.

In addition, beginning August 11 with our first public engagement, we will be hosting a series of engagements with entrepreneurs and stakeholders who are interesting in startup company endeavors. This is an opportunity that is focused on soliciting input from the community on how we at USCIS can

address the unique circumstances of entrepreneurs, new businesses and started companies through our policies and regulations in the employment-based arena.

And so we are really speaking of very significant efforts to ensure that existing laws of the potential of the existing laws are fully realized. And we put into effect the legislative intent behind these visa programs. And with that I would welcome whatever questions you might have and (Edna) if you'd be so kind to facilitate that process.

(Edna Ruano): Thank you, Ali. Again we are open to questions. (Jose) will help us with the process. So, (Jose) begin. Open it up to questions.

Coordinator: Certainly. Once again, if you would like to ask a question at this time, please press star 1 on your touchtone phone and clearly record your name when prompted. One moment for the first question please.

The first question does come from (Patrick Sibido). Your line is open.

(Patrick Thibodeaux): Great. Thanks for taking my question.

Alejandro (Ali) Mayorkas: Thank you.

(Patrick Thibodeaux): So all these changes are designed to facilitate invest in the US by people overseas. And what do you think these changes may accomplish?

Alejandro (Ali) Mayorkas: Well what the efforts are designed to do as I indicated is to ensure that the avenues that the law has currently made available to foreign talents that would benefit the US economy; to ensure that those avenues are indeed

available as the law envisioned. And to ensure that the community that could pursue those avenues is aware of their availability.

That is the goal. And the goal really when you say what we hope to accomplish is that these avenues that are designed to benefit the US economy through the introduction of foreign talent, foreign investment, foreign efforts to create US jobs, that they are utilized to their fullest.

(Patrick Thibodeaux): Okay, thank you.

Alejandro (Ali) Mayorkas: Thank you.

(Edna Ruano): As a reminder, please provide your name and the outlet that you represent. That would be helpful. Thank you.

Coordinator: The next question does come from Alex Wagner with Huntington Post.

Alex Wagner: Hi, thanks for doing a call. I'm wondering how this fits in with the administration's broader efforts towards immigration reform or its' extra timetable?

Alejandro (Ali) Mayorkas: This is not, I think when the administration speaks of immigration reform, immigration - the administration speaks of much needed legislative change. We have laws currently in place. We as an agency have policies that are designed to achieve the results of the laws as the legislature intended. And what we are doing here is making sure that those policies are understood, that our operations are designed to achieve the policy objectives. And it is something independent of immigration reform.

This is not legislative action. This is operational efficiency and good policy.

Alex Wagner: So this isn't fall into sort of - I mean each one - H1B visas in particular are mentioned in a lot of advocates or something you know as sort of the cherry on top of another wise tricky Sunday of reform. And the fact that you guys are sort of taking that (unintelligible), that has nothing to do with the broader reform tactic?

Alejandro (Ali) Mayorkas: Well, well what is often communicated in the context of the H1B visa and comprehensive immigration reform is do our existing laws really provide the potential that we would want as a country to create a path for the best and the brightest. What we are speaking of now with respect to the H1B visa program as it currently exists is clarifying who may be eligible for the H1B visa under existing USCIS policy existing statutory and regulatory framework.

Alex Wagner: Thanks.

Alejandro (Ali) Mayorkas: Thank you.

Coordinator: The next question comes from (Antonia Tacadez) with LA Opinions. Your line is open.

(Antonieta Cadiz): Thank you. I want to thank you for making this call and first question. How many (unintelligible) EB5 visas were granted in 2010?

Alejandro (Ali) Mayorkas: We can follow up and provide that data to you. I do not have that at my disposal. I do know that forgive me, I do know that the EB5 program has a maximum of 10,000 visas annually. We do not reach that potential and our operational improvements are designed to ensure that we're making that

process as open as it should be while adhering to scrupulously to the program's requirements.

(Antonieta Cadiz): Do you know how much time USA is paid to process this kind of visas in the (unintelligible)?

Alejandro (Ali) Mayorkas: I'll be - you know the average processing time for example for the EB5 program is I believe just over - well there're various aspects to the program. There are different types of petitions and different types of applications. But we are talking about a number of months, not the time period that we experience that some people complained about a number of years ago.

I think average of 4 to 5 months for various types of applications and petitions in the EB5 program. So we are moving as quickly as possible.

(Antonieta Cadiz): I'm sorry, in the case of EB2 visa, the waiver that you mentioned, that waiver can apply only to entrepreneurs or this can be applied also to foreign workers with an advanced degree? That's the way waiver work both ways or just entrepreneur?

Alejandro (Ali) Mayorkas: No. Thank you for that question. The national interest waiver applies to individuals who are seeking an EB2 visa period. So it applies to foreign workers with advanced degrees and the individuals of exceptional ability in the arts, sciences or business. Individuals who are seeking a visa who qualify in those 2 areas, one or the other, they must have a job offer and a Department of Labor certification.

The exception to that is if they can obtain a national interest waiver. So it applies far more broadly than to just entrepreneurs. It applies to EB2 petitioners across the board.

(Antonieta Cadiz): Thank you.

Alejandro (Ali) Mayorkas: Thank you.

Coordinator: Once again, if you'd like to ask a question, please press star 1 and clearly record your name when prompted. The next question comes from (Lalee Cha) with Press Trust of India. Your line is open.

(Lalee Cha): Thank you doing this call. I have one question. This is about the code that you have for (unintelligible) and you know most of time, they are targeting our coming from India and China. So how does that versus the other forms, the announcement that you've made today. How does address that question?

Alejandro (Ali) Mayorkas: I'm - I think I - please correct me if I don't capture your question accurately. I believed that you asked the efforts that we're making now. So for example, with respect to the EB2 visa classification, which is a classification that includes foreign workers with advanced degrees and individuals of exceptional ability.

(Lalee Cha): Yes.

Alejandro (Ali) Mayorkas: Art, sciences or business, how does that effect individuals who want to access the EB2 visa program if they happen to be from China or India, for example, where the visas might not be current?

(Lalee Cha): Yes, and you have the certain percentage of people coming - you have a restriction on that. Only certain percentage of people from 1 particular county you can intake very year, right?

Alejandro (Ali) Mayorkas: Yes. You know that is not an agency-created quota. Those are by operation of law.

(Lalee Cha): Yes.

Alejandro (Ali) Mayorkas: And in fact the visa availability is still applicable. So in fact if somebody is seeking an EB2 visa but and the individual is from China, the individual will be able to exercise that visa when the visa is current. And with respect to China and India, that visa is at present not current.

(Lalee Cha): Yes so that (unintelligible).

Alejandro (Ali) Mayorkas: So there would be. There would...

(Lalee Cha): 7 so if you want to attract the talent from these 2 countries which are (unintelligible) China said in his congressional meeting last week that that needs to be changed. So do you agree with him?

Alejandro (Ali) Mayorkas: I'm sorry, you're question?

(Lalee Cha): The (unintelligible) is now the ambassador to China, he said in his n a meeting last week that that percentage - that quota restriction on the countries like India and China need to be waived off.

Alejandro (Ali) Mayorkas: I think the president has spoken to this quite strongly and consistently that an evaluation of visa availability - an evaluation of visa laws

is something that should be undertaken in the context of comprehensive immigration reform to ensure that in fact we are paving the path for the best and the brightest from wherever they might come around the world.

(Lalee Cha): Yes, but once - if you're targeting to - if you're planning to attract talent from these 2 countries, then how come you're reforms today are not able - will not - how they going to help people from these 2 countries to apply EB2 if they are not current?

Alejandro (Ali) Mayorkas: Well the fact of the matter is that there are people who come from these countries who might be able to avail themselves of the EB2 visa program while the visas are not current today. That does not mean that a month from now, 2 months from now whatever time period and what we are doing is we are working within the constraints of the laws that currently exist and paving the avenues that are available to us.

(Lalee Cha): Thank you so much.

Alejandro (Ali) Mayorkas: Thank you.

Coordinator: The next question comes from Betty Lynn , World Journal. Your line is open.

Betty Lin: Hello. Thank you, Ali. Did you just talk about you are going to find proposals for EB5 in 30 days? Could you elaborate on that?

Alejandro (Ali) Mayorkas: Yes, thank you very much, Betty. So we published a - previously published a proposal for the reform of the EB5 program. And we published it in proposed for because we wanted to benefit from community expertise and community experience. And we solicited comments from the community and

I believe that we received approximately 177 comments in response to our proposal.

We have taken into consideration those comments. We have been and continue to study those comments and we intend to shortly publish our final reformed process. And we intend to begin the implementation of that reform process, the enhanced process within 30 days.

Betty Lin: So you're going to publish that in 30 days and implement in 30 days?

Alejandro (Ali) Mayorkas: We're going to begin - we're going to begin implementing the enhancements in 30 days. And we have not set a discreet timetable for publication of the final proposal. We're working vigorously on that.

Betty Lin: Okay, thank you.

Alejandro (Ali) Mayorkas: Thank you, Betty.

Coordinator: The next question comes from Lee Wang, PBS Front Line. Your line is open.

Lee Wang: Hello director Mayorkas. Thank you for taking my question. EB5 programs, my understanding is that the denial rate for immigrant investors who are looking to remove conditions on their green card has been quite high, as high as 25% in the first 2 quarters of this year. And I'm wondering if your reforms are going to address that denial rate and if you believe that denial rate is too high.

Alejandro (Ali) Mayorkas: You know I appreciate the question. I'm not really familiar with the approval or denial rate on the relief from conditional status and move to permanent status. That's something that we can - I'll look into separately

because there are different criteria for the removal of the conditional status. What we are really trying to do through our EB5 reforms now is make sure that the EB5 - our operation of the EB5 program is as wholesome as the law envisions and as effective and efficient as we should be for the community seeking to access that program.

And so the downstream issue of resolving conditional status after a period of a couple of years is something with which I'm not familiar and we're really not tackling today.

Lee Wang: Okay. Thank you.

Coordinator: There are no other questions in the queue at this time.

Alejandro (Ali) Mayorkas: Maybe we'll give it a minute to give everyone an opportunity to ask questions and then we'll conclude.

Coordinator: Wonderful. And as a reminder, it is star 1 on your touchtone pad and clearly record your name when prompted. One moment please.

Alejandro (Ali) Mayorkas: Okay then...

Coordinator: We do have a few questions queued up and it does come from (Patrick Dibido) with Computer World. Your line is open.

(Patrick Thibodeaux): Thanks for the additional chance.

Alejandro (Ali) Mayorkas: Absolutely.

(Patrick Thibodeaux): Regarding the EB2 visa and in the national interest, according to what I understand here, that is already in the existing law.

Alejandro (Ali) Mayorkas: That is correct.

(Patrick Thibodeaux): But what I'm trying to understand is whether you plan to broaden it at all or use it more aggressively. And does that just apply when you deem something in the national interest, does it just apply to someone who is interested in creating a startup business or making an investment? Or does it also apply to somebody with an advanced degree who has a job field that is needed in the US market?

Alejandro (Ali) Mayorkas: So I appreciate both questions. With respect to going in reverse chronology if I may, it does not apply solely to people who are creating jobs. As I indicated the national interest waiver, someone can seek it. Anyone who is seeking an EB2 visa can seek a national interest waiver. So it applies to foreign workers with advanced degrees and individuals of exceptional ability in the arts, sciences or business.

And one of the precedent decisions that is often cited in this area, one of the USCIS precedent decisions speaks of an individual who is building bridges. And so it can apply to the full spectrum of individuals who are seeking to access the EB2 visa program. The national interest waiver is indeed an existing law. We are - we are of course, not a legislative body. And it is just the legislature that can write new law.

We do have regulatory authorities. But what we are doing here is issuing needed clarification. And I use the term needed because in engaging with the public to date, there was uncertainty in the public whether for example

entrepreneurs who are started their own companies, whether they could under any circumstances qualify for a national interest waiver.

And we are clarifying the guidance so that we - so that they understand we issued actually an epic queue of frequently asked questions which makes the point that indeed, those individuals could qualify if in fact they meet the requirements that currently exist.

(Patrick Thibodeaux): Thank you. Just so do you expect that there will be more applicants who are found to be in the (unintelligible)?

Alejandro (Ali) Mayorkas: I - what I expect is that we will receive - what we hope is that we will receive more applications and petitions. And that we - I can say that we will continue to apply the law and the rate of approval and denial will depend on the merits of the applications and petitions we receive.

Coordinator: The next question comes from Carlos Gonzalez, Univision Television San Diego. Your line is open.

Carlos Gonzalez: Thank you. Can you please give - do us a favor and first of all, spell your name and title. We need to get this for the news purposes. And also, my question would be this announcement came after the sign and the passing of the senate of the budget and President Obama. How direct can be the announcement of (unintelligible) for investors and also how important is the immigration reform on about 10 plus million people paying taxes within the next year if they become legalized here in the United States?

Alejandro (Ali) Mayorkas: Let me - let me just first, if I can address the easier of the 2 questions. And that is the spelling of my name is Alejandro A-l-e-j-a-n-d-r-o,

last name Mayorkas, M as in Monday a-y-o-r-k-a-s. And my title is Director of US Citizenship in Immigration Services.

And we announced today by coincidence this at the same time as you know important developments with respect to the debt ceiling are unfolding. That is a matter of coincidence because we have been working on these efforts and response to community - the community's voice for some time.

And the fact is that our current immigration laws support foreign talent who'll invest their capital, their abilities to create new jobs for American workers, who dedicate their talent to the growth of our economy. And therefore, it is very relevant to the developments that are unfolding. And the president continues emphatically to express his un-wavering commitment to comprehensive immigration reform which is really addressed - directed at improving the underlying laws to create greater opportunities and potential for that introduction of the best and the brightest.

Carlos Gonzalez: You say that and then just one last favor. Can you repeat that in Spanish if you can?

Alejandro (Ali) Mayorkas: (Edna Rano) our chief of the Office of Communications I think will be available for that. My grammar would not do justice to the points I wish to express.

Carols Gonzalez: Thank you very much and thank you for the answer.

(Edna Ruano): Carlos, I will follow-up by phone.

Carols Gonzalez: Thank you.

Coordinator: The next question, it comes from (Rung) with Sing Tao Daily. Your line is open.

(Rung): Hello. This is (Rung) for Sing Tao Daily. I just want to clarify - I just want to make sure that my understanding is right. So it sounds to me like the current - the new policy - what the difference is between the new policy and the old one is basically, you have to have someone else hire you before in order to get an EB2 as well as H1B.

But now under the new policy that you can hire yourself, or you can say I want to start a company myself so that you're - you will be qualified for the - both EB2 and H1B. I don't whether that's the case. And also if it's the case, I also want to know is there any requirements for the size of the companies or the time that you have to launch your company: Is it like - I would say that I want to launch a company maybe in 2 years or 5 years. Is it okay?

Alejandro (Ali) Mayorkas: So let me if I can because if I may, you did not accurately capture what is being announced. You did not accurately capture really the visa programs requirements - programs in the plural - because you reference both the EB2 and the H1B. The - we did clarify today that an H1B beneficiary who is the sole owner of the company that is petitioning for an H1B worker may establish a valid employer/employee relationship so that they may qualify for an H1B non-immigrant visa.

There must be an employer/employee relationship. And with respect to the national interest waiver, individuals who start their own companies, who have an advanced degree or are individuals of exceptional ability in the arts, science of business, they may qualify for national interest waiver which waives the requirement of a job offer provided that they demonstrate that

approval of their visa petition would be in the national interest of the United States.

And I think our press materials, if you don't already have them in our postings, provide more information under that framework. I should also add as I clarify for you the meaning of what we are doing that one of the things that we will be embarking upon is enhance training of our adjudicators so that they are aware of how the startup community, how the entrepreneurial community and how some of the communities who seek to access the EB2 visa program and the H1B visa program how they work. What are the dynamics of those?

So that we are mindful of that as we continue to apply the laws and regulations as intended.

(Rung): Just a follow-up for the H1B. Before if you were the only the sole owner of your company, you're not qualified? And now if you're the only owner of your company, you are qualified, right? Is that the case?

Alejandro (Ali) Mayorkas: Well let me give you - no but let me give you an example if I may. An individual who starts a company, who is the sole employee of the company, just because that individual has started the company and just because that individual is the sole employee of the company does not necessarily mean that that individual could not be the beneficiary of an H1B visa for which the company applied.

Because for example, the company might have an independent board of directors that controls the employment of that individual who is the sole employee and who started the company. And that's what we clarify today and that is something actually, the clarification was prompted by feedback from the entrepreneurial community when I met with them in Silicon Valley.

We'll take a - I appreciate the question. We'll take perhaps one more if there is one.

Coordinator: The last question does come from (David Holthouse) with Cincinnati Enquirer. Your line is open.

(David Holthouse): Yes, hello. Thanks for taking the question. I was asking about the EB5 program and was wondering how you follow up on the job creation piece of that and if you can address that specifically. How you go about following up to make sure those jobs get created?

Alejandro (Ali) Mayorkas: One of the things that the - and this really ties to the question that someone else asked about the approval rate of conditional residence. I think the period of conditional residence when somebody does obtain an EB5 visa is 2 years. And so the individual has achieved conditional residence. If the individual seeks to remove those conditions at the end of the 2-year period, that provides us with an opportunity to evaluate whether the requirements have been met and whether the conditions should be removed.

(David Holthouse): I see. Thank you.

Alejandro (Ali) Mayorkas: Thank you. Well thank you all very much for joining us today. We greatly appreciate your interest in the efforts that we have unveiled. Thank you again.

Coordinator: Thank you for your participation in today's conference call. The call has concluded. You may go ahead and disconnect at this time.

END