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New Entrepreneur Rule

U.S. Citizenship and Immigration Services (USCIS) proposed a new rule permitting some foreign entrepreneurs to be admitted into the U.S. for purposes of establishing and building up their business in the U.S. To qualify under the current proposed rule:

(1) an entrepreneur must have a significant ownership interest in the startup company (at least 15%) and have an active and central role in the company's operations.

(2) the company must have been founded in the U.S. within the past three years.

(3) the startup must have substantial and documented potential for rapid business growth and job creation, as evidenced by:

(a) the receipt of at least $345,000 in capital investments from U.S. investors having established track records of successful investments;

(b) receipt of at least $100,000 in awards or grants from federal, state or local government entities; or

(c) other compelling evidence of the startup's potential for success and job growth.

Successful entrepreneurs would be granted two years to live and work in the U.S. to build up the business, with an additional three years' worth of extensions possible if the entrepreneur can show strong actual investment, job creation, or revenue growth. The rule is expected to be finalized in the coming months.

Form I-9 Update

A revised Form I-9, which is used to verify a new employee's work authorization, was released by the Office of Management and

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Budget (OMB) on August 26, 2016. USCIS must now publish a revised form by November 22, 2016. USCIS has announced that employers may continue to use the current version (3/8/2013 N appears in the lower left hand corner) of the form until January 21, 2017.

TPS & I-9s

TPS or Temporary Protected Status can be a potential landmine for HR personnel completing I-9 forms. TPS may be designated for specific countries because there are conditions which make it difficult for that country's citizens or nationals to return to it, such as civil war, natural disasters, etc. Individuals who are granted TPS can obtain an Employment Authorization Document (EAD). Once hired, an individual is required to provide unexpired document(s) to establish their identity and employment authorization within three days of the start of employment in order to complete the Form I-9. However, the EAD for TPS beneficiaries can be a potential source of confusion because USCIS can automatically extend the validity period of the EAD. The USCIS provides instructions on how to complete the I-9 in this situation in Form M-274, Handbook for Employers. In addition, TPS designation can be withdrawn from a country once the conditions in that country change. Therefore, it is always important to check the current list of TPS countries and the expiration dates of the EAD by visiting the USCIS website.

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