

Startup founders upbeat on US visa tweak despite big hurdles in process

Synopsis

The US government's updated rule for international entrepreneurs has received varied responses. While some see it as a great opportunity for Indian startup founders, others remain skeptical about its effectiveness. The lack of long-term security and pathway to permanent residency are key concerns. Will this rule truly benefit aspiring entrepreneurs?



Agencies

The US government's decision to tweak the rule that offers extended stay to international [entrepreneurs](#) — which aims at creating jobs and spurring innovation — has evinced mixed response from immigration executives and [Indian startup founders](#).

#Budget' 2024 with ET

[Budget Highlights: Your 2-minute guide](#)

[Tax tweaks, jobs & more: All that FM announced in Budget](#)

[FM 's plan for Viksit Bharat: A look at key numbers](#)

While some believe this may not yield the desired result, many startup executives see this as a great opportunity for aspiring entrepreneurs from India who want to start their ventures in the US, especially those in the areas of technology.

BACK TO TOP

Last week, the Biden administration published new information related to the International Entrepreneur Rule (IER) that allows foreign entrepreneurs to stay in the country for up to five years if their venture is found to be of significant public benefit.

The rule allows for an initial parole of two-and-a-half years and if approved for re-parole — based on additional benchmarks in funding, job creation, or revenue — the entrepreneur's stay may be extended with a total cap of five years.

"This move by the US to attract entrepreneurs shows how important having a robust founder ecosystem is to world governments," said Siddarth Pai, founding partner of 3one4 Capital. He urged the Indian government to make local laws easier for Indian startup founders to redomicile their ventures to the home country.

Immigration attorney and Lawquest managing partner Poorvi Chothani, however, said this programme hasn't had many takers so far. "Though it sounds attractive in principle, it's very difficult to become eligible for the programme in practice," she said.

Earlier, the IER rule went into effect in the twilight of the Obama administration but faced roadblocks under President Trump.

Indian startup founders based out of the US see this as a big boost to entrepreneurs who want to start a business in the US.

[BACK TO TOP](#)

“It is a great rule. Those Indian entrepreneurs who want to establish business in the US but are currently constrained due to lack of supportive long-term visa rules can now set up shop there,” said Simplilearn founder and chief executive Krishna Kumar.

“There are many entrepreneurs who sponsor their visa for countries such as the UK and Singapore that have such visa provisions, but the US did not have this so far. Only those with established ventures in India could set up an office in the US and work on an L1 visa,” he said.

“Five years is a good enough time for a real venture to create employment and jobs. Beyond five years one can also try transferring for other categories of visa,” he said. “Currently, there are many entrepreneurs in India, in areas such as SaaS, AI, among others, who want to open their venture in the US but are unable to. They mostly keep visiting the US on short-term stay on B1 or O1 visas,” he added.

According to data sourced by the National Foundation for American Policy, since FY21, the US Citizenship and Immigration Services received only 94 applications under the IER.

The new rule for foreign entrepreneurs also says that startup entities must demonstrate substantial potential for rapid growth and job creation by showing at least \$264,147 in qualified investments from qualifying investors, at least \$105,659 in qualified government awards or grants, or alternative evidence.

It allows up to three entrepreneurs per startup to be eligible for parole under the rule. A spouse is also eligible to be employed in the US.

“The details on implementation and what constitutes capital raise by qualified investors have to be understood, but on the whole, this could make life easier for some founders and their families if the founders choose to move and build from the US,” said Nitin Sharma, partner at early-stage investor Antler. “For new SaaS founders starting up with a global plan, immigration decisions can be an important factor in where they incorporate the company, so the ecosystem and policymakers here in India should continue doing more to cut down other obstacles, to make it compelling to stay and create value and wealth in India,” he said.

Gaurav Agarwal, founder and chief executive of Raga AI, said the tweaked rule would be beneficial especially for B2B SaaS founders, who often have many customers in the US. “It will also help in funding. While growth stage firms are able to attract US-based investors as long as they demonstrate growth and product market fit, for early-stage firms, US investors are more keen if the firm is also incorporated in the US,” he said.

Lack of long-term security

[Immigration experts](#) said the IER has not yet witnessed much uptake due to the see-sawing on the part of different administrations, leading to uncertainty among applicants.

The programme provides only temporary parole for up to five years, not a path to permanent residency, said Rajiv Khanna, managing attorney at Immigration.com.

[BACK TO TOP](#)

“This lack of long-term security can be a significant deterrent. Entrepreneurs can only work for their startup, limiting

their options if the business fails," said Khanna. "After the five-year stay, entrepreneurs must leave the country and apply for a visa or a green card from abroad."

For Indian entrepreneurs, the decades-long green card backlog adds another layer of uncertainty to their long-term prospects in the US, said Khanna.

According to Lawquest's Chothani, "It's not a blanket permission or a slam dunk solution to any new entrepreneur. The two primary challenges are finding a qualifying investor, a critical requirement, and the temporary nature of this programme as it does not lead to permanent resident status, providing a direct path to US citizenship."

According to Pai of 3one4 Capital, "It's important for the Indian government to allow such startups to redomicile tax free to India and reform our corporate and tax laws to make them less prescriptive and restrictive, lest we lost another generation of founders," he said, adding: "India's leading exports should be software, not software engineers."

(Originally published on Jul 15, 2024)

[BACK TO TOP](#)