



May 12, 2021

Attn: Members of the Subcommittee on Immigration and Citizenship of the House Committee on the Judiciary

Engine is a non-profit technology policy, research, and advocacy organization that bridges the gap between policymakers and startups. Engine works with government and a community of thousands of high-technology, growth-oriented startups across the nation to support the development of technology entrepreneurship. Access to talent is critical to the success of U.S. startups, and high-skilled immigrant talent serves a vital role both in filling the gaps in the STEM workforce, but also in generating new, successful startups. Engine is grateful for the subcommittee's efforts in examining needed changes to the U.S. immigration system and the opportunity to comment on the subcommittee's recent hearing, "Why Don't They Just Get in Line? Barriers to Legal Immigration." We look forward to serving as a resource for the subcommittee on the impacts of immigration on the startup community in the future.

The companies Engine works with are the lifeblood of the U.S. economy. Startups generate a large percentage of U.S. job growth, and founders are responsible for many technological advances that cement the United States in its role as a leader in innovation. These startups often have high-skilled talent needs that cannot always be met with the STEM workforce available in the U.S. Not only do they rely on innovative talent from many countries to excel, but many of these job-creating startups are founded by foreign-born entrepreneurs who launched their ventures and were successful in the U.S. not because of our immigration system, but in spite of it. Indeed, immigrant founders and CEOs, like those of Pfizer and Moderna, lead companies that are among the most influential of today, given the breakneck speed with which they were able to develop effective vaccinations for COVID-19.<sup>1</sup>

At the hearing, the subcommittee posed the question, "why don't they just get in line?," and the response is complicated. Limited visa programs, per country caps, and green card backlogs all factor in. As do the efforts of the previous administration to further limit access for foreign workers, create legal uncertainty for Dreamers, and stall efforts around a startup visa program. And while the causes of the ineffectiveness of the U.S. immigration system are numerous, Engine calls on policymakers to take an active role in the solutions so that the U.S. innovation ecosystem can access the talent it needs and serve as the job creator the country needs.

To start, policymakers must work to address the plight of Dreamers—children brought to the U.S. by their parents, who largely grew up in and were educated in the U.S. Many Dreamers know little of their birth places and instead consider the U.S. their home. Numerous Dreamers attend or have attended university here, work for American companies, and even found startups. Take Victor

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<sup>1</sup> Stuart Anderson, The Founder of Pfizer was an Immigrant, too (Dec. 7, 2020), <https://www.forbes.com/sites/stuartanderson/2020/12/07/the-founder-of-pfizer-was-an-immigrant-too/?sh=3c489f4938f6>

Santos, for example—a DACA recipient who co-founded a company to help unbanked persons in emerging markets.<sup>2</sup> While he successfully raised capital, venture capitalists expressed uneasiness because of his immigration status.<sup>3</sup> But DACA recipients and Dreamers remain in limbo, both at the hands of the courts<sup>4</sup> and also at the hands of policymakers. While the House passed the American Dream and Promise Act, its path forward remains uncertain in the Senate, and thousands of potential startup founders and employees may not be able to bring their ideas to fruition in the U.S. This is only one example of the U.S. leaving innovators behind.

Even before the Trump administration attempted to curtail much of the H-1B visa program—which allows for high-skilled workers to come and work in the U.S. on a temporary basis—the program had issues. The limited number of visa slots, the high cost and time commitment necessary to apply, and the per country caps on green cards are all impediments to making the program work for the talent needs of the nation. And for prospective startup founders, there are few entry mechanisms that can be exercised to come to the U.S. with the goal of launching a company. Though we are encouraged that the Biden Administration recently withdrew the previous administration’s proposed termination of the International Entrepreneur Rule, the U.S. still lacks a dedicated startup visa, which would provide more options for founders of high-growth, job generating startups, to launch and grow their companies in the U.S.

While the H-1B visa program is a significant source of foreign-born, high-skilled talent in the U.S., the program is limited—capped at 65,000 visas, an additional 20,000 visas for those with higher degrees obtained at U.S. institutions, annually.<sup>5</sup> The lottery system results in most applicants receiving denials each year, despite a need for STEM talent in the U.S.<sup>6</sup> And while small employers, including startups, are able to petition for H-1B employees, doing so may be cost and resource prohibitive for businesses with bootstrap budgets. Large companies may be more equipped to shoulder the fees and hire immigration attorneys to guide them through the process, but nascent companies have fewer resources available and may not be able to afford what could amount to thousands of dollars to hire an H-1B visa holder.<sup>7</sup>

Critics of the H-1B visa program frequently argue that the presence of the foreign-born workers limits opportunity for American workers, but this is fundamentally false. Nicky Goulimis of Nova Credit, a startup based in San Francisco, CA states, “[a]lmost every study shows that immigrants don’t take away jobs but, rather, that they create them. As the American economy recovers from COVID, the country needs healthcare workers, investments in emerging technologies,

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<sup>2</sup> Hayden Field, This Immigrant Entrepreneur and DACA Recipient Raised Over \$15 Million in Funding (Podcast), Entrepreneur (July 26, 2019), <https://www.entrepreneur.com/article/337296>.

<sup>3</sup> *Id.*

<sup>4</sup> Claudia Flores and Nicole Prchal Svajlenka, Why DACA Matters, Center for American Progress (April 29, 2021), <https://www.americanprogress.org/issues/immigration/news/2021/04/29/498944/why-daca-matters/>.

<sup>5</sup> Liya Palagashvili and Patrick O’Connor, Unintended Consequences of Restrictions on H-1B Visas, Mercatus Center (Jan 28, 2021), <https://www.mercatus.org/publications/trade-and-immigration/unintended-consequences-restrictions-h-1b-visas>.

<sup>6</sup> *Id.*

<sup>7</sup> Path2USA, What Is The H1-B Filing Fees For 2021? How Much Does It Cost To File An H1-B Petition This Year?, <https://www.path2usa.com/what-is-the-h1-b-filing-fees-for-2021-how-much-does-it-cost-to-file-an-h1-b-petition-this-year>.

and new businesses. Despite immigrants being approximately 13 percent of the population, they're overrepresented as small business owners, as entrepreneurs, and as healthcare workers.”<sup>8</sup> And studies have shown that H-1B workers do not harm opportunities for American workers; instead the program ultimately creates new jobs for American workers<sup>9</sup> and does not stagnate or depress wages of American workers.<sup>10</sup> Further studies have shown that if the H-1B program were expanded, it could result in the creation of up to 1.3 million new U.S. jobs.<sup>11</sup> In fact, evidence suggests that limiting the H-1B visa allocation to 65,000 visas per year has had a depressive effect on job growth, estimating that “had the U.S. government not rejected 178,000 H-1B visa petitions in computer-related fields in the 2007 and 2008 visa lotteries, U.S. metropolitan areas could have created as many as 231,224 tech jobs for U.S.-born workers in the two years that followed.”<sup>12</sup>

Adopting a startup visa could similarly provide a boost in job creation. Currently, there is no visa category specifically set aside for foreign-born entrepreneurs who want to establish companies in the U.S. A study by the Kauffman Foundation found that implementing a startup visa could result in the creation of 500,000 to 1.6 million jobs over a decade.<sup>13</sup> Another study found that if a 2016 startup visa bill had been passed, it could have created 1-3.2 million jobs over a decade.<sup>14</sup> These estimates say nothing about the potential boosts to innovation, novel products and services that could be created, or the expected growth of startups that successfully age out of a startup visa program.<sup>15</sup> And the U.S. is an outlier in lacking a startup visa—dozens of countries,<sup>16</sup> many of whom are competing for economic and technological dominance with the U.S.—have some version of a startup visa. In failing to adopt this needed mechanism to boost startup formation, the U.S. risks falling behind in the global innovation ecosystem, forcing founders to look elsewhere when establishing their businesses.

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<sup>8</sup> Edward Graham, Engine, *#StartupsEverywhere: San Francisco, California* (October 23, 2020),

<https://www.engine.is/news/startupseverywhere-sanfrancisco-calif-nova-credit>.

<sup>9</sup> Madeline Zavodny, *The Impact of H-1B Visa Holders on the U.S. Workforce*, National Foundation for American Policy (May 2020),

<https://nfap.com/wp-content/uploads/2020/05/The-Impact-of-H-1B-Visa-Holders-on-the-U.S.-Workforce.NFAP-Policy-Brief.May-2020.pdf>.

<sup>10</sup> American Immigration Council, *the H-1B Visa Program* (April 2, 2020),

<https://www.americanimmigrationcouncil.org/research/h1b-visa-program-fact-sheet>.

<sup>11</sup> Jay Srinivasan, *Trump's Latest Immigration Restrictions are Bad News for American Workers*, Tech Crunch (Oct. 14, 2020),

<https://techcrunch.com/2020/10/14/trumps-latest-immigration-restrictions-are-bad-news-for-american-workers/>.

<sup>12</sup> *Id.*

<sup>13</sup> Dane Stangler and Jared Konczal, Give Me Your Entrepreneurs, Your Innovators: Estimating Employment Impact of a Startup Visa, the Kauffman Foundation (Feb. 12, 2013),

<https://www.kauffman.org/entrepreneurship/reports/give-me-your-entrepreneurs-your-innovators-estimating-employment-impact-of-a-startup-visa/>.

<sup>14</sup> National Foundation for American Policy, *The International Experience of Startup Visas for Immigrant Entrepreneurs* (July 2020),

<https://nfap.com/wp-content/uploads/2020/07/International-Experience-of-Startup-Visas.NFAP-Policy-Brief.July-2020.pdf>.

<sup>15</sup> Stangler and Konczal, *supra* note 13.

<sup>16</sup> NanoGlobals, *Startup and Entrepreneur Visa Index*,

<https://nanoglobals.com/entrepreneur-startup-visas/#:~:text=There%20are%2046%20startup%2C%20entrepreneur, and%20residence%20in%2039%20countries.>

In failing to expand critical worker visas, like the H-1B visa program, the U.S. risks forcing companies to shift operations to countries that are more able to supply needed talent.<sup>17</sup> When the Trump administration engaged in efforts to restrict H-1B visas, a study found that multinational companies responded “by increasing employment at their existing foreign affiliates and by opening new foreign affiliates—particularly in India, China, and Canada.”<sup>18</sup> Indeed, according to the National Foundation for American Policy, “[t]he fact that the H-1B program either improves job opportunities for U.S. workers or has no effect indicates that the program enables employers to hire foreign workers when they cannot hire U.S. workers,” and that absent needed H-1B visas, the solution for employers is to instead hire talent overseas.<sup>19</sup> But this isn’t ideal both for job creation or for employers, as bringing workers in-country is thought to result in increased productivity over offshoring jobs.<sup>20</sup>

Ultimately, immigrant talent is responsible for founding countless high-growth startups in the U.S. Many of these founders first find their way to the U.S. on H-1B visas.<sup>21</sup> But how many more startups could be founded if we welcomed more talent—more job creating talent—into the U.S.? Failing to expand entryways, or even worse, restricting pathways for critical talent to enter the United States simply means more of these companies will be founded elsewhere. Indeed, studies have shown that “immigrants found businesses at twice the rate of the native born, starting about 30% of all new businesses in 2016 and more than half of the country’s billion-dollar unicorn startups.”<sup>22</sup> Policymakers must make efforts—including boosting H-1B visas and making them more accessible, implementing a startup visa, and providing certainty for Dreamers—to ensure the U.S. can remain at the forefront of innovation, particularly as the U.S. struggles to emerge from the COVID-19 pandemic.

Engine is grateful for the opportunity to provide comments regarding barriers to legal immigration and the critical need for reforms. We look forward to serving as a resource for the committee on the issue of immigrant entrepreneurship and high-skilled workers throughout this Congress.

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<sup>17</sup> American Immigration Council, *the H-1B Visa Program* (April 2, 2020), <https://www.americanimmigrationcouncil.org/research/h1b-visa-program-fact-sheet>.

<sup>18</sup> *Id.*

<sup>19</sup> Zavodny, *supra* note 9.

<sup>20</sup> *Id.*

<sup>21</sup> Stuart Anderson, American Made 2.0, <https://nvca.org/wp-content/uploads/2019/06/American-Made-2.0.pdf>.

<sup>22</sup> Srinivasan, *supra* note 11.