

## **INVEST VISAS APPROVED BY SENATE**

On June 27, 2013, the Senate passed the Border Security Economic Opportunity and Immigration Modernization Act of 2013 that includes several integral provisions of the Startup Visa Act, a bill that stalled in the Senate in 2010, 2011, 2012 and 2013. The bill would create the Investing in New Venture, Entrepreneurial Startups, and Technology Visa (“INVEST Visa”) with two subcategories for a temporary non-immigrant visa and an immigrant visa.

### **The X VISA**

The nonimmigrant INVEST visa (“X-Visa”) would allow an entrepreneur to remain in the U.S. for three years. Entrepreneurs would be eligible to renew the visa for an additional three years if they can demonstrate that (i) an angel investor, venture capitalist or other qualified investor has invested at least \$100,000 in such business, (ii) has generated at least three jobs and (iii) has generated at least \$250,000 in annual revenue in the last two years.

### **The EB-6 Immigrant Visa**

The bill would also create a new immigrant visa category (“EB-6 Immigrant Visa”) for an entrepreneur who has a significant ownership interest in a United States business, is employed in a senior executive position with such entity, submits a business plan to the U.S. Citizenship and Immigration Services, and has a substantial role in the founding or early stage growth and development of such business entity. There would be 10,000 EB-6 visas available per year for qualified entrepreneurs.

Pursuant to the provisions of the passed bill, the entrepreneur could apply for permanent residency if

- (i) the business has created at least 5 full-time jobs and was backed by venture capitalists or super angel investors contributing at least \$500,000 in capital to the entrepreneur’s business or
- (ii) the business has created at least 5 jobs and during the most recent two years has generated at least \$750,000 in annual revenue within the United States.

If the entrepreneur holds an advanced degree in a field of science, technology, engineering or mathematics, he could obtain an INVEST immigrant visa if during the 3-year period ending on the date the entrepreneur files the petition if

- (i) he has a significant ownership interest in a business that has created at least 4 jobs and such business has obtained at least \$500,000 in venture capital or angel investments, or

- (ii) the business has created at least 3 jobs and during the most recent 2-year period and has generated at least \$500,000 in annual revenue in the United States.

While these proposals seem beneficial to the United States and would foster innovation here, it is uncertain whether the House will approve the bill and the INVEST visas anytime soon. For question regarding the INVEST, please contact us at [afsoun@hfkllp.com](mailto:afsoun@hfkllp.com).