

IP 13 / OP 27 Start-up Business Class

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Updates to Chapter

Listing by date:

2014-04-01

General – updates throughout to improve clarity and consistency in terminology, the structure and ordering of the chapter sections and to reflect the addition of the business incubator stream.

Section 3.1 – addition of references to new Commitment Certificate/Letter of Support and Peer Review Request forms.

Section 9.4 – official language proficiency section removed and replaced with a link to the “Language requirements” section on Connexion.

Appendix A – addition of sample refusal letter.

Appendix B – addition of guidance on the issuance of Start-up Business Class work permits originally published as [OB 555](#).

1. What this chapter is about

Economic Action Plan 2012 highlighted Canada's commitment to supporting entrepreneurs, innovators and world class research. It also announced the government's intention to build a fast and flexible economic immigration system focused on meeting the new and emerging needs of the Canadian economy. As one of its initiatives to support *Economic Action Plan 2012*, Citizenship and Immigration Canada (CIC) created the new Start-up Business Class pilot program to attract innovative entrepreneurs.

This chapter focuses specifically on procedures used at the Centralized Intake Office (CIO), the Case Processing Centre – Ottawa (CPC-O) and visa offices abroad to process these Start-up Business Class applications.

The chapter reviews the following:

- **Ministerial Instruction (MI)** definitions;
- selection criteria; and
- operational issues.

2. Program objectives

Pilot Objectives:

- The Start-up Business Class pilot program will:
 - test the potential for increased economic benefit to Canada by linking foreign entrepreneurs with Canadian private sector partners (venture capital funds, angel investor groups and business incubators) that have experience and expertise dealing with start-up businesses;
 - enable immigrant entrepreneurs to create jobs in Canada and build innovative companies that can compete on a global scale; and
 - provide private-sector firms with access to a broader range of entrepreneurs, including the best and the brightest minds from around the world.

The principles of the Start-up Business Class within the Business Immigration Program complement the existing Business Immigration Program, and are in keeping with the overall objectives of the *Immigration and Refugee Protection Act* (IRPA, or "the Act").

3. Legislation: The Act and Regulations and Ministerial Instructions

Sections of the Act applying to business foreign nationals

Provision	Act and Regulations
Attainment of immigration goals	A3(1)
Application, form and content	A11 , R10
Place of application for visa	R11
Return of an application	R12 , MI 8(1)

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Production of supporting documents	R13
Visa issuance by officer	R70(1)
Economic class	A12(2)
Inadmissibility	A33 to A43
Start-up Business Class membership	MI 2(2)
Other Provisions	
Fees	Right of Permanent Residence Fee (RPRF) (R303), Processing fee MI 13

3.1. Forms

Form title	Form number	Completed by
Generic Application Form for Canada	IMM 0008E GENERIC	Principal applicant
Schedule A – Background/Declaration	IMM 5669	Principal applicant, spouse or common-law partner, and each dependent child over the age of 18
Supplementary Information – Your travels	IMM 5562	Principal applicant
Additional Family Information	IMM 5406	Principal applicant, spouse or common-law partner, and each dependent child over the age of 18
Schedule 13 – Business Immigration Program – Start-up Business Class	Schedule 13	Principal applicant
Start-up Business Class – Commitment Certificate/Letter of Support	IMM 5766	Lead designated entity
Start-up Business Class – Commitment Certificate for Designated Entities (Instructions)	IMM 5766 EGG	N/A
Start-up Business Class – Peer Review Request	IMM 5765	Visa officer

4. Instruments and delegations

Refer to the appropriate annexes in the [IL 3 - Designation of Officers and Delegation of Authority manual chapter](#).

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5. Departmental policy

5.1. Requirements for membership in the class

In order to be eligible for membership in the Start-up Business Class, a person must have a Commitment Certificate/Letter of Support issued by a designated entity.

The Start-up Business Class is prescribed as a class of persons who may become permanent residents on the basis of their ability to become economically established in Canada as innovative business persons. It is intended to facilitate processing of permanent resident applications for:

- no more than 2,750 applications per year;
- no more than five persons per business proposal;
- persons who intend to reside in a province or territory other than Quebec;
- persons who have the support of a Canadian business entity, in the form of a Commitment Certificate;
- persons who meet or exceed the minimum language proficiency threshold set by the Minister for proficiency in English or French for each of the four language skill areas;
- persons who have completed at least one year of post-secondary education; and
- persons who have sufficient funds to economically establish themselves in Canada.

Once an applicant provides proof of having a commitment from a designated entity, other factors will be reviewed and assessed against the MIs for selection and admissibility.

5.2. Fees

Applicants are required to pay two fees:

- the cost recovery fee; and
- the Right of Permanent Residence Fee (RPRF).

5.2.1 Cost recovery fee

The MI prescribes fees payable for processing an application for permanent residence under the Start-up Business Class. The MI specifies who must pay the cost recovery fees and what the fees are.

The cost recovery fee must be paid only by persons who intend to immigrate to Canada. This includes the principal applicant and any accompanying family members.

The cost recovery fee is payable at the time the application is made. An applicant may withdraw an application and receive a refund of the cost recovery fee any time before processing of the application begins. Once processing has begun, the cost recovery fee is not refundable.

Note: Processing starts with the initial evaluation of the application at CIO-Sydney. Only those applications that are deemed to be complete (have all required supporting documents and meet the requirements of [R10](#)) will be forwarded to an officer for review. Once an officer determines through the Global Case Management System (GCMS) case notes that a valid Commitment Certificate has been received by CPC-O and has indicated “met” in GCMS, the application is considered to be in process. In order to receive a refund of the cost recovery fee, an applicant must request a withdrawal before this evaluation has started. If an applicant requests a change in category at any time, a new application and new fee must be submitted. An applicant may have more than one application in process, but only one

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application can be finalized with visa issuance. Any additional applications must be finalized as withdrawn or refused.

Note: If the applicant is defined as “[Essential](#)” to the start-up business, then all applications currently in process related to the same business proposal must be reviewed before a refund is issued.

5.2.2 Essential applicants and the refund process

If the “Essential” applicant wishes to withdraw their application and is requesting a refund, the following steps must be taken:

1. Determine if other applicants are linked to the same business proposal.
 - If yes – send the file to an officer for review.
 - If no – follow standard refund procedures, assuming no processing has begun.
2. Advise the clients that their refund will be issued, assuming no processing has begun.
3. Advise others in the group that a person deemed to be essential to the business proposal has withdrawn their application and that no further processing can continue on their applications.
4. All other applications in the same business proposal will be refused. Refunds are only issued to refused applicants if no processing has begun.

An officer will review the other applications in the same business proposal and render a decision in GCMS, based on the withdrawal of the application for the essential person. All applicants will be advised of the final decision.

Example 1: Timothy is an essential person for his business proposal. There are two other people in the same business proposal, currently in process. Timothy’s application is still at the CIO and an officer has not determined that he has “met” the requirements of the class. The CIO receives a letter from Timothy stating that he wants to withdraw his application. The application is withdrawn in GCMS and a refund is issued to Timothy. The applications for the other two people in the business proposal must be refused in GCMS. No refund is to be issued to the other two people in the business proposal, as their applications are already in process.

Example 2: Mona is not listed as an essential person to the business proposal. There are two other people in the business proposal. One of those other persons is listed as essential to the business. Mona’s application has not been reviewed yet by an officer. The CIO receives a letter from Mona stating that Mona wishes to withdraw her application. Mona’s application is withdrawn from GCMS and she receives a refund. The processing of the other two applications continues.

5.2.3 Right of Permanent Residence Fee (RPRF)

[R303](#) specifies that RPRF fees are payable for the principal applicant and their spouse or common-law partner.

Payment of the RPRF is required before issuance of permanent residence documents.

Applicants may make their RPRF payment at any time during the immigration process.

RPRF refunds

Successful applicants who decide not to use their permanent residence documents, such as their Confirmation of Permanent Residence (COPR) document and visa, must return them to the issuing visa office in order to obtain an RPRF refund.

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Unsuccessful applicants who have paid the RPRF should be informed as part of the refusal letter that they are entitled to a refund and should be given an approximate timeframe for its receipt.

The office that finalizes the case is responsible for processing any RPRF refund.

5.3. Procedural fairness

See [OP 1, Section 8](#), for details on procedural fairness.

6. Definitions

6.1. Start-up business

A start-up business must be a new business intended to be operated in Canada and must meet the criteria to be a qualifying business. Sections 2(2)(a) and 2(3) of the MIs requires that the new start-up business must have received a commitment from:

- i) a designated angel investor group confirming that it is investing at least \$75,000 in a qualifying business or two or more designated angel investor groups confirming that they are together investing a total of at least \$75,000 in such a business;
- ii) a designated venture capital fund confirming that it is investing at least \$200,000 in a qualifying business or two or more designated venture capital funds confirming that they are together investing a total of at least \$200,000 in such a business; or
- iii) a designated business incubator confirming that it is accepting the applicant into its business incubator program.

In cases where multiple designated entities are investing in the business (permitted under the MIs and known as “syndication”), it is important to note that a minimum total investment amount of \$200,000 is required in all cases involving one or more designated venture capital funds. If the syndication comprises only angel investor groups, the minimum total investment amount is \$75,000.

Example: Donald has a commitment from a designated angel investor group which represents an investment of \$98,000. Donald’s investor tells him that once he is granted Canadian permanent residence and has arrived in Canada, the investor will register and incorporate the business. This start-up business would be acceptable under the program, if all other criteria are met.

6.2. Commitment

A “commitment” is an agreement between the applicant and the designated entity to establish and incorporate a qualifying business in Canada. The designated entity must be one which appears in the list of designated private sector businesses referred to in Schedules 1, 2 or 3 of the MIs. Proof and details of this agreement will be submitted in the form of a term sheet/client agreement and summarized for purposes of CIC processing in the Commitment Certificate.

The designated entity may not identify more than five persons in a commitment to a single business proposal.

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6.3. Designated Entity

A designated entity is an organization that has been designated by the Minister of CIC to participate in the Start-up Business Class pilot program.

6.4. Commitment Certificate

A Commitment Certificate is a document which records important information regarding the agreement between the applicant and the designated entity and will be sent directly from the designated entity to CIC. The purpose of the Commitment Certificate is to summarize pertinent details of the commitment between the designated entity and the applicant for the purposes of the application for permanent residence. It is designed to facilitate CIC's determination as to whether the applicant meets the specific requirements to qualify as member of the Start-up Business Class.

6.5. Letter of Support

A Letter of Support is automatically generated upon creation of a Commitment Certificate by the designated entity and is meant to be provided to the applicant by the designated entity to confirm their agreement. The applicant must include this letter with their application.

6.6. Term sheet/Client agreement

A Term sheet/Client agreement is a document detailing the agreement between the entrepreneur and the designated entity. It sets forth the basic terms and conditions under which a commitment will be made.

6.7. Industry associations

Industry associations (IAs) are non-profit, umbrella organisations that have authority to represent members of their particular business sectors or industries. For the purposes of the Start-up Business Class pilot program, CIC has entered into agreements with the following IAs: the National Angel Capital Organization (NACO), Canada's Venture Capital and Private Equity Association (CVCA) and the Canadian Association of Business Incubation (CABI). These IAs will identify and recommend to CIC which of their members should be designated as eligible to participate in the Start-up Business Class pilot program, conduct peer reviews to ascertain due diligence efforts of designated entities, and various other tasks related to reporting on results of the program.

6.8. Essential person

An essential person is a foreign national who is considered, by the designated entity, to be essential to the business being established under the program. A section in the Commitment Certificate will identify which applicants in a group are deemed to be "essential." If the application for an essential person is refused for any reason, all other applications related to that commitment must also be refused.

6.9. Investing

Investing is buying shares or other forms of equity in a qualifying business.

6.10. Language skill area

Pursuant to [R73\(1\)](#), "language skill area" means speaking, oral comprehension, reading, or writing.

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6.11. Qualified participant

A qualified participant is:

- an applicant who intends to operate a business in Canada and who has entered into an agreement with a designated entity in support of a qualifying business;
- a foreign national who has been issued a permanent residence document such as a COPR or visa as a member of the Start-up Business Class because they intend to operate a qualifying business in Canada;
- a designated angel investor group;
- a designated venture capital fund; or
- a designated business incubator.

6.12. Qualifying business

A qualifying business is a business that meets the requirements under MI 7(1):

A corporation that is incorporated in and carrying on business in Canada is a qualifying business if, at the time the commitment is made:

(a) the applicant holds 10% or more of the voting rights attached to all shares of the corporation outstanding at that time; and

(b) no persons or entities, other than qualified participants, hold 50% or more of the total amount of the voting rights attached to all shares of the corporation outstanding at that time.

MI 7(1) states that in order to qualify for the Start-up Business Class, a business should be incorporated and carrying on business in Canada at the time that the commitment is made. However, in many cases the designated entity may not want to go through the process of incorporating the company if the persons identified in the business proposal are not authorized to come to Canada. Therefore, MI 7(2) allows for consideration of a qualifying business whose incorporation is conditional upon the attainment of permanent residence by the applicant(s).

6.13. Peer Review

A peer review is an independent assessment of a commitment by a panel of experts convened by the industry association that represents the lead designated entity on the Commitment Certificate. For example, if the Commitment Certificate was issued by a designated angel investor group, then NACO would be responsible for organizing a peer review panel to evaluate the commitment.

A peer review may be initiated by the CIC officer if they are of the opinion that such an assessment would assist them in making a decision on the application for permanent residence. CIC officers may also request a peer review on a random basis for quality assurance purposes. The peer review panel will only verify if the designated entity has performed due diligence according to industry standards, and will not provide an opinion as to the merits or feasibility of the business proposal itself. The CIC officer should not make use of the peer review panel to question whether a given business proposal is likely to succeed, or whether the investment was wise, but rather to satisfy themselves as to whether required due diligence was exercised by the designated entity making the commitment.

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Note: While the CIC officer must consider the assessment provided by the peer review panel, they are not bound by it in making a final decision as to whether the applicant meets the requirements of the Start-up Business Class as specified in the MIs.

6.14. Syndication

Syndication describes a situation in which more than one designated entity is involved in the same commitment. When there are multiple designated entities acting in syndication, only one Commitment Certificate will be issued containing all the details and requirements of all participating designated entities. There will be a lead designated entity that shall be responsible for submitting the Commitment Certificate to CIC. There is no limit to the number of designated entities that can support a commitment.

Note: If one of the syndicated entities is a designated venture capital fund, then the lead designated entity must also be a designated venture capital fund and the minimum total investment amount of \$200,000 applies. If there are no designated venture capital funds in the syndication, but there is at least one designated angel investor group, then the lead designated entity must be a designated angel investor group and the minimum total investment amount of \$75,000 applies.

6.15. Substituted Evaluation

Substituted evaluation is an evaluation made by a designated officer which determines the likelihood of the applicant's ability to become economically established in Canada, whether or not an applicant meets the requirements of the MI.

Substituted evaluation requires the written concurrence of a second officer.

Note: Substituted evaluation cannot be used to overcome the absence of a commitment from a designated entity [MI 2(2)(a)].

7. Processing

Processing applications for permanent residence in the Start-up Business Class involves a series of procedural steps, including an assessment against pilot program eligibility requirements as specified in the MIs (pass/fail test). The elements of the process are discussed in greater detail in the following sections of this chapter:

- Receiving the application, Section 8;
- Assessing the application; Section 9;
- Membership in the class, Section 10;
- Addressing integrity concerns, Section 11;
- Determining admissibility, Section 12;
- Approving the application, Section 13; and
- Refusing the application, Section 14.

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8. Procedure: Receiving the application

8.1. Completeness check

All applications for permanent residence under the Start-up Business Class must be submitted to the Centralized Intake Office (CIO) in Sydney, Nova Scotia. Applications received at the CIO will first be reviewed for completeness pursuant to [R10](#) and the application kit requirements in place at that time, including the following required forms, fees, information and documents:

- a signed and completed [IMM 0008](#), containing the name, date of birth, nationality, current marital status, and current immigration status of the principal applicant and all family members (whether accompanying or not);
- a Letter of Support confirming a commitment by a designated entity (or entities);
- the original results of the principal applicant's English or French language test from a designated testing agency;
- evidence of having completed at least one year of post-secondary education;
- evidence of settlement funds;
- properly completed [Schedule A's](#) for the principal applicant, his or her spouse or common-law partner and all dependent children aged 18 and older listed on the [IMM 0008](#);
- a properly completed [IMM 0008 – Schedule 13](#) for the principal applicant;
- evidence of payment of the applicable fees;
- a signed declaration to the effect that the information provided is complete and accurate; and any other evidence required by the Act.

For more information on what constitutes a complete application, see [OP 1](#).

Note:

1. Assessment of the Commitment Certificate/Letter of Support, language proficiency, settlement funds and post-secondary education requirements will not be done by the CIO at the completeness check stage. At this stage, the CIO will only verify that supporting documentation in respect of these requirements has been included in the application.

If it is determined that...	Then the CIO will...
The application meets the requirements of section R10 , including the application kit requirements in place at the time of application receipt	<ul style="list-style-type: none">• Date-stamp the application with the application-received date, and• Proceed to put the application into process as described in section 8.2.
The application does not meet the requirements of section R10 , including the application kits requirements in place at the time of application receipt.	<ul style="list-style-type: none">• Return the application to the applicant as incomplete with a letter explaining why the application is being returned, and• Neither create a file, nor keep a record until a complete application, as outlined above, has been received.

8.2. Putting an application into process

After a positive completeness check at the CIO, the office staff will:

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- date stamp the application;
- create a file in GCMS;
- enter 'SUD-FED' in the Category field;
- cost recover the processing fee and enter this in GCMS;
- write the GCMS file number on the paper file;
- send an acknowledgement of receipt letter to the applicant informing them that their file has been placed into processing and transferred to the CPC-O or a visa office abroad;
- transfer the paper file to the responsible processing office, in line with existing file transfer policies; and
- transfer the electronic file to the responsible processing office in GCMS by making that office the primary office for processing.

Note: The responsible processing office should maintain the application received date in respect of the applicant's initial submission to the CIO and process the application to a final decision. The application received date at the CIO is also the lock-in date.

9. Procedure: Assessing the application

Officers at the CPC-O or visa offices abroad will assess the applicant against each of the eligibility requirements set forth in the MIs (pass/fail test), based on the information and documents provided in the application.

In order to become a member of the Start-up Business Class, an applicant must demonstrate that they:

- have a commitment from a designated entity and have obtained a Commitment Certificate/Letter of Support to confirm the eligibility of the business relationship (see section 9.1);
- meet settlement fund requirements (see section 9.2);
- have completed at least one year of post-secondary education (see section 9.3); and
- meet the minimum language proficiency requirement of at least Benchmark Level 5 in all four language skill areas in either of Canada's official languages as evidenced by original test results from a designated testing agency (see section 9.4).

9.1. Commitment Certificate/Letter of Support

Officers must be satisfied that the applicant has a commitment, signed by someone who has the authority to do so, which binds the designated entity to the applicant. The agreement details are outlined in a business document called a term sheet or client agreement. The term sheet/client agreement is sent to CIC along with the electronic Commitment Certificate. The term sheet/client agreement is signed by the designated entity. The Commitment Certificate is not signed.

Officers must see the following items on file:

- a) The Letter of Support will be given directly to the applicant by the designated entity. The applicant must include that letter with their application.
- b) The electronic Commitment Certificate will be submitted directly to CIC by the designated entity or entities making the commitment. CIC will access the electronic version via Entrust.

Reviewing the Commitment Certificate/Letter of Support

The following key elements must be addressed in the Commitment Certificate and Letter of Support:

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Letter of Support	
Section	What to look for:
General	<ul style="list-style-type: none"> • submitted by the applicant with the application • contains specific information related to the applicant • contains bio-data information of any persons related to the business agreement • no more than five total persons may be included in any one business investment • identifies any essential applicants
Commitment Certificate	
General	<ul style="list-style-type: none"> • sent directly from the designated entity to CIC via Entrust • term sheet/client agreement should also be included with the electronic version
Client Information	<p>Name of the applicant</p> <ul style="list-style-type: none"> • The applicant's name on the Commitment Certificate/Letter of Support should be the same as on the passport/travel document. • The name on the Commitment Certificate should be indicated as a name. Flag in GCMS if it differs from the other names on file.
Related Applicants	<p>Essential Applicants</p> <ul style="list-style-type: none"> • Any essential applicants must be indicated on both the Letter of Support and the Commitment Certificate. In all cases, these should be consistent. • If the application for an essential person is refused for any reason all other applications related to that commitment must also be refused. COPR documents may only be issued once all essential persons identified in the Commitment Certificate have been approved for permanent residence. <p>Examples:</p> <ul style="list-style-type: none"> • Example 1: Naya is a person identified as essential to the business by the designated entity. There are two other persons identified on the Commitment Certificate, but they are not identified as essential. The other two persons are ready for issuance of COPR documents. Naya has been found to be inadmissible to Canada. Naya's application must be refused. The two other persons identified on the commitment must also be refused because they are related to Naya's application. • Example 2: Naya is a person identified as essential to the business by the designated entity. There are two other persons identified on the commitment, but they are not identified as essential. Naya and one other person are ready for issuance of COPR documents. The third person on the commitment is found to be inadmissible. The person found to be inadmissible must be refused. Naya and the other approved person may be issued COPRs because Naya, as the only essential person on the commitment, is not inadmissible.

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<p>Business Information</p>	<p>Describe the nature of the business operations to be conducted by the applicant</p> <ul style="list-style-type: none"> Officers should expect to see a concise but complete description of the type of business which will be operated by the applicant. Designated entities should not simply indicate a brief technical term (e.g., “experimental farming”), but rather should provide a complete description – for example: “This business is being established as an experimental farming facility which will grow a new type of rice engineered to grow in a shorter growth cycle which is normally found in colder climates such as those which exist in Alberta.”
<p>Business Structure</p>	<p>Describe the amount of the investment and how much is being invested. Who is investing? In the case of syndication, who is the lead investor?</p> <ul style="list-style-type: none"> Officers should expect to see such details in the Commitment Certificate but should not expect to see proof of the investment in the form of bank transfers, etc., as the terms in the commitment are considered to be satisfactory evidence for the purposes of this pilot. If any designated venture capital funds are named on the commitment, one of them must be the lead investor and the minimum amount of combined, total funds submitted by all designated entities must be at least \$200,000. If there are only angel investor groups on the commitment, one must act as the lead entity and the minimum total combined funds from all designated entities must be at least \$75,000. It is possible for both venture capital funds and angel investor groups to support a single commitment, but in that case, section 2(3)(a) of the MIs require that only a designated venture capital fund can serve as the lead entity, and the minimum total combined funds from all entities must be at least \$200,000. If only one or more designated business incubators are named on the commitment, there is no investment requirement. <p>Examples:</p> <p>Example 1: Maria has two designated angel investor groups for her business idea. Investor A has agreed to invest \$35,000 while Investor B has agreed to invest \$35,000. In this case Maria does not meet the definition of a member of the Start-up Business Class because she has not received an investment of at least \$75,000 from designated angel investor groups under MI 2(2)(a)(i).</p> <p>Example 2: Maria has two investors for her business idea. Investor X is a designated venture capital fund that has agreed to invest \$125,000, while Investor Y is a designated angel investor group that has agreed to invest \$100,000. In this case, the investments meet the requirements of the MI because the total combined funds meet the requirement of at least \$200,000 for investments with venture capital funds.</p>
	<p>Describe the applicant’s role in the business.</p> <ul style="list-style-type: none"> Officers should expect to see the applicant’s title; and

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	<ul style="list-style-type: none"> • What the applicant does in this company. <p>Example:</p> <ul style="list-style-type: none"> • The applicant's title may be indicated as "CEO". The officer should expect to see a few lines outlining what the designated entity expects the applicant to do as a CEO.
	<p>Describe the legal and financial structure of the business, including details related to incorporation or plans to incorporate.</p> <ul style="list-style-type: none"> • Who owns shares in this company? • How many shares belong to the applicant? • How many shares belong to someone else? • Who are the other persons who own shares in the company? • The requirement for percentage of ownership and voting rights is described in the MI. Officers should review the MI for changes to the voting shares and percentage of ownership. <ol style="list-style-type: none"> 1) The purpose of this review is to determine if the business is viable or is being established exclusively for the sake of immigration. 2) If the designated entity has a disproportionately low percentage of shares or has little to no role in the legal control of the business, it would be a flag for a peer review. Similarly, the converse would apply if the applicant has little to no control or equity in the business. 3) Other flags would be raised if most of the qualified participants are all related to each other, notwithstanding their experience or education: a genuine designated entity would likely not be allowing nepotism to govern a company in which it is sincerely committing its own funds.
	<p>Specify any terms and conditions applicable to the investment or the commitment.</p> <ul style="list-style-type: none"> • Officers should expect to see all conditions. • Reviewing these conditions will be important to assess the genuineness of the venture, as the investing entities would be focused on protecting their investment and requiring regular progress reports, budget reviews or audits, controls over transfer of shares or voting rights, indemnification and insurance, confidentiality and non-disclosure, expenses, composition of the board (separate from the articles of incorporation), matters requiring majority board approval, rights of preferred shareholders, and so on.
	<p>Identify the name and function of any other person who holds or is expected to hold an interest in the business.</p> <ul style="list-style-type: none"> • Who else is involved in this company? • How many shares and voting rights does that other person hold? • Officers must be satisfied that only qualified participants own 50% or more of the voting rights (as per section 7(1)(b) of the MIs).

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	<p>Examples:</p> <ul style="list-style-type: none">• Example 1: The applicant may be the child of a wealthy overseas industrialist who has bought a significant number of shares and is investing large sums into the applicant's intended business venture. This could raise concerns that the parent will be the de facto controlling interest while the applicant will simply be acting on the latter's instructions.• Example 2: Similarly, foreign ownership and investment by governments or non-profit organisations in the applicant's intended business should raise concerns about the genuineness of the venture, and should be investigated further.
	<p>If the commitment is made by a designated business incubator, the commitment should clearly indicate that the applicant has been accepted into an incubator program and identify the program name, start date, location and duration.</p>
Background Information	<p>This section will describe the relationship between the applicant and the investment team, any past business dealings and how the investment team became aware of the business investment opportunity.</p>
Work Permit for Essential Applicant (if applicable)	<p>Where the designated entity considers it critical that an essential applicant come to Canada before they obtain permanent resident status in order to expedite the establishment of the start-up business, they may indicate their support for the applicant's work permit application. This support will also be reflected in the Letter of Support provided to the applicant.</p>

9.2. Settlement funds

The applicant must clearly demonstrate that they have sufficient and available funds to meet the requirements. These funds must meet the requirements at the time the application is made, as well as when the application is finalized.

The funds must be:

- available and transferable;
- unencumbered by debts or other obligations.

Officers must be satisfied that the applicant has at their disposal, with sufficient liquidity, and with the ability to transfer those assets, the necessary threshold of funds to support their establishment in Canada on arrival.

Proof of funds could be in the form of cash or documents that guarantee payment of a set amount of money to the applicant, such as bankers' drafts, cheques, travellers' cheques or money orders.

The amount of funds is assessed according to the applicant's family size, using 50% of Statistics Canada's most current low income cut-off (LICO) for urban areas with populations of 500,000 or more.

Note: *In terms of funds required, the number of the applicant's family members includes both accompanying and non-accompanying dependants.*

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Refer to the CIC website to determine the current settlement funds requirement at www.cic.gc.ca/english/immigrate/skilled/funds.asp.

9.3. Education

Officers should expect to see proof of education in the form of transcripts and a letter of good standing, or certificate or diploma or degree. Officers should review the documentation provided by the applicant and determine if:

- at least one year of post-secondary study has been completed. The requirement is met based on the standards that exist in the country of study. For example, a technical credit may be the equivalent to a high school diploma in Canada, but in the country of study it is considered to be post-secondary level education.
- the applicant was in good standing while they were in attendance at the post-secondary educational institution. Applicants are considered to be in good standing based on criteria established by the educational institution. For example, the institution could have a policy which states that a person is not in good standing if they have an unpaid debt such as tuition fees or if they have not returned books to the library.

It is not necessary for the applicant to have actually obtained a diploma, degree or trade or apprenticeship credential as a result of having completed at least one year of post-secondary study. They must only demonstrate that they completed a minimum of one year of study at the post-secondary level. Study at the post-secondary level does not need to be continuous, and multiple periods of study can be added together to achieve a total period of one year of study for the purposes of meeting this requirement.

Post-secondary education obtained through distance learning counts toward meeting the education requirement.

Example 1: Michael has submitted proof that he was enrolled in an online training course to become a computer technical support assistant. After 18 months he quit the course because he could not pay the fees. He was also frustrated because the online course was not user-friendly. Although his transcript shows his grades and that he took courses from January 2008 until June 2009, the transcript also shows that he was on academic probation as of October 2008. In this instance, Michael has post-secondary education of at least one year; however, he was not in good standing during that one year period. The officer will determine that the applicant does not meet the education requirement.

Example 2: Joanne provides evidence that she has a bachelor's degree. The officer will determine that the applicant meets the requirement, as the likelihood of receiving a degree or diploma from the educational institution if the student is not in good standing, is low.

Example 3: Karine provides evidence that she attended a vocational institution for three years and was in good standing in the first two years of the program. In the third year, she did not complete the course of study. The officer will determine that the applicant meets the requirement.

Note: Incidence of fraud may be seen in this area. Verification checks should be conducted with issuing institutions, as necessary, to ensure that program integrity standards are respected.

Note: In some cases the transcript may indicate whether the student was in good standing or not during the period of attendance at the educational institution. In these cases the officer should not expect to see a separate letter from the institution.

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9.4. Official language proficiency

Pursuant to the MI the applicant must have a proficiency of at least Benchmark Level 5 in either official language for all four language skill areas, as set out in the *Canadian Language Benchmarks* (CLB) and as demonstrated by the results of an assessment conducted by an organization or institution designated by the Minister for the purpose of evaluating language proficiency under subsection [74\(3\)](#) of the Regulations.

The results of an evaluation of an applicant's language proficiency by a designated organization or institution are conclusive evidence of the applicant's proficiency in the official languages of Canada. Officers may not consider other evidence of language ability.

Note: Language test results must not be older than **two years** old at the time of application receipt.

The content of the following sections has been consolidated as part of our efforts to modernize operational guidance to staff. It is now found in the [Language requirements](#) section of Connexion.

Evidence of language proficiency

Designated testing organizations

Testing results tables

Integrity concerns on language proficiency

10. Procedure: Determining membership in the class

10.1. Pass/Fail Test

Membership in the Start-up Business Class will be based on a pass/fail system where applicants must meet the minimum qualifying requirements for all criteria for their application to be approved.

All applicants must:

- have a qualifying commitment from a designated entity in the form of a Commitment Certificate/Letter of Support;
- meet settlement fund requirements;
- have at least one year of post-secondary education; and
- meet or exceed the minimum proficiency level in English or French in all four language areas.

If	Then the officer will...
the applicant meets all of the requirements	<ul style="list-style-type: none">• indicate "Met" in GCMS, and• approve the application.
the applicant fails to meet any one of the requirements	<ul style="list-style-type: none">• indicate "Not Met" and record the reasons in GCMS, and• refuse the application.

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Note: Officers may also exercise their discretion to use substituted evaluation in determining whether an applicant is a member of the Start-up Business Class. However, substituted evaluation cannot be used to overcome the absence of a commitment from a designated entity [MI 2(2)(a)].

10.2. Substituted evaluation

The MI make possible the substitution of an officer's evaluation for the requirements set forth in respect of an application for permanent residence in the Start-up Business Class.

If the requirements set forth in the MI, whether or not they are met, are not sufficient indicators of whether the foreign national will become economically established in Canada, an officer may substitute their evaluation for the requirements.

Substituted evaluation requires the written concurrence of a second officer.

Substituted evaluation is to be considered on a case-by-case basis. The scope of what an officer may consider as relevant cannot be limited by a prescribed list of factors in support of exercising their authority for substituted evaluation.

The frequency, with which substituted evaluation authority is exercised, whether negative or positive, will depend on the merits of each individual case. The fact that an applicant "almost met" the requirements set forth for the Start-up Business Class is not, in itself, sufficient grounds to recommend the use of positive substituted evaluation.

For the sake of clarity, officers should employ the terms used in the legislation, such as "substituted evaluation" or "ability to become economically established in Canada."

Substituted evaluation is not to be confused with **humanitarian and compassionate authority**, which enables the Minister or his/her delegates to grant permanent residence or an exemption from any applicable criteria or obligation of the Act if justified by humanitarian and compassionate considerations relating to the foreign national.

Federal Court case law indicates that if an applicant or their representative requests orally or in writing that the officer consider exercising their substituted evaluation powers in the applicant's favour, officers must examine the circumstances. There is no requirement that an interview be conducted in cases when the applicant did not make a compelling case for substituted evaluation. If the officer does not consider substituted evaluation appropriate under the circumstances, they should clearly indicate this in the file notes and in the formal refusal letter, along with a brief summary of their reasons for refusing to consider positive substituted evaluation.

If an officer decides to use substituted evaluation when...	Then the officer will...
the applicant did meet all the requirements to become a member of the Start-up Business Class (i.e., negative substituted evaluation)	<ul style="list-style-type: none">• communicate their concerns to the applicant in writing and provide sufficient opportunity for the applicant to respond to those concerns, through correspondence/documentation• obtain written concurrence from a designated officer; and• provide reasons for the use of negative

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	substituted evaluation in the formal refusal letter sent to the applicant and in GCMS.
the applicant did not meet any one or more of the requirements to become a member of the Start-up Business Class (i.e., positive substituted evaluation)	<ul style="list-style-type: none">• obtain written concurrence from a designated officer; and• add a note in GCMS providing reasons for the use of positive substituted evaluation.

Note: Substituted evaluation cannot be used to overcome the absence of a commitment from a designated entity (MI 2(2)).

11. Addressing integrity concerns

11.1. Use of interviews

In accordance with principles of procedural fairness, any concerns that an officer may have regarding the accuracy or authenticity of information or documentation should be communicated to the applicant, whether these concerns are raised as the result of site visits, telephone checks, or through other means. Concerns can be communicated to the applicant in writing or at an interview.

Officers may choose to conduct interviews with applicants to:

- ensure that information or documentation submitted as part of the application is truthful and complete;
- detect and deter fraudulent information and documents;
- clarify specific information or details; and/or
- initiate a quality control exercise.

Offices other than the one responsible for application processing may be called upon to conduct interviews should the need arise. For example, applicants may be convoked for an interview at a non-processing office to accurately assess the applicant's eligibility or admissibility, including the need to interview family members as part of the application process.

Note: Officers may not conduct interviews to assess language proficiency.

11.2. Detecting and deterring fraud

Interviews, site visits, and telephone checks have proven to be the most effective ways to detect and combat fraud. The information gained through interviews where fraud is detected will help officers to identify current trends and patterns, and refine their approach to fraud deterrence on an ongoing basis.

Offices will be expected to undertake both targeted and random verifications to detect and deter fraud. The volume and percentage of cases subject to verification should be high enough to act as a meaningful disincentive to those who would engage in fraudulent practices.

Pursuant to [A40](#), material misrepresentation is grounds for inadmissibility in its own right with a prescribed two-year period of inadmissibility for those who are, directly or indirectly, involved in such fraudulent practices.

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11.3. Integrity of documents received

Officers must carefully consider the integrity of all supporting documentation submitted by the applicant. It is expected that officers will investigate any suspicious documents or inconsistencies related to the submission. The use of third-party verifications should be leveraged where feasible.

11.4. Integrity of Commitment Certificate

Officers should expect that the information on the Letter of Support submitted by the applicant is consistent with the information submitted directly to CIC on the Commitment Certificate from the designated entity. It is expected that discrepancies identified by an officer will be followed up on and clarification will be sought either by requesting clarification from the applicant, the designated entity and/or by initiating a peer review before making a final decision on the application.

11.5. Peer review

A very important aspect of the Start-up Business Class pilot program is building in safeguards to protect the program against fraud. The peer review process is designed to ensure that the deals made between private sector partners and foreign entrepreneurs are legitimate.

Officers must provide the panel with the Commitment Certificate, the term sheet/client agreement and any other relevant supporting documentation. The designated entity that made the commitment will provide the peer review panel with a copy of its due diligence package. The review panel will not second guess the business decision, but will review the documents provided by the officer and the investing entity to ensure that proper due diligence was performed by the designated entity. The review process takes place in three situations. The first is random sampling. The second situation is where the visa officer identifies a possible concern with the Commitment Certificate and requests the review in order to assist them in making a final decision. The third situation is for all commitments in which the lead designated entity is a business incubator.

Example: Paul is a rice farmer with limited education. The Commitment Certificate on his file indicates that he will farm rice in Alberta. Paul has also indicated in his application that he intends to grow a new type of rice which has been engineered to grow in conditions similar to those which exist in Alberta. Biolnno (a designated angel investor group) has agreed to fund Paul's project and has issued a Commitment Certificate. The officer is concerned that this could be a fraudulent case, and sends a peer review request to NACO. The peer review panel finds that Paul has registered a patent for the new rice seed in his home country and has successfully grown the rice in experimental trials. The panel is satisfied that there is sufficient evidence to show that Biolnno has taken reasonable measures towards obtaining its objectives in the commitment. After reviewing other factors, the panel concludes that due diligence was done by the designated entity. The officer reviews the peer review results and continues with the file assessment.

Note: To initiate a peer review, officers must complete the relevant fields of the Peer Review Request form (IMM 5765) and send it via secure e-mail (Entrust) to the industry association named in the application.

11.6. Peer review results

Peer review findings will be returned to CIC using the same secure electronic format. The panel will review the file and assess whether the designated entity undertook required due diligence as per industry standards. Officers must still assess the information and render a decision based on their own findings. Authority to make a final decision on the case rests with the officer.

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Peer review will include an assessment by the designated entity of the following:

- 1) **Business plan:** Are the business model and value proposition, as well as the sources of actual and projected revenues, clearly articulated? Has a sufficient level of due diligence performed to demonstrate that this is a growth-oriented business that is viable in Canada?
- 2) **Corporate documents:** Has a current list of shareholders been provided and has the due diligence process reviewed the shareholder agreements?
- 3) **Customers and suppliers:** Has the due diligence process properly covered the business' overall marketing, sales and distribution strategy?
- 4) **Material contracts:** Has the due diligence process reviewed the business' relevant material contracts in key areas such as sales, distribution and marketing, employment agreements with executive officers and loan agreements with officers, directors and holders of more than 5% of the shares?
- 5) **Intellectual property:** Has the due diligence process adequately reviewed the control that the business has over the intellectual property and other assets that it needs to operate successfully?
- 6) **Financial information:** Has the due diligence process adequately reviewed the audited financial statements and notes, the quarterly financial statements and the capital budget for the current and next fiscal year?
- 7) **Corporate financing:** Has the due diligence process adequately reviewed all the agreements relative to obligations for borrowed money, copies of all binding agreements, and the projected use of proceeds from the current financing round?
- 8) **Employees and benefit plans:** Has the due diligence process adequately reviewed all material employment and consulting agreements as well as stock options, bonus structures, retirement plans, profit-sharing, incentives and pension plan details?
- 9) **Management team:** Has the required due diligence on the management team been performed and did it properly assess the team's ability to successfully build and grow the business in Canada?
- 10) **Other:** Any other due diligence completed or an explanation for why the above was not completed, if applicable.

Note: Panelist identities must not be disclosed to the designated business incubator or the applicants under any circumstances.

12. Procedure: Determining admissibility

Once the officer has determined that an applicant is a member of the Start-up Business Class pursuant to the MI, the principal applicant and their family members, whether accompanying or not, must pass medical examinations, and criminal and security checks.

For detailed information about determining admissibility, refer to [ENF 2 / OP 18 – Evaluating Inadmissibility](#) manual chapter.

Note: If an applicant deemed an essential person with respect to the business proposal is found to be inadmissible, and the application is refused following procedural fairness, all applications linked to the same business proposal must also be refused.

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13. Procedure: Approving the application

If officers approve an applicant who is living outside of Canada, they should send the COPR and permanent resident visa (if applicable) to the address outside of Canada.

Officers should not issue a permanent resident visa to applicants whose passport was issued by the United States of America or a country identified in IRPA [190\(1\)\(a\)](#) or (b) or [190\(2\)\(b\)](#), (c), (d), (e) or (f), or [190\(2.1\)](#). Officers may still request to see the original passport if needed. Officers may still request to see the original passport if needed. Please see [OB 348](#) for more information.

All approved applicants should be directed to present their COPR and permanent resident visa (if applicable) to an officer at a Canadian port of entry [[R71.1\(1\)](#)].

Pursuant to [R71.1\(2\)](#), if officers approve an application from a temporary resident in Canada who is a member of a class referred to in [R70\(2\)\(a\)](#) or (b), they will:

- send their COPR and permanent resident visa (if applicable) to their address in Canada; and
- inform the applicant that in order to become a permanent resident they have the option of presenting the COPR and permanent resident visa (if applicable) to an officer at a Canadian port of entry or contacting the Call Centre to request an appointment at a local CIC office, with their family members, if applicable.

14. Procedure: Refusing the application

All refused Start-up Business Class applicants, including those refused for non-compliance with processing requirements, must be sent or otherwise provided a formal refusal letter. The letter must:

- inform the applicant of the categories or circumstances under which the application was considered; and
- fully inform the applicant why the application has been refused.

Refer to the sample refusal letter in Appendix A.

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Appendix A – Sample refusal letter

INSERT LETTERHEAD

Our Ref.:

INSERT ADDRESS

Dear XX:

I have now completed the assessment of your application for a permanent resident visa as a member of the Start-up Business Class and have determined that you do not meet the requirements for immigration to Canada.

According to the *Ministerial Instructions Respecting the Start-up Business Class* (MI) issued pursuant to section [14.1](#) of the *Immigration and Refugee Protection Act*, applicants in the Start-up Business Class are assessed on the basis of the pass/fail requirements set out in subsection 2(2) of the MI. These criteria are:

- a qualifying commitment from an angel investor group, venture capital fund or business incubator in the form of a Commitment Certificate/Letter of Support;
- meeting settlement fund requirements;
- having completed at least one year of post-secondary education and being in good academic standing during this period as defined by the educational institution; and
- meeting the minimum language proficiency level in either English or French in all four language abilities.

Your application was assessed against these criteria.

I am not satisfied that you meet the [CHOOSE ONE OR MORE: qualifying commitment, settlement fund, education, language proficiency] requirement(s) because [PROVIDE REASONS].

Following an examination of your application, I am not satisfied that you meet the requirements of the MI for the reasons explained above. I am therefore refusing your application.

[IF THE APPLICANT HAS PAID THE RPRF, ADD]

The Right of Permanent Residence Fee that you have paid is refundable.

[ADD AS APPROPRIATE]

You will receive a cheque from CIC within a few weeks.

OR

Please contact the Canadian [CHOOSE APPROPRIATE: Embassy/High Commission/Consulate] in [ENTER LOCATION] for information concerning the method of reimbursement and the date on which you can expect to receive the refund.

Thank you for your interest in Canada.

Yours sincerely,
Officer

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Appendix B – Start-up Business Class Work Permit

Qualifying foreign nationals who have received a Commitment Certificate/Letter of Support issued by a designated entity may be considered for a short-term work permit in order to facilitate their entry to Canada if the designated entity supports the request for a work permit.

To be eligible for a Start-up Business Class Work Permit, the following parameters must be met:

- the applicant must intend to reside in a province or territory other than Quebec;
- a Commitment Certificate/Letter of Support must have been issued by a designated entity indicating that the work permit applicant is “essential” and there are urgent business reasons for the applicant’s early entry to Canada (i.e. section 8.0 of the Commitment Certificate is completed); and
- the designated entity has been advised that the Commitment Certificate is valid.

Start-up Business Class Work Permit Issuance

Commitment Certificate

Case Processing Centre-Ottawa (CPC-O) will create each designated entity listed in the Ministerial Instructions (MIs) as an “Organization” in the Global Case Management System (GCMS). All applicants should be associated to the designated entity within GCMS.

On receipt of the Commitment Certificate, and finalization of the Peer Review (if required), CPC-O will create a client note in GCMS to which officers can refer. If section 8.0 is completed, CPC-O will input the information from section 8.0 into the note. This will indicate to other processing offices that the Commitment Certificate exists and that a work permit application is allowed.

Place of Application

Upon applying for a work permit, all applicants must present a Letter of Support linked to a Commitment Certificate issued by a designated entity within GCMS.

Applicants from Temporary Resident Visa-exempt and medically-exempt countries may apply at the Port of Entry (POE), as per section [R198](#) of the *Immigration and Refugee Protection Regulations*, if they choose. In such instances, the applicant must still present a copy of their Letter of Support that states that the applicant is “essential” and that urgent business reasons necessitate a work permit for this applicant. As well, the applicant must meet the normal admissibility requirements.

If not applying at the POE, applicants must submit an *Application for a Work Permit Made Outside of Canada* ([IMM 1295](#)) form, indicating that they are applying for a Start-up Business Work Permit. The application should be submitted to a Visa Application Centre or the visa office responsible for their place of residence.

Action on receipt of the application

These work permit applications will be processed on a priority basis.

The processing office will confirm that:

- the work permit application is accompanied by the Letter of Support from a designated entity. The letter must indicate that the applicant is “essential” and that a work permit is required for this applicant;
- a note in the *Client* tab confirms that a Commitment Certificate exists and a work permit application may be accepted; and
- a police certificate, if required, as per regular temporary resident processes was provided.
- a medical examination, if required, as per regular temporary resident processes was completed.

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If the processing office has any concern about whether the Commitment Certificate is genuine, the processing office can request confirmation from CPC-O by email.

The work permit will be issued under authority of subsection R205(a), and will be coded as follows:

Employer Name: Designated entity as per the section 1.0 of the Commitment Certificate;

Employment Location: As per section 8.1 of the Commitment Certificate;

Validation Exemption Code: C-10;

NOC: 8888-000;

Intended Occupation: Entrepreneur;

Case Type: 20 Worker, NES;

Special Program Code: "SUV" Start-up Visa / Visa pour démarrage d'entreprise;

Duration: The work permit is to be valid for the duration of 12 months.

If no medical examination was required, the office must impose the following conditions:

- Not authorized to work in childcare, primary/secondary school teachings, or health service field occupations; and
- Not authorized to work in agricultural occupations (designated countries only).

The permanent residence application should normally be finalized within three to six months. However, if an extension of the work permit is required, they will be considered on a case-by-case basis through the normal extension process at Case Processing Centre-Vegreville. It is expected that a permanent residence application will be in process but not finalized for any extension under this program.

Spouses of Start-up Business Work Permit Holders

For the purpose of paragraph [R205\(c\)\(ii\)](#) and section [5.38 of FW 1 – Temporary Foreign Worker Guidelines](#), the generic National Occupational Classification (NOC) Code "8888-000" will be considered to be a high skilled code in level '0, A or B' in the NOC Matrix.

Therefore, the spouses of the Start-up Business Class Work Permit holders may apply for an open work permit based on their status as the spouses or common-law partners of a high skilled worker (Labour Market Opinion Exemption: C41).