



**Canadian American Bar Association**

Ivo Entchev

*President*

Canadian American Bar Association

[www.canambar.com](http://www.canambar.com)

December 11, 2018

The Honorable Richard Shelby  
United States Senate  
304 Russell Senate Office Building  
Washington, DC 20510

The Honorable Patrick Leahy  
United States Senate  
437 Russell Senate Office Building  
Washington, DC 20510

The Honorable Rodney Frelinghuysen  
US House of Representatives  
2306 Rayburn House Office Building  
Washington, DC 20515

The Honorable Nita Lowey  
US House of Representatives  
2635 Rayburn House Office Building  
Washington, DC 20515

*Re: The Fairness for High-Skilled Immigrants Act of 2017 (H.R. 392)*

Dear Senator Shelby, Senator Leahy, Representative Frelinghuysen and Representative Lowey:

I write on behalf of the Canadian American Bar Association (“CABA”) to share CABA’s concerns regarding the amendment included in the Department of Homeland Security Appropriations Bill in the House Appropriations Committee sponsored by Rep. Kevin Yoder (R-KS) (the “Yoder Amendment”), which aims to eliminate the per-country cap for employment-based immigrant visas.

CABA believes that the Yoder Amendment threatens to impede the free movement of highly skilled Canadian workers to the United States and to cause harm to American businesses operating in cross-border industries, such as law and financial services, that support trade and other cross-border economic activity.

## **I. About CABA**

CABA is an association of American and Canadian lawyers with strong cross-border ties either through citizenship, education or professional designation. Our members include in-house counsel, attorneys in private practice, government lawyers, law school faculty, and law students. CABA acts as an associational forum and voice for the cross-border legal community and is committed to promoting the rule of law, facilitating cross-border business, and preserving the special relationship between two of the world’s largest and most comprehensive trading partners.

CABA carries out in-depth legal and policy research and engages in cross-border advocacy initiatives that further its mission and the interests of its members. CABA also hosts events in New York, Los Angeles and Toronto; these events include cross-border panels involving judges and other members of the legal community, Continuing Legal Education seminars focusing on cross-border legal issues, and speaking engagements for Canadian and American lawyers pursuing international legal, political, or diplomatic work. CABA is a California non-profit corporation based in New York City.

## **II. CABA’s Position on the Yoder Amendment**

CABA notes the Yoder Amendment seeks to replace the current policy of allocating immigration visas based on the country of origin of high-skilled workers to allocating such visas based on waiting time. While CABA understands there may be value in clearing lengthy immigration backlogs, the coming into effect of the Yoder Amendment would have immediate and powerful consequences on Canadian residency in the United States, significantly confounding the expectations of Canadians working or considering working in the United States. The Yoder Amendment would do so by prioritizing visas for the citizens of a small number of countries with particularly high immigration volumes and backlogs, effectively skewing and reducing the diversity of the immigrant pool into the United States for years to come.

In CABA's view, the Yoder Amendment impedes the ability of American businesses to deploy Canadian workers in vital cross-border industries, wherein they create considerable value for both countries. CABA sees firsthand the economic benefits of the free movement and relocation of Canadian legal professionals to the United States<sup>1</sup>. Canadian lawyers routinely bolster the legal expertise of large, full-service U.S. law firms handling complex cross-border matters that can range from mergers and acquisitions and the cross-listing of securities to cross-border bankruptcies and dueling or parallel class actions. Over 15 major U.S. firms have an office in Canada or a dedicated Canada practice group populated by Canadian nationals resident in the United States. The U.S. legal services industry as a whole is worth over 250 billion dollars. The complex legal work done by cross-border law firms for clients with business in Canada demands attorneys well-versed in the legal and cultural issues on both sides of the border. While the recently signed United States-Mexico Canada Agreement maintains the ability of cross-border legal professionals to work temporarily in the United States, CABA believes that the more permanent immigration solutions jeopardised by the Yoder Amendment remain important to supporting the cross-border legal industry and trade more generally.

CABA further submits that the situation targeted by the Yoder Amendment would be better addressed by increasing the overall number of immigrant visas available to highly skilled foreign workers. The Yoder Amendment applies a zero sum logic through which the citizens of most countries are penalized to the advantage of a handful of others, and effectively channels the influx of high-skilled foreign workers to certain industries. CABA believes the model of extreme delays in employment-based immigration should not be rolled out more broadly than it already is. Canadians are currently fortunate enough to face limited waiting times for immigration work visas. With the enactment of the Yoder Amendment, CABA understands that in certain visa categories, such as EB-1, Canadian citizens would effectively be frozen out for an indefinite period. Considering that American businesses and highly skilled Canadian citizens may have relied on existing immigration processes in commencing or continuing U.S.-based employment, this may lead to premature and disruptive departures, uncertainty, and other economically disadvantageous outcomes.

CABA supports the removal of the Yoder Amendment and urges the adoption of more comprehensive and equitable immigration reform that would best meet the needs of American businesses across all sectors, including those engaged in cross-border industries.

Yours sincerely,



Ivo Entchev, Esq.  
*President*  
Canadian American Bar Association

---

<sup>1</sup> CABA actively advocated maintaining NAFTA's attorney TN work permit provisions. In June 2017, as part of a public comment period, CABA submitted a letter to the Office of the United States Trade Representative and was invited to provide testimony at the International Trade Commission's (ITC) public hearing in Washington, D.C.