

## Ontario Immigrant Nominee Program

*by Li Tian and Edward C. Corrigan*

Ontario Immigrant Nominee Program (OINP) is a popular alternative program for prospective immigrants who want to immigrate to Canada. Since its inception in 2009 the program has been evolving in order to attract more qualified applicants to settle in Ontario with the aim of promoting economic growth in Ontario and creating more jobs.

In June 2015, OINP went through some dramatic changes in response to the creation of the Federal Express Entry Program for Skilled Workers. The OINP introduced two "Express Entry" related categories – the Human Capital Priorities and the French-Speaking Skilled Worker. In October 2015, Ontario closed its Investor Component. As a replacement, in December 2015, OINP opened two new categories – the Corporate Stream and the Entrepreneur Stream. [1]

Immigration, Refugees and Citizenship Canada (IRCC) formerly known as Citizenship and Immigration Canada (CIC) allocates a certain number of provincial nomination applicants to the province of Ontario each year for these two streams respectively. This number has been increasing over the years from 1,000 in 2009 up to 5,200 in 2015. [2] In 2015, OINP received a "base" stream allocation of 2,500 nominations and an "express entry" stream allocation of 2,700 nominations. [3] On November 16, 2015, OINP reached its "base" stream quota but it did not use up its "express entry" stream quota in 2015. [4]

### **"Base" Stream and "Express Entry" Stream – Application Procedure**

In 2016, the application of OINP will centre on two major streams – the "base" stream and the "Express Entry" stream.

The "Base" stream includes Foreign Workers, International Students With a Job Offer, Masters Graduates, PhD Graduates, Corporate Stream and Entrepreneur Stream. The "Base" stream will continue following the traditional two-step paper-based provincial nominee program application. This stream calls for applicants that are qualified under one of the "base" stream programs to apply for an Ontario Nomination and then if selected they obtain a Ontario Nomination Certificate which enables them to apply for immigration at the federal level under the Provincial Nominee program. A Nominee Certificate issued under "base" stream will not affect the point calculation Comprehensive Ranking System (CRS) in the Federal Express Entry Program.[5]

The "Express Entry" stream, as implied by the name, is associated with the Federal Express Entry program. At this point in time it only includes the Human Capital Priorities and the French-Speaking Skilled Worker programs. Applicants must first create an on-line profile in the Federal Express Entry Program. OINP will identify the qualified applicants through the Express Entry pool and invite them with a Provincial/Territorial (PT) Notification of Interest (NOI) to apply to OINP for nomination under one of the "Express Entry" stream programs. Applicants with a PT Notification of Interest can apply to OINP for nomination within 45 days. Once the application is approved, they will be notified of the nomination through their Express Entry on-line accounts. Applicants need to accept the nomination from Ontario within 30 days in order to receive 600 CRS points under Federal Express Entry program.

If an applicant believes that they meet the OINP "Express Entry" requirements but do not receive a PT Notification of Interest for more than a month, they should create a new Express Entry profile and delete the old one. [6]

It is worthwhile to mention that the nomination can only increase applicant's CRS points under Federal Express program but cannot guarantee an invitation to apply for Permanent Residency from IRCC. For example, as invitation quota for Express Entry is limited for each round, if most of the applicants receive provincial nominations, the determining factor may be their basic CRS points prior to the nomination.

### **"Base" Stream and "Express Entry" Stream – Application Requirements**

To be nominated by OINP, applicants need to be qualified under one or more of the OINP programs. Each program has its identical requirements but there is one basic and common requirement applying to all programs is a declaration of the intention to staying in Ontario after becoming a Permanent Resident. In general, each applicant has

to demonstrate to the Ontario Government that they have sufficient ties to Ontario and intend to live in Ontario after they become a Permanent Resident of Canada. However, different programs might require different types of supporting documents to prove the applicant's intent to stay. The rest of this article will briefly describe each OINP program.

## **"Base" Stream**

As it is mentioned previously, OINP "base" stream includes Foreign Workers, International Students With a Job Offer, Masters Graduates, PhD Graduates, Corporate Stream and Entrepreneur Stream. Among these, Foreign Worker and International Students With a Job Offer are employer driven programs. Masters Graduates and PhD Graduates are education driven programs. The Corporate Stream and the Entrepreneur Stream are investment related programs.

### **Employer Driven Programs**

The "Employer Driven Programs" heavily relies on the qualification and willingness of the employer to obtain approval for an arranged employment in Canada. This is a requirement under Foreign Workers and International Students With a Job Offer programs. [7]

A two-step application process applies to the nomination application under these two categories. Before applicants can apply to OINP, their employers are required to go through an Employer Pre-Screen Application for the proposed nominative employment positions (Pre-Screen Position). Once the proposed positions are approved, Employer Pre-Screen Approval letters will be issued by IRCC upon which applicants can apply to OINP under one of these two categories.

An employer that is eligible to apply for a Pre-Screen Position must have been active in business for at least 3 years and have business locations in Ontario where the prospective nominee will work. It also must be in compliance with all provincial labour laws. An employer inside of the Greater Toronto Area (GTA) must have a minimum of \$1,000,000 in gross annual revenue for the most recent fiscal year, five permanent full-time employees who are Canadian citizens or permanent residents at the applicant's work location. Employers outside of the Greater Toronto Area must have a minimum of \$500,000 in gross annual revenue for the most recent fiscal year, and have three permanent, full-time employees who are Canadian citizens or Permanent Residents. [8]

In addition, the pre-screen position must be a permanent, full-time (1,560 hours in a 12-month period) and paid position and must be a NOC (National Occupation Classification) 0, A, or B occupation [9]. Also, the wage for this position must meet a certain criteria, which is one of the differences between the Foreign Worker Stream and the International Student With Job Offer Stream. The former requires a prevailing wage for the position in the labour market while the latter only requires an entry-level wage. [10]

Also, the position should not negatively affect the employment and training opportunities of Permanent Residents and Canadian citizens. This requirement is similar to the Labour Market Impact Assessment (LMIA) which requires that the employer prove that the foreign worker is necessary for the company's operations and that there no other better options in the local labour market. However, if the applicant is currently living in Ontario or is currently employed by the employer, this requirement can be waived. [11] This exemption especially suits international students who would like to immigrate to Canada as it works well with a Post-Graduation Work Permit [12] .

Once the pre-screen position is approved, the applicant needs to meet additional requirements before they can be nominated by OINP. For the Foreign Worker Stream, the Applicant is required to have two years relevant work experience within the past five years. For the International Student With Job Offer Stream, the Applicant must complete at least a two-year full-time degree or one year post-graduate certificate program at an approved designated institution and at least half of the study must be in Canada. [13]

Employers play a critical role under these two types of application and the willingness of the employer to meet the requirements of the process is especially crucial for the application. Though there is no application fee associated with the Employer Pre-Screen Process, the employer still needs to submit a quantity of its business related documents and give OINP its consent to investigate into its business in order to assess its eligibility. It is understandable that some employers may not be comfortable revealing their business information just to employ a foreign worker. However, this requirement is to help screen out fraudulent employers.

## Education Driven Programs

The so-called "Education Driven Programs"- Master Graduates and PhD Graduates programs - heavily rely on applicant's personal education level as implied in the name of the categories. No job offer is required under these two categories. [14]

The requirements for the PhD Graduates program are quite simple. Apart from a declaration of intent to stay in Ontario, it requires the applicants to complete all requirements for the PhD (i.e. have completed all course work, and successfully defended their thesis and are awaiting the conferring of their degree) at a designated institution in Ontario and must complete at least two years of study at this institution.

The Master Graduates category is a little more complicated. Applicants must complete at least a one-year full-time studies in a master degree program at a designated institution in Ontario. In addition to this requirement, Applicants must meet official language proficiency equivalent to Canadian Language Benchmark (CLB) 7 (International English Language Testing System (IELTS) 6, have minimum level of settlement funds and live in Ontario for at least 12 months consecutively 2 years prior to the application. Furthermore, applicants must declare that they will not pursue further studies in Canada. Finally, it is worth to note that the application under this category cannot be made out of Canada. [15]

Compared to the Employer Driven category, the requirements of these two Education-Based Streams are easier to meet and it is only a one-step application. More importantly, the application only assesses the Applicant's personal qualification and does not rely on a third party. The latter approach reduces involvement with a third party and the risk of being rejected due to the failures of the third party.

## Investor Related Streams

As substitutes for the old Investor Stream, OINP newly introduced Corporate Stream and Entrepreneur Stream in December 2015. [16]

### Corporate Stream

If a corporation would like to expand its business into Ontario by creating a new business or purchasing an existing business within its territory may be eligible under Corporate Stream to sponsor immigrants for its labour force. While submitting an application for approval of the corporation itself, the application for its key staff for the new business in Ontario should also be submitted. OINP will assess these two applications at the same time to determine whether to issue a nomination certificate to the corporation.

To be nominated, the corporation must have been established for at least 36 months at the time of application and invest a minimum of \$5 million to expand into Ontario. Also the new business must create 5 new full-time permanent jobs for Canadians or Permanent Residents per each key staff included in the application. It also needs to meet some general requirements to establish a new business in Ontario. If the applicant intends to purchase an existing business in Ontario, additional requirements apply, e.g. maintaining at a minimum the current wage levels, preserving all existing permanent full-time jobs, etc. [17]

In addition, the key staff proposed by the candidate corporation must be in a NOC 0 or A occupation and only one key staff can be in a NOC A position. The key staff must also meet additional requirements such as work experience, language proficiency, residence, relation with corporation, etc. [18]

### Entrepreneur Stream

The Entrepreneur Stream is aimed towards individual entrepreneurs and their partners. An application under the Entrepreneur Stream is built on the invitation from OINP based on an Expression of Interest (EOI) from Ontario. Candidates should submit an EOI and have scores under Experience (50), Investment (90) and Human Capital (20) factors (160 in total). OINP will assess the claim against these factors and issue an invitation to the candidates based on their total points. Only after receiving an invitation the Applicant can apply for nomination to OINP based on the EOI. [19]

Although the points system is critical for the application, candidates still need to meet the minimum requirements. Candidates must possess related business experience within a certain period of time as either a business owner or a

senior manager. They also need to meet language proficiency at a CBL 5 level or equivalent and certain residency requirements in Ontario. [20]

The minimum net worth of the proposed business must be \$1,500,000 within the GTA, or \$800,000 within non-GTA with personal Investment funds of \$1,000,000 within the GTA or \$500,000 within non-GTA, from candidates. Candidates must own a minimum 33.3% of the equity. The new business must create at least 2 permanent full-time jobs for Canadian Citizens or Permanent Residents. Additional requirements may also apply on case by case basis. Similar to the Corporation Stream, the general requirements for creating a new business or purchasing an existing business must also be met. [21]

The rationale for OINP to split the original Investor Stream into Corporation and Entrepreneur categories is to meet the needs of foreign businesses and entrepreneurs in Ontario. As these programs were not introduced until the end of December 2015, it is still uncertain how they will work. However, it can be expected that they will be complicated applications given the large quantity of information, requirements and application procedures put in the relevant guidelines for each program.

## **“Express Entry” Stream**

As indicated in the name, “Express Entry” Stream - Human Capital Priorities and French-Speaking Skilled Worker – is a type of nomination that helps applicants gain additional points in Express Entry Comprehensive Ranking System (CRS) to attract more skilled workers to settle in Ontario. As an Express Entry supplementary program, applicants under this stream must first meet the basic requirements under Federal Skilled Worker Program and/or Canadian Experience Class Program. [22]

In addition to the basic requirements under Express Entry Program, applicants have to be invited by OINP and must also have at least one recognized Canadian Bachelor’s Degree or its equivalent, meet a certain level of language proficiency and demonstrate sufficient settlement funds. [23]

Applicants under Human Capital Priorities category need to meet a language level of CLB 7 or above in all language competencies (reading, writing, listening, and speaking) in either English or French. [24] For French-Speaking Skilled Worker, applicants must have a French-language level of CLB 7 or above in all language competencies and an English-language level of CLB 6 in all competencies. [25]

If arranged employment is involved in the assessment, the employment must be in Ontario, for otherwise it will be evidence against the Applicant’s intent to stay in Ontario after becoming a Permanent Resident. [26]

The “Express Entry” Stream is still quite new as it was introduced in June 2015, comparatively fewer applicants applied to this program to obtain the additional 600 points. Therefore it will be interesting to see if 600 additional points is still helpful in gaining Permanent Residence in Canada?

In summary, there are many different ways to immigrate to Canada. The Province of Ontario has provided a variety of opportunities for prospective immigrants who want to settle in Ontario. It is important to understand these programs provided by OINP and properly have your qualifications assessed. This will help you select the best way to file your immigration application. As with all types of immigration applications, it can be useful to have guidance and assistance throughout the process from a legally trained professional.

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[1] “Ontario Immigration Nominee Program Updates,” Ontario Canada, December 25, 2015, available at <[http://www.ontarioimmigration.ca/en/pnp/OI\\_PNPNEW.html](http://www.ontarioimmigration.ca/en/pnp/OI_PNPNEW.html)>.

[2] Ibid.

[3] “Ontario Immigrant Nominee Program: Human Capital,” Ontario Canada, December 21, 2015, available at <<http://www.ontarioimmigration.ca/en/...CAPITAL.html>>; and see also “Ontario Human Capital Priorities Stream – Questions and Answers,” Ontario Canada, December 21, 2015, available at <[http://www.ontarioimmigration.ca/en/pnp/OI\\_PNP\\_EE\\_CAPITAL\\_FAQ.html](http://www.ontarioimmigration.ca/en/pnp/OI_PNP_EE_CAPITAL_FAQ.html)>.

[4] “Ontario Immigration Nominee Program Updates,” supra note 1.

[5] "Ontario Human Capital Priorities Stream – Questions and Answers," supra note 3.

[6] "Ontario Human Capital Priorities Stream – Questions and Answers," supra note 3.

[7] "Application Guide for Employer," by Ontario Immigration Nominee Program, July 24, 2015, available at <<http://www.ontarioimmigration.ca/pro...employer.pdf>>; "Application Guide for Nominees: Foreign Workers," by Ontario Immigration Nominee Program, July 24, 2015, available at <[http://www.ontarioimmigration.ca/pro...\\_nom\\_000.pdf](http://www.ontarioimmigration.ca/pro..._nom_000.pdf)>; and see also "Application Guide for Nominees: International Students with a Job Offer," by Ontario Immigration Nominee Program, July 24, 2015, available at <<http://www.ontarioimmigration.ca/pro...tstudents.pdf> >.

[8] "Application Guide for Employer," supra note 7.

[9] National Occupation Classification (NOC) 0 is for management level position. NOC A is for skilled work position. NOC B is for semi-skilled employment for example skilled technicians, etc.

[10] "Application Guide for Employer," supra note 7.

[11] Ibid .

[12] An International Student is eligible for a Post-Graduation Work Permit once he/she completes 8 months or longer study in Canada.

[13] "Application Guide for Nominees: Foreign Workers," supra note 7. See also "Application Guide for Nominees: International Students with a Job Offer," supra note 7.

[14] "Application Guide for Nominees: International Students – PhD Graduates," by Ontario Immigrant Nominee Program, July 24, 2015, available at <[http://www.ontarioimmigration.ca/pro...\\_guide\\_phd.pdf](http://www.ontarioimmigration.ca/pro..._guide_phd.pdf) >; and see also "Application Guide for Nominees: International Students – Masters Graduates," by Ontario Immigrant Nominee Program, July 24, 2015, available at <[http://www.ontarioimmigration.ca/pro...e\\_masters.pdf](http://www.ontarioimmigration.ca/pro...e_masters.pdf)>.

[15] "Application Guide for Nominees: International Students – Masters Graduates," supra note 14.

[16] "Ontario Immigrant Nominee Program Corporate Stream Guide," Ontario Canada, December 18, 2015, available at <[http://www.ontarioimmigration.ca/pro...\\_en\\_corp.pdf](http://www.ontarioimmigration.ca/pro..._en_corp.pdf)>; and "Ontario Immigrant Nominee Program Entrepreneur Stream Guide," Ontario Canada, December 18, 2015, available at <[http://www.ontarioimmigration.ca/pro...\\_en\\_entre.pdf](http://www.ontarioimmigration.ca/pro..._en_entre.pdf)>.

[17] "Ontario Immigrant Nominee Program Corporate Stream Guide," supra note 16.

[18] Ibid .

[19] "Ontario Immigrant Nominee Program Entrepreneur Stream Guide," supra note 16.

[20] Ibid .

[21] Ibid .

[22] "Application Guide for Ontario Human Capital Priorities Stream," by Ontario Immigrant Nominee Program, July 24, 2015, available at <[http://www.ontarioimmigration.ca/pro...\\_en\\_hcps.pdf](http://www.ontarioimmigration.ca/pro..._en_hcps.pdf)>; and see also "Application Guide for Ontario French-Speaking Skilled Worker Stream," by Ontario Immigrant Nominee Program, July 24, 2015, available at <[http://www.ontarioimmigration.ca/pro...i\\_en\\_fssw.pdf](http://www.ontarioimmigration.ca/pro...i_en_fssw.pdf)>.

[23] Ibid .

[24] "Application Guide for Ontario Human Capital Priorities Stream," supra note 22.

[25] "Application Guide for Ontario French-Speaking Skilled Worker Stream," supra note 22.

[26] "Application Guide for Ontario Human Capital Priorities Stream," supra note 22.

Guide for Ontario French-Speaking Skilled Worker Stream," supra note 22.

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