

IMMIGRATION

Law firms scramble to help clients capitalize on shift in Canada's immigration policy

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PUBLISHED FEBRUARY 24, 2021

UPDATED 6 HOURS AGO

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Law firms are urging their clients to get in Canada's express pool of immigration candidates as soon as possible after the federal government invited a record number of people in that system to apply for permanent residency to help hit ambitious targets.

On Feb. 13, Immigration Canada issued the invitations to more than 27,000 people in the Express Entry system, which is aimed at expediting the intake of skilled workers. That round of invitations – known as a draw – focused on those who had at least one year of recent work experience in Canada.

The number was more than five times larger than the previous record. To hit that mark, the federal government had to drastically reduce the immigration scores needed for an invitation to apply.

The decision sent a jolt through the legal community, with initial confusion giving way to a flurry of phone calls. Many lawyers had steered clients away from Express Entry because it was unlikely they could get a high enough score.

The situation has prompted a rethink. Several law firms contacted by The Globe and Mail are now telling clients that anyone who can get into the Express Entry pool should do so, given the potential for the federal government to surprise again.

“At this point, it seems like all bets are off, and we have no predictability in terms of who’s going to be selected and who’s not,” said Meika Lalonde, partner at McCrea Immigration Law in Vancouver. “We do know that the government has some ambitious immigration targets that it wants to fill this year. So there is a possibility that they’ll draw again at a remarkably low score.”

Owing to the pandemic, Canada has just had an exceptionally weak year for immigration. About 184,000 new permanent residents were added in 2020, well short of the 341,000 target. To make up for that, Immigration Canada raised its targets for the next three years, starting with an intake of 401,000 in 2021.

With border restrictions still in place, Ottawa is focused on foreign workers and students already here. Most of the invitations issued on Feb. 13 were to people in Canada, the federal government said.

Launched in 2015, Express Entry is one of several pathways for immigration. When people go into that pool, they’re assigned a score in points based on age, education, work experience and other factors. Draws are usually held every two weeks and have a cut-off score for who gets invited.

The cut-off is usually at much more than 400 points. Successful candidates in the category of people with Canadian work experience have often been under 30 years old and had advanced degrees and strong English or French skills.

This time, the cut-off score was slashed to 75. That meant nearly everyone in the Canadian-experience stream of Express Entry got an invitation, all but depleting that source of candidates.

“I actually thought it was a mistake,” said Adrienne Smith, partner at Battista Smith Migration Law Group in Toronto. “I was completely shocked.”

Once she learned it was real, Ms. Smith advised clients to try to get into the express pool. “I just don’t want to have another client that misses out on this potential draw,” she said.

The message was the same from Sonia Matkowsky, an immigration lawyer in Toronto: “I do advise individuals [who would get] lower scores to enter the pool,” she said. “Especially this year. Anything can happen.”

It's unclear how the coming months will play out. While the Canadian-experience stream was nearly emptied, it's undoubtedly starting to grow again. The question is whether the cut-off score will be low in future draws.

Several lawyers say they think the federal government will eventually shift its focus outside the country. Thousands of Express Entry candidates are abroad and lack Canadian work experience, but otherwise have desirable credentials. Their entry is complicated by border restrictions.

"A lot of our clients overseas were also contacting us," Ms. Smith said. "I think the hope and the anticipation is that in order to meet the 400,000-person target, that [the government is] going to have to move to overseas applicants next."

Even then, the 2021 target should be tough to hit. In a recent report, RBC Economics estimated that Canada would add only 275,000 new permanent residents this year.

Some lawyers said the recent draw undermined the purpose of the Express Entry system, which is intended as a way to fast-track the top candidates rather than send a blanket invitation to virtually everyone.

"It's a very good news story for a lot of individuals," Ms. Lalonde said. "But I would say it doesn't speak favourably of the integrity and predictability of our immigration system."

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