

**U.S. IMMIGRATION OPTIONS FOR FOREIGN PROFESSIONALS,  
ENTREPRENEURS AND STARTUPS**

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## **SUSANNA VISCONTI**

Susanna Visconti is a shareholder with Scott Hulse. For the past 28 years, Ms. Visconti has focused her practice entirely in the area of U.S. Immigration and Nationality Law. Her practice includes business and family-based immigration, consular processing, employer sanctions/worksites enforcements, citizenship and naturalization, waivers, and port of entry issues.

Ms. Visconti is a graduate of Wellesley College and St. Mary's Law School. She is a member of the El Paso Bar Association, the State Bar of Texas and the American Immigration Lawyers Association. She is fluent in English, Spanish, French and Italian. Ms. Visconti is a frequent lecturer to local professional and business groups on immigration law. She also serves as the local AILA liaison between local AILA attorneys and US Customs Border Protection. In the past, she has served on AILA's USCIS International Operations National Committee and more recently, AILA's Department of State National Committee.

Ms. Visconti's clients have included large international corporations, global manufacturing companies, construction companies, transportation companies, agricultural businesses, educational institutions, hospitals, and medical schools, sports teams, restaurants and food franchises, religious entities, investors, scientists, researchers, non-profit organizations, families, and individuals. Her client base includes individuals and companies from Europe, Africa, Asia, and Latin America.



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# U.S. IMMIGRATION OPTIONS FOR FOREIGN PROFESSIONALS, ENTREPRENEURS AND STARTUPS

## INTRODUCTION

The challenges of U.S. Immigration law continue. Despite the variety of visa options on paper, the viability of obtaining a visa in this present day is difficult and challenging. Even though the U.S. is considered a leading country in many respects, visa options for professionals, entrepreneurs, and startups are unavailable (H-1B visas), confusing, and difficult to obtain.

The purpose of this article is to point out generally a few visa options for the professional, the entrepreneur and the startup person in the United States, and to provide selected practice pointers for such visa options and a list of legal research tools. The options available for foreign professionals, entrepreneurs and startups requires a thorough understanding of the applicable law and regulations, and the current practice with the applicable consulate (assuming consular processing) or USCIS.

## I. TOPICS COVERED

1. International Entrepreneur Parole Rule (IER) - Requirements and Process
2. Possible Options for Foreign Professionals, Entrepreneurs and Startups
3. Practice Pointers for Foreign Professionals, Entrepreneurs and Startups
4. Legal research for IER
5. Selected legal research for other possible options
6. Useful websites for law firm newsletters
7. Setting up a case

## II. THE INTERNATIONAL ENTREPRENEUR PAROLE RULE (IER)

The IER is a regulation by U.S. Citizenship and Immigration Services (USCIS), 8 CFR Section 212.19, that was created to increase the presence of foreign entrepreneurship in the United States. The rule allows the granting of a temporary parole to the U.S. to international entrepreneurs in order to build and grow their start-up businesses.

The IER program grants parole status-not non-immigrant visa status- to up to three foreign entrepreneurs per start-up entity. The total amount of time allowed on this parole is up to five years, but the

parole status is granted in increments of 30 month or 2.5 years. The parole status allows the foreign national to work in the start-up entity only. Accompanying family members are also allowed to come. Although spouses are allowed to apply for work employment through an EAD card, children are not. The IER does not lead to legal permanent residence. In addition, because this is a parole and not a visa, the foreign national, if already in the U.S. under a different status, must leave the U.S. and enter with the parole. Change of status is not available. The foreign national must repeat the process if extending the parole. Finally, a change of status from the IER to a different non-immigrant visa status is also not permitted.

### Requirements For Applying:

The entrepreneur must show the following:

- Own at least 10% of and maintain at least 5% ownership interest in a start-up that has conducted business and was created in the five years before the application or receiving the qualifying investment or funding **and**;
- Have an active role that is central to the operations of the business by applying the skills, experience and knowledge that will help the entity grow.
- Must maintain a household income of at least 400% above the poverty level (\$51,520 for a single person).

In addition, the entrepreneur must show **one** of the **three** following funding standards:

- **Significant Capital Investment:** the start-up has received capital investment of \$250,000 (now \$264,147)<sup>1</sup> in the past 18 months from one or more U.S. investors who have an established record of successful investments.

The investors have to show that during the last five years:

1. Each investor must have invested at least \$600,000 (now \$633,952)<sup>2</sup> in start-ups; **and**
2. At least two of the recipient start-ups must have created five qualifying jobs for U.S. workers **or** generated \$500,000 (now \$528,

<sup>1</sup> Every three years, by regulation, the Consumer Price Index for All Urban Consumers will adjust the investment and revenue amounts automatically. USCIS will post the new amounts on their website.

<sup>2</sup> Every three years, by regulation, the Consumer Price Index for All Urban Consumers will adjust the investment and revenue amounts automatically. USCIS will post the new amounts on their website.

293)<sup>3</sup> in annual revenue with a 20% growth rate.

- **Government Funding:** the start-up has received domestic federal, state, or local government funding totaling \$100,000 in economic development, research and development, or job creation.
- **Alternative-Partial Capital Investment and/or Government Funding and/or Other Compelling Evidence:** if the start-up received some funding, but not all from the above two funding standards, the entrepreneur may qualify by showing “compelling evidence” of substantial potential for rapid growth and job creation. Examples of this evidence are: participation in a reputable start-up accelerator, patent awards, media coverage of the start-up, revenue generation, letters from government agencies, qualified investors, or established business associations attesting to how start-up’s research, products or services or entrepreneur’s knowledge, skills, and experience will advance the business.

#### Requirements For Extension (“Re-Parole”)

As stated above, the IER allows an initial grant of parole of 30 months. The entrepreneur can apply for second period of 30 months. The start-up must show **one of the four** requirements:

- **Additional Funding:** the start-up has received an additional amount of \$500,000 in additional capital investment and/or government funding **or**
- **Revenue:** the company has generated \$500,000 annually at a 20% growth rate **or**
- **Job Creation:** the company has created at least five qualifying jobs (must be in the U.S., full-time, lawful employment, excluding the entrepreneur, immediate family members, and independent contractors) **or**
- **Alternative Evidence:** entrepreneurs who only partially meet one or more of the above requirements can show evidence of the company’s substantial potential for rapid growth and job creation.

#### How To Apply

The entrepreneur must file form I-941 with USCIS. The filing fee is \$1,200 and an additional \$85 for the biometric fee. Premium Processing is currently not available. Once approved, the entrepreneur must travel

to a consulate to obtain a travel document, such as a boarding foil, that will allow travel to the U.S. The parole will be granted at the border. Canadian nationals are not required to apply for a travel document. They may directly apply for the parole at a port of entry.

Accompanying family members may simultaneously file form I-131, along with the I-941. The filing fee of \$575, along with the \$85 biometric fee, is also required. Once the family members are paroled in with the entrepreneur, the accompanying spouse may apply for work authorization with form I-765. Children are not permitted to apply for work authorization.

The IER may be an interesting option for foreign entrepreneurs who do not have capital of their own to fund their own business. In addition, unlike the E-1/E-2 option that is contingent on an existing treaty between the U.S. and country of nationality, the IER is available to all nationalities. USCIS has launched one informative webinar regarding the IER program and has promised to launch additional webinars in an effort to educate the public on this no longer new, but yet relatively unused program.

### III. POSSIBLE OPTIONS FOR FOREIGN PROFESSIONALS, ENTREPRENEURS AND STARTUPS

#### Options

1. H-1B
2. H1B1
3. L-1A, L-1B and L-1 blanket
4. TN
5. E-1, E-2 and E-3
6. O-1A and O-1B
7. IER

#### Statutory And Regulatory Authority

H-1B and E-3

1. See Kurzban Immigration Law Sourcebook 2022/2023 at pages 2111-2174; 2263-2264 <https://ailalink.aila.org/#search/result/view/100679>
2. Statute and regulations – See INA §101(a)(15)(H)(i)(b) [8 USC §1101(a)(15)(H)(i)(b)]; 8 CFR §214.2(h); 22 CFR §41.53 For E-3 see INA §101(a)(15)(E)(iii) [8 USC §1101(a)(15)(E)(iii)]; PL 109-13, 119 Stat. 231, Div. B, Tit. V, §501 (May 11, 2005); 22 CFR §41.51(c); (formerly) AFM 34.6; 9 FAM 402.9-8

<sup>3</sup> Every three years, by regulation, the Consumer Price Index for All Urban Consumers will adjust the investment and revenue amounts automatically. USCIS will post the new amounts on their website.

3. USCIS website policy memorandum – See Part H - Specialty Occupation Workers (H-1B, E-3) | USCIS .

## H-1B1

1. See Kurzban Immigration Law Sourcebook 2022/2023 at pages 2173-2174 <https://ailalink.aila.org/#search/result/view/100679>
2. Statute and regulations – See INA §101(a)(15)(H)(i)(b)(1) [8 USC §1101(a)(15)(H)(i)(b)(1)]; INA §214(g)(8)(A) [8 USC §1184(g)(8)(A)]; H.R. 2738, PL 108-77, 117 Stat. 909, H.R. 1739, PL 108-78, 117 Stat. 947; H.R. Rep. No. 108-224, pt. 2 at 6–11, 15–20, 36–46 (2003); H.R. Rep. No. 108-225, pt. 2. at 5–11, 15–16 (2003); 9 FAM 402.10-5 .
3. USCIS website policy memorandum – See Part H - Specialty Occupation Workers (H-1B, E-3) | USCIS .

## L-1A, L-1B and L-1 blanket.

1. See Kurzban Immigration Law Sourcebook2022/2023 at pages 2231 – 2251 at <https://ailalink.aila.org/#search/result/view/100679>
2. Statute and regulations – See INA §101(a)(15)(L) [8 USC §1101(a)(15)(L)], 8 CFR §214.2(l); 22 CFR §41.54; USCIS Policy Alert, PA-2022-30, *L-1 Intracompany Transferees* (Aug. 16, 2022), 2 USCIS-PM, Pt. L, Ch. 1-10; 9 FAM 402.12. H.R. Rep. No. 851, 91st Cong. 2d Sess.; 1970 U.S.C.C.A.N. 2750, 116 Cong. Rec. 5730 (1970); 51 FR 18591, 18596 (May 21, 1986); 52 FR 5738, 5741 (Feb. 26, 1987). *See also* Immigration Act of 1990, H.R. Conf. Rep. No. 955, 101st Cong., 2d Sess. 126 (1990); 1990 U.S.C.C.A.N. 6784; Omnibus Appropriations Act (OAA) for FY 2005, PL 108-447, 118 Stat. 2809, Div. J, Tit. IV, “L-1 Visa Reform Act of 2004” (Dec. 8, 2004)]; Emergency Supplemental Appropriations for Border Security, PL 111-230, 124 Stat. 2488, Title IV (Aug. 13, 2010). *See also* USCIS, I-129 L-1 Adjudication (Manual), AILA Doc. No. 12051670.
3. USCIS website policy memorandum – See Part L - Intracompany Transferees (L) | USCIS

## TN

1. See Kurzban Immigration Law Sourcebook2022/2023 at pages 2042-2047 at <https://ailalink.aila.org/#search/result/view/100679>
2. Statute and regulations – See 8 CFR §214.6; 9 FAM 402.17-4(A). 9 FAM 402.17-7 and 8 CFR §214.6(e)

## E-1 and E-2

1. See Kurzban Immigration Law Sourcebook2022/2023 at pages 2251-2262 , 2964-2965 and 2047 <https://ailalink.aila.org/#search/result/view/100679>
2. Statute and regulations – See INA §101(a)(15)(E) [8 USC §1101(a)(15)(E)]; 8 CFR §214.2(e); 22 CFR §41.51; 62 FR 48138 at 48146–55 (Sept. 12, 1997); Immigration Acts of 1924; July 6, 1932; and 1952; 9 FAM 402.9
3. USCIS website policy memorandum – See <https://www.uscis.gov/policy-manual/volume-2-part-> .

## O-1A and O-1B

1. See Kurzban Immigration Law Sourcebook2022/2023 at pages 2218-2225 <https://ailalink.aila.org/#search/result/view/100679>
2. Statute and regulations – See INA §101(a)(15)(O) [8 USC §1101(a)(15)(O)]; 137 Cong. Rec. part 2 S18242-01 at 18247 (Nov. 26, 1991), 8 CFR §214.2(o)(1); 22 CFR §41.55; 59 FR 41818–42 (Aug. 15, 1994): 72 FR 18856 (Apr. 16, 2007); 9 FAM 402.13
3. USCIS website policy memorandum – See Part M - Nonimmigrants of Extraordinary Ability or Achievement (O) | USCIS

## IER

1. See Kurzban Immigration Law Sourcebook2022/2023 at pages 76-79 , 2076 <https://ailalink.aila.org/#search/result/view/100679>
2. Regulations – See 8 CFR §212.19; 82 FR 5238-89 (Jan. 17, 2017); 86 FR 50839-42 (Sept. 13, 2021) adjusting amounts for inflation after 3 years by using CPI-U].
3. USCIS website policy memorandum – See <https://www.uscis.gov/policy-manual/volume-3-part-g>

**IV. PRACTICE POINTERS**General

1. Do a thorough initial client interview and have a written questionnaire/ notes to use and retain such notes on your document management system.
2. If the client has a prior immigration history and/or used other attorneys, submit a FOIA to the appropriate government agencies and/or have the client sign a letter to request a complete copy of his/ her file. This is important and can provide valuable information!
3. Join AILA, sign up for newsletters and other internet resources and stay current.
4. Develop a network of trusted advisors to collaborate with and serve as your own personal board of directors to bounce off questions, ideas and strategies.
5. If you do not have the expertise for a particular matter and/or experience, then refer the matter to several attorneys who have such expertise or the local/ state bar referral service.
6. Remember the State Bar ethics rules concerning duty of care, competent and diligent representation.<sup>4</sup>

H-1B

1. Advise clients that over 781,000 applicants participated in the FY 2023-24 H-1B lottery, and this option is probably not, a viable option for professionals. If the applicant is Canadian or Mexican citizen, the TN is recommended. The E, L, O categories may be options for non-Mexican or Canadians.
2. Obtain the credentials evaluation in January for new H-1B beneficiaries.
3. At the outset of the case, learn and research about the proposed position and job duties to determine what is the prevailing wage, and assuming feasible recommend to the client to pay the level 2 wage to minimize the probability of an RFE.

H-1B1 and E-3

1. Ask your client if the prospective employee is a citizen of Chile, Singapore and/or Australia. This may provide another opportunity.

L-1A, L-1B and L-1 blanket

1. Advise clients that the L visa is one of the most popular visas with USCIS to issue requests for additional evidence. Like all other visas, the L visa requires meticulous documentation and then more.
2. For a manager, the USCIS officer will delve into finding out about the people the applicant manages, therefore, substantial in-depth documentation on all supervised personnel will have to be included: resumes, degrees, job descriptions, salaries. For functional managers there can be added complexity and pushback from USCIS.
3. For specialized knowledge applicants, you will have to differentiate and explain the type of knowledge an applicant has (advanced knowledge vs specialized knowledge) and produce substantial documentation on all of the training the applicant has had and any materials which deal with the employer's products, e.g. training manuals or courses the employee has taken.
4. RFE's - The requests for additional evidence are 90% guaranteed when filing an L visa. The client should be prepared to pay extremely high fees at the outset and should understand the challenge they will be undertaking. The L visa is difficult and laborious. The response to a request for additional evidence could imply twice the amount of work and cost. I always advise my clients before we initiate any type of L visa.
5. Be creative – use the L-1 index to document how the petitioner has met the various criteria. Use colored charts and photographs. For an L-1 startup work, recommend your client retain a company with expertise concerning business plans.
6. The key is to manage expectations from the outset and be realistic in terms of the probabilities of success.

TN

1. Verify the applicant's degree and job offer. If the applicant is a Mexican citizen, verify that the degree is a "título" and not just a "carta de pasante". See the AILA link article at <https://ailalink.aila.org/#search/result/view/66417> , The TN Visa: Current Issues and

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<sup>4</sup> See

<https://www.texasbar.com/AM/Template.cfm?Section=Home&Template=/CM/ContentDisplay.cfm&ContentID=27271>

Challenges, [*Immigration Practice Pointers*, 2017-18 Ed. (AILA 2017)] by *Kimberley Best Robidoux, Audrea J. Golding, W. Scott Railton, and Terry Weir*

2. Because of the significant TN scheduling delays, we recommend having the client file the DS-160 first, pay the reciprocity fee and schedule the appointment. We then recommend using a consular appointment agency to obtain an expedited appointments for a fee. We prepare the TN petition while this appointment process is pending. Most of our clients are able to obtain their TN visas within 1 to 1.5 months. Note there can be a significant variance in the availability of appointments at various consular posts in Mexico. As such, if timing is an issue, it may be worthwhile for the TN applicant to travel a post that is some distance from the applicant's home in Mexico.
3. Be careful with the TN "Management Consultant" category. If the applicant will be filing under this category, then the client must understand that the applicant will need to "consult." The language of the TN company letter must represent this, and the client/ employer and applicant must understand this role/ distinction when it comes time for the interview.

#### E -1 and E-2

1. Mexico - Processing times in Mexico City, Cd. Juarez, and Monterrey at present are manageable, i.e., 1 to 2 months. Always print out the E visa protocol for each new applicant at each consulate/embassy. The rules change often, and you can avoid a rejection of an application if you review the filing rules at each consulate (i) at the start of the case when you are first retained; and (ii) just prior to submission as part of your final check list / quality control process to confirm there have not been any changes to the post's requirements.
2. Page limits and post specific requests - It is critical to adhere to the page limitations and other post specific requests at each consulate (assuming the E case is filed at a consulate and not at USCIS). The E visa officer will reject an E application even if the submission exceeds the limit by a few pages. At our firms, we each prepare the entire petition and verify the page count. Then we begin to remove documentation we feel is less pertinent. At times, it may be necessary to remove

important pages from formation documents or "escrituras". In such an event, we simply state this fact in the index and advise the entire document is available for the consular officer's review at the time of the interview.

3. Clarity and Brevity in Writing - Be logical in showing the investment made or existence of a pattern of trade between the U.S. and the treaty country. If you cannot understand the transactions that occurred to arrive at an investment, or the existing trade, neither will the consular officer.
4. Nationality and Corporate Transparency Act (2024) - Be prepared to show at least 50 % of the ultimate ownership treaty country nationals with the passports of such persons. Often times, with complex ownership structures or a family(ies) sensitive to the disclosure of personal information, this can be a significant issue. Note also, the recent change in federal law with the Corporate Transparency Act that became effective in January 2024 which requires that ownership be disclosed. See <https://www.fincen.gov/boi> and <https://home.treasury.gov/news/press-releases/jy2015>. A discussion of the CTA is beyond the scope of this article.

#### O-1

1. It is important to identify what is the employee's particular area of expertise that meets the criteria of extraordinary ability.
2. We recommend the employer retain a credentials evaluation company (such as the entities that provide experience and educational evaluations for H-1Bs) to provide an expert testimony letter to reference there is not a an official peer group to provide a consultation and rank members of the alien's discipline, and to assess the alien's accomplishments and qualifications and to assess how the alien satisfies the USCIS requirements for the classification as an alien of extraordinary ability.

#### International Entrepreneur Parole Rule (IER)

1. See the information above and the list of resources below.
2. USCIS has issued comprehensive guidance on the rule in its USCIS Policy Manual: <https://www.uscis.gov/policy-manual>.
3. The authors of this paper have not had any personal experience filing an IER to date.

## V. LEGAL RESEARCH FOR IER

1. Regulations – Carefully review the USCIS regulations and commentary.
2. Review the AILA and website literature.
3. Client interview – Have a thorough client intake interview to evaluate the eligibility issues.
4. If you do not regularly file IERs, consult with a colleague who has such expertise.<sup>5</sup>
5. **Communication** – Communicate with your client in writing regularly to avoid any misunderstanding or miscommunication.
6. **Where to file** - Determine where you will file.
7. **USCIS web information**

### [HTTPS://WWW.USCIS.GOV/I-941](https://www.uscis.gov/I-941) - USCIS FORM 941 I-941, APPLICATION FOR ENTREPRENEUR PAROLE

<https://www.uscis.gov/sites/default/files/document/forms/i-941instr.pdf> - Instructions for USCIS Form I-941, Application for Entrepreneur Parole

[International Entrepreneur Rule | USCIS](https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20230310-InternationalEntrepreneurParole.pdf) – USCIS website on IER where you can sign up for updates which includes information on how to apply

<https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20230310-InternationalEntrepreneurParole.pdf> - USCIS Policy Alert concerning International Entrepreneur Parole dated March 10, 2023

8. **AILA Infonet articles**
  - A. USCIS Issues Guidance Addressing International Entrepreneur Parole 3/10/23 AILA Doc. No. 23031003. [USCIS Issues Guidance Addressing International Entrepreneur Parole \(aila.org\)](https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20230310-InternationalEntrepreneurParole.pdf)
  - B. [USCIS Final Rule Implementing Automatic Adjustment Provisions of International Entrepreneur Parole Rule \(aila.org\)](https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20230310-InternationalEntrepreneurParole.pdf) - USCIS Final Rule Implementing Automatic Adjustment Provisions of International Entrepreneur Parole Rule, 9/13/21 AILA Doc. No. 21091300.
  - C. AILA Practice Pointer [2018] - <https://www.aila.org/library/practice-pointer-entrepreneur-parole-program> Practice Pointer: Entrepreneur Parole Program , 1/3/18 AILA Doc. No. 17122211.

9. Review the AILAlink literature– see <https://ailalink.aila.org/login.html> (there is an annual fee, but this is a comprehensive immigration library on the web). See below. <https://ailalink.aila.org/#search/result/view/104351> / Alternatives to the H-1B You and Your Client Should Consider [*Immigration Practice Pointers, 2023-24 Ed.* (AILA 2023)] by *Matthew D. Stump, Catherine Wadhvani, Denyse Sabagh, and Roger Tsai* <https://ailalink.aila.org/#search/result/view/104657> Tricky H Cap Alternatives: Options for Those Without Options, [*36th Annual AILA California Chapters Conference* (AILA 2023)] by *Kathleen Spero, Otto van Maerssen, and Grachielle Evaristo Tenorio* <https://ailalink.aila.org/#search/result/view/9956> The International Entrepreneur Parole Program by Shavit Yarden pp. 227–233, *Immigration Practice Pointers, 2022-23 Edition, Tips for Handling Complex Cases* <https://ailalink.aila.org/#search/result/view/100113> O Nonimmigrants [*Navigating the Fundamentals of Immigration Law, 2022-23 Ed.* (AILA 2022)] updated by *Elizabeth Goss, Ksenia Maiorova, and Fuji Whittenburg* <https://ailalink.aila.org/#search/result/view/103603> Chapter 13: Alternatives to PERM Overview: EB-2 National Interest Waivers, EB-1A Extraordinary Ability, and EB-1B Outstanding Researcher or Professor [*AILA’s Immigration Law Practice and Procedure Manual: A “Cookbook” of Essential Practice Materials*, 3rd Ed. (AILA 2023)] <https://ailalink.aila.org/#search/result/view/98546> - Visiting the United States for Work or Pleasure: What Are the Rules, and How Can I Effectively Counsel My Clients? [*2022 AILA Border Issues Conference Handbook* (AILA 2022)] by *Elise A. Fialkowski, Ashima Duggal, Michael P. O’Rourke, and Jacqueline Villalb* <https://ailalink.aila.org/#search/result/view/97852> The Resurrected International Entrepreneur Program, [*34th Annual AILA California Chapters Conference* (AILA 2021)] by *Sophie Alcorn, Robert G. Nadalin, and Anita Koumriqian* <https://ailalink.aila.org/#search/result/view/97853> - Pathways for Entrepreneurs, [*34th Annual AILA California Chapters Conference* (AILA 2021)] by *Lisa*

<sup>5</sup> See Tab 4 above.



*Spiegel, Kalpana V. Peddibhotla, Ellen D. Kregel, and Silvina Tondini*

<https://ailalink.aila.org/#search/result/view/80888> The International Entrepreneur Rule, Immigration Options for Investors and Entrepreneurs, 4th Ed. [© 2019]

<https://ailalink.aila.org/#search/result/view/78280> - Representing Entrepreneurs [Immigration Practice Pointers, 2018-19 Ed. (AILA 2018)] by *Yeu S. Hong, Allen Orr, Rachel Baskin, and Maria Isabel Casablanca*

<https://ailalink.aila.org/file.aspx?id=66633-vol1appendix1-internationalentrepreneurrulepdf> Vol 1 Appendix 1 - International Entrepreneur Rule, Business Immigration-Law and Practice 2nd Ed. 2017

<https://ailalink.aila.org/#search/result/view/64582> - Out of Luck with the H-1B Lottery: Alternatives to the H-1B for Startup and Entrepreneur Clients, [29th Annual AILA California Chapters Conference Handbook (AILA 2016)] by *Olivia Serene Lee, Philip M. Levin, and Tahmina Watson*

## VI. DEVELOP A THEORY OF THE CASE

1. At the start of the representation, stop and spend time to create a macro and micro vision of the case. Align your case facts with the regulatory requirements for the benefit requested.
2. At the start of the case, conduct a thorough initial client intake interview, request a complete copy of the paper and digital file from the employee and his/ her prior employer(s), and submit a FOIA to applicable U.S. government agencies.
3. Given the complexities of post pandemic world, we often recommend the attorney prepare a strategy memo to discuss the potential issues and scenarios which may play out, and to consider the multiple remedies/options available to present to the client(s), including the potential risks and consequences. This is important because if you skip over this step, it is possible to overlook a significant obstacle that should be addressed and brought to the client's attention at the outset of the representation.
4. In terms of the end result, by focusing on the theory of the case, you will focus on the case's weaknesses, strengths, and plan for the uncertain.

## VII. USEFUL WEBSITES INCLUDING LAW FIRM NEWSLETTERS

1. BAL - <https://go.balglobal.com/newsf>
2. Klasko Immigration Law Partners LLP – <https://www.klaskolaw.com/contact-us/subscribe-updates/> ; <https://www.klaskolaw.com/news-category/client-alerts/> ; <https://www.klaskolaw.com/blog/> ; and <https://www.klaskolaw.com/site-map/>
3. Clark Hill – <https://immigrationtoday.buzzsprout.com/>
4. Dickinson-Wright - <http://immigration.dickinson-wright.com/>
5. Fragomen- <https://www.fragomen.com/insights/alerts> and <https://www.fragomen.com/insights/podcasts>
6. Greenberg Traurig- <https://www.gtlaw.com/en/insights?keyword=immigration>
7. Immigration Daily - <https://www.ilw.com/immigrationdaily/>
8. Murthy Law Firm - <https://www.murthy.com/about-us/online-services/enewsletter/>
9. Maggio Kattar – <https://maggio-kattar.com/sign-up-for-news-alerts/>
10. Miller Mayer LLP– <https://millermayer.com/news-and-insights/> - go to sign up for our newsletter
11. Mintz - <https://www.mintz.com/subscribe>
12. Shusterman - <https://www.shusterman.com/>
13. Siskind's Immigration Law Bulletin - <https://www.visalaw.com/immigration-resources/bulletin/>
14. Wolfsdorf Rosenthal – [https://wolfsdorf.com/client\\_alert/](https://wolfsdorf.com/client_alert/) ; <https://wolfsdorf.com/blog/> ; [Wolfsdorf Rosenthal LLP - YouTube](#)
15. U.S. Embassy London - <https://uk.usembassy.gov/news-events/>
16. The Insightful Immigration Blog - <http://blog.cyrusmehta.com/>
17. Mark Davies –See <https://www.eb5investors.com/>

***Practice Pointer*** – Be thorough and cautious concerning your dependence upon that which is found on internet postings, blogs, newsletters, etc. Treat all information as a means to an end. Carefully review information as published and made available on the public domain alongside the relevant statute and regulations and utilize in the best manner that will support your claim(s).

Where there is negative information that can be distinguished from your particular fact pattern, indicate the distinction as needed and lay out the manner in which your case facts are unique and should prevail.

This outline of IER resources is certainly not an exhaustive list, but rather an outline to explore and to become familiar with (if not already). Understanding the statutory and regulatory requirements and the related processes is key to the application preparation, strategy and submission.