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ELECTRONIC TRAVEL AUTHORIZATIONS: AN OVERVIEW

This article provides an overview of recent developments in Canada and the United Kingdom with respect to electronic travel authorizations.

Canada

Certain international travelers need an entry document called an Electronic Travel Authorization (eTA) to travel by air to Canada. This applies to visa-exempt foreign nationals—non-Canadians who are not required to have a visa to enter Canada. The requirement only applies to those traveling by air, not by land or sea. It does not apply to U.S. citizens (those with permanent resident status require an eTA). Thus, if you require a visa to enter Canada or you are a U.S. citizen, you do not require an eTA.

What is the purpose of the eTA?

The implementation of the eTA program is a result of the Canada-United States Perimeter Security and Economic Competitiveness Action Plan. In essence, the eTA is a security measure that allows the Canadian authorities to screen foreign travelers before they arrive to ensure that they are not inadmissible to Canada. In the absence of such a pre-screening measure, visa-exempt foreign nationals are not systematically screened for admissibility until they arrive at a Canadian port of entry. The eTA allows the Canadian authorities to lessen the expense and delay to travelers, airlines, and the Canadian government caused by the significant volume of travelers being deemed inadmissible when arriving at Canadian ports of entry. Reasons for inadmissibility include membership in terrorist groups, participation in war crimes or crimes against humanity, membership in organized crime groups, criminality, or public health risks. The United States implemented a similar travel authorization program years ago. Affected travelers must show the eTA before boarding a flight to Canada.

The requirement to obtain an eTA does not dispense with any other authorizations or requirements applicable to the traveler, such as work or study permits. In addition, the traveler remains subject to examination by the Canada Border Services Agency (CBSA) upon arrival in Canada.

Who needs an eTA?

Citizens of the following countries need an eTA to travel to Canada by air: Andorra; Antigua and Barbuda; Australia; Austria; Bahamas; Barbados; Belgium; Brunei; Bulgaria; Chile; Croatia; Cyprus; Czech Republic; Denmark; Estonia; Finland; France; Germany; Great Britain*; Greece; Hong Kong*; Hungary; Iceland; Ireland; Israel*; Italy; Japan; Republic of Korea; Latvia; Liechtenstein; Lithuania; Luxembourg; Malta; Mexico; Monaco; Netherlands; New Zealand; Norway; Papua New Guinea; Poland; Portugal; Romania; Samoa; San Marino; Singapore; Slovakia; Slovenia; Solomon Islands; Spain; Sweden; Switzerland; Taiwan*; and Vatican City (Holy See).* In general, it is recommended to consult the Canadian government's website at <http://www.cic.gc.ca/english/visit/visas.asp#wb-sec>.

** Certain citizens of the asterisked countries do require visas to travel to Canada and hence would not need an eTA.*

Since May 1, 2017, certain citizens of Brazil can apply for an eTA instead of obtaining a visa to fly to or transit through a Canadian airport. This new exemption applies only to citizens of

Brazil who have held a Canadian visa in the past 10 years or who currently hold a valid United States nonimmigrant visa.

Certain individuals are exempt from the eTA requirement. This group includes individuals who hold a valid Canadian temporary resident visa, members of the British royal family, and certain foreign nationals seeking only to transit through Canada as a passenger on a flight stopping in Canada for the purpose of refueling, among others.

How do you get an eTA?

Applicants can access the eTA application online at <http://www.canada.ca/eTA>. Applicants must provide passport details, basic personal information, responses to background questions, and contact information. The online application process also allows the applicant to indicate whether there are any additional details pertinent to the application and any urgent need to travel to Canada, if applicable. No documents are required for the eTA application. The Canadian authorities may request additional documents later, to be submitted manually. Once the application is submitted, the applicant receives an automated email confirming receipt and containing an application number and a link by which the applicant can check the status of the application. The cost is CAD\$7.00. Applicants who are unable to submit the application electronically because of a physical or mental disability may do so by other means, including in paper form.

The eTA itself is an electronic document. There is no paper evidence or receipt provided to the applicant upon approval. Air carriers have access to the CBSA's database to confirm the presence of an eTA before the individual boards the aircraft. Before a boarding pass is issued, the air carrier must receive an "ok to board" message from the CBSA database.

How long does it take to process an eTA?

Most eTA applications are approved within minutes of applying. However, some requests may need more time to process. In such cases, the applicant can expect an email from Immigration, Refugees and Citizenship Canada within 72 hours stating what the next steps are.

How long is the eTA valid?

The eTA is linked to the applicant's passport. It is valid for five years or until the passport expires, whichever occurs first. The same passport used to obtain the eTA must be used for travel with the eTA.

United Kingdom

Changes relating to electronic entry clearance

The UK government has proposed to begin issuing entry clearances in electronic form. This will initially be piloted with specified groups with general introduction later. Applicants who hold an entry clearance issued in electronic form will not be required to present it to an Immigration Officer on arrival in the UK. The issuance of such an entry clearance will be checked electronically.

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AUSTRALIA

Guidelines on the temporary skills shortage visa have been published.

The Australian Department of Home Affairs (DHA) has published guidelines to clarify details on the new Temporary Skill Shortage (TSS) visa, which will replace the Subclass 457 visa in March 2018.

The TSS visa will be categorized into three separate streams:

- Short-term stream—For employers to hire temporary foreign skilled workers in occupations included on the Short-Term Skilled Occupation List for up to two years.
- Medium-term stream—For employers to hire foreign skilled overseas workers to fill medium-term critical skills occupations included on the Medium and Long-Term Strategic Skills List for up to four years.
- Labour Agreement stream—For employers to hire foreign skilled workers in accordance with a labour agreement with the Commonwealth, on the basis that a suitable candidate cannot be found from the Australian labour market.

Transition Phase

The DHA has also clarified the transition phase from the current 457 process to the new TSS route:

- Employers who are currently approved as sponsors for the subclass 457 visa will remain as sponsors under the TSS visa program.
- Subclass 457 nominations and visa applications submitted before implementation of the TSS visa will be processed under the current system.
- Subclass 457 visa holders who plan to change employers after the TSS has been implemented must ask their new employer to submit a TSS nomination application.
- Subclass 457 visa holders who plan to change their occupation or require a new visa must submit a new TSS visa application and reference a new TSS nomination application.

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EUROPEAN UNION

The European Union (EU) has implemented a new entry-exit system to ensure automatic identification of overstayers.

A new regulation published in December in the *Official Journal of the European Union* establishes an Entry/Exit System (EES) to register entry and exit data and refusal-of-entry data on third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes. Regulation (EU) 2017/2226 of 30 November 2017 applies to non-EU nationals, both visa-required and visa-exempt, traveling for short stays (90 days out of 180 days) in the Schengen area.

The EES will replace the current system of manual stamping of passports and will electronically register identity data, the date and place of entry and exit, and entry refusals of third-country nationals visiting the Schengen area for short stays.

The entry-exit system is expected to improve the quality of border checks by automatically calculating the authorized stay of each traveler and ensuring the systematic identification of overstayers. By allowing law enforcement authorities access to travel history records, it is also expected to improve internal security and strengthen the fight against terrorism.

eu-LISA (the European agency for the operational management of large-scale IT systems in the areas of freedom, security, and justice), in cooperation with the Member States, is expected to start building the new system. The European Commission will then decide the date on which the EES is to start operations.

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ITALY

The Italian government has announced the number of foreign workers allowed in Italy for 2018, and breakdowns by category. Also, Italian consulates are becoming increasingly rigorous in assessing business visa requests.

Foreign Workers Allowed in Italy for 2018

The Italian government has announced a cap of 30,850 on the number of workers from outside the European Economic Area (EEA) allowed in Italy for 2018. The number and categories of workers allowed this year are similar to those announced in recent years. Once again, no quotas for standard sponsored employment have been issued (apart from a few exceptions below).

More than half of the quotas are reserved for entries for seasonal work (18,000). The majority of the remaining quotas (9,850) are reserved to permit conversion for foreign citizens with residence permits in Italy or the EU (study, seasonal work, permanent) intending to change status; i.e., to convert the existing permit into a permit for employment/self-employment. The remainder are for self-employed work (2,400) and special categories (600), such as South American citizens with Italian ancestors or individuals who have completed specific training in their country of residence).

Background. Immigration for work purposes in Italy is based on a quota system set annually by decree—the *decreto-flussi*. This decree sets the numerical limits (quotas) for each category of foreign nationals who can apply for work permits and the period during which applications can be submitted. Permits are normally granted on a first-come, first-served basis.

Several categories of workers are excluded from the cap and are not subject to a fixed limit, such as intracompany transferee assignments, highly skilled, executives, and managerial employees assigned to the Italian branch of a foreign legal entity; university lecturers and professors; translators and interpreters; and professional nurses.

Deadlines. Application forms are available on the dedicated website <https://nullaostalavoro.dlci.interno.it>. Applications must be submitted by December 31, 2018.

Instructions and deadlines are set by quota decree 2018 (DPCM 15 December 2017 www.gazzettaufficiale.it/eli/id/2018/01/16/18A00308/sg) and Ministries Joint Circular 17.01.2018 (http://www.interno.gov.it/sites/default/files/circolare_decreto_flussi_2018.pdf).

Categories. The 30,850 quotas are to be allocated among the following categories:

NEW ENTRIES—FOR NON-EU NATIONALS RESIDING ABROAD

- 18,000 quotas for seasonal work. Limited to:
 - Agriculture; hospitality and tourism industry
 - Nationals of Albania, Algeria, Bosnia-Herzegovina, South Korea, Ivory Coast, Egypt, El Salvador, Ethiopia, Former Yugoslav Republic of Macedonia, Philippines, Gambia, Ghana, Japan, India, Kosovo, Mali, Morocco, Mauritius, Moldova, Montenegro, Niger, Nigeria, Pakistan, Senegal, Serbia, Sri Lanka, Sudan, Ukraine, Tunisia
 - 2,000 for workers who have already worked as seasonal employees at least once in the previous five years and whose employers apply for a multi-year permit. For these, no nationality restrictions apply
- 500 quotas for work as an employee. For foreign nationals resident abroad who have completed an educational/training program in their home country (pursuant to Art. 23 of Immigration Law)
- 100 quotas for employee/self-employee. For employed or self-employed work. Reserved for foreign nationals who have Italian ancestry and reside in Argentina, Uruguay, Venezuela, or Brazil
- 2,400 quotas for self-employment, including:
 - Entrepreneurs intending to implement an investment plan of benefit to the Italian economy, involving an investment of at least €500,000 and creating at least three new jobs in Italy
 - Freelancers/independent contractors who intend to practice regulated or controlled professions (i.e., individuals belonging to a professional association or enrolled with an official/public register) or professions that are not non-regulated but are considered representative at the national level and are included in the lists maintained by the Public Administration
 - Holders of corporate offices or administrative/controlling positions (any of the following: Chairman, CEO, Member of Board of Directors, Auditor) in an Italian company, active for at least three years (requirements set in Visa Decree May 11, 2011 n.850)
 - Foreign citizens who intend to set up innovative start-up companies, under certain conditions, and who will have a self-employment relationship with the start-up
 - Internationally well-known and highest-repute artists, artists of recognized high professional qualification or artists who are hired by well-known Italian theaters, important public institutions, public television, or well-known national private television entities (requirements set in Visa Decree May 11, 2011 n.850)

PERMIT CONVERSION—FOR NON-EU NATIONALS ALREADY IN ITALY/EU

- 4,750 quotas from seasonal to standard work permit. For conversions of seasonal work permit to standard, non-seasonal work permit (as an employee)

- 3,500 quotas from study to employed work. For conversion of study, internship, and/or vocational training residence permit into residence permit for work (as an employee)
- 700 quotas from study to self-employment. For conversion of study, internship, and/or vocational training residence permit into residence permit for self-employment
- 800 quotas for holders of an EU residence permit for long-term residents issued by a Member State other than Italy who wish to apply for a residence permit for work (as an employee) in Italy
- 100 quotas for holders of an EU residence permit for long-term residents issued by a Member State other than Italy who wish to apply for a residence permit for self-employment in Italy

Employers should evaluate their need for work permits for non-EU nationals, especially if intending to hire foreign nationals holding a study, internship, and/or vocational training residence permit or permanent residents of an EU country.

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MALTA

An EU posted workers directive has been implemented.

The European Union (EU) Posted Workers Enforcement Directive has been implemented in Malta. The new directive makes changes with respect to foreign workers assigned to work temporarily in Malta.

The changes are as follows:

Designated representative. It is mandatory to have a designated contact within the host company in Malta that is responsible for liaising with the Department of Industrial Relations. The name and contact details of the designated representative must be provided.

Document retention. The following documents must be provided before the assignee is transferred to Malta:

- Employment contract
- Payslips
- Confirmation of employee's working hours
- Work permit
- Proof of wage payments

All documents must be translated into English if originals are in another language.

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SINGAPORE

Contact details are now required for all foreign workers.

Employers in Singapore must now provide the contact details of all foreign workers to the Ministry of Manpower's EP Online for Employment Pass, S Pass, Training EP, Dependent's Pass, or Long-Term Visit Pass applications.

Pass holders who have provided their contact details will have access to key updates relating to their immigration status or for any emergency situations. They will need to provide their email address and a Singapore mobile telephone number and update the online system if these details change during their stay in Singapore.

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SWITZERLAND

A labor market test will soon be required for certain occupations.

Effective July 1, 2018, employers hiring foreign workers in Switzerland will need to undertake a labor market test when hiring for certain occupations where the rate of unemployment is over 8%. Employers will need to advertise vacancies with the Employment Service in Switzerland for at least five days. The threshold will be lowered to 5% on January 1, 2020.

Employers in Switzerland should allow additional time for the advertising period, review of applications, and interview process to be complete when hiring foreign nationals to come and work in Switzerland after July 1, 2018.

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TURKEY

The United States and Turkey have resumed full visa services for each other's citizens.

The situation with respect to the United States-Turkey visa suspension implemented in October 2017 seems to have improved. Both countries have resumed full visa services for each other's citizens, according to official statements published separately in late December 2017 by the U.S. Embassy in Ankara and the Turkish Embassy in Washington, DC.

According to sources as of press time:

- U.S. citizens may obtain their 90-day valid tourist/business-related visas via Turkey's Electronic Visa Application System (<http://www.evisa.gov.tr/en/>) before traveling Turkey;
- U.S. citizens may still be issued sticker visas at the border, if necessary;
- Turkish posts in the United States are considering work/special types of visa applications providing that the applicants first log into an online system to initiate the applications (see <http://www.visa.gov.tr>) and schedule their consular appointment dates.

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UNITED ARAB EMIRATES

A police clearance certificate is now required for work permit applications.

As of February 4, 2018, foreign nationals coming to the United Arab Emirates (UAE) for work purposes must obtain police clearance certificates from any home country or countries where they have legally resided over the last five years. The certificate must comply with several requirements, including notarization by a Public Notary, legalization by the relevant government body in the country of origin, and super-legalization at the UAE embassy/consulate in the country of origin before being attested by the Ministry of Foreign Affairs in the UAE. The new process is expected to add to the length of time and cost to obtain a work permit.

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UNITED KINGDOM

The United Kingdom (UK) has announced several developments. The immigration health surcharge will be doubled. Companies must now file a report with the Home Office when their size changes from small to large or vice versa. Applications for indefinite leave to remain in the Tier 1 (General) category will no longer be possible as of April 5, 2018. Also, there are new continuous residence requirements for all work and Points-Based System immigration categories. The government also announced its intention to expand a pilot scheme for highly skilled students, which will give them an opportunity to remain in the UK for up to six months once they have completed their studies. These and other developments are discussed in this article.

UK Government Plans To Double Immigration Health Surcharge

The government has just announced that it plans to double the Immigration Health Surcharge later in 2018. Temporary migrants currently paying £200 per year will need to pay £400 for each year of their visa to access National Health Service services in the UK. There is a discounted rate for students and members of the Youth Mobility Scheme, which is due to increase from £150 to £300 per year.

The surcharge is paid by individuals who come to the UK from outside the European Economic Area to stay for at least six months to work, study, or visit family. Where the visa granted incorporates a part of a year, half the sum is payable for periods of up to six months, and for periods over six months, the full annual amount is payable. For example, if an individual is granted a visa for three years and four months, £1,400 will be payable, whereas if a visa is granted for a Tier 2 migrant coming to the UK as an intercompany transferee for three years and eight months, £1,600 will be payable. The charge is also payable by each dependent accompanying the migrant.

These charges are on top of the Immigration Skills Charge of £1,000 per year, which is payable by large or medium-sized Sponsors of Tier 2 migrants applying for entry clearance. Smaller Sponsors who qualify as small companies, as provided for in Section 382 of the Companies Act 2006 as amended, pay £364 per year.

Companies Must Report Changes in Size to the Home Office

The Home Office has also issued new guidance requiring Sponsors to file a report with the Home Office when there is a change in size of their company from small to large or vice versa, within 10 days of the change occurring. The Home Office has confirmed that this will be applicable only when the Sponsor becomes aware of the change, which is not likely to be until the annual accounts have been finalized at the end of the financial year.

Once the Sponsor has made a report on the Sponsor Management System, the Immigration Skills Charge payable for subsequent Tier 2 entry clearance applicants will change accordingly.

Last Chance to Apply for Indefinite Leave to Remain in the Tier 1 (General) Immigration Category

The Tier 1 (General) category was closed to new applicants in April 2011 and the possibility of extending a visa in this category was removed in April 2015. For those applicants who are eligible, now is their last chance to apply for indefinite leave to remain (ILR) in the UK before this option is closed on April 5, 2018.

Applicants must continue to meet the requirements they were able to satisfy when applying for their last extension to their visa. In addition, they must not have any criminal convictions that would lead to a refusal and must ensure that they meet the continuous residence requirements. For some Tier 1 (General) migrants, it was always difficult to ensure that they were not absent from the UK for more than 180 days in any 12-month period, counting backwards from the date of application for ILR. This was the continuous residence rule before January 11, 2018. This requirement has potentially been made more difficult to achieve following a recent change in the rules (see below).

New Continuous Residence Requirements for All Work and Points-Based System (PBS) Immigration Categories

The government has introduced changes in how continuous residence is calculated. Applicants for ILR now must not be absent from the UK for more than 180 days in any 12-month period, calculated on a rolling basis, throughout the five-year qualifying period, before the date of application for ILR. Before this change, applicants could not spend more than 180 days outside the UK during each 12-month period, counting backwards from the date of ILR. The absences were assessed against a fixed 12-month period and applicants may have had the flexibility to manage their absences during each of these 12-month blocks. Provided they still had a valid visa, applicants could opt to defer the application for ILR until they could meet the absence requirements, by reducing overseas travel for a period.

With the rule change, that flexibility has been removed, and unfortunately the change will have retroactive effect. Those migrants who have traveled frequently for work or for secondments overseas may well find that their absences exceed 180 days for some 12-month periods when calculated on a 12-month rolling basis. To mitigate the harshness of this rule change, the government has published guidance confirming that discretion may be used where exceptionally harsh consequences would result from an ILR refusal. Relevant factors the Home Office will consider include the pattern of absences both before and after the rule change and whether an applicant would be unable to qualify for ILR at a later date because he or she cannot extend the visa. This applies to Tier 2 (General) migrants whose stay in the UK is capped at six years. This rule change could have exceptionally harsh consequences if it means the applicant cannot obtain ILR and needs to leave the UK once the six years are up. Similarly for Tier 1 (General) migrants who cannot apply for ILR after April 5, 2018, it is hoped that the government will exercise discretion to avoid these exceptionally harsh consequences.

Discretion may also be used where the excessive absence is due to serious illness of the applicant or a close relative, a conflict, or a natural disaster. The guidance states that there is no exemption for excess absences due to business travel.

New Continuous Residence Requirements to Apply to PBS Dependents

A further recent change to the immigration rules will bring PBS dependents within the 180-day absence restriction. Previously, it was the case that PBS dependents did not have to meet the requirement to ensure they were not absent from the UK for more than 180 days in any 12-month period. As of January 11, 2018, PBS dependents must ensure that after the grant of a new visa, their absences do not exceed 180 days in any 12-month period, calculated on a rolling basis. Insofar as this rule change will only apply to absences following the grant of a visa after 11 January, it will not have retroactive effect. However, the rule change will mean that PBS dependents will potentially need to make significant changes to their lifestyles to ensure they can meet the 180-day absence restriction following any future grant of a visa. To avoid doubt, any dependent who will qualify for ILR while their existing visa is still valid will not be subject to the 180-day absence restrictions.

Restricted CoS Allocations

The final quarter of 2017 ended with challenges to Restricted Certificates of Sponsorship (CoS) allocations, where increasing numbers of requests rolled over to the following month without a decision. In December 2017, the minimum points required for a successful application rose to a shocking 55 points, when in previous months only 21 points were required. It is expected that applications will again need to meet the same (if not higher) point threshold in the near future.

Unrestricted CoS Allocations

For Unrestricted CoS allocations, some Tier 2 sponsors were bemused when having opted to use the Tiers 2 and 5 priority change of circumstances service and paid the requisite £200 fee for expedited service, then promptly received an email from the Home Office for further information to be able to process the request to expedite. Sponsors would have been forgiven for thinking this was a mockery of the "paid" priority service. Such requests could potentially become the norm for 2018, with the Home Office poring over growing numbers of CoS requests to ascertain whether they are for genuine roles in the UK. With this in mind, it is beneficial for sponsors to have all of the following information ready when using the priority service to expedite a CoS request:

1. A detailed description of the post you intend to assign a CoS for. This must include the job title, duties, salary, skills, experience, and qualifications required for the role, and Standard Occupation Classification (SOC) code.
2. Details of the migrant you have identified for the role, including name, date of birth, nationality, passport number, and current immigration status.
3. Details of any attempts you have made to recruit a settled worker to fill the post; for example:
 - Any job advertisements you have posted (copies will need to be provided).
 - How many people applied.
 - Why any applicants so far have not been suitable.
 - Why the vacancy needs to be filled by a sponsored migrant.

Once the above information has been forwarded to the Home Office, their aim is to make a decision in five working days.

New Unrestricted CoS Allocations as of April 5, 2018

Many Tier 2 sponsors should now be receiving reminders to renew their CoS allocations for 2018-19. Tier 2 sponsors who have yet to assign any certificates need to be aware that all unused certificates will expire on April 5, 2018.

It is therefore important for sponsors to take stock, assess their business needs, forecast numbers for new transfers/new hires and/or existing sponsored workers who need to extend their work permission in the upcoming year, and submit their CoS allocation requests well before April 5, 2018. Sponsors must submit their requests via their Sponsorship Management System (SMS).

Expansion of Post-Study Work Provisions for Highly Skilled Students

On December 18, 2017, the UK government announced its intention to expand a pilot scheme for highly skilled students, to give them an opportunity to remain in the UK for up to six months once they have completed their studies.

The pilot is currently streamlining the process for international Master's students undertaking a course of 13 months or less in the UK. It has been running since July 2016 at the universities of Oxford, Cambridge, Bath, and Imperial College London. It also provides greater support for students who wish to switch to a work visa and take up a graduate role, by allowing them to remain in the UK for six months after they have finished their courses. Participating universities are responsible for eligibility checks, meaning that students can submit fewer documents than required in the current process along with their visa applications.

The 23 universities to be added to the pilot are:

- Cardiff University
- Goldsmiths University of London
- Harper Adams University
- Newcastle University
- Queen's University Belfast
- The Royal Central School of Speech and Drama
- University of Bristol
- Durham University
- University of East Anglia
- University of Edinburgh
- University of Essex
- University of Exeter
- University of Glasgow
- University of Leicester
- University of Liverpool
- University of Manchester
- University of Nottingham
- University of Reading
- University of Sheffield
- University of Southampton
- University of Wales Trinity St. David (Swansea Campus)
- University of Warwick
- University of York

What Will This Mean for Students and Employers?

Students are already given four months from the end of their course to find a job—this pilot will therefore only give such students an additional two months. During this period, students can only take temporary roles and need to wait until securing a Tier 2 visa before they can take on a permanent role. In addition, the pilot does not address the problem of students traveling once they graduate, as these students can sometimes be refused permission to re-enter under their Tier 4 visas once they have completed their courses.

Any scheme making it easier for students to apply to join courses at highly compliant universities, and to have longer to look for work, is welcome. The government should do more, however, to make the Tier 4 visa more flexible for graduated students; for example, by guaranteeing that these students can travel and return to the UK even after their coursework is finished.

Other Changes as of January 11, 2018

Tier 1 (Entrepreneur)

- The job creation rules recently required jobs to have existed for at least 12 months during the applicant's most recent period of leave. A change enables applicants to apply

even if their current leave was granted less than 12 months ago; in such cases the jobs must have existed for at least 12 months before the date of the current application.

- Applicants will be asked to confirm the paid hours of the employees in jobs they created as well as the hourly rate, to reduce the possibility of calculation errors.
- An amendment to the requirement relating to Real Time Full Payment Submissions reflects the fact that these documents do not state the employment start date.
- An amendment to the requirements relating to job creation provides that the required evidence relates to the period before the applicant joined the business rather than the period before jobs were created. This provides a clearer demonstration of the applicant's impact on the business.
- Clarifications emphasize that, where funds are currently held by another business that is not the business the applicant is using to score points, that business is considered to be a third party providing funding.
- Applicants relying on investment from a venture capital firm now must provide a letter from the firm confirming the date(s) the funds were transferred to the applicant or invested in their business and that the firm was registered with the Financial Conduct Authority at the time. This requirement was added to counter ongoing abuse relating to venture capital funding.
- To prevent recycling of funds between applicants, a change provides that applicants cannot rely on funds or investments that have been provided by another Tier 1 (Entrepreneur) Migrant, or that migrant's business or close family member. Who is considered to be a close family member depends on the facts in an individual application.
- On November 19, 2015, Statement of Changes HC 535 introduced a requirement that investments made in the form of directors' loans must be evidenced through readily identifiable transactions in applicants' business bank statements. A change provides that this requirement only applies to investments made after November 19, 2015.
- A provision was removed because it contradicted the rule requiring applicants to be registered with Companies House within six months of the date the applicant entered the category. The removed provision required that such registration has to be effected within eight months of the same date.
- A clarification was made to the rule that excludes the purchase of a business from its previous owner from being considered as a qualifying investment, to specify that this means buying any business from its previous owner.
- Minor amendments were made to the requirements concerning format and contents of letters (used as evidence) for consistency.

Tier 1 (Investor)

Investors who entered this category before November 6, 2014, may rely on the unmortgaged portion of their main home. Changes to this provision clarify that the property must be the applicant's main home, and also provide that where the property is co-owned in a tenancy in common, the investor's share, and only the investor's share, may count.

Tier 1 (Exceptional Talent)

- The number of spaces available under this route is doubled from 1,000 to 2,000 per year.
- The 1,000 extra spaces will be allocated according to need.
- Those endorsed under the exceptional talent criteria can apply for indefinite leave to remain after three years.
- The application process is simplified for applicants who hold specific peer reviewed fellowships or who have been appointed to senior academic or research posts.

Visitors

Visitors cannot study at an academy or a school maintained by a Local Authority.

Criminal Record Certificates

Changes have been made to the wording relating to the obtaining of criminal record certificates. The certificates must be obtained from each country where the applicant has been *present* for 12 months or more in the last 10 years. The wording in the rules has changed from "resident" to "present" and, therefore, a person who has been present in a country for 12 months or more cumulatively over a 10-year period must apply for a criminal record certificate from that country.

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UKRAINE

A biometric border control process has been introduced.

Nationals of 70 countries must comply with a biometric border control system when entering Ukraine via international ports of entry. The new procedure requires visitors to submit fingerprints and is only available to holders of biometric passports. The requirement is mandatory for nationals of the 70 countries deemed a migration risk by Ukrainian authorities but may be applied to nationals of additional countries. It is anticipated that the new process will lead to delays for visitors upon arrival in Ukraine.

A list of the 70 countries is at <http://bit.ly/2BSB7Nu>.

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New Publications and Items of Interest

The latest edition of the *Global Business Immigration Practice Guide* has been released by LexisNexis. Dozens of members of the Alliance of Business Immigration Lawyers (ABIL) co-authored and edited the guide, which is a one-stop resource for dealing with questions related to business immigration issues in immigration hotspots around the world.

The latest edition adds chapters on Malta and Romania. Other chapters cover Australia, Belgium, Brazil, Canada, China, Costa Rica, the European Union, France, Germany, Ghana, Hong Kong, India, Ireland, Israel, Italy, Japan, Mexico, the Netherlands, Nigeria, Peru, Russia, Singapore, South Africa, Spain, Switzerland, Turkey, the United Kingdom, and the United States.

Latchi Delchev, a global mobility and immigration specialist for Boeing, called the guide "first-rate" and said the key strong point of the book is its "outstanding usability." She said she highly recommends the book and notes that it "is helpful even to seasoned professionals, as it provides a level of detail which is not easily gained from daily case management."

Mireya Serra-Janer, head of European immigration for a multinational IT company, says she particularly likes "the fact that the [guide] focuses not just on each country's immigration law itself but also addresses related matters such as tax and social security issues." She noted that the India chapter "is particularly good. The immigration regulations in India have always been hard to understand. Having a clear explanation of the rules there helps us sort out many mobility challenges."

Charles Gould, Director-General of the International Co-operative Alliance, said the guide is "an invaluable resource for both legal practitioners and business professionals. The country-specific chapters are comprehensive and answer the vast majority of questions that arise in immigration practice. Its clear and easy-to-follow structure and format make it the one volume to keep close at hand."

This comprehensive guide is designed to be used by:

- Human resources professionals and in-house attorneys who need to instruct, understand, and liaise with immigration lawyers licensed in other countries;
- Business immigration attorneys who regularly work with multinational corporations and their employees and HR professionals; and
- Attorneys interested in expanding their practice to include global business immigration services.

This publication provides:

- An overview of the immigration law requirements and procedures for over 20 countries;
- Practical information and tips for obtaining visas, work permits, resident status, naturalization, and other nonimmigrant and immigrant pathways to conducting business, investing, and working in those countries;
- A general overview of the appropriate options for a particular employee; and
- Information on how an employee can obtain and maintain authorization to work in a target country.

Each chapter follows a similar format, making it easy to compare practices and procedures from country to country. Useful links to additional resources and forms are included. Collected in this Practice Guide, the expertise of ABIL's attorney members across the globe will serve as an ideal starting point in your research into global business immigration issues.

An excerpt of the book is on the ABIL website at http://www.abil.com/global_practice_guide.cfm.

The list price is \$431, but a 15% discount is available by visiting <http://www.lexisnexis.com/abil> and entering discount code "ABIL16". Contact your Lexis/Nexis sales representative; call 1-800-833-9844 (United States), 1-518-487-3385 (international); fax 1-518-487-3584.

[ABIL on Twitter](#). The Alliance of Business Immigration Lawyers is available on Twitter: @ABILImmigration. Recent ABIL member blogs are available at <http://www.abilblog.com/>.

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Member News

Dagmar Butte (<http://www.abil.com/lawyers/lawyers-butte.cfm?c=US>) spoke on "I-140 Adjudications Post Kazarian and Matter of Dhanasar" at the American Immigration Lawyers Association's Mid-Year Conference in Cancun, Mexico, on February 2, 2018, and on "Challenging RFE Issues" at the New York Chapter Symposium on December 15, 2017.

Barbara Jo Caruso (bio: <http://www.abil.com/lawyers/lawyers-caruso.cfm?c=CA>) spoke on "Ethical Issues Coming to the Forefront" at the Ninth Annual Northern Border U.S.-Canada Immigration Law Conference in New York on October 20, 2017.

Ms. Caruso spoke on "What's New in Immigration and Citizenship Law" at the 25th Annual Law Society of Upper Canada Immigration Law Summit in Toronto, Ontario, on November 6, 2017.

Ms. Caruso is now chair of the Canadian Bar Association's National Immigration Law Section.

Aaron Hall, of the **Joseph Law Firm**, has authored a new blog entry. "Happy Thanksgiving" is at <http://www.immigrationissues.com/immigration-news/happy-thanksgiving>.

H. Ronald Klasko (bio: <http://www.abil.com/lawyers/lawyers-klasko.cfm>) recently presented at the American Immigration Lawyers Association's (AILA) Latin America and Caribbean Chapter 2017 CLE Conference. Mr. Klasko presented on the outlook for immigration legislation and ethical issues in representation of foreign nationals in a changing environment. He also presented on topics related to EB-5 immigration.

Mr. Klasko recently presented at the 11th Global Residence and Citizenship Conference in Hong Kong. He presented on the E-2 (Treaty Investor) visa. When paired with the Grenada Citizenship by Investment program, the E-2 visa could be a solution for Chinese investors to avoid the 10-year EB-5 backlog. The conference was hosted by Henley & Partners. The event has become the world's largest and most significant investment migration conference, with nearly 500 international delegates from more than 40 countries. Attendees included presidents, prime ministers, senior government officials, leading academics, industry professionals, and financial and business media. For more information, see <https://www.henleyglobal.com/grcc2017-overview/>.

Mr. Klasko and **Daniel B. Lundy** have been named to the list of the top 25 EB-5 lawyers in the country by *EB5 Investors Magazine*. According to the magazine, "Candidates were evaluated based on their experience in the EB-5 industry, their track record and their reputation within the field."

Klasko Immigration Law Partners, LLP, has published a client alert, "What's Old Is New Again," about the October 23, 2017, USCIS policy memorandum rescinding guidance on deference to prior determinations in adjudication of petitions for extension of nonimmigrant status. The alert is at <http://www.klaskolaw.com/news/client-alert-whats-old-is-new-again/>.

Andrew J. Zeltner, of **Klasko Immigration Law Partners, LLP**, has published a client alert, "New Hope for International Entrepreneurs and the 'Start-Up' Visa," at <http://bit.ly/2k06f7l>.

William Stock, of **Klasko Immigration Law Partners, LLP**, has published a client alert, "Supreme Court Allows September 24 Entry Restrictions To Go Into Effect," at <http://www.klaskolaw.com/news/client-alert-supreme-court-allows-travel-ban-to-go-into-effect/>.

Vincent Lau (bio: <http://www.abil.com/lawyers/lawyers-lau.cfm>) will speak on various topics at the following conferences:

- Sangre y Arena: The BAHA Effect Across Agencies, American Immigration Lawyers Association Rome District Chapter Conference, February 2018, Madrid, Spain
- PERM Under the Trump Administration, American Immigration Lawyers Association New England Immigration Law Conference, March 2018, Boston, Massachusetts
- 2018 Top PERM and LCA Issues, American Immigration Lawyers Association Midwest Regional Conference, March 2018, Chicago, Illinois
- Inside the Beltway with the DOL Liaison Committee, American Immigration Lawyers Association 2018 Spring CLE Conference, April 2018, Washington, DC
- PERM BALCA and FAQ Review, American Immigration Lawyers Association Annual Conference on Immigration Law, June 2018, San Francisco, California
- U.S. Department of Labor Open Forum, American Immigration Lawyers Association Annual Conference on Immigration Law, June 2018, San Francisco, California

Mr. Lau spoke at:

- Advanced PERM Issues, American Immigration Lawyers Association Midwinter CLE Conference, February 2018, Cancun, Mexico
- Permanent Labor Certification Program (PERM)—Current Adjudication Trends and Anticipated Changes, Practising Law Institute, December 2017, New York City.

Robert Loughran (bio: <http://www.abil.com/lawyers/lawyers-loughran.cfm>) presented at the Global Citizenship Seminar in Dubai, United Arab Emirates, on the current U.S. administration's impact on immigration strategies available to Middle Eastern investors interested in relocating to the United States.

Mr. Loughran, in his role as a member of the Texas State Bar Committee on Laws Relating to Immigration and Nationality, met with consular supervisors at the largest visa issuing post in the world in Ciudad Juarez, Mexico, on February 8, 2018, to review the latest procedures.

Mr. Loughran was interviewed on Good Day Austin (Fox 7) about the DACA debate and the proposed compromise on immigration. The video is at <https://www.youtube.com/watch?v=wcyHgmiHNgc&feature=youtu.be>.

Mr. Loughran was recently interviewed by *Super Lawyers Magazine*, "Lost in Translation," on the abuse of "notaries" in submitting U.S. immigration applications and petitions and how notaries take advantage of immigrant communities.

Mr. Loughran and **Matthew Myers** provided "Immigration Update Presentation Under the Current U.S. Administration" at the monthly San Antonio Bar Association's International Law Section luncheon. For more information on Foster activities, see <https://www.fosterglobal.com/about-us/attorney-activities/>.

Mr. Loughran presented on October 25, 2017, at the Global Citizenship Seminar in Dubai, United Arab Emirates, on the current U.S. administration's impact on immigration strategies available to Middle Eastern investors interested in relocating to the United States.

Mr. Loughran was interviewed on October 24, 2017, on the abuses of "notarios" in submitting U.S. immigration applications and petitions and how notarios take advantage of immigrant communities in *Super Lawyers Magazine*, "Lost in Translation."

Mr. Loughran was interviewed on September 25, 2017, by National Public Radio affiliate KUT on the impact of the latest travel ban on Austin's sizeable Iranian community.

Mr. Loughran was interviewed on ABC affiliate KVUE regarding the potential for immigration relief for Deferred Action for Childhood Arrivals (DACA) beneficiaries now that the program has been ended. See <http://www.kvue.com/news/local/rallies-sprout-nationwide-as-daca-deadline-arrives/481154568>.

Mr. Loughran and **Angelo Paparelli** (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm>) presented an ILW tele-seminar, "Immigration Alternatives to EB-5—Because It's Too Damn Hard!". Among other issues, they discussed the means of obtaining third-country citizenship as a route to certain U.S. investment-based nonimmigrant visas.

Gunther Mävers (bio: <http://www.abil.com/lawyers/lawyers-mavers.cfm?c=DE>) has authored several new blog entries. "The Exploratory Talks About a Grand Coalition and the Subject of Immigration" is at <https://gmaevers.wordpress.com/author/gmaevers/>. "Brexit vs. (Employee) Freedom of Movement Update" is at <https://gmaevers.wordpress.com/2017/12/15/brexit-vs-employee-freedom-of-movement-update/>.

Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) was interviewed by FirstPost on November 12, 2017, in "For H-1B Workers, The Uncertainty Has Never Been Worse." A video of the interview is at <http://www.firstpost.com/world/for-h1b-workers-the-uncertainty-has-never-been-worse-cyrus-mehta-4198595.html>.

Mr. Mehta moderated "Lessons Across Borders: What the U.S. and Canada Can Teach One Another About Establishing a Successful Immigration and Asylum Policy" at the American Bar Association's (ABA) 2018 Midyear Meeting in Vancouver, Canada, on February 3, 2018. More information is at https://www.americanbar.org/groups/public_services/immigration/events_cle.html. Video highlights are at https://www.americanbar.org/news/abanews/aba-news-archives/2018/02/video_highlightsex.html. A related ABA article is at https://www.americanbar.org/news/abanews/aba-news-archives/2018/02/will_daca_kids_wind.html.

Mr. Mehta announced the following recent speaking engagements:

- Program Chair and Speaker, "Basic Immigration Law 2018," Practising Law Institute, New York City and via webcast, February 8, 2018
- Program Chair, "Asylum, Special Immigrant Juvenile Status, Crime Victim, and Other Related Relief," Practising Law Institute, New York City and via webcast, February 9, 2018
- Moderator, "Lessons Across Borders: What the U.S. and Canada Can Teach One Another About Establishing a Successful Immigration and Asylum Policy," American Bar Association 2018 Midyear Meeting, Vancouver, Canada, February 3, 2018
- Guest Speaker, "How To Help Clients Even While President Trump Is Restricting Immigration," AILA Philadelphia Chapter Meeting, Philadelphia, Pennsylvania, January 18, 2018

Mr. Mehta has authored or co-authored several new blog entries. "The Evolving Rights of Deportable Immigrants As Seen in the Case of Ravi Ragbir" is at <http://bit.ly/2EMaFLg>. "The AAO Finds That Entry-Level Wages Do Not Automatically Preclude H-1B Visa Classification" is at <http://bit.ly/2CcBK4T>. "The American Dream is for Everyone" is at <http://blog.cyrusmehta.com/2018/01/the-american-dream-is-for-everyone.html>. "Potential Adjustment of Status Options After the Termination of TPS" is at <http://blog.cyrusmehta.com/2018/01/potential-adjustment-of-status-options-after-the-termination-of-tps.html>. "New York State Bar v. Avvo: Will the Uberization of Immigration Law

Practice Overcome Outdated Advertising Rules Governing Lawyers?" is at <http://bit.ly/2j77aIV>. "Making Sense of the Acquittal in Kate Steinle's Case: Why Anti-Immigrant Rhetoric Equating Immigrants With Criminals Must Stop" is at <http://bit.ly/2kNwAsX>. "Breakthrough in Matter of V-S-G- Inc.: AC21 Beneficiaries Given Opportunity To Be Heard When I-140 Is Revoked" is at <http://bit.ly/2ArJq46>. "The Empire Strikes Back—USCIS Rescinds Deference to Prior Approvals in Extension Requests" is at <http://blog.cyrusmehta.com/2017/10/the-empire-strikes-back-uscis-rescinds-deference-to-prior-approvals-in-extension-requests.html>. "Stopping H-1B Carnage" is at <http://blog.cyrusmehta.com/2017/10/stopping-h-1b-carnage.html>. "Musings On Our Asylum System—After AG Sessions' Remarks on 'Dirty Immigration Lawyers' " is at <http://blog.cyrusmehta.com/2017/10/musings-on-our-asylum-system-after-attorney-general-sessions-calls-us-dirty-immigration-lawyers.html>. "Matter of G- Inc.: Clarifying the Role of the Function Manager Under the L-1A Visa" is at <http://bit.ly/2Bgl3p3>. "Expanding the Rights of Immigrants by Voting 'Yes' for a New York Constitutional Convention" is at <http://bit.ly/2ACNzBD>. **David Isaacson** of Mr. Mehta's office has authored a new blog entry. "What Comes Next: Potential Relief Options After the Termination of TPS" is at <http://blog.cyrusmehta.com/2018/01/what-comes-next-potential-relief-options-after-the-termination-of-tps.html>.

Mr. Mehta has authored "The NY Constitutional Convention Immigrants Need," published in the *New York Daily News* on November 1, 2017. The article is at <http://www.nydailynews.com/opinion/n-y-constitutional-convention-immigrants-article-1.3602471>.

Cora-Ann V. Pestaina, of **Cyrus D. Mehta & Partners PLLC**, has authored a new blog entry. "The Government's 'Nasty' Treatment of Expert Opinions in Support of H-1B Visa Petitions" is at <http://blog.cyrusmehta.com/2017/11/the-governments-nasty-treatment-of-expert-opinions-in-support-of-h-1b-visa-petitions.html>.

David Isaacson, of **Cyrus D. Mehta & Partners PLLC**, has authored a new blog entry. "From Bad to Worse: Why We Should Not Let the Trump Administration's Outrageous Immigration Demands Make the SUCCEED Act Seem Like a Reasonable Alternative" is at <http://bit.ly/2ykWxms>.

Angelo Paparelli (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm>) and **Charles Foster** of **Foster LLP** were quoted by *Law360* in "4 Ways GCs Can Prepare for Potential Worksite Raids." The article is available by registering at <https://www.law360.com/articles/1004453/4-ways-gcs-can-prepare-for-potential-worksite-raids>.

Mr. Paparelli has published a new blog entry. "AB 450: California's Law of Unintended Immigration Consequences" is at <https://www.nationofimmigrants.com/california-immigration-law/ab-450-californias-law-of-unintended-immigration-consequences/>.

Mr. Paparelli was quoted by *The Mercury News* in "If Immigration Authorities Raid the Bay Area, Could the State Stop Them?" Conflicts between federal and state law "will cause a lot of confusion for employers as to walking the fine line between cooperating with immigration agents and refusing to cooperate," he said. The article also references Mr. Paparelli's commentary, "AB 450: California's Law of Unintended Immigration Consequences," at <https://www.calpeculiarities.com/2017/11/01/ab-450-californias-law-of-unintended-immigration-consequences/>. The *Mercury News* article is at <https://www.mercurynews.com/2018/01/18/if-immigration-authorities-raid-the-bay-area-could-the-state-stop-them/>.

Mr. Paparelli was quoted in "Big Takeaways From the New L-1 Visa Petition Data," published by *Law360*. Highlighting the issue of approved petitions and their potential link to job creation in the United States, he noted, "It might be important to know if a user of the L-1 program, whether large or small, was able to create jobs for American workers. Then we would know what's really

happening. But as usual, this is the fodder for development of the meme around displacement of U.S. workers." The article is available via registration at <https://www.law360.com/articles/976552/big-takeaways-from-the-new-I-1-visa-petition-data>.

Mr. Paparelli was featured in a Q&A published by Reuters on October 30, 2017, on California's new immigration law to restrict employer cooperation with federal authorities when they visit workplaces. The article is at <https://www.reuters.com/article/usa-employment-immigration/qa-seyfarth-shaws-angelo-paparelli-on-californias-new-immigration-law-idUSL2N1N50G3>.

Wolfsdorf Rosenthal LLP has published several new blog entries. "Ten Things to Know About Communist Party Membership Inadmissibility" is at <http://bit.ly/2BSbAEk>. "New Streamlined E-1 & E-2 Investor Visa Processing at the U.S. Consulate in Toronto, Canada" is at <http://bit.ly/2nAjDBz>. "Leveling Up...How to Handle the H-1B Level I Wage Issue" is at <http://bit.ly/2rW4Wxg>. "Vietnam EB-5 Demand Exceeds Expectations—U.S. State Department Predicts April 2018 Cut-Off Date (Which Will Close the Door Until October 1, 2018) —There Will Be a Short EB-5 'Season' for Vietnam, When Will the Boot Fall for India?" is at <http://bit.ly/2BA9rNt>. "U.S. Tax Delinquents: Travel Ban Implemented" is at <http://bit.ly/2nmlUz7>. "Options for TPS Recipients (English and Spanish)" is at <http://bit.ly/2GpEnU5>. "U.S. State Department Issues Travel and Visa Ban Guidance & Waiver Criteria for Certain Predominately Muslim Countries, Iran, Chad, Libya, Somalia, Syria, Yemen (& Venezuela & North Korea)" is at <http://bit.ly/2Ei1Vd9>. "5 Reasons Indian Citizens Should Consider EB-5 Visa to U.S. – 2018 Update" is at <http://bit.ly/2GrjoQL>. "Why Are the January Visa Numbers for the Regional Center Program Unavailable for January 2018? And What's In Store for the Year of the Dog?" is at <http://bit.ly/2BfASgU>. "The U.S. Supreme Court Allows President Trump's Most Recent Travel Ban To Take Effect" is at <http://bit.ly/2jGxsfH>. "How We Overturned a Denial and Acquired an Immigrant Visa for a 24-Year-Old Derivative Child" is at <http://bit.ly/2A99wb7>. "Marry a Prince, Become a Duchess, and Lose Your American Citizenship? Could the Royal Wedding Create a Nationality Headache? Musings of an Immigration Lawyer" is at <http://bit.ly/2BuA1YA>. "Beyond the EB-5 Visa Waiting Line: E-2 Visa Options for Mainland-Chinese Entrepreneurs" is at <http://bit.ly/2BejcRG>. "5 Takeaways From USCIS IPO's November 2017 Stakeholders Meeting: New Challenges for the EB-5 Industry" is at <http://bit.ly/2AMcoLz>. "A New Era in U.S. Immigration: 5 Things to Know" is at <http://bit.ly/2i9Cq3G>. "5 Things I Learned From Charlie Oppenheim at the IIUSA 7th Annual EB-5 Industry Forum" is at <http://bit.ly/2yWklA1>. "Update on DV Lottery: Make Sure You Don't Miss Your Opportunity" is at <http://bit.ly/2gTfkkL>. "4 Tips for EB-5 Principal Applicants with Diminished Capacity, Such As Autism" is at <http://bit.ly/2yLiZYX>.

Mr. Yale-Loehr moderated a panel discussion in Palo Alto, California, on how the Trump administration's immigration changes are affecting the tech industry. The panelists included **Julie Pearl** (bio: <http://www.abil.com/lawyers/lawyers-pearl.cfm>). The discussion is available as a podcast edited by Cornell Law School at <http://www.lawschool.cornell.edu/alumni/lecture-series/Lecture-Series-Recordings.cfm> (scroll down to "Faculty Podcasts: Immigration and the Tech Sector: What's Changed, What Hasn't, and What Might in the Trump Administration."

Mr. Yale-Loehr spoke at "Starting Up and Staying Here: Immigrant Entrepreneurship," a business networking event sponsored by Upstate Capital at Collegetown eHub in Ithaca, New York, on February 7, 2018. For more information, see <http://upstatecapital.org/upstate-capital-event/starting-staying-highlights-challenges-immigrant-entrepreneurs/>.

Mr. Yale-Loehr spoke on the impact of President Trump's immigration policy changes on international students at the 16th Washington International Education Conference held February 14-15, 2018, at the University of California Washington, DC Center. For more information, see <http://washcouncil.org/>.

Mr. Yale-Loehr co-authored an article, "Ten Key Immigration Concepts for College & University Counsel," published on September 28, 2017, in the National Association of College and University Attorneys' *NACUA Notes* (Vol. 16, No. 1).

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) co-authored "Trump and Obama Immigration Enforcement: A Tale of the Tape So Far," published by *New York Daily News* on February 5, 2018. The article is at <http://www.nydailynews.com/opinion/trump-obama-immigration-enforcement-tale-tape-article-1.3801147>.

Mr. Yale-Loehr will give three talks in Sarasota and Venice, Florida, on March 6 and 7, 2018. On March 6, he will speak at 10:30 am at the First United Methodist Church, 104 S. Pineapple Ave., Sarasota, and at 2:30 pm at the Venice Community Center, 326 Nokomis Ave. South, Venice, about Green Card Stories (<http://www.greencardstories.com>). This book, featuring many ABIL members' clients, puts a human face on immigration, moving the debate beyond divisive politics and into the landscape of everyday America. The individuals profiled in the book illustrate how immigrants are contributing to our nation today. On March 7, Mr. Yale-Loehr will talk about our broken immigration system and how to fix it at 10:30 am at the First United Methodist Church, 104 S. Pineapple Ave., Sarasota. All three talks are through the Sarasota Institute of Lifetime Learning. See <https://www.sillsarasota.org>.

Mr. Yale-Loehr spoke at the 16th Washington International Education Conference, an event offering independent objective information to the international education community, to be held at the University of California, Washington DC Center, on February 14-15, 2018. For further information, see <http://washcouncil.org>.

Mr. Yale-Loehr was interviewed by WRFI about his new immigration apps clinic at Cornell Law School. The audio is available at <https://www.wrfi.org/2017/12/05/theres-app-cornell-law-clinic-tackles-legal-resources-immigrants-technology-audio/>.

Mr. Yale-Loehr was quoted by *Inside Higher Education* in "A Year of Travel Bans," about the decline in student and B visas issued in certain countries. He said the percentage changes were "higher than I would have anticipated. For example, a 53 percent decline in the number of F visas issued to people from Iraq, that's very significant. Even if the numbers are small, the percentage change is very significant, and it shows that the State Department is implementing the travel ban more aggressively than many people may have thought." Mr. Yale-Loehr added, "The fact that despite the exception that theoretically allows students from Iran to come to the United States, we still see a 24 percent decrease in the number of F-1 visas granted from Iran, shows that there is a de facto travel ban in place for many students from Iran even though legally they are allowed to apply to come under the same conditions as before." The article is at <http://bit.ly/2GDdfkM>.

Mr. Yale-Loehr was quoted in *PolitiFact* in "Donald Trump's Misleading Claim About Chain Migration, Unlimited Sponsorship of Distant Relatives," rebutting President Trump's false claim that "a single immigrant can bring in unlimited numbers of distant relatives." Mr. Yale-Loehr noted, "As a practical matter, because of these long backlogs there is not as much chain migration as President Trump claims." The article is at <http://bit.ly/2BH3JcC>.

Mr. Yale-Loehr was quoted in *Deutsche Welle News Service* in "Why Donald Trump's Immigration Deal is a Hard Sell." Responding to President Trump's false claim that countries send their "worst people" under the diversity visa program, Mr. Yale-Loehr cited a 2011 Congressional Research Service report, noting that "a higher percentage of immigrants who entered the United States through the diversity visa program had managerial and professional occupations than green card holders overall." With respect to "chain migration," Mr. Yale-Loehr noted, "Chain migration is President Trump's derogatory way of labeling family reunification

immigration." He also said, "President Trump is wrong to claim that distant relatives can easily and quickly immigrate to the United States," pointing out that U.S. citizens can only petition for close relatives like siblings, children, and parents—not aunts, uncles, or other, more distant relatives. Mr. Yale-Loehr noted that even under the current system, for a U.S. citizen to try to bring a relative to the country is no small feat and takes a long time: "If I am a U.S. citizen and petition for my brother, the wait would be almost 14 years for most countries. And if my brother is from the Philippines, the wait would be over 23 years." With respect to a recent immigration deal proposed by President Trump, Mr. Yale-Loehr said the chances of passage in Congress were not good. The article is at <http://www.dw.com/en/why-donald-trumps-immigration-deal-is-a-hard-sell/a-42463313>.

Mr. Yale-Loehr was quoted by *FactCheck.org* in "Trump's Claim on Diversity Visas." "It is a complicated and lengthy process. Among other things, the consular officer must make sure the individual is not 'inadmissible.' This means that the person has not committed a crime, doesn't have a serious health problem, isn't a terrorist, hasn't committed fraud, and hasn't overstayed in the U.S. before. The diversity lottery is a true lottery. There is no way a foreign government can game the lottery to offload the worst of their citizenry." The article is at <https://www.factcheck.org/2018/01/video-trumps-claim-diversity-visas/>.

Mr. Yale-Loehr was quoted by Bloomberg Law's *BNA Daily Labor Report* on the White House's immigration proposal. "I think the White House proposal is dead on arrival. Substantively it contains too many poison pills for Democrats to swallow," he said, and "it also may go too far for conservative Republicans who are opposed to granting legalization for up to 1.8 million noncitizens." The article is at <http://bit.ly/2GBItZA>.

Mr. Yale-Loehr was quoted by the *New York Times* about a federal court decision ordering immigration officials to release a detained immigration activist who was ordered deported. Calling the decision "groundbreaking," he said, "It holds that the Constitution requires the government to give people subject to a final deportation order time to arrange their affairs." But he cautioned, "Today's decision was long on rhetoric and short on careful legal analysis. I worry that a higher court may reverse." The article is at <https://www.nytimes.com/2018/01/29/nyregion/judge-released-immigrant-ragbir.html>.

Mr. Yale-Loehr was quoted by *Reuters* about whether the Trump administration is likely to extend temporary protected status for Syrians. "If the administration wants to make it known that they are considering whether to extend TPS on a case-by-case basis, Syria presents a much clearer case why it should be extended." If they rescind the protection for Syrians, "then it signals that they think the concept and philosophy of TPS is unwarranted," he said. The article is at <http://reut.rs/2ErU78y>.

Mr. Yale-Loehr was quoted in several other publications recently:

- *FactCheck.org*, in "Trump's Baseless Immigration Claim." President Trump recently suggested that the diversity visa (DV) lottery involves other countries "tak[ing] their worst and [putting] them in the bin." Mr. Yale-Loehr noted, "The diversity lottery is a true lottery. There is no way a foreign government can game the lottery to offload the worst of their citizenry. ... The bottom line: President Trump's statements about how the diversity visa program works are false." Mr. Yale-Loehr also noted the "complicated and lengthy process" a DV applicant must go through to be admitted. "Among other things, the consular officer must make sure the individual is not 'inadmissible.' This means that the person has not committed a crime, doesn't have a serious health problem, isn't a terrorist, hasn't committed fraud, and hasn't overstayed in the U.S. before." The article is at <http://www.factcheck.org/2017/12/trumps-baseless-immigration-claim/>.

- National Law Journal, in "With SCOTUS Cloud Overhead, Appeals Courts Take Up Travel Ban 3.0." Mr. Yale-Loehr said, "Given [Monday's] ruling, both the Fourth and the Ninth Circuit are going to try to be extra careful in justifying however they come out. I think [the] Supreme Court orders signal that the administration may well win at the Supreme Court and that may influence, to a certain extent, how the Fourth and the Ninth Circuit rule." He noted that the argument that the government has a justified reason for the ban is stronger than before. "For that reason, although an objective person may question how thorough the review is or whether it really matches up with what's going on, given the very low standard of review, the Supreme Court may well say, it isn't perfect but it's good enough." The article is available via subscription at <https://www.law.com/nationallawjournal/sites/nationallawjournal/2017/12/05/with-scotus-cloud-overhead-appeals-courts-take-up-travel-ban-3-0/?slreturn=20171110191742>.
- Forbes, in "A Guide for Future Immigrant Entrepreneurs," at <http://bit.ly/2B7Nyss>.

More on the U.S. diversity visa lottery program:

- New York Times: <https://nyti.ms/2z54Djl> ("A lottery is a crazy way to run an immigration system. No other country selects immigrants based on a lottery.")
- U.S. News and World Report: <https://www.usnews.com/news/best-countries/articles/2017-11-10/the-diversity-visa-lottery-could-affect-low-skilled-immigration>
- NBC News: <http://bit.ly/2zFrjqE>
- NPR: <https://www.npr.org/2017/11/03/561781175/uzbek-attackers-past-draws-attention-to-diversity-visa-lottery-program>

On other news:

- La Opinion (Spanish), about the Trump administration's efforts to accelerate deportations. Mr. Yale-Loehr said, "Desde que este tipo de deportación se creó por ley en 1996, nunca se ha implementado totalmente" ("Although this type of deportation [expedited removal] was created in 1996, it never was implemented totally"): <http://bit.ly/2zNd5US>
- Univision (Spanish), about the Trump administration's plan to eliminate work permits for spouses of H-1B temporary workers: <http://bit.ly/2i95UIJ>
- The Independent (UK), on President Trump's immigration enforcement one year after his election: <https://ind.pn/2AiXdbM>
- Time, on TPS termination for Nicaragua: <http://time.com/5013380/trump-temporary-protected-status-nicaragua/>
- Reason magazine, about President Trump's assault on legal high-skilled immigration: <http://reason.com/archives/2017/10/30/trumps-assault-on-legal-high-skilled-imm>
- Politico.com, in "Federal Appeals Court Clears Way for Undocumented Teen To Get Abortion." He noted, "This person was caught at the border and never formally made an entry. People who just made it into the country and don't have any ties here, do they have any constitutional rights? Do they have the full panoply? This is really the gray area. Nobody has a clear answer." <https://www.politico.com/story/2017/10/24/federal-appeals-court-clears-way-for-undocumented-teen-to-get-abortion-244115>.

- In several publications regarding a recent report (<http://bit.ly/2zZ9fYw>) from the National Foundation for America Policy on STEM OPT (optional practical training for students in science, technology, engineering, and mathematics):
 - Forbes: <https://www.forbes.com/sites/stuartanderson/2017/10/15/are-international-students-next-on-the-menu/#6fa65b35e9f2>
 - University World News: <http://www.universityworldnews.com/article.php?story=20171014060817300>
 - PIE (Professionals in International Education) News: <https://thepienews.com/news/us-work-restrictions-harmful-to-economy/>
- fivethirtyeight.com, about two important immigration cases being argued this fall at the Supreme Court. The article is at <https://fivethirtyeight.com/features/gorsuch-could-disappoint-conservatives-on-immigration/>.
- Bureau of National Affairs, "Will Work Program for Foreign Tech Students End?", published by the Bureau of National Affairs. "I'm sure there would be a court battle" if the administration rescinded the regulation, he said, adding that any argument that the 2016 regulation was somehow illegal "would be very dubious." <https://www.bna.com/work-program-foreign-n73014470707/>.

Mr. Yale-Loehr spoke on a panel following a keynote address on "How Nation-States Enforce Boundaries" on November 9, 2017, at the Annual Rhodes Symposium Conference, "Criminalizing Immigrants: Border Controls, Enforcement, and Resistance," sponsored by the Center for the Study of Inequality and the Cornell Population Center. The conference was held at Cornell University on November 9-10.

Mr. Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) spoke on "Global Entrepreneurs in Residence: Helping Immigrant Founders Create American Jobs" on October 24, 2017, at the Welcoming Economies (WE) Global Convening 2017. The Trump Administration's pause of the proposed International Entrepreneurs Rule to allow an alternative to the startup visa has given new emphasis to the Global Entrepreneurs in Residence (GEIR) program to pair international entrepreneurs with universities to create local businesses and entrepreneurship opportunities. This session included national experts, as well as the experience of one WE Global member, on how these programs operate, what they bring to a local entrepreneurial ecosystem, and what local communities should consider when contemplating such an endeavor. For more information, see <https://weconvening2017a.sched.com/list/descriptions/?iframe=no&w=100%&sidebar=yes&bg=no>.

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