



# IMMIGRATION INSIDER

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## Headlines:

**Sens. Graham, Durbin Introduce Bipartisan 'Dream Act'** – On July 20, 2017, Sens. Lindsey Graham (R-SC) and Dick Durbin (D-IL) introduced the "Dream Act," a bipartisan legislative effort that would allow immigrant students who grew up in the United States to earn lawful permanent residence.

**DHS Increases FY 2017 Limit on H-2B Temporary Nonagricultural Workers** – The Departments of Homeland Security and Labor issued a "temporary rule" on July 19, 2017, to increase the limit of 66,000 H-2B nonimmigrant visas by authorizing the issuance of up to an additional 15,000 visas through the end of fiscal year 2017.

**Supreme Court Allows Temporary Exemption for Grandparents, Others From Travel Ban, But Not for Certain Refugees** – On July 19, 2017, the U.S. Supreme Court allowed a temporary exemption of grandparents and certain other relatives of those in the United States from President Donald Trump's travel ban to stand, but continued the temporary travel ban for certain refugees.

**USCIS To Resume H-1B Premium Processing for Certain Cap-Exempt Petitions** – USCIS has resumed premium processing for certain cap-exempt H-1B petitions as of July 24, 2017.

**USCIS Announces Return of All Unselected FY 2018 H-1B Cap-Subject Petitions** – Those who submitted an H-1B cap-subject petition between April 3 and April 7, 2017, but have not received a receipt notice or a returned petition by July 31 may contact USCIS for assistance.

**USCIS Revises I-9 Employment Eligibility Verification Form** – Employers can use the revised version or continue using Form I-9 with a revision date of 11/14/16N through September 17, 2017. On September 18, employers must use the revised form with a revision date of 07/17/17N.

**ABIL Global: Peru** – A new law establishes a series of changes to the law on migration with respect to citizen security; standards for the internal and external immigration policy of Peru, including some aspects of the National Superintendence of Immigration; and the regulation of border security, among other important aspects. The ultimate aim of the new law is to simplify and order the immigration law protecting the fundamental rights of national and foreign citizens, and strengthen national security..

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## **Sens. Graham, Durbin Introduce Bipartisan 'Dream Act'**

On July 20, 2017, Sens. Lindsey Graham (R-SC) and Dick Durbin (D-IL) introduced the "Dream Act," a bipartisan legislative effort that would allow immigrant students who grew up in the United States to earn lawful permanent residence. As of press time, co-sponsors also included Sen. Jeff Flake (R-AZ) and Sen. Charles Schumer (D-NY).

"These young people have lived in America since they were children and built their lives here," said Sen. Graham. "There is support across the country for allowing Dreamers—who have records of achievement—to stay, work, and reach their full potential. ... [T]his may be an area where both parties can come together."

Sen. Durbin said, "I'll do everything in my power as a United States Senator to protect these Dreamers and give them the chance to become American citizens so they can contribute to a brighter future for all Americans. I first introduced the Dream Act 16 years ago and I'll continue fighting until it becomes the law of the land. I thank Senator Graham for partnering with me in this bipartisan effort."

The Dream Act would allow eligible young people to earn lawful permanent residence, and eventually U.S. citizenship, if they:

- Are longtime residents who came to the United States as children;
- Graduate from high school or obtain a GED;
- Pursue higher education, work lawfully for at least three years, or serve in the military;
- Pass security and law enforcement background checks and pay a reasonable application fee;
- Demonstrate proficiency in the English language and a knowledge of United States history; and
- Have not committed a felony or other serious crimes and do not pose a threat to the United States.

The text of the bill, S. 1615, is at <https://www.congress.gov/bill/115th-congress/senate-bill/1615/cosponsors?q=%7B%22search%22%3A%5B%22congressId%3A115+AND+billStatus%3A%5C%22Introduced%5C%22%22%5D%7D&r=43&overview=closed>. A related joint statement from Sens. Graham and Durbin is at <https://www.lgraham.senate.gov/public/index.cfm/press-releases?ID=EFDA943E-0686-45FB-A1DC-8621EC6716CE>. A one-page summary is at <https://www.durbin.senate.gov/imo/media/doc/The%20Dream%20Act%20onepager%20final.pdf>. A section-by-section summary is at <https://www.durbin.senate.gov/imo/media/doc/Dream%20Act%20of%202017%20section%20by%20section.pdf>.

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## **DHS Increases FY 2017 Limit on H-2B Temporary Nonagricultural Workers**

The Departments of Homeland Security and Labor issued a "temporary rule" on July 19, 2017, to increase the limit of 66,000 H-2B nonimmigrant visas by authorizing the issuance of up to an additional 15,000 visas through the end of fiscal year 2017. The Departments said this is a one-time increase "based on a time-limited statutory authority" and does not affect the H-2B program in future fiscal years. They plan to promulgate regulations to implement this determination. The rule is effective July 19, 2017, through September 30, 2017.

The Departments explained that because of the intense competition for H-2B visas in recent years, the semi-annual visa allocation, and the regulatory requirement that employers apply for

labor certification 75 to 90 days before the start date of work, employers who wish to obtain visas for their workers under the semi-annual allotment must act early to receive a temporary labor certification (TLC) and file a petition with USCIS. As a result, the Departments noted, the Department of Labor typically sees a significant spike in TLC applications for H-2B visas for temporary or seasonal jobs during the U.S.'s warm weather months. For example, in FY 2017, of the TLC applications filed in January, the Office of Foreign Labor Certification (OFLC) certified 54,827 worker positions for start dates of work on April 1, in excess of the entire semi-annual visa allocation. U.S. Citizenship and Immigration Services received sufficient H-2B petitions to meet the second half of the fiscal year regular cap on March 13, 2017. This was the earliest date that the cap was reached in a respective fiscal year since FY 2009 and reflects an ongoing trend of high program demand, the Departments explained.

Following consultation with the Secretary of Labor, the Secretary of Homeland Security determined that the needs of some U.S. businesses could not be satisfied in FY 2017 with U.S. workers who are willing, qualified, and able to perform temporary nonagricultural labor. The Secretary of Homeland Security determined that it was appropriate to raise the numerical limitation on H-2B nonimmigrant visas by up to an additional 15,000 for the remainder of the fiscal year, which ends September 30. Consistent with such authority, the Secretary of Homeland Security decided to increase the H-2B cap for FY 2017 by up to 15,000 additional visas for those U.S. businesses that attest to a level of need such that, if they do not receive all of the workers under the cap increase, they are likely to suffer irreparable harm; i.e., a permanent and severe financial loss. These businesses must attest that they will likely suffer irreparable harm and must retain documentation supporting this attestation, the Departments note.

The Secretary of Homeland Security's determination to increase the numerical limitation was based on the conclusion that "some businesses face closing their doors in the absence of a cap increase." The Departments noted that some stakeholders reported that access to additional H-2B visas is essential to the continued viability of some small businesses that play an important role in sustaining the economy in their states, while others stated that an increase is unnecessary and raises the possibility of abuse. The Secretary of Homeland Security has deemed it "appropriate, notwithstanding such risk of abuse, to take immediate action to avoid irreparable harm to businesses; such harm would in turn result in wage and job losses by their U.S. workers, and other adverse downstream economic effects."

The rule, which was published at 82 Fed. Reg. 32987 (July 19, 2017), is at <https://www.gpo.gov/fdsys/pkg/FR-2017-07-19/html/2017-15208.htm>. Details on eligibility and filing requirements are also available at <https://www.uscis.gov/working-united-states/temporary-workers/one-time-increase-h-2b-nonimmigrant-visas-fy-2017>. The page includes an email address for reporting fraud and abuse at [ReportH2Babuse@uscis.dhs.gov](mailto:ReportH2Babuse@uscis.dhs.gov).

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## **Supreme Court Allows Temporary Exemption for Grandparents, Others From Travel Ban, But Not for Certain Refugees**

On July 19, 2017, the U.S. Supreme Court allowed a temporary exemption of grandparents and other relatives (grandchildren, aunts, uncles, nieces, nephews, cousins, brothers-in-law, and sisters-in-law) of those in the United States from President Donald Trump's temporary travel ban to stand. However, the court continued the temporary travel ban for certain refugees, at least until the U.S. Court of Appeals for the Ninth Circuit can review the related appeal. The people affected are from Iran, Syria, Sudan, Libya, Yemen, and Somalia. Also exempt from the travel ban, per a Trump administration list, are parents, spouses, fiancé(e)s, sons, daughters, sons-in-law, daughters-in-law, and siblings.

The Supreme Court also denied the Trump administration's motion to clarify its order of June 26, 2017. The Supreme Court's brief order is at [https://www.supremecourt.gov/orders/courtorders/071917zr\\_o7jp.pdf](https://www.supremecourt.gov/orders/courtorders/071917zr_o7jp.pdf).

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## **USCIS To Resume H-1B Premium Processing for Certain Cap-Exempt Petitions**

U.S. Citizenship and Immigration Services (USCIS) has resumed premium processing for certain cap-exempt H-1B petitions as of July 24, 2017.

USCIS explained that the H-1B visa has an annual cap of 65,000 visas each fiscal year. Additionally, there is an annual "master's cap" of 20,000 petitions filed for beneficiaries with a U.S. master's degree or higher. Premium processing will resume for petitions that may be exempt from the cap if the H-1B petitioner is:

- An institution of higher education;
- A nonprofit related to or affiliated with an institution of higher education; or
- A nonprofit research or governmental research organization.

Premium processing will also resume for petitions that may also be exempt if the beneficiary will be employed at a qualifying cap-exempt institution, organization, or entity.

Cap-exempt petitioners who are eligible for premium processing can file Form I-907, Request for Premium Processing Service, for Form I-129, Petition for a Nonimmigrant Worker. The I-907 can be filed together with an H-1B petition or separately for a pending H-1B petition.

USCIS previously announced that premium processing resumed on June 26, 2017, for H-1B petitions filed on behalf of physicians under the Conrad 30 waiver program as well as interested government agency waivers.

USCIS said it plans to resume premium processing for other H-1B petitions "as workloads permit." USCIS plans to make additional announcements with specific details related to when the agency will begin accepting premium processing for those petitions. Until then, premium processing remains temporarily suspended for all other H-1B petitions. USCIS will reject any Form I-907s filed for those petitions, and if the petitioner submitted one check combining the Form I-907 and Form I-129 fees, USCIS will reject both forms.

The USCIS announcement is at <https://www.uscis.gov/news/uscis-resume-h-1b-premium-processing-certain-cap-exempt-petitions>.

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## **USCIS Announces Return of All Unselected FY 2018 H-1B Cap-Subject Petitions**

U.S. Citizenship and Immigration Services (USCIS) announced on July 19, 2017, that it has returned all fiscal year 2018 H-1B cap-subject petitions that were not selected by the agency's computer-generated random selection process. USCIS previously announced that it had completed data entry for all selected cap-subject petitions.

USCIS said that those who submitted an H-1B cap-subject petition between April 3 and April 7, 2017, but have not received a receipt notice or a returned petition by July 31 may contact USCIS for assistance. Contact information is at <https://www.uscis.gov/about-us/contact-us>. The announcement is at <https://www.uscis.gov/news/alerts/uscis-returns-unselected-fiscal-year-2018-h-1b-cap-subject-petitions>.

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## USCIS Revises I-9 Employment Eligibility Verification Form

On July 17, 2017, U.S. Citizenship and Immigration Services (USCIS) released a revised version of Form I-9, Employment Eligibility Verification. USCIS said employers can use this revised version or continue using Form I-9 with a revision date of 11/14/16N through September 17, 2017. On September 18, employers must use the revised form with a revision date of 07/17/17N. The revised form includes the changes summarized below.

Revisions to the Form I-9 instructions:

- The name of the Office of Special Counsel for Immigration-Related Unfair Employment Practices has been changed to its new name, Immigrant and Employee Rights Section.
- “the end of” has been removed from the phrase “the first day of employment.”

Revisions related to the List of Acceptable Documents on Form I-9:

- The Consular Report of Birth Abroad (Form FS-240) has been added to List C. Employers completing the I-9 on a computer can select Form FS-240 from the dropdown menus in List C of Sections 2 and 3. E-Verify users can also select Form FS-240 when creating a case for an employee who has presented this document for Form I-9 purposes.
- All the certifications of report of birth issued by the Department of State (Form FS-545, Form DS-1350, and Form FS-240) have been combined into selection C #2 in List C.
- All List C documents except the Social Security card have been renumbered. For example, the employment authorization document issued by the Department of Homeland Security on List C changed from List C #8 to List C #7.

The notice is at <https://www.uscis.gov/news/alerts/revised-form-i-9-now-available>. USCIS said it has also included these changes in the I-9 handbook for employers, at <https://www.uscis.gov/i-9-central/handbook-employers-m-274>. The revised form, in English and Spanish, is at <https://www.uscis.gov/i-9>.

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## ABIL Global: Peru

On January 7, 2017, legislative decree N° 1350, the "New Law of MIGRACIONES," was published in the Official Gazette *El Peruano* under the powers delegated by the Peruvian Congress by virtue of Law No. 30506. The new law establishes a series of changes to the law on migration with respect to citizen security, standards for the internal and external immigration policy of Peru, including some aspects of the National Superintendence of Immigration (MIGRACIONES), and the regulation of border security, among other important aspects. The ultimate aim of the new law is to simplify and revise the immigration law protecting the fundamental rights of national and foreign citizens, and to strengthen national security.

Legislative Decree N° 1350, in force since March 1, 2017, means considerable progress because it changes the scheme considerably with respect to immigration categories and statuses, and creates several new immigration statuses, among other things. New regulations were published in *El Peruano* on March 27, 2017, with Supreme Decree No. 007-2017-IN.

With the entry into force of the new law, the former Aliens Law N° 703 and its amendment, Legislative Decree N° 1043, were repealed along with Legislative Decree No. 1236 and any rule that violates Legislative Decree No. 1350.

The law includes two important changes:



1. With respect to temporary migratory status for business, the new law allows foreigners who do not intend to live in Peru to perform business, legal, contractual, and specialized technical assistance or similar activities in Peruvian territory. The status is granted for 183 days, consecutive or cumulative, over a period of 1 year counted from the first entry into Peru. This status is not renewable for temporary migration for business.
2. "Appointed worker" status is now granted not only on a temporary basis, but also as a resident status.

Thus, foreign individuals coming to work in Peru to carry out labor activities in the national territory, which consist of the accomplishment of a specific task or function or a job that requires specialized professional, commercial, or technical knowledge and who are sent by a foreign employer, as well as those who are commissioned by a highly specialized international corporation for the repair or maintenance of machinery or technically complex or advanced systems or mechanisms, or for corporate audits and international certifications, may receive a temporary visa with an authorized stay of 183 days, consecutive or cumulative, over a period of one year counted from the first entry into Peruvian territory, extendable up to a total of one year, maximum. In sum, for temporary appointed worker migratory status, the initial authorized period of stay is 183 days (consecutive or cumulative), which can be extended in a subsequent process up to one year. For resident appointed worker migratory status, the visa is granted for one year, renewable.

Both types of status allow multiple entries. Foreigners with resident appointed worker migratory status will hold a foreign card (*carné de extranjería*).

A foreigner with this migratory status cannot carry out paid or lucrative activities, either self-employed such as freelancing or independent contracting, or working as a subordinated employee, in Peru.

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## New Publications and Items of Interest

[The E-Verify User Manual has been updated](#) to include the latest system enhancements and policy updates. Some sections have been reorganized and consolidated. The manual is at <https://www.uscis.gov/e-verify/publications/manuals-and-guides/e-verify-user-manual>. A table of changes is at <https://www.uscis.gov/e-verify/publications/manuals-and-guides/table-changes> (scroll down).

[Travel ban FAQ](#), by David Isaacson of Cyrus D. Mehta & Partners PLLC, updated July 19, 2017, at <http://cyrusmehta.com/blog/2017/07/19/travel-ban-faqs-updated-07192017/>.

[Community Advisory: Social Media, Criminalization, and Immigration](#) has been published by the National Lawyers Guild's National Immigration Project. This advisory summarizes ways in which immigration agents may use social media against those in removal proceedings or involved in criminal cases. The advisory is at [https://www.nationalimmigrationproject.org/PDFs/community/2017\\_03Apr\\_comm-adv-social.pdf](https://www.nationalimmigrationproject.org/PDFs/community/2017_03Apr_comm-adv-social.pdf).

[How to safeguard your data from searches at the border](#) is the topic of several recent articles and blogs. See, for example, <https://www.nytimes.com/2017/03/21/technology/personaltech/crossing-the-border-heres-how-to-safeguard-your-data-from-searches.html> and <https://www.aclu.org/blog/free-future/can-border-agents-search-your-electronic-devices-its-complicated>.

[Airport Lawyer](#) is a free Web app that is intended to help ensure that travelers are treated fairly at airports. Arrivals information can be securely passed along to large groups of volunteer attorneys who have been organized to monitor arrivals. See <https://www.airportlawyer.org/>.

Listings and links to cases challenging executive orders, and related available pleadings, are available at <https://lawfareblog.com/litigation-documents-resources-related-trump-executive-order-immigration>.

The latest E-Verify webinar schedule from USCIS is available at <http://www.uscis.gov/e-verify/e-verify-webinars/take-free-webinar>.

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 30 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 for:

- 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](http://www.abil.com/global_practice_guide.cfm).

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 on Twitter: @ABILImmigration. Recent ABIL member blogs are at <http://www.abilblog.com/>.

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## ABIL Member/Firm News

**H. Ronald Klasko** (bio: <http://www.abil.com/lawyers/lawyers-klasko.cfm>), **William A. Stock**, **Elise A. Fialkowski** (partners), and **Andrew Zeltner** (associate), all of **Klasko Immigration Law Partners, LLP**, participated in the American Immigration Lawyers Association's (AILA) 2017 Annual Conference June 21-24, 2017. Mr. Klasko participated as discussion leader in an advanced-level roundtable discussion about the major changes in the EB-5 program and presented strategies to overcome the issues. Mr. Stock participated in a strategy session on hot topics with other AILA National Officers, and also presented on the ever-changing landscape in practicing immigration law. Ms. Fialkowski presented on an all-levels panel about the key issues for U.S. practitioners with respect to global immigration. Mr. Zeltner participated on an intermediate-level panel on how to maintain LPR status when assigned or choosing to live abroad temporarily.

**Cyrus Mehta** (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) recently discussed "Is the U.S. in Danger of Losing Immigrant Entrepreneurs?" in a podcast at <http://knowledge.wharton.upenn.edu/article/the-impact-of-repealing-the-international-entrepreneur-rule/>.

**Mr. Mehta** has published several new blog entries. "H-1B Entry Level Wage Blues" is at <http://blog.cyrusmehta.com/2017/07/h-1b-entry-level-wage-blues.html>. "Trump's H-2B Visa Conflict: How We Can Take Advantage Of It to Gain Broader Immigration Reform" is at <http://blog.cyrusmehta.com/2017/07/trumps-h-2b-visa-conflict-how-we-can-take-advantage-of-it-to-gain-broader-immigration-reform.html>. "Supreme Court's Heightened Standard for Revoking Naturalization Should Apply to All Immigration Benefits" is at <http://blog.cyrusmehta.com/2017/07/supreme-courts-heightened-standard-for-revoking-naturalization-should-apply-to-all-immigration-benefits.html>.

**Angelo Paparelli** (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm>) has published "The Known and Unknown Future of the EB-5 Immigrant Investment Program at USCIS and the Office of the USCIS Ombudsman," available at <https://iiusa.org/magazine/>.

**Wolfsdorf Rosenthal LLP** has published a new blog entry. "Solutions to the Chinese EB-5 Visa Backlog" is at <http://bit.ly/2vjT6hm>.

**David Fullmer** and his team of immigration professionals have merged with **Wolfsdorf Rosenthal LLP's** immigration law practice as of August 1, 2017. Mr. Fullmer is a top-rated immigration lawyer and Chair of the Immigration Section of the Los Angeles County Bar Association. He will work alongside veteran **Bernie Wolfsdorf** (bio: <http://www.abil.com/lawyers/lawyers-wolfsdorf.cfm>) to provide exceptional quality immigration services.



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## Government Agency Links

*Follow these links to access current processing times of the USCIS Service Centers and the Department of Labor, or the Department of State's latest Visa Bulletin with the most recent cut-off dates for visa numbers:*

USCIS Service Center processing times online:  
<https://egov.uscis.gov/cris/processTimesDisplay.do>

Department of Labor processing times and information on backlogs:  
<http://www.foreignlaborcert.doleta.gov/times.cfm>

Department of State Visa Bulletin: [http://travel.state.gov/visa/bulletin/bulletin\\_1360.html](http://travel.state.gov/visa/bulletin/bulletin_1360.html)

Visa application wait times for any post: [http://travel.state.gov/visa/temp/wait/wait\\_4638.html](http://travel.state.gov/visa/temp/wait/wait_4638.html)

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## About ABIL

*The Alliance of Business Immigration Lawyers (ABIL) offers a single point of contact for customer needs, news alerts, staff training, and other programs that benefit clients through the collaboration of more than 400 member lawyers and their 1,000 staff. Corporate counsel, human resource professionals, in-house immigration managers, and other corporate decision-makers turn to ABIL lawyers for outstanding legal skills and services. ABIL's work also includes advocating for enlightened immigration reform, providing speakers and media sources, presenting conferences, publishing books and articles on cutting-edge immigration topics, and sharing best practices, all with the ultimate goal of offering value-added services to business immigration clients.*

*The Alliance of Business Immigration Lawyers' website is at <http://www.abil.com/>. ABIL is also on Twitter: @ABILImmigration.*

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