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INVESTOR VISAS: AN OVERVIEW

This article provides an overview of investor visas in several countries.

Canada

There remains only one passive (i.e., not at risk) investor program in Canada, and it is being piloted by the Province of Québec. As a pathway leading to permanent residence in Québec, it requires a net worth of at least CAD \$2 million; a five-year, non-interest-bearing deposit of CAD 1.2 million; and two years of recent management experience. This program traditionally opens every year to a very small quota of spots, and is currently suspended until March 31, 2021.

There are more immigration opportunities for active investors who choose to start, invest in, or acquire a business in Canada. The federal Start-Up Visa program, for example, targets business founders supported by certain business incubators, angel investors, and venture capital funds. Certain provinces also offer entrepreneur streams. New Brunswick, for example, designed a program for experienced business owners and senior managers who wish to become permanent residents by owning a business and managing it while residing in Québec. Ontario hopes to attract entrepreneurs from outside of Canada interested in starting a new business or buying an existing business in Ontario. In British Columbia, experienced entrepreneurs who can support innovation and economic growth in the province can apply for the local provincial nominee program. Also noteworthy is the International Graduate Entrepreneur Immigration Stream, which allows Alberta to nominate qualified international graduates from local post-secondary institutions who want to establish or operate a business in Alberta to apply for permanent residence.

Italy

The Investor Visa for Italy program is an option for investors seeking to enter Italy to engage in capital investments that benefit the Italian economy. The following types of investment/donation qualify for this program: €2,000,000 in Italian government bonds (at least two years' validity); €500,000 in a company based and operating in Italy (€250,000 in case of an innovative start-up company); or a €1,000,000 donation supporting projects of public interest in the fields of culture, education, immigration, scientific research, recovery of cultural assets, or landscapes. The application can also be filed using a company controlled by the applicant.

The application for the clearance that is necessary to apply for the visa is filed through a dedicated website, <https://investorvisa.mise.gov.it/>. Once the clearance is issued, the applicant must apply for an investor visa valid for two years, travel to Italy to apply for the relevant residence permit, and make the required investment/donation within three months of entry. The investor visa holder will receive an investors' residence permit (*permesso di soggiorno "per investitori"*) valid for two years and renewable for an additional three years to prove that the investment is still in place. Investor permit holders are exempt from the residence requirement.

For more information, see <https://www.mazzeschi.it/guidelines-for-new-investors-visa/>

Turkey

Currently Turkey has no functioning investment residency program, although the country does have a popular investment citizenship program. Turkey passed a law and regulations in 2017 for a new permanent residence program, the "Turquoise Card Program," in which investment was one of the qualifying categories. Unfortunately, the ministry charged with implementing the Turquoise Card program has not yet created an application form or procedure for this program.

This contrasts with Turkey's Investment Citizenship Program, for which the Interior Ministry in 2018 lowered the qualifying investment levels and created a special department. This department actively pursues expediting these applications, which take a far shorter period to adjudicate than standard citizenship cases.

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Country Updates

CANADA

This article discusses new pilot projects and other efforts to allow in professionals; programs reopened for certain entrepreneurs and self-employed persons; updated immigration targets in Québec and Canada; and designated learning institutions reopening to international students.

More Québec Selection Certificates (CSQs) for IT, AI, VFX professionals; Food Processing; Entrepreneurs; Self-Employed Persons; Caretakers

Immigration Québec announced on October 28, 2020, a set of three new pilot projects intended to allow professionals in certain industries to apply for a Québec Selection Certificate (CSQ)—unfortunately, with extremely small annual quotas. It appears that these pilot projects will be administered through the ARRIMA pool of applicants. Overall, the pilot projects have multiple and extremely specific eligibility criteria. While they are interesting especially for non-francophone employees, French speakers should evaluate if it may be less burdensome to apply through the existing PEQ program. Immigration Québec has not announced the processing delay target for these pilot projects.

The pilot projects, which will come into effect in early 2021 and will be valid through 2025, include (1a) Professionals in the Artificial Intelligence Industry, (1b) Professionals in the Information Technology and Visual Effects Industries, (2) Workers in the Food Processing Industry, and (3) Patient Service Associates.

In addition, the CSQ program for certain entrepreneurs and self-employed persons was reopened, with an even smaller quota.

Updated Immigration Targets in Québec

On October 29, 2020, the Québec government released its immigration targets for 2021. As the target for 2020 has not been reached (30,500 immigrants are expected instead of 44,500 projected), 7,000 spots will be carried over to 2021. The plan for 2021 is to welcome between 44,500 and 47,500 immigrants to Québec. Approximately 20,000 will be reserved for CSQs in the skilled worker class (ARRIMA, PEQ, Pilot Projects).

The targets for 2021 include currently pending applications with the Québec and federal authorities. In light of the important inventory of backlogged permanent residence cases pending since 2019, an improvement in processing delays is not expected for Québec-bound permanent residence applicants. Some practitioners recommend applying for the CSQ or permanent residence as soon as one is eligible, to minimize the number of work permit renewals required until permanent residence is granted.

Update: Immigration Targets for Canada

The federal government recently released its three-year plan for immigration levels, with the highest targets in Canadian history:

- 2021—401,000 immigrants
- 2022—411,000 immigrants
- 2023—421,000 immigrants

These are the highest recorded numbers in more than a century. The last time Canada aimed at more than 400,000 immigrants was in 1913.

COVID-19: Designated Learning Institutions Reopening to International Students

As of October 20, 2020, some designated learning institutions (DLIs) are now able to reopen to international students who are not currently in Canada and who:

- Have, or have been approved for, a study permit
- Are traveling to Canada for a non-discretionary or non-optional purpose

To be able to reopen to international students who are not currently in Canada, DLIs must have a COVID-19 readiness plan approved by their province or territory that meets certain requirements, including a mandatory 14-day quarantine period for international students and other elements. Students should contact their schools directly with any questions about the schools' readiness plans.

For more information, see <https://www.canada.ca/en/immigration-refugees-citizenship/services/coronavirus-covid19/students/approved-dli.html>

COLOMBIA

This article discusses the resumption of some immigration processing and requirements for complying with safety protocols during the COVID-19 pandemic.

After a six-month wait, measures have been announced to resume air border traffic and migration processes. On September 19, 2020, the first phase of international commercial flights between Colombia and the United States began. Gradually flights to and from more countries have been added, including Mexico, Brazil, Ecuador, the Dominican Republic, Guatemala, and Bolivia. Humanitarian flights, as well as charters authorized by the government, continue to be scheduled and to transport travelers to and from Colombia.

With the gradual reopening of international air traffic, several measures were established to achieve better control and comply with biosafety protocols. Persons entering the country must:

- Present a PCR test with negative result for COVID-19 no more than 96 hours before the flight;

- Complete a Check-Mig form for entry and exit a maximum of 24 hours and minimum of 1 hour before the flight;
- Download the Coronapp application and create a profile to report the traveler's health status, in addition to complying with the mandatory use of a mask, frequent handwashing, and social distancing

On September 21, 2020, Migración Colombia resumed its services in all offices in the country to process foreigners' identity cards, visa registrations, certificates of migratory movement, safe conduct, Special Permits to Stay for the Promotion of Formalization, and Temporary Permits to Stay. Considering the circumstances in recent months, the government has granted a transition period from September 21 to December 15, 2020. The Ministry of Foreign Affairs still is not stamping visas, which is why the registration of visas and issuance of foreigner's ID cards can be done with an electronic visa, i.e., despite not being stamped in the passport.

To initiate any of these processes, it is necessary to schedule an appointment, download the Coronapp application, and fill out the health declaration form. Some users claim that they have not been able to schedule appointments for some procedures in Bogotá, or that if they could, they were assigned for a later month. Such delays will most likely lead to an extended transition period because many users will probably not be able to complete processing within the established time periods.

FRANCE

This article provides updates on what the Brexit transition means for British nationals residing in France.

On December 31, 2020, at midnight, the Brexit transition period will end. The United Kingdom (UK) will become a third country to the European Union (EU).

British nationals already residing in France can submit "Withdrawal Agreement" residence permit applications now. The request can be made on the internet. All British nationals already residing in France before December 31, 2020, are eligible to apply for a residence permit, in accordance with the provisions of the Brexit agreement signed between the UK and the EU. By June 30, 2021, all British nationals wishing to benefit from the provisions of the Brexit agreement to retain their rights to stay and work in France must have a French residence permit.

Applicants must upload documentation, including passport identity pages; proof establishing the date the applicant moved to France, such as a property certificate issued by a notary, a home insurance contract, a home insurance certificate or an employment contract; and documents relating to the specific situation of each applicant. For example, an employee must provide a copy of their most recent pay slip, while a student must provide proof of enrollment in a school or university. After completing these steps, the applicant will receive an application confirmation by email, with a reference number confirming the filing.

Once the file has been processed, an email will be sent to the candidate to make an appointment at the prefecture to finalize the file (fingerprinting, photo, and proof of payment of fees).

It is not yet clear how the applicant will receive the residence permit when it becomes available, whether by post to his or her home in France or by going to the Prefecture a second time.

Permit Types

Presence of less than five years

British nationals who have resided in France for less than five years as of December 31, 2020, must apply for a residence permit, depending on their status (e.g., student, employee, temporary worker, posted worker, self-employed professional, unemployed person, family member, long-term visitor). They will be issued a residence permit in accordance with the agreement bearing the specific category, such as "Withdrawal agreement—employee."

Although the list of required documents is not yet available, applicants are advised to prepare:

- Passport or identity card
- Proof of address in France
- Identity photographs
- Proof of resources: employment contract, payslips, bank statements
- Proof of professional activity: work certificate signed by the employer confirming the date of the start of employment in France
- Proof of the purpose of the stay in France over the past five years (e.g., employment contract)

British nationals who have resided in France for less than five years as of December 31, 2020, can also apply for a resident card when they can prove that they have lived in France for five years. For example, a British national residing in France as of December 31, 2017, can apply for a resident card as of December 31, 2022.

Presence of five years or more

British nationals who have resided for five years or more in France as of December 31, 2020, are eligible to obtain a resident card valid for 10 years.

Although the list of required documents is not yet available, applicants are advised to prepare:

- Passport or identity card
- Proof of address in France
- Three identity photographs
- Proof of presence in France over the past five years: one document per half-year (e.g., rent receipts, energy bills)
- Proof of resources: employment contract, payslips, bank statements

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ITALY

This article provides highlights of a new immigration decree, the numbers of foreign workers allowed in Italy for 2020, and new rules for travelers to Italy.

New Immigration Decree

Immigration Decree no. 130/2020, effective October 22, 2020, provides for several changes to current immigration law and partly cancels or modifies provisions introduced in 2018 by the controversial "security and immigration decree," also known as the Salvini decree.

The new decree provides for:

- Reforming the migrant reception system
- More favorable conditions when applying for humanitarian protection, special protection
- Possibility of asylum seekers to register as residents with the city council
- Possibility to convert some residence permits—including elective residence, pending citizenship application, calamity, special protection, and others—into residence permits allowing work
- Reduction of processing time for citizenship applications for naturalization and marriage from 48 months to 36 months (the term was raised from 24 months to 48 months by the previous Salvini decree)
- Reduced fees for nongovernmental organizations that violate the sailing ban

In particular, the following residence permits (*permessi di soggiorno*) can now be converted into permits for work reasons:

- Permit for special protection—*permesso di soggiorno per protezione speciale* under certain conditions
- Permit for calamity—*permesso di soggiorno per calamita'*
- Permit for elective residence—*permesso di soggiorno per residenza elettiva*, but only those issued to retirees with an Italian pension
- Permit for pending citizenship application or pending recognition of stateless status—*permesso di soggiorno per acquisto della cittadinanza o dello stato di apolide*
- Permit for sport activity—*permesso di soggiorno per attivita sportiva*
- Permit for artistic work—*permesso di soggiorno per lavoro di tipo artistico*
- Permit for religious reasons—*permesso di soggiorno per motivi religiosi*
- Permit for assisting minors—*permesso di soggiorno per assistenza minori*

Also, for citizenship applications for naturalization and marriage filed after the date of entry into force of the decree (October 22, 2020) processing times are reduced from 48 months to 36 months.

Number of Foreign Workers Allowed in Italy for 2020

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 2020. The [decree](#), dated July 7, 2020, was published in the *Official Gazette* of October 12, 2020.

More than half (18,000) of the total are reserved for entries for seasonal work. For the first time in several years, there are 6,000 for subordinate work, but only for specific sectors of activity (road haulage, building, and hospitality/tourism) and for certain nationalities. The majority of the remaining number is reserved to permit conversion (6,150) for foreign citizens who already have a residence permit (e.g., study, seasonal work, permanent) in Italy or EU and intend to change status, i.e., to convert the existing permit into a permit for employment/self-employment.

The rest are for self-employment work (500) and special categories (200) of foreigners (such as Venezuela's residents with Italian ancestors or individuals who have completed a specific training in their country of residence).

New Rules for Travelers to Italy

Italy has made COVID-19 testing mandatory for arrivals from the European Union (EU) and lifted the entry ban for certain countries.

Under Decree 3 of December 3, 2020, Italy removed the entry ban for travelers from Armenia, Bahrain, Bangladesh, Brazil, Bosnia-Herzegovina, Chile, Colombia, Kuwait, North Macedonia, Moldova, Oman, Panama, Peru, Dominican Republic, Montenegro, and Kosovo.

Entry into Italy from any non-EU country is allowed only for work reasons, absolute urgency, health reasons, study, or returning to one's home. There are exceptions for EU citizens and their close family members, foreign nationals regularly residing in Italy and their close family members, and those who have a proven and stable relationship with a person residing in Italy.

Travel from Australia, Japan, New Zealand, Rwanda, the Republic of Korea, Thailand, Singapore, and Uruguay is allowed for any reason. Travelers are subject to completing a self-declaration and quarantining for 14 days on arrival.

Travel from the EU, the United Kingdom, and associated Schengen countries is always permitted, with the obligation to complete a self-declaration and take a molecular or antigenic swab test, with a negative result, within 48 hours before entering Italy. From December 21 to January 6, the obligation to quarantine for 14 days will apply.

Exceptions may apply. For the full set of rules, check for updates to the dedicated section of the Ministry of Foreign Affairs website,

<https://www.esteri.it/mae/en/ministero/normativaonline/decreto-iorestoacasa-domande-frequenti/focus-cittadini-italiani-in-rientro-dall-estero-e-cittadini-stranieri-in-italia.html>, or fill out the information questionnaire at <https://infocovid.viaggiare Sicuri.it/>

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RUSSIA

This article provides information about required measles vaccinations for all foreign employees, entry points and other information for unified e-visa holders, and new notification forms being implemented for the employment of foreign workers.

Measles Vaccinations Required

Employers are required to ensure that all foreign employees are immunized against measles.

A foreign citizen can confirm that he or she had measles, was immunized against measles, or has a medical authorization not to be immunized, by a certificate from his or her medical file issued by an organization licensed for immunization practice. The certificate should have a stamp and a doctor's signature. Documents issued outside of Russia must be duly legalized (apostilled) and translated into Russian. The translation must be notarized.

Entry Points for Unified E-Visa

Starting January 1, 2021, all foreign citizens with the unified e-visa can enter Russia through the following border control points:

Automobile Bagrationovsk Gusev Ivangorod Mamonovo (Gzhekhutki) Mamonovo (Gronovo) Morskoye Sovetsk Ubylinka	Air Belgorod Volgograd (Gumrak) Ekaterinburg (Koltsovo) Kazan Krasnodar (Pashkovskiy) Krasnoyarsk (Yemelyanovo) Moscow (Vnukovo) Moscow (Domodedovo) Moscow (Sheremetyevo) Nizhniy Novgorod (Strigino) Novosibirsk (Tolmachevo) Rostov-on-Don (Platov) Samara (Kurumoch) St. Petersburg (Pulkovo)
Rail Pogranichny Khasan Pedestrian Ivangorod	Sea Big Port Saint-Petersburg (Marine Station section) Vladivostok Zarubino Passenger Port St. Petersburg

Requirements and Steps to Apply for a Unified E-Visa

- **Purpose of visit:** Guest, business, tourist, humanitarian (sport and cultural connections, participation in international events);
- **Application process:** Application is filed online at the dedicated page on the Foreign Affairs Ministry website;
- **Processing time:** Four calendar days;

- **Number of entries:** Single-entry;
- **Validity:** 60 days from the date of issuance;
- **Allowed stay:** Not more than 16 days from the entry date;
- **Entry and exit: Only through border control points determined by the government (see list above).** Details on entry and exit ordinarily can be found at the website of the Consular Department of the Foreign Affairs Ministry: <https://evisa.kdmid.ru/ru-RU>; however, currently this website contains outdated information.
- **Government fee:** US \$40 (starting January 1, 2021); for children up to 6 years old, the e-visa will be issued free of charge;

Starting January 1, 2021, foreign citizens who enter Russia on the basis of an e-visa will be able to travel to all Russian regions. As of the writing of this article, citizens of 52 countries could already enter four Russian regions based on e-visas: Far Eastern Federal District, Kaliningrad Region, St. Petersburg, and Leningrad Region.

New Notification Forms To Be Implemented

Starting January 1, 2021, new notification forms will be implemented regarding the employment of foreign citizens in the territory of the Russian Federation.

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UNITED KINGDOM

This article provides an update on the United Kingdom immigration scheme, the worker permit scheme, new Skilled Worker category rules, the new frontier worker visa, how the tech sector can make the most of the UK's new immigration rules, and a review by the Migration Advisory Committee on Intra-Company Transfers.

Update on the UK Immigration System

In light of a new COVID-19 pandemic-related national lockdown that began in the United Kingdom (UK) in November:

Applications to be submitted at appointments in the UK via Sopra Steria, the Home Office's service provider, can continue as normal and applicants can attend in person during the lockdown. Sopra Steria has been designated as providing an "essential service." For visa applications submitted outside the UK, most visa application centers remain open and applications can proceed.

Also, as a reminder, given that the new Skilled Worker category opened on December 1, 2020, any staff on Tier 2 (Intra-Company Transfer) visas can apply from within the UK to switch to a Skilled Worker visa in order to be on a track to indefinite leave to remain.

Opening a New Frontier: Worker Permit Scheme

As the UK goes through the disappointing process of raising barriers on entry to EEA nationals coming to the UK, an immigration category soon to emerge, separate from the EU Settlement Scheme, is the "frontier worker" visa.

While the UK's regulations on this category have been published, the government's guidance for further details on how the category will operate is awaited. The frontier worker permit application system is expected to be launched in mid-December 2020, and starting on July 1, 2021, frontier workers will need a permit when entering the UK.

To be eligible for a frontier worker permit, an applicant must be:

- An EEA national;
- Not primarily resident in the UK (i.e., living mainly in another country); and
- Working or self-employed in the UK (or has retained this status).

The category will not help those who wish to start working in the UK after December 31, 2020, the end of the Brexit transition period—it is aimed at those who established a work pattern as a "frontier worker" before the end of the transition period following the UK's withdrawal from the EU.

The route appears to be targeting international commuters, for example, from Dublin, Paris, or Zurich, who regularly come to the UK for business—a relatively small category of individuals. Acquiring frontier worker status provides more flexibility on sources of payment and potential activities in the UK than permitted under the visitor rules.

There are many questions to be answered regarding the details of the scheme, such as: How regularly do you need to work in the UK to qualify? What activities in the UK will constitute work to be eligible to apply? What kinds of documents are required to evidence that an applicant qualifies? Thorough guidance will be needed to answer these questions conclusively.

If granted, a frontier worker visa is issued for five years for current workers and two years for those with retained status. There are obvious drawbacks to the category, including the lack of a route to indefinite leave to remain, but perhaps its most redeeming feature is that renewal applications can be made indefinitely, whereas those who obtain pre-settled status may reach the end of the road in five years' time if they have a lot of absences, meaning that they would not qualify for settled status and would need to switch their immigration category.

It appears likely that applicants will favor the certainty of applying under the EU Settlement Scheme if eligible. The frontier worker visa might be of recourse to those who, for whatever reason, are not eligible under the EU Settlement Scheme. Some applicants may choose to apply for both pre-settled status and a frontier worker permit.

How the Tech Sector Can Make the Most of the UK's New Immigration Rules

Many companies in the tech sector are aware of the new immigration system and Skilled Worker category opening in December 2020. Companies without a sponsor license will need to apply for one in order to recruit both non-EU and EU citizens. EU citizens resident in the UK before 11 pm on December 31, 2020, can apply for the EU Settlement Scheme.

However, for international technology companies currently based outside the UK, there are other considerations to take into account when moving specialist staff to the UK. For example, when applying for a sponsor license, it is necessary to first have a trading UK entity that can apply for the license. It must also have at least one senior person based in the UK who can act as the Authorising Officer, the person in charge, of the license. When a tech sector company wishes to set up in the UK, this can lead to a "chicken and egg" scenario of wanting to send someone to the UK to set up the UK operation but being unable to apply for a license.

The solution is often to submit a representative of an overseas business application, also known as a sole representative application. This is for a senior-level employee of the overseas group company who is being sent to the UK to set up operations where there is currently not any UK corporate presence. The employee must not be a majority shareholder in the overseas company. Once that person can enter as a sole representative and set up the UK company, they can act as Authorising Officer and apply for the sponsor license. From there, any staff of the group based outside the UK can transfer to the UK by way of a Skilled Worker or Intra-Company Transfer (ICT) application under the new rules.

Unlike the existing Tier 2 (General) category, there will not be any resident labour market test (RLMT) advertisement process for Skilled Worker applications, and the skill level will be reduced, as will the minimum salary expectations. As the Skilled Worker category can lead to indefinite leave to remain (ILR) after five years, it is most likely that the ICT category will be underused in comparison to the current Tier 2 (ICT) route as it does not lead to ILR and the salary requirements are more onerous.

For some tech sector organizations, the Tier 2 (General) rules on share ownership have been problematic for senior-level employees and founders. Where the individual to be sponsored to work in the UK owns more than 10% of the shareholding in the UK limited company sponsor, they have been prohibited from applying unless they apply as a high earner basis at a salary of at least £159,600. The new Skilled Worker rules as drafted contain no such restriction, albeit detailed Home Office guidance to accompany the rules is awaited. Applicants should be aware of the "genuineness" requirements, including that the job has not been created mainly so the applicant can apply for a visa. One potential benefit of the ICT category is that unlike the Skilled Worker category, it is not necessary to meet English language requirements.

More than in most sectors, international tech companies need to react to market conditions and be nimble in their use of the UK immigration system. While sole representative applications are useful in the above scenario, they are limited, as the name implies, to just one person transferring to the UK. For many tech organizations where highly specialized and niche skills and experience are required, this will be problematic and will not enable them to react quickly enough by the time the sponsor license is obtained and Skilled Worker or ICT applications submitted. UK immigration policymakers seem to be aware of the limitations of this route. In a potentially useful development for the tech sector, in addition to **reviewing the ICT eligibility criteria and conditions**, the Home Secretary has asked the Migration Advisory Committee (MAC) to look at the sole representative route and report back by the end of October 2021.

The government is seeking to "expand its mobility offer" and has asked the MAC to consider a new option to enable a business based outside the UK to send a team of workers to the UK to establish a branch or subsidiary in the UK. The MAC will advise the government on the viability of those new routes for teams of workers and the eligibility criteria to include, for example, skill and salary thresholds for the members of the team as well as the sending organization's size, the value of the investment or contract, and the potential for UK job creation. Presumably the new rules will be less restrictive on the seniority of the employee(s) to be transferred.

The MAC has also been asked to consider new rules for a business based outside the UK to send a team of workers to the UK to undertake a secondment in relation to a high-value contract for goods or services. The intended scope of this new route is unclear but would presumably be a welcome extension of the current **Appendix 3 visitor rules** which, in certain circumstances, allow individuals to enter as a visitor, for example, in relation to "Manufacturing and supply of goods to the UK" and "Clients of UK export companies."

New Skilled Worker Category Rules

The Home Office released various policy statements throughout 2020, and many of the broad details of the new Skilled Worker category have already been announced. The Immigration Rules released recently confirm existing understanding of the Skilled Worker category, which will replace Tier 2 and apply to all EU and non-EU citizens being sponsored to start working in the UK as of January 1, 2021. In particular, as a reminder, the key features of the Skilled Worker category are:

- **Salary.** The basic salary threshold will be reduced from £30,000 to £25,600. Applicants must be paid at least the basic salary threshold or the going rate for the role, whichever is higher. The salary thresholds will be reduced for new entrants, including those who are switching from student status or are under 26 years old.
- **Skill level.** The required skill level for a sponsored role will reduce from Regulated Qualifications Framework (RQF) level 6 to level 3, meaning that many more roles will qualify for sponsorship.
- **Points criteria.** Applicants need to achieve the required 70 points and can normally do so on the basis of the salary payable for the role. Alternatively, the points can be obtained at a lower salary rate if, for example, the role is classified as a shortage occupation.
- **Advertising.** The resident labour market test advertisement process will be abolished.
- **Quota.** The monthly quota/cap that applied to some Tier 2 applications will be suspended.
- **Intra-Company Transfers (ICTs).** Tier 2 (ICT) visa holders can switch from within the UK into the Skilled Worker category and then be on a track to indefinite leave to remain after five years as a Skilled Worker.
- **Sponsor license.** Existing Tier 2 sponsors will be able to continue to use their existing sponsor license for Skilled Worker applications.

EU citizens resident in the UK by 11 pm on December 31, 2020, can apply to the EU Settlement Scheme by June 30, 2021, and do not require sponsorship under the Skilled Worker category.

While the recently released immigration rules largely reflect prior understanding of the Skilled Worker category, there are some key new features:

- **ICT high earners.** Under the new ICT category, where the salary will be over £73,900, the person can qualify as a high earner and stay in the UK for up to nine years. This is a change from Tier 2 (ICT) where the high earner threshold was £120,000.
- **Cooling off.** The 12-month "cooling off period," which prevented certain Tier 2 visa holders from returning to the UK after the end of their periods of admission, is being removed. Instead, there will be simplified rules that ICT visa holders cannot have held an ICT visa for longer than five years in any six-year period, or nine years in any 10-year period if they are a high earner.
- **Transitioning from Tier 2 (General) to Skilled Worker (or applying for indefinite leave to remain) and still relying on allowances.** Allowances can be included in salary

calculations for applicants who are applying before December 1, 2026, and were last granted permission as a Tier 2 (General) sponsored worker, provided they are still working for the same sponsor as in their previous permission, and the allowances are guaranteed for the duration of the applicant's permission.

- **Allowances can count toward the ICT threshold.** The ICT salary threshold will remain as under Tier 2 (ICT) at £41,500 or the going rate for the role, whichever is higher. The role must also be at the higher Tier 2 RQF level 6. However, unlike under the Skilled Worker category, for ICT applications certain allowances can still count toward the salary threshold.

Timing

The Skilled Worker category will apply to anyone being sponsored to work in the UK in a position due to start on or after January 1, 2021. As of December 1, 2020, it is possible to submit Skilled Worker visa applications for EU and non-EU citizens starting work on or after January 1, 2021.

Migration Advisory Committee to Review the ICT Category

The current Tier 2 Intra-Company Transfer (ICT) route is a highly useful way to bring staff employed at international offices to the UK. As of January 1, 2021, the new Skilled Worker category will replace Tier 2 (General) and the new immigration system will also have a separate ICT category.

Last week, the Home Secretary asked the Migration Advisory Committee (MAC) to review how the ICT category in the new immigration system should work in the future. The MAC is to report back by October 2021, so any changes are unlikely to be made until the end of next year at the earliest. The MAC will consider a range of options that could make the new ICT category more useful.

New UK immigration system FAQs:

<https://www.kingsleynapley.co.uk/services/department/immigration/the-uks-new-immigration-system-what-you-need-to-know>

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New Publications and Items of Interest

Mazzeschi Brexit HelpDesk. The Mazzeschi Brexit HelpDesk provides post-Brexit guidance and assistance for United Kingdom (UK) citizens moving to or living in Italy. Until December 31, 2020, UK citizens will be able to enjoy their EU free movement rights in all EU countries, and therefore can continue to live, work, and study in Italy as they did before January 31, 2020 (Transition Period). Italian law provides that British nationals, like any other EU nationals, who intend to stay in Italy for a period exceeding three months should register with the Anagrafe (Register Office) of the municipality where they live. The Brexit HelpDesk is open Monday to Friday from 9 am to 6 pm CEST at phone: +39 0577926921 or email: info@mazzeschi.it. For more information, see <https://www.mazzeschi.it/post-brexit-guide-for-uk-citizen-living-in-italy/>.

Alliance of Business Immigration Lawyers:

- The latest immigration news is at <http://www.abil.com/news.cfm>.
- The latest published media releases include:

- ABIL Says Proposed Change to Public Charge Rule Would Exclude Immigrants from Government Programs:
https://www.prweb.com/releases/abil_says_proposed_change_to_public_charge_rule_would_exclude_immigrants_from_government_programs/prweb15737932.htm
- New Data Show Increase in H-1B Denials and RFEs:
https://www.prweb.com/releases/new_data_show_increase_in_h_1b_denials_and_rfes/prweb15673632.htm
- ABIL Urges Administration to Change "Buy American and Hire American" Executive Order: <http://www.prweb.com/releases/2018/05/prweb15485457.htm>
- ABIL Member Kuck Baxter Immigration Commercial Nominated for an Emmy:
<http://www.prweb.com/releases/2018/05/prweb15485460.htm>
- ABIL Members Note Immigration Threats for Employers in 2018:
<http://www.prweb.com/releases/2018/03/prweb15261255.htm>
- ABIL is available on Twitter: @ABILImmigration.
- Recent ABIL member blogs are at <http://www.abilblog.com/>.

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ABIL Member/Firm News

Phil Curtis (bio: <http://www.abil.com/lawyers/lawyers-curtis.cfm?c=US>) was quoted by the Society for Human Resource Management in "Election 2020: Biden and Trump Differ Dramatically on Immigration." He noted that there has been little rulemaking on immigration during President Trump's first term. Instead, the administration has relied on agency policies, memos, and guidance. "A couple of big examples are the memo that said deference will not be given to prior adjudications, and higher adjudication standards generally."
<https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/election-2020-biden-trump-differ-immigration.aspx>

Charles Foster, chairman of **Foster LLP**, was honored as the 2020 recipient of the Roy M. Huffington Award for Contributions to International Understanding. Mr. Foster's practice, based in Houston, Texas, focuses primarily on representing multinational companies and foreign investors regarding U.S. immigration law. He served as senior immigration policy advisor to Barack Obama during his 2008 campaign. He currently serves as Chairman of Interfaith Ministries of the Greater Houston Advisory Board, Executive Committee Member of the Greater Houston Partnership, and others. In addition to his involvement in the community, Mr. Foster is the Honorary Consul-General for the Kingdom of Thailand and the Vice Dean of Houston's Consular Corps. He is Board Certified in Immigration and Nationality Law by the Texas Board of Legal Specialization and is licensed to practice in the State of Texas. He is fluent in Spanish.
<https://bit.ly/36S9OEK>

Vic Goel (bio: <http://www.abil.com/lawyers/lawyers-goel.cfm?c=US>) and **William Stock** (**Klasko Immigration Law Partners, LLP**) were quoted by Forbes in "Trump Administration Issues Two New Rules To Restrict H-1B Visas."
<https://www.forbes.com/sites/stuartanderson/2020/10/07/trump-administration-issues-two-new-rules-to-restrict-h-1b-visas/#30c33a285120>

Gomberg Dalfen S.E.N.C. and **Corporate Immigration Law Firm** were included in Canadian Lawyer's "Top Ten Immigration Law Boutiques for 2020." **Gomberg Dalfen** assists foreign and Canadian businesses, individuals, and community organizations with all aspects of the inbound Canadian and Québec immigration processes. Their staff is fluent in English, French, Spanish and German, with capabilities in Russian, Mandarin, and Hebrew. **CILF** provides unique solutions to difficult immigration situations—such as visas for spousal sponsorship, getting essential workers across the border to install or service equipment, and allowing loved ones to

see each other one last time. CILF takes pride in one-on-one service, especially to help support and reassure clients during the pandemic. <https://bit.ly/34cf3iF>

Jeff Joseph, of **Joseph and Hall, P.C.**, recently filed *Purdue University et al. v. Scalia et al.*, a lawsuit challenging a Department of Labor interim final rule altering prevailing wage calculations. The plaintiffs represent a cross-section of affected academic institutions, businesses, organizations and trade associations. Also representing the plaintiffs are **Charles Kuck** (bio: <http://www.abil.com/lawyers/lawyers-kuck.cfm>) and **Greg Siskind**, of **Siskind Susser PC**.

Klasko Immigration Law Partners, LLP, published several new client alerts: "Court Halts Prevailing Wage Increase and H-1B Program Changes," <https://www.klaskolaw.com/news-politics/court-halts-prevailing-wage-increase-and-h-1b-program-changes/>; and "Update on the November 2020 Visa Bulletin and Applying for Adjustment of Status," <https://bit.ly/3jFiSBe>

Charles Kuck (bio: <http://www.abil.com/lawyers/lawyers-kuck.cfm>), **Phillip Kuck**, **Jeff Joseph (Joseph & Hall PC)**, and **Greg Siskind (Siskind Susser PC)** were quoted in several media outlets about a recently filed case in which they represented plaintiffs—approximately 245 family, employment, and diversity-based visa applicants and their U.S. sponsors—who sued the Trump administration seeking relief from a Presidential proclamation banning the entry of skilled foreign workers into the United States:

- Law360, "Visa Seekers Say Trump Can't Use Virus to Limit Immigration." <https://www.law360.com/california/articles/1327468/visa-seekers-say-trump-can-t-use-virus-to-limit-immigration>
- Moneycontrol News, "U.S. Visa Ban: Another Lawsuit Filed in U.S. Court Against June 22 Proclamation." <https://www.moneycontrol.com/news/business/us-visa-ban-another-lawsuit-filed-in-us-court-against-june-22-proclamation-6099511.html>

For more on this case, *Anunciato v. Trump*, see the related article in this newsletter.

Mr. Kuck was quoted by *Law360* in "Biden's Win Means Big Business for BigLaw." Mr. Kuck said, "In the immigration area of law, the Trump administration has made, on average, one regulatory or policy change each day since January 20, 2017. [Biden] will spend the next four years reversing virtually all of these administrative changes, and hopefully seeking a complete restructure of our immigration laws." He added, "Virtually all immigration lawyers are busier than they have ever been. But we have been busy holding back the floodwaters in the dike, like the little Dutch boy. A President Biden will bring sanity back to our system, and a restorative effort to allow us to affirmatively assist our clients."

<https://www.law360.com/corporate/articles/1323126/biden-s-win-means-big-business-for-biglaw>

Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) spoke on a panel, "Ethical Issues in Pro Bono Representation 2020," under the aegis of the Practising Law Institute on December 10, 2020. The program highlighted ethical issues arising in pro bono representation across different legal disciplines. Mr. Mehta spoke about ethical issues arising in immigration pro bono practice with an emphasis on additional challenges that have arisen for immigration practitioners during the COVID-19 pandemic. <https://www.pli.edu/programs/ethical-issues-in-pro-bono-representation>

Mr. Mehta was quoted by *Forbes* in "Facebook Lawsuit Raises Troubling Immigration Issues for Companies." Among other things, Mr. Mehta said, "A U.S. employer is not required to hire the U.S. worker when conducting recruitment in conjunction with labor certification, and is required to conduct a good faith recruitment pursuant to recruitment rules, which DOL has acknowledged deviate from an employer's normal recruitment practice." <https://bit.ly/37EOJhp>

Mr. Mehta's views on the Department of Justice's lawsuit against Facebook being extremely problematic are reflected in a *Times of India* article, "U.S. Justice Dept. Files Lawsuit Against Facebook for Bias Towards Hiring H-1B Visa Holders." He said that "it is rather odd that when Facebook followed the Department of Labor (DOL) rules regarding recruitment for a labor certification, another agency of the federal government accuses it of discriminatory practices." He noted that Facebook "was not accused of violating the DOL rules," and said that an employer "is not required to hire the U.S. worker and terminate the foreign worker who already holds the job often on an H-1B visa." If the government "is not happy about the way Facebook conducted recruitment under the DOL rules, then the labor certification system must be reformed and Facebook should not be penalized with whopping penalties," he said.
<https://bit.ly/2ljOY8Z>

Mr. Mehta spoke at the 52nd Annual Immigration & Naturalization Institute on December 3, 2020. The program was sponsored by the Practising Law Institute. Mr. Mehta's panel was "Trends in Processing and Policy at USCIS—Practical Tips."
<https://www.pli.edu/programs/immigration-and-naturalization-institute>

Mr. Mehta was quoted by the *Times of India* in "U.S. Senate Passes S. 386 Bill, Eliminates Country Cap for Employment-Based Green Cards." He tweeted, "While S386 removes country of birth discrimination, the 50-50 provision will badly impact IT companies though they can still file H-1B extension and change of employer requests." <https://bit.ly/36JyMan>

Mr. Mehta was quoted by *Scroll India* in "Will Joe Biden and Kamala Harris Actually Undo the Anti-Immigrant Policies of the Trump Years?" He said, "Because India has so many more applicants, and because it's such a large country, people born there have far worse backlogs than anyone else." Mr. Mehta said this was a "fundamental problem in the immigration law that has not been reformed. But what Trump did was to kind of make it far harder to obtain and renew an H-1B visa, making the lives of thousands of Indians more difficult." He also noted that there is much uncertainty each time an H-1B visa holder files for renewal, and now "the terrain has become even more difficult to negotiate. Life is just going to be more uncertain and more stressful for an Indian there—because a lot of Indians are in IT." <https://bit.ly/33ONZ8h>

Mr. Mehta was quoted by the *Times of India* in "Court Strikes Down Trump Admin's H-1B Restrictions." Mr. Mehta said, "The court found no justification for the government to issue these rules without going through the required notice and comment under the Administrative Procedure Act. Judge White also remained unconvinced regarding the government's justification to bypass notice and comment due to unemployment caused by the Covid-19 pandemic as the Trump administration had been planning to issue these rules much before the pandemic. This ruling is another victory against a rule of the Trump administration that had no economic basis, and which would have harmed U.S. businesses as well as skilled foreign nationals employed in the U.S. on H-1B visas." <https://bit.ly/3ghomSt>

Mr. Mehta's views were extensively reflected in a *Times of India* article, "Bid to Halt OPT Program for International Students Stemmed by U.S. District Court." He said the decision is "great news for international students as they can look forward to getting permission to engage in practical training in the U.S. after they complete their studies. It is also good for American universities as they can continue to compete with universities in other countries to attract the best students. Obtaining practical training after successfully graduating from a U.S. university can nicely round off a stellar education, and provide the student a foray into a career, which in turn can benefit the U.S. or the home country or both." <https://bit.ly/3ot9Fid>

Mr. Mehta was a speaker in a program, "Pandemic Backlight: Conversations on Justice, Equality and Immigration Reform in the Disinformation Age," on November 14, 2020. This program was part of the FEZANA Talks.
<https://www.youtube.com/watch?v=910ylE0RHaI&feature=youtu.be>

Mr. Mehta's views are reflected in a *Bloomberg Law* article regarding a federal court decision invalidating DHS Secretary Wolf's decision on DACA on the grounds that he was not lawfully appointed, "DHS Rules Jeopardized by Court's Wolf Ruling Unless Senate Acts." <https://news.bloomberglaw.com/daily-labor-report/dhs-rules-jeopardized-by-courts-wolf-ruling-unless-senate-acts>

Mr. Mehta authored several new blog postings: "Proposal for the Biden Administration to Reduce Backlogs: Count the Family Together So That They May Stay Together," <https://bit.ly/36YfrkL>; and "What If the Job Duties Have Changed Since the Labor Certification Application Was Approved Many Years Ago?" <http://blog.cyrusmehta.com/2020/10/what-if-the-job-has-changed-since-the-labor-certification-application-was-approved-many-years-ago.html>

Angelo Paparelli (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm>) and **Stephen Yale-Loehr** (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) co-authored a blog, "Big-Picture, Clean-Slate Immigration Reforms for the Biden-Harris Administration," published on *thinkimmigration* by the American Immigration Lawyers Association. <https://thinkimmigration.org/blog/2020/11/19/big-picture-clean-slate-immigration-reforms-for-the-biden-harris-administration/>

Mr. Paparelli was quoted by the Society for Human Resource Management in "Election 2020: Biden and Trump Differ Dramatically on Immigration." Mr. Paparelli said, "Biden's 'Build Back Better' message sounds a lot like Trump's Buy American, Hire American executive order. In some respects, the H-1B area [involving visas for foreign professional workers] will not be that different under a President Biden than under Trump." <https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/election-2020-biden-trump-differ-immigration.aspx>

Bernard Wolfsdorf (bio: <http://www.abil.com/lawyers/lawyers-wolfsdorf.cfm>) was quoted by *Voice of America News* in "Experts Weigh Impact of U.S. Immigration Ban on Chinese Communists." He said that a policy alert from U.S. Citizenship and Immigration Services banning from the United States "any immigrant who is or has been a member of or affiliated with the Communist or any other totalitarian party, domestic or foreign," unless otherwise exempt, was based on provisions added in the 1950s to the Immigration and Nationality Act, when communism was perceived as a direct threat to the United States. He noted that in the past, unless the individual held a relatively high post in the Communist Party or a sensitive post in the military, most of these cases did not result in inadmissibility findings. In contrast, he said that now he was seeing some changes already: "More recently, we are hearing anecdotal reports of an increased number of denials based on membership [in the Chinese Communist Party]." He said it was too early to predict the results of the new enforcement measures because the policy alert just came out last week. "To an experienced officer, they know who is likely to be a Communist Party member, and they are capable of doing an adequate inquiry to see whether their membership is meaningful," he said. <https://www.voanews.com/usa/experts-weigh-impact-us-immigration-ban-chinese-communists> (English); <https://www.voachinese.com/a/ccp-member-immigration-ban-2020-10-08/5612659.html> (Chinese)

Wolfsdorf Rosenthal LLP has published several new blog postings: "USCIS Announces Revised Version of the Civics Portion of the Naturalization Test," "Don't Say We Didn't Tell You: Address Change Deadlines for Affidavit of Support Sponsors," "U.S. Visa and Consular Update Focusing on U.S. Consular Posts in Germany," "Restrictive H-1B Rules Enjoined," "DHS Extends U.S./Canada/Mexico Land Border Restrictions Until December 21, 2020," "E-Verify/I-9 Flexibility Extended Through February 1, 2021 Due to EAD Production Delays," "Adjustment of Status: The New Frontier for Restrictive Adjudications?," "December Visa Bulletin Report," and "Denaturalization and Permanent Residence: Is the Trump Administration on a Fishing Expedition?." <https://wolfsdorf.com/blog/>

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was quoted by the New York Times in " 'They're Playing With Our Lives': What Happens Next for DACA's 'Dreamers.' " He said, "DACA recipients cannot feel safe yet, for a variety of reasons. The only true solution for DACA recipients is legislation offering them a path to legalization. Given the polarization in Congress, that seems difficult to achieve."

Mr. Yale-Loehr was quoted by *Univision* in "Este viernes el gobierno publica regla final que endurece requisitos para pedir asilo en EEUU," on a new final rule that toughens requirements to request asylum in the United States. The final rule "will radically restrict the ability of people fleeing persecution to obtain asylum in the United States," he said. Among other things, Mr. Yale-Loehr cited the imposition of "various prohibitions, including failure to pay taxes." He also mentioned a new definition of the term "persecution" that will impose a higher standard than the previous definition. He noted that the rule redefines membership in a "particular social group," a change that "will generally exclude people who are fleeing persecution because they oppose gangs in their country. It will also restrict the possibility of applying for asylum based on gender. Even women fleeing sexual slavery at the hands of ISIS may not qualify for asylum," he warned. Another modification in the final rule concerns the procedure to allow immigration judges to reject asylum applications without a hearing if they lack certain evidence, he said. "This will be particularly damaging to applicants without an attorney representing them." Mr. Yale-Loehr characterized the rule as "the asylum hater's dream. It will gut the system and, indeed, very few people will be able to obtain protection in our country." He noted that the rule is scheduled to take effect in 30 days, just before the inauguration. "The courts could eventually overthrow it, arguing that it violates U.S. and international law," he noted.

<https://www.univision.com/noticias/inmigracion/gobierno-publica-este-viernes-regla-final-de-asilo> (Spanish)

Mr. Yale-Loehr was quoted by the *Washington Post* in "A Maryland Immigrant Hoped to Delay His Deportation Until Biden Took Office. It Didn't Work." The article reports on a case in which a man who had been in the United States for 20 years and has three small U.S.-born children was followed in his car by an unmarked vehicle, pulled over, and deported. He said that unilateral actions by ICE grew increasingly common under the Trump administration, but vary by regional office. Mr. Yale-Loehr said that although such moves are legal, they go against the spirit of laws passed in sanctuary jurisdictions such as Prince George's County, Maryland (where the incident occurred), which explicitly barred county agencies from engaging in immigration enforcement.

https://www.washingtonpost.com/local/public-safety/maryland-immigrant-deported/2020/12/07/0678c202-30d1-11eb-96c2-aac3f162215d_story.html

Mr. Yale-Loehr was quoted in the *San Francisco Chronicle* in "New Asylum Rule Bars Gays, Lesbians Facing Persecution, Immigrants Threatened With Violence." Mr. Yale-Loehr said the rule is "an asylum-hater's dream" that "will gut the U.S. asylum system. Effectively, very few people will be able to win asylum." <https://www.sfchronicle.com/nation/article/New-asylum-rule-bars-gays-lesbians-facing-15795663.php>

Mr. Yale-Loehr was quoted by the *Dallas Morning News* in "Will DACA Survive the Litigation Roller Coaster?" He said that a decision by a federal judge who was appointed by former President George W. Bush could be grim for DACA recipients. "Given Judge Hanen's past decisions on this issue, I think he is likely to rule that the DACA program is illegal." Appeals, or the issuance of new executive measures, could result in lengthy litigation before there's a final decision, he said. <https://www.dallasnews.com/news/immigration/2020/12/11/will-daca-survive-the-litigation-rollercoaster/>

Mr. Yale-Loehr was quoted by *Univision* in "Cómo la regla final de asilo del gobierno de Trump deja sin opciones a los migrantes." He said that a new final rule on asylum "will radically restrict the ability of people fleeing persecution to obtain asylum in the United States." The final rule also revised the procedural rules "to allow immigration judges to deny asylum applications

without a hearing if they lack certain evidence. This will particularly harm applicants without a lawyer," he noted. <https://www.univision.com/noticias/inmigracion/estas-son-las-claves-de-la-regla-final-de-asilo-de-trump>

Mr. Yale-Loehr was quoted by the *Times of India* in "New-Age Companies Like Airbnb Top H-1B Salaries." He said that all H-1B employers must pay the higher of either the prevailing wage for the job in the geographical area or the actual wage paid to other similarly situated workers in the company. "The prevailing wage varies, depending on the geographical location and the precise delineation of the job (e.g., level 1 computer systems analyst versus level 1 computer systems analyst). The actual wage also varies, depending on the company. For example, Netflix generally pays its technology workers more than other tech companies. The overall system isn't perfect, but it isn't supposed to depress wages for similarly employed U.S. workers." <https://bit.ly/2VGV0nn>

Mr. Yale-Loehr was quoted by the *Houston Chronicle* in "Kids Face Speeded Up Deportation." The article discusses 18 youths "facing expedited removal proceedings in which Houston-area immigration judges ordered them to hand over complicated documentation on short notice" under a Department of Justice memorandum concerning new procedures in removal proceedings. Mr. Yale-Loehr said, "The Trump administration has attacked the immigration system in unprecedented ways over the past four years. This memo is just the latest salvo in their dying days to send people who have faced persecution back to their home countries." <https://bit.ly/33Oamut>

Mr. Yale-Loehr was quoted in two media outlets about a court decision striking down the Trump administration's public charge rule:

- Arizona Republic, "U.S. Court Rules Against Trump Administration's Public Charge Rule, Which Critics Call 'Wealth Test' for Immigrants." He said, "The decision joins several other courts in striking down the new 'public charge' rule as violating longstanding interpretations of immigration law." Mr. Yale-Loehr predicted the Trump administration likely will ask the U.S. Supreme Court to stay the decision. <https://www.azcentral.com/story/news/politics/immigration/2020/12/02/us-appeals-court-rules-against-trump-public-charge-rule/3802257001/>
- Univision, "Court Battle Continues: Appeals Court Rules Against New Public Charge Rule." He said the Trump administration will certainly ask the Supreme Court to suspend today's decision. It remains to be seen if the incoming administration of Joe Biden will change course on this important immigration issue." <https://www.univision.com/noticias/inmigracion/una-corte-de-apelaciones-falla-en-contrade-nueva-regla-de-carga-publica> (Spanish)

Mr. Yale-Loehr was quoted by *Detroit News* in "Metro Detroit Immigration Advocates: Hopes for Biden Tempered by Experience." He said, "President Trump issued a lot of executive orders. And because he issues them as executive orders, a new president can also undo those executive actions. So, for example, the Muslim travel bans could be undone. President Biden could issue a new executive order reaffirming the Deferred Action for Childhood Arrivals Program for young 'Dreamers,' and perhaps make them feel more secure by allowing them to renew their status for two years, rather than the one year for which the Trump Administration currently has issued. President Biden could also undo the travel bans for temporary workers that are in place." <https://bit.ly/2HKOhoU> (subscription required)

Mr. Yale-Loehr was quoted by *Correio Braziliense* in "Twenty Days After Election, Trump Gives the Green Light for the Transition in the U.S." He noted that Alejandro Mayorkas, who President-elect Biden intends to nominate as head of the Department of Homeland Security (DHS), "was director of U.S. Citizenship and Immigration Services under the Obama administration, then undersecretary of DHS. He has extensive experience in command of

immigration and will be an excellent head of Homeland Security." Regarding the new Secretary of State nominee, Mr. Yale-Loehr said he is betting that Antony Blinken will strengthen multilateralism. "He will give the State Department a firm hand and will work to improve the agency's morale," he said. <https://bit.ly/2VaoLg3> (Spanish)

Mr. Yale-Loehr was quoted by *Law360* in "Trump Could Further Rattle Immigration Law Before His Exit." Commenting on Trump administration efforts to rush efforts to finalize policies restricting legal immigration before he leaves office, Mr. Yale-Loehr said, "I fear that there will be no letup of immigration restrictions occurring between now and Inauguration Day." <https://www.law360.com/corporate/articles/1328486/trump-could-further-rattle-immigration-law-before-his-exit> (available by registration)

Mr. Yale-Loehr was quoted by *Ideaspace.com* in "How Do We Reconceptualize and Remake Our Immigration System for the 21st Century?" Mr. Yale-Loehr said, "Our immigration laws have not been updated since 1990. But just as important, they haven't been reconceptualized. So we've just tacked on different ideas. One idea applies to this visa category but not another. It would be great if Congress started from scratch and asked the question: What sort of immigration system should we have for the 21st Century? ... It's very clear that on a macroeconomic level immigration benefits the United States, but on the micro-level ... people hear stories about their friend who was replaced by a foreign worker, they think, 'Oh, immigration is bad.' It's easier for people to feel better about immigration when the economy is booming as opposed to when we're in a recession. Also, when leaders are praising immigration or trying to portray immigrants as 'rapists and thugs'—that's a big part of it, too. It matters what leaders are saying and how they're trying to educate the public." Commenting on a report Mr. Yale-Loehr co-authored, "Recruiting for the Future: A Realistic Road to a Points-Tested Visa Program in the United States," Mr. Yale-Loehr said, "You can set up points for anything you want. In the system we came up with we suggested offering points if you're a woman, or if you come from a developing country. Traditional point systems would be biased toward white males from European countries. It's easier for someone in Europe to have a PhD than someone in Africa. So the question is how do you overcome that? No system is going to be perfect but the point system is definitely something to consider." He argued in favor of an incremental approach that is more politically plausible than asking Congress to tackle comprehensive immigration reform right away. He said he hopes a pilot program can grow, especially if it is designed to remain fluid and responsive to geopolitical and economic dynamics. He also noted that with a point system, "we could at least make something that is more transparent for employers, Americans, and potential immigrants." Article: <https://ideaspace.com/state-of-play/how-do-we-reconceptualize-and-remake-our-immigration-system-for-the-21st-century/>; "Recruiting for the Future" report: <https://www.lawschool.cornell.edu/information-technology/upload/Immigration-Points.pdf>

Mr. Yale-Loehr co-authored an op-ed, "President-elect Biden: Eliminate Chaos as a Deliberate Immigration Tactic," published in *The Hill*. The article notes that the "cumulative impact of the policy assault against immigrants is far greater than any one change," and recommends actions President-elect Joe Biden can take to rebuild immigrants' trust in America. <https://thehill.com/opinion/immigration/525626-president-elect-biden-eliminate-chaos-as-a-deliberate-immigration-tactic>

Mr. Yale-Loehr was quoted in various media outlets about possible immigration changes under the Biden-Harris administration:

- Los Angeles Times, "On Latin America, Biden's Brand of Diplomacy Will Be a Major Shift From Trump." Mr. Yale-Loehr said President-elect Biden will "walk a tightrope on dealing with immigration at the U.S.-Mexico border." He said, "If people believe the U.S. government is becoming more liberal on immigration, we may see a new wave of people ... try to enter the U.S. But if the new administration continues the hardline approach of

the Trump administration, Biden will be called 'deporter in chief,' just as former President Obama was." Mr. Yale-Loehr predicted that Biden will move cautiously, perhaps temporarily maintaining the controversial "Remain in Mexico" policy for asylum-seekers while adding judges to expedite immigration cases. <https://www.latimes.com/world-nation/story/2020-11-15/biden-administration-latin-america-foreign-policy>

- Associated Press, published by many newspapers, including U.S. News and World Report, "Some Big, Early Shifts on Immigration Expected Under Biden." Mr. Yale-Loehr predicted it would "take four years to undo all the damage that the Trump administration has done." <https://www.usnews.com/news/politics/articles/2020-11-10/some-big-early-shifts-on-immigration-expected-under-biden>
- Chronicle of Higher Education, "Biden's Victory Has Elated International Students, But the Road to Lasting Reform is Long." Mr. Yale-Loehr said President Trump has "effectively built an invisible wall." He noted, "Those who choose to come to the U.S. to contribute to our campuses and our communities need to know that in choosing to do so there will be processes in place that are fair, which they can rely upon to make choices for themselves and their families." <https://www.chronicle.com/article/bidens-victory-has-elated-international-students-but-the-road-to-lasting-reform-is-long>
- Latitudes, "A Biden Agenda." Mr. Yale-Loehr noted that the future President Biden could use presidential orders to set policy, but noted that he could face legal challenges to his authority from a variety of entities, including conservative states and anti-immigration organizations.

Mr. Yale-Loehr was interviewed by WVBR about the impact of recent H-1B rules on international students. <https://bit.ly/2IdVmhr>

Mr. Yale-Loehr was quoted by *Study International* in "A Biden Win is a Win for International Students in the U.S.—Here's Why." He said that President-elect Biden could revoke Trump administration regulations and policies that make it harder for international students to obtain student visas and limit their stay in the United States, but that any regulations finalized before President Trump leaves office would mean that the new administration would need to go through the lengthy regulatory process again. The rules could also be undone through the Congressional Review Act if Congress acts within 60 days. Mr. Yale-Loehr also noted that the new President could reverse a Department of Education emergency rule blocking international students in the United States from receiving COVID-19 pandemic relief funding. <https://www.studyinternational.com/news/biden-international-students-in-the-us/>

Mr. Yale-Loehr was quoted by *Bloomberg Law* in "Court Voids Public Charge Rule Denying Immigrants U.S. Entry." Commenting on a federal court decision striking down the Trump administration's new public charge rule, he said, "The government is sure to appeal to the Seventh Circuit and try to get a stay of this decision even though the appellate court has already ruled the plaintiffs are likely to win." <https://news.bloomberglaw.com/us-law-week/trumps-public-charge-rule-to-deny-immigrants-u-s-entry-vacated>

Mr. Yale-Loehr was quoted by *Education Dive* in "How Would Biden's Immigration Proposals Affect International Students?" Mr. Yale-Loehr said that a President Biden could revoke proposed regulations limiting international student visas to four-year periods and setting up new procedures for extending their stay. However, if the regulations are finalized before President Trump leaves office, a new administration would need to go through the lengthy regulatory process again, unless Congress undoes them through the Congressional Review Act. More pressing, he said, are the pandemic's effects on international and unauthorized students, and the Department of Education's refusal to grant them coronavirus relief funding, a decision that could also be reversed. <https://www.educationdive.com/news/how-would-bidens-immigration-proposals-affect-international-students/588092/>

Mr. Yale-Loehr was quoted by *Law360* in "Salary-Based H-1B Visas May Leave Out Foreign Grads." Commenting on a Trump administration proposed rule to eliminate the H-1B visa lottery and instead award visas to candidates offered the highest salaries, he said, "I think it is going to hurt innovation because many times it's the people right out of grad school who have been doing cutting-edge research." <https://www.law360.com/technology/articles/1324141/salary-based-h-1b-visas-may-leave-out-foreign-grads> (available by registering)

Mr. Yale-Loehr was quoted by *Univision* in "El gobierno ya no otorgará al azar las visas H-1B para profesionales extranjeros: te contamos a quién afecta." He said, "The new rule would eliminate the current random selection system and instead select H-1B workers based on their wages. The highest paid workers would be allowed to file an H-1B petition. But workers offered lower wages may not be able to petition if more than 85,000 higher-wage H-1B workers filed first." Mr. Yale-Loehr noted that "[b]y effectively increasing the wages of H-1B workers, the proposed rule would hurt all employers trying to hire foreign temporary professional workers, but especially schools, start-ups, and smaller businesses that cannot afford the high wages that Silicon Valley high-tech companies and other large companies offer H-1B workers." He further said that "the announced rule is based on the preservation of jobs for American workers. However, the administration does not understand that many nonimmigrant workers, especially highly skilled foreign workers, help the economy grow. For example, one study found that each H-1B worker creates about five jobs for US workers in the tech sector." <https://bit.ly/2HRMVc6> (Spanish)

Mr. Yale-Loehr was quoted by the *Cornell Chronicle* in "Webinar Highlights Advocacy for International Students." Mr. Yale-Loehr, who presented the webinar, "Ballots and Borders: Election 2020: What's at Stake for International Students and Scholars," said that "Cornell is advocating for its international students, scholars and faculty in a number of ways. Most importantly, Cornell is a plaintiff in a lawsuit challenging new arbitrary wage increases on certain professional foreign workers and will soon contribute a comment criticizing a proposed regulation to limit the length of visas for international students and scholars." <https://news.cornell.edu/stories/2020/10/webinar-highlights-advocacy-international-students>

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