

GLOBAL IMMIGRATION UPDATE

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Country Updates

AUSTRALIA

There are new eligibility criteria for the Subclass 408, Temporary Activity visa—Australian Government Endorsed Events stream.

As of April 2020, the COVID-19 pandemic was listed as an event that falls within the Subclass 408 visa stream. An individual may be within the specified class of persons in this visa category if they:

- (a) Are employed full-time as an essential staff member of an overseas business that (i) is relocating to Australia; and (ii) will assist in Australia's response to the event; and
- (b) Will assist with the establishment of the business's operation in Australia; and
- (c) Apply for a Subclass 408 visa by June 30, 2022; and
- (d) Have not previously been granted a visa in accordance with this instrument.

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BELGIUM

A digital platform, "Working in Belgium," intended to facilitate the filing and processing of applications, will be launched soon after a test phase. The Brexit Trade and Cooperation Agreement has an impact on UK business visitors: some activities are work permit-exempt. Finally, this article summarizes the main changes to the Flanders work/single permit legislation that took effect March 1, 2021.

New Digital Platform: Working in Belgium

Belgium will soon have a new digital/electronic platform to facilitate information gathering and exchange by and between the authorities involved in single-permit processing. These authorities include the three regions (Brussels, Flanders, and Wallonia), the federal immigration office, foreign consular posts, municipalities, and the national social security office.

The practical roll-out of the digital platform, "Working in Belgium," is planned in three phases:

Phase 1: All single-permit applications (first applications and renewals) processed via the digital platform, "Working in Belgium," where the applicant can consult his file. This includes a test phase, probably in April 2021, and will become operational after the test phase ends.

Phase 2: Integrated electronic exchange between the platform and the authorities concerned with planning: operational by the end of June 2021.

Phase 3: Extension of the scope of applications via "Working in Belgium" to work permits, professional cards, and single permits for indefinite duration. Anticipated timing: 2022.

Post-Brexit Exemptions for UK Business Visitors

The Trade and Cooperation Agreement between the European Union (EU) and the United Kingdom (UK) dated December 24, 2020, contains several clauses regarding immigration.

The articles SERVIN.4.2. and 4.3. of the Trade and Cooperation Agreement contain favorable provisions for intra-corporate transferees, business visitors for establishment purposes, and short-term business visitors.

All three regions that have jurisdiction over work/single permits (Brussels, Flanders, and Wallonia) confirm on their websites that SERVIN.4.2 and 4.3 of the Trade and Cooperation Agreement are being applied, or will be applied: short-term activities that are not yet covered by existing exemptions under regional legislation are exempt or will also be exempt.

Short-Term Business Visitors

Short-term business visitors cannot be engaged in selling their goods or supplying services to the general public, and they cannot, on their own behalf, receive remuneration from within Belgium. Furthermore, in principle, short-term business visitors cannot be engaged in the supply of a service in the framework of a contract concluded between a legal person that is not established in Belgium and a Belgian consumer. Short-term business visitors can stay in the Schengen area (not only Belgium) for a period of up to 90 days in any six-month period.

For Belgium, allowed activities for short-term business visitors may include meetings and consultations, research and design, market research, training seminars, trade fairs and exhibitions, sales, purchasing, after-sales or after-lease service, commercial transactions, tourism personnel attending conventions or accompanying certain tours, and translation/interpretation supplying services as employees.

New Work/Single Permit Legislation: Flanders

The Flanders work/single permit legislation has been updated recently. The changes took effect March 1, 2021. Below are selected highlights.

- Some exemptions were updated. The Van Der Elst exemption was updated to reflect European Court of Justice case law. Temporary agency workers can now also be eligible if all other requirements are met.
- The possibility to file single-permit applications in Belgium is limited to specific categories of foreigners. Foreigners who reside in Belgium on the basis of family reunification can no longer file a single permit application/change their status to employee in Belgium.
- A work permit can be issued for 90 days in any 180-day period instead of 90 consecutive days. This will allow more flexibility, and will also avoid having to apply for new permits for frequent short time periods.
- Assignments to Belgium require that the employer/user has its registered seat or an establishment unit in Flanders. This implies that having an assignee work at home in Flanders will become impossible, with one exception: when employment in Belgium is subject to Belgian social security, which implies that Belgian social security contributions will be paid by the foreign employer who is registered with the Belgian Legal Database for Enterprises.
- For assignments, the duration of the work authorization is limited to the duration of the final date of Certificates of Coverage, issued pursuant to social security treaties. This is not new; in practice, the Flanders authorities already used the Certificates of Coverage dates as reference dates. The new legislation confirms this administrative practice.

- A hire of a single-permit holder by a new employer is considered a single-permit extension application instead of a first, new single-permit application. The immediate consequence is a decrease of administrative burden because fewer documents must be submitted.
- The obligation to inform the Flanders authorities about changes has been updated. The employer must notify the authorities not only about the termination of the employment contract but also about any "significant change" in employment conditions. The Flanders authorities will inform the employer within 15 days if a new work authorization must be applied for.
- Frontier workers are now defined in the same manner as in the federal immigration legislation. A frontier worker is defined as an employee who works in Flanders territory, but who has main residence in a neighboring country and who returns to the country of residence in principle daily or at least once a week. The UK is still considered a neighboring country.
- Salary thresholds, which are updated on a yearly basis, must be complied with for permits valid for longer than one year. Permits for the highly skilled, executives, and intra-corporate transferees, for example, are subject to a salary threshold and can be valid for up to three years. If the salary threshold is updated in year 2, this salary threshold must automatically be met. This is not new; in practice, the Flanders authorities already applied this principle. The new legislation confirms this administrative practice.
- The motives for refusal or withdrawal of work authorization are now divided into two groups: mandatory and potential motives. For potential motives, the law provides that the authorities must take into account the specific circumstances of the file, the interests of the foreign employee, the economic interest of the employer, and the proportionality principle.

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CANADA

There are new pandemic-related rules for travel across the land border and by air.

New COVID-19 Travel Rules

The federal government announced new COVID-19 pandemic-related travel rules in February:

Travel Across the Land Border

Non-essential travelers (such as returning "snowbirds") must show proof of a negative COVID-19 test taken no longer than 72 hours earlier. In addition to the pre-departure COVID test, another COVID test will be administered at the land border. The traveler can then continue to the planned place of quarantine and must self-administer another COVID test during the 14-day quarantine. The self-test kit will be provided at the border.

Travel by Air

In addition to the pre-departure COVID test taken 72 hours before boarding a flight to Canada, all individuals, Canadians included, must take a test upon arrival at the first Canadian airport. They must then wait for the test result at a hotel on the official list and cover the cost of up to CA \$2,000 for the hotel (prices will vary) and testing. The hotel must be booked before boarding the

plane to Canada. Upon receipt of the test result, they may travel to their final quarantine destination for the remaining days (14 days total) and must self-administer another COVID test. The self-test kit will be provided at the airport. The following details also apply:

- The hotel must be booked at the first Canadian airport, meaning that a traveler who has a layover in Canada before their final destination must remain at the transit airport hotel until the test comes back negative. Only then can the final leg of the journey be completed.
- There is no exemption for vaccinated travelers.
- It is expected that the current exemptions (e.g., for medical personnel and essential workers) will remain valid, but this has not yet been confirmed.
- Flights on Canadian airlines to and from Mexico and the Caribbean remain suspended until April 30, 2021.

ArriveCAN remains mandatory for airport and land border arrivals. See <https://www.canada.ca/en/public-health/services/diseases/coronavirus-disease-covid-19/arrivecan.html>

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RUSSIA

This article summarizes highlights of a variety of developments, including a new government portal for checking entry permissions, air travel suspensions and resumptions, multiple entries allowed for highly qualified specialists, foreign nationals allowed entry, new address registration regulations, and renewal/changes in the list of purposes of entry for various visa types.

New Portal for Checking Entry Permission

Citizens of countries with which Russia has not yet resumed regular air travel and who still require entry permission from the Federal Security Service of Russia can now check online regarding whether permission is granted on the official government portal, Gosuslugi: <https://bit.ly/3fm5cwt>

Suspension of Air Travel From United Kingdom to Russia Extended

Due to coronavirus concerns, suspension of air travel from the United Kingdom to Russia has been extended until April 16, 2021. <https://tass.ru/ekonomika/10914413>

Air Travel Resumes With Certain Countries

Starting April 1, 2021, air travel resumed with Germany, Venezuela, Syria, Tajikistan, Uzbekistan, and Sri Lanka. As of March 29, 2021, air travel was open between Russia and 31 countries. Details: <http://government.ru/news/41820/>

Multiple Entries Allowed for Highly Qualified Specialists and Family Members

A Government Order allows multiple entries for foreign citizens who perform work activities in Russia as highly qualified specialists and their family members. The entry procedure remains the same: the employer must send a request to the appropriate ministry and receive permission

for multiple entry. The maximum period to enter Russia multiple times, which an employer can request, is until December 31, 2021.

For citizens and permanent residents of countries with which Russia has resumed air travel, it is not necessary to obtain permission to enter Russia from the Federal Security Service provided the person has a valid work visa or the entry is visa-free according to an international agreement.

Foreign Nationals Allowed Entry

In general, all categories of foreign nationals who come to Russia to perform work activities can enter Russia. For entry, a foreign national must receive entry permission from the Federal Security Service of Russia. To get entry permission for a foreign worker, the employer must apply to Rostrud.

New Address Registration Regulations

Under new regulations from the Internal Affairs Ministry, there are new application forms for foreign citizens to register their address. If the host party is an organization, an authorized representative of such organization must apply to register the address of a foreign citizen. The authorized representative must be an employee of the host party.

List of Purposes of Entry (Visa Types) Renewed

As of February 8, 2021, a new Order of the Ministry of Foreign Affairs of Russia sets a new list of purposes of entry and visa types. Delays in visa issuances are possible because of updates to computer systems. The main changes are:

- There are substantially **fewer types of purposes of entry**. Many categories have been consolidated for simplicity.
- There is **no indication of duration of allowed stay** for most visa categories.
- There is **no “commercial” visa type**. Previously, this category raised many questions because it was very similar to the “business” visa. The new Order has only a “business” purpose of entry.
- There is **no “technical service” visa type**. Instead, there is a purpose of entry of “installation work” with an analogous description of allowed activities. For this type of purpose, a work visa will be issued. A work permit requirement is not expected. Foreign citizens employed by foreign companies (manufacturers or suppliers) executing installations, providing technical support, performing repairs, and guaranteeing repairs of equipment supplied to the Russian Federation, can enter Russia on the basis of single-entry ordinary work visas for a maximum of 90 calendar days with the purpose of the entry specified as “installation works.”
- There are **no substantial changes in the work visa**.
- There are a number of **amendments to the purpose of entry** for diplomatic, student, tourist, and humanitarian visas.
- The “professor” category has been abolished from the list of purposes. In cases where Russian educational institutions invite foreign professors to work in Russia, it is necessary to apply for an invitation letter with the purpose of entry specified as “work activities.” Subsequent extensions of this type of visa in Russia are on the basis of the labor agreement for a term of up to one year, although such extensions can be done an

unlimited number of times. For foreign citizens entering the Russian Federation as science and pedagogical staff invited to work on science projects or to perform pedagogical activities, application for a work permit or patent is not required.

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UNITED KINGDOM

Guidance has changed on documentation that should be kept on file following the sponsorship of a Skilled Worker or Temporary Worker.

For some Tier 2 (General) applications before December 1, 2020, it was necessary to advertise the role for 28 days as part of a resident labour market test (RLMT). When the Skilled Worker category replaced Tier 2 (General) as of that date, the RLMT was abolished. However, the guidance (known as Appendix D) clarifies that certain types of documentation of the recruitment process of sponsored workers still must be kept on file.

The guidance on this point is split into two:

Where the RLMT Applies

If an employer recruited a Tier 2 (General) sponsored worker before December 1, 2020, and an RLMT was required, the employer must continue to keep on file the relevant documents. Some current routes including T5 Religious Worker, T5 Creative or Sporting Worker, and T2 Sports person may also require an RLMT to be carried out before the application is submitted.

Sponsors should continue to keep documents such as:

- Screenshots of the advertisements on the first day of placement;
- Resumes (CVs) of all applicants who were shortlisted for final interview; and
- Reasons why each settled worker was unsuitable for the role.

Where the RLMT Does Not Apply

The new guidance clarifies that where a formal RLMT has not been required (such as for a Skilled Worker or Intra-Company Transfer application), sponsors should still retain evidence of any recruitment activity they have undertaken. This is to assist the Home Office in assessing whether the sponsored role is a genuine vacancy.

a) If you have advertised. Importantly, sponsors are not required to advertise the role where a RLMT is not required. However, if you have advertised the role you should retain:

- **Copy of the advert.** Details of any advertisements placed, including a screenshot, printout or photocopy of the advert, or a record of the text of the advert and the website address. A note should also be made of how long the role was advertised. If you did advertise, you are not required to place more than one advert, but if you did, you should retain evidence of all the adverts.

Unlike for an RLMT, the guidance does not stipulate where the advert should be placed, the required contents of the advert, or how long it should be placed.

- **Number of applicants.** A record of the number of people who applied for the job should be kept, as well as the number of people shortlisted for interview or for other stages of the recruitment process.
- **One other item of evidence.** At least one other item of evidence or information that shows the process you used to identify the most suitable candidate, for example:
 - A copy or summary of the interview notes for the successful candidate;
 - A list of common interview questions used for all candidates as part of your selection process;
 - Brief notes on why the successful candidate was selected and why other candidates were rejected;
 - Information about any scoring or grading process you used to identify the successful candidate; or
 - Any other relevant information or evidence.

You are not required to retain application forms, CVs, interview notes, or any other personal data relating to unsuccessful candidates.

b) If you have not advertised. Where you have not advertised the role, you must be able to explain and where possible provide evidence of how you determined that the sponsored worker was suitable for the role. Examples could include identifying the sponsored worker from:

- Their having already working for you in a different immigration category;
- A speculative application; or
- A university "milkround" (recruitment of students by businesses).

The guidance does not mention it, but it must also be sufficient that you have identified a candidate by, for example, word-of-mouth, reputation, or from a recruitment agency.

Right to Work Grace Period

Following an update in the Home Office employer's guide to right to work checks, there are rules on the right to work grace period which exists for EU (and European Economic Area [EEA] and Swiss) citizens until June 30, 2021. Annex B of the updated guidance makes clear that until that date, employers can still rely on checking an EU citizen recruit's EU passport or national identity card for right to work purposes.

Employers can also check online an EU citizen's EU Settlement Scheme or other digital immigration status but cannot insist on it. Until July 1, 2021, employers are not required to differentiate between those EU citizens who arrived before January 1, 2021. Any EU citizen arriving for the first time on or after that date must apply for permission to work, such as a Skilled Worker.

As of July 1, 2021, employers are not required to carry out retrospective right to work checks, and further guidance will be issued for checks from that date.

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New Publications and Items of Interest

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

Chin & Curtis LLP, based in Boston, Massachusetts, became a partner firm with **Wolfsdorf Rosenthal LLP**, based in California, effective January 1, 2021. Wolfsdorf Rosenthal said in a press release that the partnership "brings together Chin & Curtis' high-touch, creative, and specialized business immigration solutions with WR's technology-focused approach to providing strategic, detail-oriented, client-centered services. Chin & Curtis will retain its brand [and] operational autonomy, and there will be no staffing changes."

https://wolfsdorf.com/news_posts/leading-boston-immigration-law-firm-chin-curtis-llp-joins-wr-immigration/

Rami Fakhoury (bio: <http://www.abil.com/lawyers/lawyers-fakhoury.cfm?c=US>) and **Angelo Paparelli** (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm>) will speak at a webinar, "Global Talent Opportunities: A Legal and Policy Forecast and Update on Hiring Global Talent," to be held Monday, April 19, 2021, from 2:30 to 4 p.m. ET.

<https://www.eventbrite.com/e/webinar-global-talent-opportunities-registration-146927575333>

Klasko Immigration Law Partners, LLP, released a new podcast in the "Statutes of Liberty" series: "What Happens When a U.S. Green Card Holder Gets Stuck Abroad."

<https://bit.ly/38jqgqg>

Klasko Immigration Law Partners, LLP, released the first episode, "Strategies for Resolving EB-5 Problems Series, Part 1: Project Problems," in a three-part podcast series on the EB-5 immigrant investor program. This episode covers issues related to investment projects.

<https://bit.ly/2Nx8xx8>

Charles Kuck (bio: <http://www.abil.com/lawyers/lawyers-kuck.cfm>) was quoted by *Law360* in "State Dept. Updates COVID-19 Travel Exceptions for Europe." He said, "No one could have imagined a supposedly pro-immigration administration making legal immigration of parents, employees and business investors more difficult, using COVID-19 as an excuse, when alternative methods exist to ensure both the safety of U.S. citizens and protections against new

strains, such as with testing and quarantine. It is a certainty that the Biden administration will have to explain to a federal court judge its legal basis for not issuing visas because of this modified proclamation. Every time in the past they have tried to justify this exact action, they have failed. They will fail again." <https://www.law360.com/publicpolicy/articles/1361015/state-dept-updates-covid-19-travel-exceptions-for-europe>

Mr. Kuck was quoted by *Bloomberg Law* in "Their Papers Mired in Pandemic Backlog, Visa Seekers Go to Court." Mr. Kuck said that delays abroad have prompted EB-5 immigrant investors to join a third class action lawsuit that will be filed imminently. <https://news.bloomberglaw.com/daily-labor-report/their-papers-mired-in-pandemic-backlog-visa-seekers-go-to-court>

Mr. Kuck was interviewed by *Mundo Hispánico* on immigration reform and its costs. An English translation of an article summarizing the interview was published by *The Canadian* at <https://thecanadian.news/2021/02/19/lawyer-talks-about-immigration-reform-and-its-prices/>.

Mr. Kuck was quoted by *Law360* in "Lottery Winners, DOJ Trade Shots in Visa-Expiration Fight." He emphasized the urgency of getting relief from the court for diversity visa lottery winners who have been unable to enter the United States due to COVID-19 restrictions and are at risk of visa expiration. He told the judge that efforts to reach a resolution with the administration to protect those with visas set to expire in March have been unsuccessful, so his team planned to file a motion for expedited injunctive relief. "There's probably 300 or 400 people who will lose their visas within the next week," Kuck said. "Most importantly, this is not something the government was just presented with. That is not accurate. We actually had this conversation two weeks ago ... when the administration publicly said it's considering whether to lift the bans. The reality is it's now on the court to make this happen. Everybody is going to lose their visas while they consider this," he said. <https://www.law360.com/articles/1354368/lottery-winners-doj-trade-shots-in-visa-expiration-fight>

Mr. Kuck was quoted by *Axios* in "Diversity Visa Winners Losing Chance to Immigrate." Referring to coronavirus-related restrictions that are keeping out diversity visa lottery winners, Mr. Kuck said, "President Biden should immediately renounce this illegal usurpation of congressional power and restore the status quo by declaring those bans void." He said at least 6,500 issued visas are at risk of expiring before the ban instituted by former President Trump ends in March, and that at least 1,000 have already expired. "We feel confident we will shortly have a victory in one of these courts before March," he said. <https://www.axios.com/diversity-green-card-visa-lottery-d60cd44d-758f-4339-9ffc-d71d4690e201.html>

Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) co-authored several new blog postings: "President Biden Must Reject Trump-Era H-1B Lottery Rule and Work Visa Travel Ban," <http://blog.cyrusmehta.com/2021/03/president-biden-must-reject-trump-era-h-1b-lottery-rule-and-work-visa-travel-ban.html>, and "Overcoming a Covid Travel Ban Through the National Interest Exception," <http://blog.cyrusmehta.com/2021/02/overcoming-a-covid-travel-ban-through-the-national-interest-exception.html>.

Mr. Mehta authored several new blog postings: "CSPA Triumphs in Cuthill v. Blinken: Child of Parent Who Naturalizes Should Not Be Penalized," <http://blog.cyrusmehta.com/2021/03/cspa-triumphs-in-cuthill-v-blinken-child-of-parent-who-naturalizes-should-not-be-penalized.html>; "State Department Exempts Certain Travelers From Restrictions: Is There a Better Way So That the Least Number Get Impacted?" <https://bit.ly/2NpuQVA>

Mr. Mehta was quoted by *India West* in "To the Relief of H-1B Workers, Biden Lets Trump's Ban on Foreign Workers Expire." Mr. Mehta called for an overhaul of the H-1B program in a March 27, 2021, tweet quoted by the article: "The H-1B lottery—a game of chance—is an inappropriate way for U.S. employers to hire skilled foreign workers. Quotas and lotteries have no place in a modern immigration system. Let talent and skills freely come to the U.S."

<https://bit.ly/3rLbIVv>

Mr. Mehta was quoted by *India West* in "President Biden Unlikely to Rescind Trump's H-1B Ban." He said, "The optics aren't great. Biden hasn't taken any actions to rescind it, possibly because of push-back from organized labor and a thrashing from Republicans. Biden needs support to pass a stimulus bill." https://www.indiawest.com/news/business/president-biden-unlikely-to-rescind-trump-s-h-1b-ban/article_ed7563ea-7fe6-11eb-92fa-6378f2d25fce.html

Mr. Mehta was quoted by *American Bazaar* in "H-1B Visa Holders Seek Extension of 60-Day Grace Period After Job Loss Due to Pandemic." He said, "Biden should at least allow the H-1B ban to lapse on March 31 even though he does not rescind it before the date. Although it would be powerful if he affirmatively rejects the ban any time from now till March 31." <https://www.americanbazaaronline.com/2021/03/11/h-1b-visa-holders-seek-extension-of-grace-period-due-to-job-losses-444512/?amp>

Mr. Mehta was quoted by the *Times of India* in "Wait Time in the Green Card Queue for Some is 150 Years!" He noted that the U.S. Citizenship Act of 2021 eliminates country caps for employment-based immigrants, but he pointed out that the big question is whether the bill will be passed by a closely divided Senate. <https://timesofindia.indiatimes.com/nri/us-canada-news/wait-time-in-the-green-card-queue-for-some-is-150-years/articleshow/81245570.cms>

Mr. Mehta was quoted by the *Times of India* in "The Wide Sweeping Reforms in the U.S. Citizenship Act Decoded." He said, "President Joe Biden's U.S. Citizenship Act is sweeping in its humanity and views immigrants as an asset to America rather than as threats either to security or American workers. It starts by abolishing all references to the term 'alien' and instead replaces it with 'noncitizen.'" <https://timesofindia.indiatimes.com/world/us/the-wide-sweeping-reforms-in-the-us-citizenship-act-decoded/articleshow/81110569.cms>

Mr. Mehta was quoted by the *Times of India* in "U.S. Immigration Bill to Help Clear Job-Based Green Card Backlog." He said, "The bill is not perfect, though, and does little to accommodate the demand for scarce H-1B visas each year. Nor does it create a start-up visa for entrepreneurs. One provision authorizes the prioritization of distribution of scarce H-1B visas based on wages offered by their employers and also authorizes similar prioritization based on wages for other nonimmigrant worker categories. However, he added, "Even if the H-1B visa is not reformed, hopefully the ability to get a green card more quickly under the new law may compensate for the imperfect H-1B visa program that may remain in place." Referring to some provisions in the bill that the article calls "ingenious," Mr. Mehta said, "The bill authorizes the extension of nonimmigrant stays for certain categories of visa holders. For instance, an F-1 student in practical training who is sponsored for a green card can remain in F-1 status" and "get a green card directly." <https://timesofindia.indiatimes.com/world/us/us-immigration-bill-to-help-clear-job-based-green-card-backlog/articleshow/81114101.cms>

Mr. Mehta was quoted by the *Times of India* in "Immigration Bill Aims to Keep and Unite Families, It Gives a Boost to the 'V' Visa." He said, "The immigration bill increases the per-country limit from 7% to 20%. In addition, spouses and minor children of green card holders will not be subject to the quotas. Under current law, only spouses and minor children of U.S. citizens are exempt from being included in the quota. Further, the unused family visas from fiscal [year] 1992 through 2020 will be added back. These measures will reduce wait times, including for 'V' visa applicants." <https://timesofindia.indiatimes.com/world/us/immigration-bill-aims-to-keep-and-unite-families-it-gives-a-boost-to-the-v-visa/articleshow/81113335.cms>

Mr. Mehta was quoted by *Forbes* in "New Bill Has Many Good But Two Bad Measures for Employment Immigrants." The article notes that people who reach their 6-year limit in H-1B status while waiting in the immigration backlog can have their H-1B status extended while they remain in the United States. The new Biden administration immigration reform bill expands the provision to be used by more individuals in H-1B status, and also F-1 students, L-1

intracompany transferees and O-1 (individuals with extraordinary ability or achievement) visa holders, the article states. Mr. Mehta said he believes that provision holds the potential for an international student to bypass H-1B status and go straight to a green card, if an employer sponsored him or her and the measure became law.

<https://www.forbes.com/sites/stuartanderson/2021/02/19/new-bill-has-many-good-but-two-bad-measures-for-employment-immigrants/?sh=4bec5be35af9>

David Isaacson, of **Cyrus D. Mehta & Partners, PLLC**, authored a new blog posting: "The Law Does Not Compel the Impossible – Or Does It?: Matter of C-C- and Awuku Asare v. Garland." <http://blog.cyrusmehta.com/2021/03/the-law-does-not-compel-the-impossible-or-does-it-matter-of-c-c-and-awuku-asare-v-garland.html>

Cora-Ann Pestaina, of **Cyrus D. Mehta & Partners, PLLC**, authored a new blog posting: "To Amend, or Not to Amend: That is the Question for Visas Not Associated With a Labor Condition Application." <http://blog.cyrusmehta.com/2021/02/to-amend-or-not-to-amend-that-is-the-question-for-visas-not-associated-with-a-labor-condition-application.html>

Angelo Paparelli (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm>) co-authored several blog postings: "Beware the Employer Risks Nesting in President Biden's Comprehensive Immigration Reform Bill," <https://bit.ly/3dIXIGI>; "Hey, Immigration Lawyer: Get Me a Coronavirus Passport," <https://www.bigimmigrationlawblog.com/2021/02/hey-immigration-lawyer-get-me-a-coronavirus-passport/>; "Inclusive Immigration: USCIS Nixes 'Alien' Terminology But Much More Must Be Done." <https://www.bigimmigrationlawblog.com/2021/02/inclusive-immigration-uscis-nixes-alien-terminology-but-much-more-must-be-done/>

Greg Siskind, of **Siskind Susser, P.C.**, was featured in "Practicing With Twitter: An Immigration Lawyer's Social Media Journey," published by the American Bar Association's *Law Practice Magazine*. The article discusses Mr. Siskind's lessons for attorneys looking to use social media as a marketing strategy. https://www.americanbar.org/groups/law_practice/publications/law_practice_magazine/2021/ma21/gaffney/ (also available at <https://dashboard.mazsystems.com/webreader/71975?page=46>)

Mr. Siskind posted a summary of the U.S. Citizenship Act. <https://bit.ly/3duYkfn>

Elissa Taub and **Ari Sauer** are now partners in the firm **Siskind Susser, P.C.** According to **Lynn Susser** (bio: <http://www.abil.com/lawyers/lawyers-susser.cfm?c=US>), "Elissa has managed and expanded our healthcare practice for many years and Ari is the 'finder of answers for all things complex.' We are looking forward to their long-term contributions to the firm as it continues to grow and change."

William Stock (bio: <http://www.abil.com/lawyers/lawyers-stock.cfm?c=US>) was quoted by *Forbes* in "New Bill Has Many Good But Two Bad Measures for Employment Immigrants." Mr. Stock said that one section of the new Biden administration immigration reform bill "would allow a future president who did not believe in immigration to direct the Department of Homeland Security and Department of Labor to bar employment-based immigration in large parts of the economy. It would allow those agencies to ban immigration based on broad unemployment trends unrelated to labor market shortages in specific industries or for particular skill sets. For the past four years, we have seen that delegations of authority meant to allow for responses to emergencies, like the travel ban authority, can be misused to bar immigration broadly unless the statute provides strict guidelines as to how that authority should be exercised." He also said, "The primary reason the new [H-1B] lottery rule is problematic is that it contradicts the current statutory directive for selecting H-1Bs by order of filing. Section 3407 of the bill would provide a valid statutory basis for selecting H-1Bs by wage level, advantaging larger employers and employers in cities with higher average salaries." <https://www.forbes.com/sites/stuartanderson/2021/02/19/new-bill-has-many-good-but-two-bad-measures-for-employment-immigrants/?sh=4bec5be35af9>

Wolfsdorf Rosenthal LLP published several new blog postings: "Celebrating Women Empowered," "E-Verify Update: Watch Your State's Requirements," "Weekly Immigration Update," "DOL Announces 2021 Adverse Effect Wage Rats for Non-Range Occupations," "H-2B Cap Reached for Second Half of FY 2021," "FY 2021 H-1B Cap-Subject Nonselection Notices Issued," "New Asylum Process at Southern Border To Be Phased In Gradually," "President Biden Reinstates DED for Liberians," "State Dept. Announces National Interest Exceptions for Certain Travelers & Students," Alejandro Mayorkas Confirmed to Lead Department of Homeland Security," "DOL Proposes to Delay Effective Date of H-1B/PERM Wage Rule Until May," "USCIS Rescinds 2017 Policy Memorandum on H-1B Computer-Related Positions," "Good News for H-1B Applicants as Biden Administration Delays Wage-Based Selection Process for H-1Bs," "Biometrics: Questions and Answers," and "President Biden Signs Executive Orders Setting a Welcoming Tone for Immigrants." <https://wolfsdorf.com/blog/>

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was quoted by *Univision* in "Are parents criminally responsible for sending their children alone to the southern border of the United States?" The article asks if a parent can be sued who pushes a child to leave his or her country. "The question has to do with tort law, not U.S. immigration law," Mr. Yale-Loehr noted. "The question is whether parents can be sued for negligence by allowing their children to travel alone from their country of origin to the United States." In practice, "these trials are very rare, for several reasons. First, the child (or someone who sues on behalf of the child) would have to sue. And it is unlikely that children are aware of the United States civil liability law. And they are probably not willing to sue their parents. Also, even if they wanted to sue, they could not pay a lawyer to represent them." He also said that "even if a child wins a tort lawsuit, many parents would not have money to pay for the damages." A second question was whether it is legal to allow a child to travel alone and cross the border alone. "Nothing in U.S. immigration law prevents this. Immigration law says that anyone who has a well-founded fear of persecution can apply for asylum. There is no minimum age requirement to apply for asylum at the border," Mr. Yale-Loehr explained. <https://www.univision.com/noticias/inmigracion/padres-principales-responsables-enviar-solos-hijos-frontera-estados-unidos> [Spanish]

Mr. Yale-Loehr co-authored a blog: "Overcoming Polarization: How to Talk with Immigration Opponents." <https://inclusion.americanimmigrationcouncil.org/content/overcoming-polarization-how-talk-immigration-opponents>

Mr. Yale-Loehr was quoted by *Veja* in "Kamala Harris' First Major Mission: The Problem Is Not Simple: Finding a Solution for the Crowds of Immigrants Who Accumulate at the Border in Search of the American Dream." He noted that Ms. Harris's role "highlights the importance of the mission to untie the immigration knot, but it is a difficult task." He added that it "will take a long time to stabilize Central American economies and create a safer environment from which people don't feel they have to flee for their lives." <https://veja.abril.com.br/mundo/a-primeira-grande-missao-de-kamala-harris/> [Portuguese]

Mr. Yale-Loehr was quoted by *Inside Higher Ed* in "Dream Derailed Leads to Lawsuit Against Berkeley." The article discusses a lawsuit filed by a former international student of law at the University of California, Berkeley, for allegedly misinforming him of a deadline for applying for work authorization and costing him his "dream job" in New York and his right to remain in the United States, an error that ultimately led to his being arrested in shackles and handcuffs by U.S. immigration enforcement agents and escorted to a plane bound for Brazil, his home country. "We're generally seeing an increase in OPT [Optional Practical Training] denials for a variety of reasons. That is causing consternation for both international students and international offices at universities. I think that international student advisers feel torn because technically it's the student's responsibility to make sure that applications are filed on time, and the application is technically filed by the student, not by the school, so the school cannot be making sure that all applications are filed by the students in a timely manner. Schools do their

best most of the time to educate students about all aspects of OPT applications, including filing deadlines, but ultimately it is the student's responsibility to make sure that the application is filed on time," Mr. Yale-Loehr said. <https://www.insidehighered.com/news/2021/03/19/former-international-student-who-lost-dream-job-sues-berkeley-alleging-negligence>

Mr. Yale-Loehr was quoted by *USA Today* in "Immigration was a Scorching Topic at the Supreme Court Last Year. With Trump Gone, That's Changed." The article notes that "[p]ending immigration cases stemming from the Obama administration are in part a function of the years it takes for disputes to work their way through the courts. But it also underscores that many of the technical aspects of immigration enforcement don't change much from president to president—despite the rhetoric from both parties." Mr. Yale-Loehr said, "People may think, 'Oh, well, now the government is always going to be trying to find ways to help immigrants' and that's not the case. You see that in some of these cases...where the government is still appealing to the Supreme Court on these technical but important issues."

<https://www.usatoday.com/story/news/politics/2021/03/12/donald-trump-has-left-supreme-court-immigration-cases-went-him/4633025001/>

Mr. Yale-Loehr presented a webinar on how to overcome immigration polarization on March 19, 2021, as part of the Cornell Advocacy Project's four-part speaker series, "Speak Now." Mr. Yale-Loehr discussed how issues of immigration have fractured along party lines and how that trend can be reversed. Topics included how and why immigration issues are polarized, how to advocate for those fighting within politically polarized immigration systems, and strategies for engaging in discussion with those who hold opposing views on immigration.

<https://www.youtube.com/watch?v=VwdCR698Nol> (video);

https://open.spotify.com/episode/7B6fMLTTcksOmGddaeKmyT?si=PcYO44H5QjqEzd0vGYwU_g&nd=1 (podcast)

Mr. Yale-Loehr was quoted by *National Public Radio* in "Supreme Court Makes It Harder for Undocumented Immigrants to Fight Deportation." He said the court's decision "increases the burden of proof on immigrants in deportation proceedings."

<https://www.npr.org/2021/03/04/973658292/supreme-court-makes-it-harder-for-undocumented-immigrants-to-fight-deportation>

Mr. Yale-Loehr was quoted by *Bloomberg Law Daily Labor Report* in "U.S. Lawmakers Exploring Regional Visa Programs to Boost Economy." The U.S. Citizenship Act's regional economic development visa proposal echoes a similar initiative that was enacted as part of immigration law in 1990—the Labor Market Information program, which directed the Department of Labor to identify industries with a shortage of workers in the United States and industries with a surplus, he said. The plan was to make it easier to select immigrants in the shortage occupations and harder in the surplus occupations. "The proposed regulations were roundly criticized and the whole program died. In concept, this sounds great, but the devil is always in the details," he said. <https://news.bloomberglaw.com/daily-labor-report/u-s-lawmakers-exploring-regional-visa-programs-to-boost-economy>

Mr. Yale-Loehr was quoted by *Law & Crime* in "Despite Biden Admin's Claims, Southern District of Texas Ruling Does Not Require ICE to Deport." He said, "Today's court order does not require ICE to deport everyone who has a final deportation order. ICE still has discretion in deciding who to deport." <https://lawandcrime.com/immigration/despite-biden-admins-claims-southern-district-of-texas-ruling-does-not-require-ice-to-deport/>

Mr. Yale-Loehr moderated a webinar, "What to Expect on Immigration from the Biden Administration":

- Video link: <https://www.youtube.com/watch?v=gqd3HnJWkE8>
- Slide deck, <https://drive.google.com/file/d/1jonICr6VI2dK5mPoHW8jkd6VxDylHbxV/view>

- Handouts: <https://drive.google.com/file/d/1mW9jayRmlXJqWmlL2ayZIHMIpBj1rrf1/view> and <https://drive.google.com/file/d/1nxQGmmg-JF13LRs3uW3MeiHwNVU-zZWO/view>.

Mr. Yale-Loehr was quoted by *Bloomberg Law* in "Lawmakers Revisit Changes to H-1B Lottery in Immigration Plan." He said that any plan to implement a wage-based H-1B system from Biden administration agency heads is unlikely to "be identical to the Trump H-1B wage rule, but it is similar in concept." Moreover, "this would only authorize DHS and DOL to consider a wage-based system; it doesn't require it." <https://news.bloomberglaw.com/daily-labor-report/lawmakers-revisit-changes-to-h-1b-lottery-in-immigration-plan>

Mr. Yale-Loehr was quoted by the *Philadelphia Inquirer* in "ICE 'Deep State' is Blocking Biden's Quest for Justice for Refugees." Mr. Yale-Loehr said that President Biden faces a long road in undoing former immigration policies. "First, former President Trump emboldened ICE agents to arrest anyone they suspected of being here illegally, even if the person merely overstayed their visa. ICE officials will not want to return to the pre-Trump era, where they were supposed to prioritize deporting immigrants who had serious criminal convictions. That is harder work." In sum, he said, "changing the ICE bureaucracy is like steering an ocean liner. It takes time to change course. And it is harder when the crew may refuse to comply." <https://www.inquirer.com/opinion/biden-deportations-ice-haiti-cameroon-mexico-20210211.html>

Mr. Yale-Loehr was quoted by *Mediapart France* in "États-Unis: Biden promet une grande réforme de l'immigration" ("United States: Biden promises major immigration reform"). Mr. Yale-Loehr said that two essential questions relate to the content and "timing" of reform, considering that the midterm elections in 2022 could reshuffle the cards in the Senate. For the left, the possibility exists of fragmenting any reform project into first attempting to strengthen measures in Congress that are more "modest" and consensual like the DACA program, he said. Congress is not the only obstacle in the path of the Democrats. A federal judge in Texas, appointed by former President Trump, has effectively temporarily blocked a decision by President Biden to suspend deportations for 100 days, he noted. <https://bit.ly/3d9v79y> (subscription)

Mr. Yale-Loehr was quoted by the *Associated Press* in "ICE Nearly Released Sex Abuse Convicts Despite Biden Memo." He said a conviction for sexual abuse of a minor normally would qualify as an aggravated felony, and that "such individuals remain immigration enforcement priorities." <https://apnews.com/article/joe-biden-us-news-immigration-crime-texas-09f40966250e15b9d54942ddb267df7b>

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