

## GLOBAL IMMIGRATION UPDATE

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### FEATURE ARTICLE

**DIGITAL NOMADS: AN OVERVIEW** – Where are we now? This article provides an update on digital nomads in several countries.

### COUNTRY UPDATES

**INDIA** – In a developing and increasingly complex story, Canada's Prime Minister has accused India's government of involvement in the murder of a Sikh separatist leader in Canada. This has precipitated counter-moves by India.

**ITALY** – The Italian government has announced the number of foreign workers allowed in Italy for 2023-2025 and application periods for work permit applications. Also, non-European Union (EU) workers who have already worked abroad for Italian companies or companies participated in by Italian firms can obtain a work permit that will not be subject to yearly quotas.

**UNITED KINGDOM** – The government of the United Kingdom (UK) is implementing a full-scale digitalization project and seeks to enhance the efficiency of immigration procedures by harnessing advanced technology. Also, fines for employing someone unauthorized to work in the UK will increase next year.

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### Feature Article

#### DIGITAL NOMADS: AN OVERVIEW

*Where are we now? This article provides an update on digital nomads in several countries.*

#### ITALY

On March 28, 2022, Italy introduced in its law a visa for digital nomads and remote workers.

[The law](#) provides that the requirements and conditions for the issuance of these visas should have been established with a further decree that was to be issued within 30 days, i.e., by the end of April 2022, but until now no further actions have been taken and the program is on hold.

Digital nomads and remote workers are [defined](#) as "citizens of a third country who carry out highly qualified work activities through the use of technological tools that allow [them] to work remotely,

autonomously, or for a company based outside Italy." (See under Art. 6-*quinquies* (b) in *Modificazioni apportate in sede di conversione al decreto-legge 27 gennaio 2022, n. 4.*)

For these categories of workers, it is not necessary to apply for a work permit before applying for the visa. However, to be issued the visa, applicants must show proof of valid and comprehensive health insurance, covering all risks in Italy, and be committed to respecting all relevant tax and security obligations in Italy.

This permit seems applicable to both:

- Nationals of a third country who are self-employed or employed for a non-resident company in the territory of the Italian State; and
- Nationals of a third country who carry out their activities in Italy.

The new law has only established some general principles. Digital nomads:

- Do not need to apply for a work permit in Italy before applying for the visa at the consulate; but
- Must submit proof of comprehensive health insurance, covering all risks in Italy;
- Most likely must prove they have performed the work for a significant amount of time, prove they meet a minimum income requirement, and submit (as requested for self-employment visas) their latest tax returns; and
- Must comply with Italian tax and social security obligations.

Similar to the self-employment visa, almost total discretion on the issuance of the visas is left to Italian consulates. This will most likely create confusion, because each consulate may use different criteria to assess an application and grant or deny the visa.

## **MEXICO**

Mexico currently does not have a specific "nomad visa" program. However, even before the COVID-19 pandemic, and currently, Mexico offers several types of visas that may be suitable for digital nomads or remote workers.

The temporary resident visa for non-lucrative activities is a perfect and suitable document for those foreigners who want to live in Mexico for up to four years continue working for their employer company located abroad. To obtain this visa, the applicant must provide proof of sufficient financial means to support themselves during their stay in Mexico.

A non-lucrative visa for Mexico is a type of visa that allows individuals to reside in Mexico for a period without engaging in any type of remunerative activity. This visa is intended for individuals who want to live in Mexico for an extended period for reasons such as retirement, remote work, or sabbatical, or to simply experience the culture and lifestyle of Mexico.

## **SPAIN**

Aided by regulations promoting the start-up ecosystem, Spanish immigration authorities have been processing visas and residence permits related to international remote work since the Start-Up Act was implemented in late 2022.

A visa and residence permit for international remote workers regulated through the Start-Up Act allows holders to stay in Spain while carrying out work or professional activity remotely for companies located outside the national territory. Visas are processed through Spanish consulates and granted for a period of up to one year, while residence permits are processed in-country and can be granted for a period of up to three years.

In general, to qualify for this visa or residence permit, applicants must: (1) work for a company located outside Spain (with some exceptions for individuals who are self-employed); (2) work using exclusively computer, telematics and telecommunication media and systems; and (3) hold a university degree or have a minimum of three years of relevant experience in their field.

Such a permit-holder exercising an employment activity may only work for companies located outside the national territory. A permit-holder who is self-employed may undertake professional activity for a company located in Spain provided that the percentage of such work does not exceed 20% of the total professional activity.

Dependents of holders of a visa or residence permit for international remote work may obtain residence permits as dependents and be eligible to work in Spain.

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## Country Updates

### INDIA

*In a developing and increasingly complex story, Canada's Prime Minister has accused India's government of involvement in the murder of a Sikh separatist leader in Canada. This has precipitated counter-moves by India.*

Justin Trudeau, Canada's Prime Minister, said the Canadian government had evidence that India's government was involved in the murder of Hardeep Singh Nijjar, a Sikh separatist leader in Canada. As a result, India has [suspended visa services](#) for Canadians until further notice, citing [security reasons](#), and asked Canada to [reduce its diplomatic presence](#) in India. This involves [about 40 diplomatic staff](#). The visa services suspension affects all Canadian nationals without valid visas, including students, tourists, and business visitors. The suspension also applies to Canadians in third countries who wish to apply for an Indian visa, and includes the Indian E-visa. The suspension does not apply to Canadian citizens who hold an Overseas Citizen of India card.

Canada, for its part, has not suspended visas for Indian nationals but said that it would "[adjust](#)" its diplomatic staffing in India after security-related threats.

On September 20, 2023, the government of India's Ministry of External Affairs issued an [advisory](#) for Indian nationals and students in Canada. The advisory counsels "utmost caution" for all Indian nationals in Canada or contemplating travel there. It also notes that Indian nationals and students from India in Canada must "register with the High Commission of India in Ottawa or Consulates General of India in Toronto and Vancouver through their respective websites, or the MADAD portal [madad.gov.in](#). Registration would enable the High Commission and the Consulates General to better connect with Indian citizens in Canada in the event of any emergency or untoward incident."

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## ITALY

*The Italian government has announced the number of foreign workers allowed in Italy for 2023-2025 and application periods for work permit applications. Also, non-European Union (EU) workers who have already worked abroad for Italian companies or companies participated in by Italian firms can obtain a work permit that will not be subject to yearly quotas.*

### Foreign Workers

The Italian government has announced a cap of 450,000 on the number of workers from outside the European Economic Area (EEA) allowed in Italy for 2023–2025. The [decree](#), dated September 27, 2023, was published in the Official Gazette on October 3, 2023. For the year 2023, 136,000 quotas are available.

Applications for subordinate permit applications for subordinate work reserved to citizens of countries that have cooperation agreements with Italy can be submitted starting at 9 a.m. December 2, 2023. Other subordinate permit applications can be submitted starting at 9 a.m. December 4, 2023, while seasonal work permit applications can be submitted starting at 9 a.m. December 12, 2023.

### Quota Categories

The 136,000 quotas will be allocated among the following categories:

- 82,550 for Seasonal Work in the sector of agriculture; hospitality and tourism industry reserved for certain nationalities
- 53,450 (of which 52,770 are for subordinate work—work as an employee—and 680 are for self-employment)
- In the sectors of freight transportation on behalf of third parties, building, hospitality and tourism, mechanics, telecommunications, food, shipbuilding, transportation of passengers by bus, fishing, hairdressing, electricians, and plumbers:
  - 2,000 for citizens of countries that promote media campaigns regarding the risks of involvement in irregular migration
  - 25,000 for the following nationalities: Albania, Algeria, Bangladesh, Bosnia-Herzegovina, South Korea, Ivory Coast, Egypt, El Salvador, Ethiopia, Philippines Gambia, Georgia, Ghana, Jordan, Japan, Guatemala, India, Kyrgyzstan, Kosovo, Mali, Morocco, Mauritius, Moldova, Montenegro, Niger, Nigeria, Pakistan, Peru, Republic of North Macedonia, Senegal, Serbia, Sri Lanka, Sudan, Tunisia, and Ukraine
  - 12,000 for citizens of countries with which Italy will have cooperation agreements
  - 100 quotas (employee/self-employee) for employed or self-employed work, reserved for foreign nationals who have Italian ancestry and reside in Venezuela
  - 200 quotas (employee/self-employee) for employed or self-employed work, reserved for stateless persons and refugees
- 9,500 quotas for workers in family care and support services
- 500 quotas for self-employment for:

- Entrepreneurs intending to implement an investment plan of interest for the Italian economy, involving an investment of at least €500,000 and creating at least three new jobs in Italy
  - Freelancers/independent contractors who intend to practice regulated or controlled professions (i.e., individuals belonging to a professional association or enrolled in an official/public register) or professions that are not non-regulated but are considered representative at the national level and are included in the lists edited by the Public Administration
  - Holders of corporate offices or administrative/controlling positions (any of the following: Chairman, CEO, Member of Board of Directors, Auditor) in an Italian company, active for at least three years (requirements set in Visa Decree May 11, 2011 n.850)
  - Foreign citizens who intend to set up innovative start-up companies under certain conditions and who will have a self-employment relationship with the start-up
  - Internationally well-known and highest-repute artists, artists of recognized high professional qualification or artists who are hired by well-known Italian theaters, important public institutions, public television, or well-known national private television (requirements set in Visa Decree May 11, 2011 n.850)
- Permit conversion for non-European Union (EU) nationals already in Italy/EU
  - 4,000 quotas for conversions of seasonal work permits to standard, non-seasonal work permits (as an employee).

## Work Permits

Article 27 of Italian immigration law, which lists the exceptions to the quota system, has been modified to include this new category of workers. According to this amendment, workers who meet the specified requirements can be employed in Italy by the same companies or entities for which they have worked abroad without having to compete for a "quota" set by the *decreto flussi* (flow decree), which sets the numerical limits (quotas) for foreign workers entering the country. This measure aims to simplify the entry and employment of foreign workers who already have a work connection with Italian companies.

A new subparagraph (i-bis) is to be introduced to paragraph 1 of Article 27. According to this, workers who have been employed for at least 12 months within the 48 months preceding the application, by companies headquartered in Italy or companies participated in by Italian firms, can be employed at the locations of the same companies or entities in Italy.

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## UNITED KINGDOM

*The government of the United Kingdom (UK) is implementing a full-scale digitalization project and seeks to enhance the efficiency of immigration procedures by harnessing advanced technology. Also, fines for employing someone unauthorized to work in the UK will increase next year.*

## **Digitalization and Immigration-Related Technology**

Technological developments in the UK are intended to expedite the submission and processing of visa applications and other immigration-related paperwork and modernize border operations by automating digital border processes. This initiative aims to enable Border Force and UK Visas and Immigration personnel to streamline current workflows, concentrating their resources on application categories that demand more time and effort due to their intricate legal aspects. The digital transformation of the UK immigration system is intended to bring the border management system and broader government in line with the demands of the 21st century.

### ***Transition to Digital Immigration Status***

By late 2024, the UK government intends to fully transition to a digital system for managing immigration status. This will enable individuals to apply for and verify their immigration status and cross borders without the need for physical travel vignettes or Biometric Residence Permits (BRPs). Some migrants have already begun receiving digital status as the default option. All BRPs are set to expire by December 31, 2024, in anticipation of these forthcoming changes.

### ***Electronic Travel Authorisation Scheme***

In March 2023, the government introduced the Electronic Travel Authorisation (ETA) scheme. Under this program, travelers from countries currently exempt from the requirement to apply for prior UK visa clearance before visiting the UK must obtain an ETA before their journey. The primary goals of the ETA scheme are to enhance border security in the UK and streamline the travel process. The ETA scheme will be slowly introduced, first with selected Middle Eastern nationals. Beginning November 15, 2023, Qatar nationals traveling to the UK will require an ETA. Nationals of the following countries traveling to the UK will need an ETA beginning February 22, 2024:

- Bahrain
- Jordan
- Kuwait
- Oman
- Saudi Arabia
- United Arab Emirates

More countries on the non-visa national list (those countries whose nationals do not require prior UK visa clearance before visiting the UK) will be added to the ETA scheme, with the aim for it to be fully in place by the end of 2024 for all relevant non-visa nationals traveling to the UK. As details of the ETA are still to be finalized for non-Gulf countries, multinational corporations with frequent business travel should stay vigilant for updates and make necessary preparations for its implementation.

### ***Sponsorship System Reforms***

In response to calls for a simplified sponsorship system following Brexit, the Home Office unveiled a sponsorship roadmap in August 2021. This roadmap outlines proposed changes to the current process of hiring foreign nationals to make it more straightforward and efficient. The plan includes:

- Various IT improvements;
- Enhancements in customer service;
- Modifications to compliance procedures; and
- Strategies for engaging stakeholders.

These reforms aim to create a more user-friendly system that reduces the time required to sponsor a migrant worker. The IT transformation will be implemented in three phases, with the Home Office anticipating full operational capability by Q1 2024. All sponsors are expected to transition to the new system by this deadline.

### ***Online Verification of Right to Work and Rent***

As of April 2022, employers and landlords are now legally obligated to conduct online checks to verify an individual's right to work and rent status for most migrants. With limited exceptions, manual right-to-work verification for these individuals is no longer permitted. The Home Office has also introduced a digital service allowing British and Irish nationals to confirm their right to work and rent status online. Employers and landlords can opt to use an Identity Service Provider (IDSP) for these checks. However, manual checks of physical identity documents are still permitted for British and Irish nationals.

### **Employer Fines Increasing Next Year**

The UK government [announced](#) that employer fines (also known as civil penalties) for employing someone without permission to work in the UK will increase next year. Below are some details:

- **Tripling of fines.** The fine for a first breach by a UK employer will increase from £15,000 to £45,000 per worker. For repeat breaches, the fine will increase from £20,000 to £60,000 per worker.
- **Increased need for compliance.** Full compliance with right-to-work checks is already a necessity for all staff working in the UK. These increased fees add an extra incentive for employers to ensure they have the correct prevention measures in place, including in relation to right-to-work checks and, for those sponsoring workers from overseas, sponsor license compliance.
- **More Home Office vigilance possible.** The government announcement noted that later this year, "the Home Office will consult on options to strengthen action against licensed businesses who are employing illegal workers." It is unclear what that will entail. It might, for example, mean that more compliance visits are made or increased information-sharing occurs between government departments. Stay tuned.

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## **New Publications and Items of Interest**

### **Alliance of Business Immigration Lawyers:**

- ABIL is available on X (formerly Twitter): [@ABILImmigration](#)
- Recent ABIL member blogs are at <http://www.abilblog.com/>

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## ABIL Member/Firm News

**Klasko Immigration Law Partners, LLP**, has published a new blog post: [Canada's Tech Talent Strategy: A Creative Option for U.S. Employers?](#)

**Cyrus Mehta** authored several new blog posts: [Shaping Immigration Policy Through EADs](#); [Although the October 2023 Visa Bulletin is Disappointing, the Administration Still Has the Option to Advance the Dates for Filing in the Next Visa Bulletin](#); and [To What Extent Can Immigration Practitioners Ethically Rely on ChatGPT to Aid Their Practice?](#)

**Mr. Mehta** and **Kaitlyn Box** co-authored several new blog posts: [Shaping Immigration Policy Through EADs](#), [NYC Should Welcome Migrants Rather Than Have a Mayor Who Disparages Them](#), and [USCIS Updates Policy Guidance on CSPA 'Sought to Acquire' After Using Filing Date to Protect Age of the Child](#).

**Mr. Mehta** and **Jessica Paszko** co-authored several new blog posts: [ICE Imposes Guardrails On Use of Red Notices Against Noncitizens in Removal Proceedings](#) and [Changes in Work From Home Policies After Labor Certification Has Been Filed](#).

**Mr. Mehta** was quoted in the *Times of India* on India's visa suspension for Canadians: [India's Visa Suspension Will Have Limited Impact on Biz](#).

**Angelo Paparelli** was quoted by Law 360 in "[Immigration Attys Soothe Client Fears Amid Shutdown Threat](#)" (available with registration). Under a shutdown, Mr. Paparelli noted, the Department of Labor would stop processing labor certifications for temporary and seasonal workers through the H-2A and H-2B visa programs. Those certification decisions tend to be accelerated because of the temporary nature of the programs, so a shutdown would put at risk the ability of those programs to function as intended, he said. That would hurt agricultural employers in particular, who rely heavily on the H-2A program for farmworkers, as well as other employers who rely on H-2B workers for seasonal work. "The whole process is sort of like ... a train with different cars on it. And if one of the early cars starts to buckle, it derails the rest of the system," Mr. Paparelli said. "I am not Blanche DuBois and I don't like to rely on the kindness of strangers," he said, referring to the fictional character in "A Streetcar Named Desire" and her final line in the 1947 play. "And so I basically would recommend people filing as early as they can."

**WR Immigration** has published a [new installment](#) in its "Chatting with Charlie" series. WR Immigration Director of Visa Consulting Charlie Oppenheim, Partners Dan Maranci and Kimberley Best Robidoux, and Senior Attorney Laura Bloniarz discuss the latest insights on the October Visa Bulletin and fiscal year 2024 visa availability, and provide information regarding the new I-9 process.

**WR Immigration** has published a new blog post: [USCIS Policy Updates on CSPA Age Calculation & 'Sought to Acquire' Requirement under CSPA on Adjustment of Status Cases—Confusion and Heartbreak for Consular Processing Applicants](#).

**WR Immigration** Associate [Kristen Tully](#) has been selected by Super Lawyers as a 2023 Massachusetts Rising Star.

**Stephen Yale-Loehr** co-authored an op-ed in *The Hill*, [Blue States' Plans for Migrant Workers Can Include or Exclude Biden](#).

**Mr. Yale-Loehr** was quoted in the *New York Times* in [Help! I Was Denied Boarding on a Cruise, and I Wasn't the Only One](#). Mr. Yale-Loehr said, "Even a green card holder is not guaranteed re-entry into the United States. If there's nothing in the person's immigration history to indicate that they are inadmissible for other reasons, then they should be allowed on the cruise ship."



**Mr. Yale-Loehr** was interviewed in a [podcast](#) about the New York migrant surge. Mr. Yale-Loehr discussed how local and federal leaders can work to manage the New York migrant surge and support individuals seeking refuge in the United States. He also discussed changes in migrant demographics, immigration statuses, complications of the U.S. immigration system, legal protections for migrants, labor shortages and work training programs, and funding for resources to address the migrant surge.

**Mr. Yale-Loehr** was quoted by *Newsday* in [Venezuelan Migrants, Once Granted Federal TPS Protection, Could Seek Shelter on Long Island, in Other Counties](#). He noted that those with TPS can receive some public benefits but not others.

**Mr. Yale-Loehr** was quoted in the *Christian Science Monitor* in [New York's Immigrant Spirit Tested by Influx of Asylum-Seekers](#).

**Mr. Yale-Loehr** was quoted in the *Gothamist* about work permits for Venezuelans in the United States: [Next Step for Venezuelan Migrants in NYC: Navigating the Bureaucracy](#).

**Mr. Yale-Loehr** was quoted in the *New York Times* in [New York Considers State Work Permits for Migrants as Influx Worsens](#).

**Mr. Yale-Loehr** was quoted in the *New York Daily News* in [NY looking at 'unprecedented' plan to give migrants state work permits, Hochul says](#).

**Mr. Yale-Loehr** was quoted in a *Financial Times* podcast about a prominent Russian banker who received asylum in the United States: [The Russian Banker, Part 3: Asylum](#).

**Mr. Yale-Loehr** was quoted in a *Politifact* article about critics of U.S. President Biden's immigration policies: [Who is responsible for helping migrants in Chicago and New York City? Leaders say Biden can do more?](#)

**Mr. Yale-Loehr** was quoted in a *Raw Story* article about a federal judge declaring DACA illegal: ['Dreamers' deferred: Democrats are blowing the immigration debate and hurting kids by hiding](#).

**Mr. Yale-Loehr** was quoted by *New York Daily news* in [NYC Mayor Adams Again Urges Feds to 'Stand Up,' Accelerate Work Permits for Migrants Amid Crisis](#). Mr. Yale-Loehr said that U.S. Citizenship and Immigration Services was gutted under former President Donald Trump and has worked to catch up under President Biden. He noted that the 150-day delay between asylum applications and work permit requests cannot be changed without an act of Congress, a step considered highly unlikely in the Republican-controlled House of Representatives. The federal government reported that it is processing 80 percent of asylum-seekers' work authorization submissions within two months, he said.

**Mr. Yale-Loehr** was quoted by the *Albany Times-Union* in [Asylum Cases Lag As Migrants Lack Required Casework](#). He noted a lack of clarity around the intersection of homelessness and migrants in the law. But he said one thing was clear: "There are a lot of issues that need to be resolved and so far there does not seem to be any coordination between state and local authorities to figure this out."

**Mr. Yale-Loehr** was quoted by *Politico* in ['There Is No More Room in Mexico': Mayor Adams Takes Mexico](#). Mr. Yale-Loehr said, "A single trip by a politician will not dampen the flow. Mayor Adams would do better to work cooperating with the Biden administration on this complex issue, rather than striking out on his own foreign policy pursuits."

**Mr. Yale-Loehr** co-authored a white paper, [Immigration Reform: A Path Forward](#), published by Cornell University Law School's Immigration Law and Policy Program. The white paper sets forth three sets of proposals: (1) strengthening border security; (2) implementing targeted measures to better align the

U.S. immigration system with economic imperatives; and (3) offering deportation protection to DREAMers. "Individually and collectively, the proposals offer a path forward that addresses our most urgent needs, structured in ways to maximize the bipartisan support required for enactment," the white paper says.

**Mr. Yale-Loehr** was quoted by *Inc.* in [How Business Leaders Can Prepare to Hire Asylum Seekers—and Why They're Pushing for More](#). The article notes that in August, more than 120 business executives from JPMorgan Chase, Macy's, Paramount Global, and others signed an open letter to President Biden and Congress urging more federal support and expedited work permits for asylum seekers. Mr. Yale-Loehr said that especially hard-hit industries, including construction, farming, and home health care, could benefit from the added workers. He noted that there are steps migrants need to take before they start legally working, and obstacles to navigate. Asylum seekers may not speak English or may want a lawyer's assistance to file the work permit application, for example.

**Mr. Yale-Loehr** was quoted by *El Pais* in [A Three-Month Wait: New U.S. Immigration Plan Marred by Secrecy and Uncertainty](#). The article notes that a new U.S. immigration program known as *Movilidad Segura*, or Safe Mobility, pursues "the expansion of legal routes to the United States or other countries for refugees and migrants in South and Central America," according to its official website. "The United States launched the program in June with the aim of "reducing irregular migration," and established migration offices in Colombia, Costa Rica and Guatemala. However, three months after its launch, less than 1% of the nearly 29,000 applicants in Colombia have passed through the U.S. Refugee Admissions Program (USRAP), according to official data. The lack of information and the secrecy surrounding the project have experts consulted by *El Pais* perplexed," the article notes. Migrants interviewed by *El Pais* explained that they had to sign a confidentiality agreement stating that they "cannot comment on their process." Mr. Yale-Loehr termed this procedure "unprecedented" and "unusual." He explained that signing non-disclosure clauses does not form part of the refugee process in the United States and is not required for an interview at a U.S. embassy or consulate. "It must be a new procedure, which I haven't heard of before," he said. When the U.S. government launched Safe Mobility in Colombia, *El Pais* noted, it announced that it would be conducting "a six-month pilot period." Midway through, it said it plans to extend it but declined to give a specific timeline. With so much uncertainty, Mr. Yale-Loehr said he understands the frustration surrounding the scheme: "It's had a very slow start." He said he believes that the future of Safe Mobility remains unknown: "It has not failed yet, but it has not been a success either."

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## About ABIL

*The Alliance of Business Immigration Lawyers (ABIL) offers a single point of contact for customer needs, news alerts, staff training, and other programs that benefit clients through the collaboration of more than 445 member lawyers and their more than 1,100 staff. Corporate counsel, human resource professionals, in-house immigration managers, and other corporate decision-makers turn to ABIL lawyers for outstanding legal skills and services. ABIL's work also includes advocating for enlightened immigration reform, providing speakers and media sources, presenting conferences, publishing books and articles on cutting-edge immigration topics, and sharing best practices, all with the ultimate goal of offering value-added services to business immigration clients.*

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