

Preparing F-1 Students for Immigration and Employment Options *After* Graduation

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The Periodic Table of Statuses

Specialty Occupations

H1B

H1B1

E3

Treaty-Based

TN

E1

E2

Extraordinary Ability

O1

Non-Student Exchange Visitor

J

For more information on each status, see our handout!

The H-1B for Specialty Workers

- ◊ Most common option post-OPT, but increasingly limited application
- ◊ What's Required:
 1. Position must require at least a **Bachelor's Degree** in a **specific field** for **entry to the occupation**;
 2. Foreign national **must have** the required degree **at the time Petition submitted**;
 3. Employer must pay **at least** the **prevailing wage** based on required education, duties, and location; and
 4. Employer must **win the Lottery**
- ◊ **Capped** at 65,000 + 20,000 for those with U.S. Master's, each Fiscal Year
 - FY 2019: 190,098 Petitions received; roughly 45% chance of selection
 - Over half of this years' applicants (95,885) were eligible for U.S. Master's Cap: we're (highly) educating them & kicking them out
 - Institutions of higher ed, affiliated non-profits, and research institutions are **cap-exempt**. No deference to prior exemption determinations!
- ◊ Apply 6 months in advance: April 1
- ◊ **Duration:** 6 years. Can be extended for those stuck in green card backlogs.
- ◊ **Dual intent:** allows FN to pursue green card without restrictions on travel.
- ◊ Requires employer-employee relationship (makes entrepreneurship difficult-to-impossible) and can **only** work for the petitioning employer.

E-3 and H-1B1: The “Other” Specialty Workers

◻ Who qualifies?

- E-3: Australian citizens
- H-1B1: Chilean and Singaporean citizens
- Must have a university degree or its equivalent in a “specialty occupation” and sponsoring employer

◻ Benefits:

- Initial application may be filed with U.S. Consular Section overseas after approval of LCA
- E-3 spouses can obtain employment authorization
- E-3 & H-1B1 renewable “indefinitely”, but beware of nonimmigrant intent

◻ Pitfalls:

- 100% Nonimmigrant intent
- E-3 capped at 10,500 annually
- H-1B1 part of H-1B cap
- No employment for H-1B1 spouses
- No self-employment

TNs: The North American Free Trade Agreement “Visa”

◊ Who qualifies?

- A Canadian or Mexican citizen (even if secondary citizenship)
- Who seeks temporary entry as a business person
- To engage in business activities at a professional level
- In one of the professions set forth in Appendix 1603.D.1. to Annex 1603 of NAFTA

◊ **Different Procedures Depending on Citizenship:**

- Canadians may apply directly at the Border/Port of Entry; Mexicans must apply at the U.S. Consular Section
- Both may file a change of status/extension of stay in the U.S.

◊ **Benefits:**

- No caps
- No Labor Condition Application needed
- Available in 3 year increments and renewable indefinitely, but beware of 1 year visa reciprocity for Mexicans

◊ **Pitfalls:**

- 100% Nonimmigrant intent – gets tricky after lengthy period of time, and if goal is green card
- No self-employment
- Professions not flexible: beware Management Consultants, Scientific Technician/Technologist, Economist
- Derivative spouses not work authorized

Temporary Options for Entrepreneurs

◊ E-1 for Traders

- Must be a national of a **Treaty Country** – excludes BRIC
- Seek to establish an **import-export company**
- Need **substantial trade** between U.S. and treaty country
- Renewable indefinitely

◊ E-2 for Investors

- Must be a national of a **Treaty Country** – excludes BRIC
- Seek to **invest appropriate/substantial amount** in an enterprise AND
- Contribute as an **executive/manager OR one with specialized knowledge**
- Renewable indefinitely

◊ What Countries are Treaty Countries?

- <http://travel.state.gov/content/visas/en/fees/treaty.html>
- **Notably absent:** Brazil, Russia, India, China, Israel, South Africa, Venezuela, Vietnam

◊ *What about H-1Bs for Entrepreneurs?* Stay tuned to learn more about the Global Entrepreneur-In-Residence program that keeps this door open . . .

Os for Extraordinary Ability Aliens

◻ Who qualifies?

- Requires extraordinary ability in the sciences, arts, education, business, or athletics
- Must be recognized nationally or internationally for achievements, demonstrated by satisfying 3 of 8 criteria
- Requires a petitioning employer or U.S. agent (for traditionally self-employed fields or foreign employers)

◻ **Benefits:**

- No caps
- Only option for J Exchange Visitors subject to INA 212(e) home residence requirement
- Renewable indefinitely, but in 1 year increments

◻ **Pitfalls:**

- Not clearly dual intent – requires care when green card process is goal
- Generally not for recent grads

Non-student J-1 Exchange Visitors

◻ Who qualifies?

- Academics: Professor, Research Scholar, Short-Term Scholar
- Other Employees: Specialist

◻ **Benefits:**

- Generally easily processed through sponsoring institution
- Spouse eligible for employment authorization
- Some sponsors exploring “business accelerator/international innovation” programs for entrepreneurs

◻ **Pitfalls:**

- Never appropriate for tenure-track or otherwise permanent positions
- 100% nonimmigrant intent
- Beware of 12 and 24 month bars on repeat participation
- INA 212(e) 2 year home residence requirement!

Thank you
Gracias
谢谢
Merci
Grazie
고맙습니다
Danke
ありがとう



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Building University Startup Communities

The Problem

Universities work with many international students who are interested in pursuing entrepreneurial ventures but are blocked by the immigration system. The result is fewer successful alumni-founded companies, and the elimination of a pool of potential in-network internships and job opportunities for students.

The Solution

Global EIR partners with universities to create a fast, predictable, and repeatable visa pathway that promotes entrepreneurship and increases professional opportunities in the innovation economy for students and graduates!

The Global EIR program blends together a traditional entrepreneur in residence (EIR) structure to mentor students within university's centers for entrepreneurship structure with a visa pathway for global founders, based on the university cap-exempt work visa that universities have used for more than a decade for hiring international teaching faculty.

In exchange for the visa, founders support the university's entrepreneurial ecosystem through mentoring, internships, and enhancing the university's entrepreneurship offerings. Meanwhile, these founders build their businesses on a long-term visa framework that has several potential next-step visa or green card options—such as a startup visa, if one is ever created!

By eliminating the visa risk, founders can get back to the hard work of building a great business, and the universities supporting them benefit from their role as an innovation hub.

The Execution

Global EIR delivers reliable results for our founders.

Five states have operational programs on eight university campuses, and 38 founders have gotten visa approvals at a 100% approval rate. By the end of 2017, university programs' visa capacity is projected to achieve between 60 and 100 visa approvals.

Hundreds of international founders have applied for the visa spots currently available, and with the first Bay Area program launched, demand is expected to continue growing rapidly—as well as Global EIR's ability to meet that demand and continue to see visas granted within 50-70 days of an agreement between a founder and a Global EIR partner university.

With your support, it's time to eliminate the startup visa problem for early-stage founders.

Economic Development for Communities

Overview

Communities across the country are missing out on the startup boom, and Global EIR offers a turnkey solution. Global entrepreneurs looking to start firms in the United States tend to select high-yield areas like Silicon Valley and New York, and most post-industrial areas aren't often seen as a choice market for young tech startups.

Global EIR programs help bridge the gap between the international startup community and overlooked regions. Ours programs allow immigrant entrepreneurs to obtain visas through local universities, as no other pathway exists presently within current law. When these entrepreneurs join a program, they bring innovation opportunities—their companies, jobs, and economic development.

To date, our 45 participating founders have created 123 new jobs and raised over \$29.9 million in capital.

Community Benefits from Global EIR Programs

- Founders bring their businesses to the communities where their respective programs are based. The businesses bring jobs, capital, and innovation to the area.
- Tertiary industries like commercial and residential real estate, banking institutions, and PR and marketing firms are also bolstered by the arrival of founders of cutting-edge startups moving their businesses to a new region.
- Students and faculty on each campus receive real-world expertise from active, global entrepreneurs, and inspiration on how business and tech operate outside of a classroom environment. Professional development advice and opportunities are brought to the community.
- Schools with Global EIR programs are more likely to attract international students, who see the programs as potential pathways to starting their own businesses and staying in the United States.
- Global EIR program participants provide a vital link between an academic institution, a city, and the international startup community at large.