

## U.S. IMMIGRATION OVERVIEW

### Common Nonimmigrant Visas (or work authorized status, for Canadians, since they don't require visas in most instances)

#### **F-1 Students and Optional Practical Training:**

- Allows for Optional Practical Training following the completion of the degree coursework, or sometimes while the student is studying
- OPT is 12 months for everyone
- STEM graduates may apply for an additional 24 months
- Automatically terminates (along with EAD) if (1) transfer to another school, or (2) beginning educational study at another level
- Curricular Practical Training allows for work during the degree program (i.e., required internships, only if part of your major curriculum completed pre-graduation); - Cuts into OPT time. For undergraduate students in F-1 status, CPT is only available after they have been enrolled full time in a degree program for one full academic year. The one-year requirement does not apply to graduate students in F-1 status if their graduate program requires participation in CPT.

See <https://www.uscis.gov/working-in-the-united-states/students-and-exchange-visitors/students-and-employment> and <https://travel.state.gov/content/travel/en/us-visas/study/student-visa.html> for more information.

**J-1 Exchange Visitor Program:** Allows for brief period of temporary work in the U.S. for those who meet the criteria.

See <https://www.uscis.gov/working-in-the-united-states/students-and-exchange-visitors/exchange-visitors> for more information.

**H-1B Specialty Occupation:** This is for workers who are employed by a U.S. company, organization, academic institution, etc. who have a minimum of a U.S. bachelor's degree or the equivalent, and who are coming to the U.S. to work in a position requiring the specific degree (or the equivalent).

See <https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-dod-cooperative-research-and-development-project-workers-and-fashion> for more information.

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### **Free Trade Professionals:**

- **TN:** Available to Canadian and Mexican citizens only. New ruling trade pact is the U.S.-Mexico-Canada Agreement (USMCA). Can work for a sponsoring U.S. employer or client in the U.S. if qualified in one of 63 professions.
- **E-3:** Available only to Australian citizens
- **H-1B1** (Chilean and Singaporean citizens only covered under trade agreement)

**L-1A/L-1B Intracompany Transferee:** For workers who have been working full-time, continuously for a company outside the U.S. for at least one year in the three years immediately preceding their entry to the U.S., who will be working for a qualifying corporate organization in the U.S. (affiliate, branch, parent, subsidiary), as a manager, executive or specialized knowledge individual.

See L-1A (manager, executive) information at <https://www.uscis.gov/working-in-the-united-states/temporary-workers/l-1a-intracompany-transferee-executive-or-manager>, and L-1B (specialty occupation) information at <https://www.uscis.gov/working-in-the-united-states/temporary-workers/l-1b-intracompany-transferee-specialized-knowledge>.

**E-1/E-2 Treaty Trader/Treaty Investor:** The E visas are one of the only work authorization categories where even Canadians require visas. In most instances, the process is run entirely through the U.S. Department of State via the appropriate U.S. Embassy or Consulate in the applicant's home country. This is available to anyone who qualifies, but is a great option for entrepreneurs.

- **E-1:** Available to nationals of a treaty country (a country with which the United States maintains a treaty of commerce and navigation, or which the United States maintains a qualifying international agreement, or which has been deemed a qualifying country by legislation) to be admitted to the United States solely to engage in international trade on his or her own behalf, or on behalf of his or her company. Certain employees of such a person or of a qualifying organization may also be eligible for this classification.
  - See <https://www.uscis.gov/working-in-the-united-states/temporary-workers/e-1-treaty-traders>, <https://travel.state.gov/content/travel/en/us-visas/employment/treaty-trader-investor-visa-e.html>, or specific website of the U.S. Embassy/Consulate at which you plan to apply for detailed information and requirements.
- **E-2:** Available to nationals of a treaty country (a country with which the United States maintains a treaty of commerce and navigation, or with which the United States maintains a qualifying international agreement, or which has been deemed a qualifying country by legislation) to be admitted to the United States when investing a substantial



amount of capital in an active U.S. business. Certain employees of such a person or of a qualifying organization may also be eligible for this classification.

- See <https://www.uscis.gov/working-in-the-united-states/temporary-workers/e-2-treaty-investors>, <https://travel.state.gov/content/travel/en/us-visas/employment/treaty-trader-investor-visa-e.html>, or specific website of the U.S. Embassy/Consulate at which you plan to apply for detailed information and requirements.

**O-1 Extraordinary Ability:** For individuals who possesses extraordinary ability in the sciences, arts, education, business, or athletics, or who have a demonstrated record of extraordinary achievement in the motion picture or television industry and have been recognized nationally or internationally for those achievements.

See <https://www.uscis.gov/working-in-the-united-states/temporary-workers/o-1-visa-individuals-with-extraordinary-ability-or-achievement>.

## Immigrant Visas

See <https://travel.state.gov/content/travel/en/us-visas/immigrate/the-immigrant-visa-process/step-1-submit-a-petition.html> for information on either the employment-based track or the family-based track.

**Employment-Based Immigrant Visas:** Every fiscal year (October 1st – September 30th), approximately 140,000 employment-based immigrant visas are made available to qualified applicants under the provisions of U.S. immigration law. Employment based immigrant visas are divided into five preference categories. Certain spouses and children may accompany or follow-to-join employment-based immigrants. Some employment-based immigrant processes require labor certification—testing the U.S. market and proving that there is no able, willing and qualified U.S. worker for the job—and some do not.

See <https://travel.state.gov/content/travel/en/us-visas/immigrate/employment-based-immigrant-visas.html> for more information.

**Family-Based Immigrant Visas:** A foreign citizen seeking to live permanently in the United States requires an immigrant visa (IV). To be eligible to apply for an IV, a foreign citizen must be sponsored by a close family member who is at least 21 years of age and is either a U.S. citizen or U.S. Lawful Permanent Resident (that is, a green-card holder).

See <https://travel.state.gov/content/travel/en/us-visas/immigrate/family-immigration.html> for more information



**EB-5 Investment and Job Creation Immigrant Visas:** Available to individuals who invest a certain amount in a qualified U.S. enterprise/project, which creates a certain number of jobs for U.S. workers.

See <https://www.uscis.gov/working-in-the-united-states/permanent-workers/eb-5-immigrant-investor-program> for more information.

## Other Immigration Issues

**Inadmissibility/Waivers:** Various issues such as criminal convictions, misrepresentation or fraud when requesting admission to the U.S., and certain health-related circumstances can make you inadmissible to the U.S.—despite otherwise being eligible for a visa or permanent residence. You can read more about these issues and whether or not a waiver may be available at <https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/waivers.html>.

## Lippes Mathias Attorneys



Ms. Martin, a partner with Lippes Mathias and the firm's Immigration Practice Team Co-Leader, has nearly 30 years of experience in immigration law assisting clients from around the world with various matters including work permits, employment-based immigration, port-of-entry issues, visa issuance, family-based immigration, immigrant and nonimmigrant waivers, and assessment of U.S. citizenship.



Ms. Klarin has approximately 20 years of experience in immigration, including several years working with one of the world's leading immigration law firms. She assists clients with the full spectrum of U.S. immigration matters, including visas and immigrant permissions for extraordinary ability, specialty occupation, intracompany transferee athletic, business visitor and USMCA-eligible individuals, and as well as family and employment-based permanent residence.

Both Ms. Martin and Ms. Klarin represent clients from around the globe across virtually every industry, as well as individuals seeking strategic immigration options and solutions. They work closely with cross-border Canadian and international clients to help them obtain work authorization and address visa, border, preclearance and other entry issues, and facilitate both frequent and infrequent movement to and from the U.S. for business or pleasure.

*Please feel free to reach out to U.S. immigration lawyers Eileen Martin ([emartin@lippes.com](mailto:emartin@lippes.com)) or Elizabeth M. Klarin ([eklarin@lippes.com](mailto:eklarin@lippes.com)) with specific questions or for additional support.*