

# Graduate and Post-doc Visas: Immigration Options in STEM Fields

Dan Berger, partner, Curran, Berger & Kludt  
Robin Catmur-Smith, director of immigration services, Office of Global Engagement  
Shelley Hooks, associate vice president, Office of Research

*March 1, 2022*

Research **Live**



# Immigration Services – Office of Global Engagement

- Mission: Provide visa sponsorships to all international students, scholars, and faculty at UGA; Advise on immigration regulations and benefits; Assist UGA departments with recruiting and hiring from around the world; process permanent resident petitions for eligible employees.
- Staff of 6 full-time advisors, 1 data manager, 1 graduate assistant, and the Director
- In a “normal” year – we serve about 3,400 internationals per year.
- We offer advice and support for up to three years after an international student graduates from UGA
- More info at <https://globalengagement.uga.edu/immigration>



# Lots of ideas, but no action in Congress

WSJ

News, Quotes, Companies, Videos

SEARCH

THE WALL STREET JOURNAL.

U.S. EDITION ▾ Thursday, November 22, 2012 As of 6:37 PM EST

Subscribe | Log In

Home ▾ World ▾ U.S. ▾ New York ▾ Business ▾ Tech ▾ Markets ▾ Market Data ▾ Opinion ▾ Life & Culture ▾ Real Estate ▾ Careers ▾

Digits | Personal Technology | What They Know | All Things Digital | CIO Journal

TOP STORIES IN WSJ

1 of 12



Russia Meteor Was Largest in a Century

2 of 12



China Lashes Back at Hacking Claims

3 of 12



Simpson, Bowles to Offer Deficit Fix



Christensen, Flier and Vijayaraghavan: The Coming Failure of 'Accountable Care'

TECHNOLOGY | November 22, 2012, 6:37 p.m. ET

## Startup Visas Get New Push

Senate Bill Would Help Foreign-Born Entrepreneurs Stay, but It Faces Hurdles

Article

Stock Quotes

Comments (13)

MORE IN TECH ▸

Email Print Save

f

A

A

By VAUHINI VARA



Most Popular

Read Emailed Video Commented

1. Russia Meteor Was Largest in a Century

2. China Lashes Back at Hacking Claims

3. Simpson, Bowles to Offer Deficit Fix

4. Opinion: Christensen, Flier and Vijayaraghavan: The Coming Failure of 'Accountable Care'

5. Opinion: Amity Shlaes: The Coolidge Lesson on Taxes and Spending

Available to WSJ.com Subscribers

# USCIS did as much as it could it in 2016

A banner for 'Entrepreneur Pathways' featuring a man working on a laptop. The background is filled with colorful, hand-drawn business terms and diagrams, including 'SOCIAL NETWORK', 'CONTENT SHARING', 'VIDEO', 'MARKETING', 'STRATEGY', 'SUCCESS', 'VISION', 'INNOVATION', '150%', 'FIREWALL', 'CLIENT', 'GROWTH', 'BUSINESS', 'CHAT', 'PICTURE', 'USERS', and 'EARTH'.

## Entrepreneur Pathways

A Resource for Immigrant Entrepreneurs

GETTING STARTED	VISA GUIDE	OUTREACH
 <p>Find out what you need to know about the immigration process</p>	 <p>Learn about possible immigration pathways to start your business in the United States.</p>	 <p>Engage with USCIS on issues related to entrepreneurs</p>

<http://www.uscis.gov/portal/site/uscis/eir>

# Hoping for more in 2022....

Curran, B xCost of F xVisa Opti xInbox (3) xLawLogix xI94 - Offi xLegal Dire xUnited St xAfghanist xSchedule xUnleashin x


https://www.brookings.edu/research/unleashing-international-entrepreneurs-to-help-the-u-s-economy-recover-from-the-pandemic/Update

AppsUnleashing intern...Greenfield and No...American Immigra...Home - Legal Res...American Immigra...Treaty CountriesAMAbout The Advise...AILA -Reading List

BROOKINGS

CLIMATEAICITIES & REGIONSGLOBAL DEVINTL AFFAIRS U.S. ECONOMY U.S. POLITICS & GOVT MORE

SERIES:Reimagining Modern-day Markets and Regulations



REPORT

**Unleashing international entrepreneurs to help the U.S. economy recover from the pandemic**

Dan Berger, Steve Yale-Loehr, Doug Rand, Leon Rodriguez, Lindsay Milliken, Kelli Duehning, Megan Kludt, Jeff Goldman, and Michael Serotte · Thursday, May 20, 2021

f

t


in

🖨

✉

⋮

*Editor's Note: The co-authors represent a range of attorneys and social scientists who*

Privacy - Terms

Global Talent Fell....pdf

STANCLIFFE, Syl....pdf

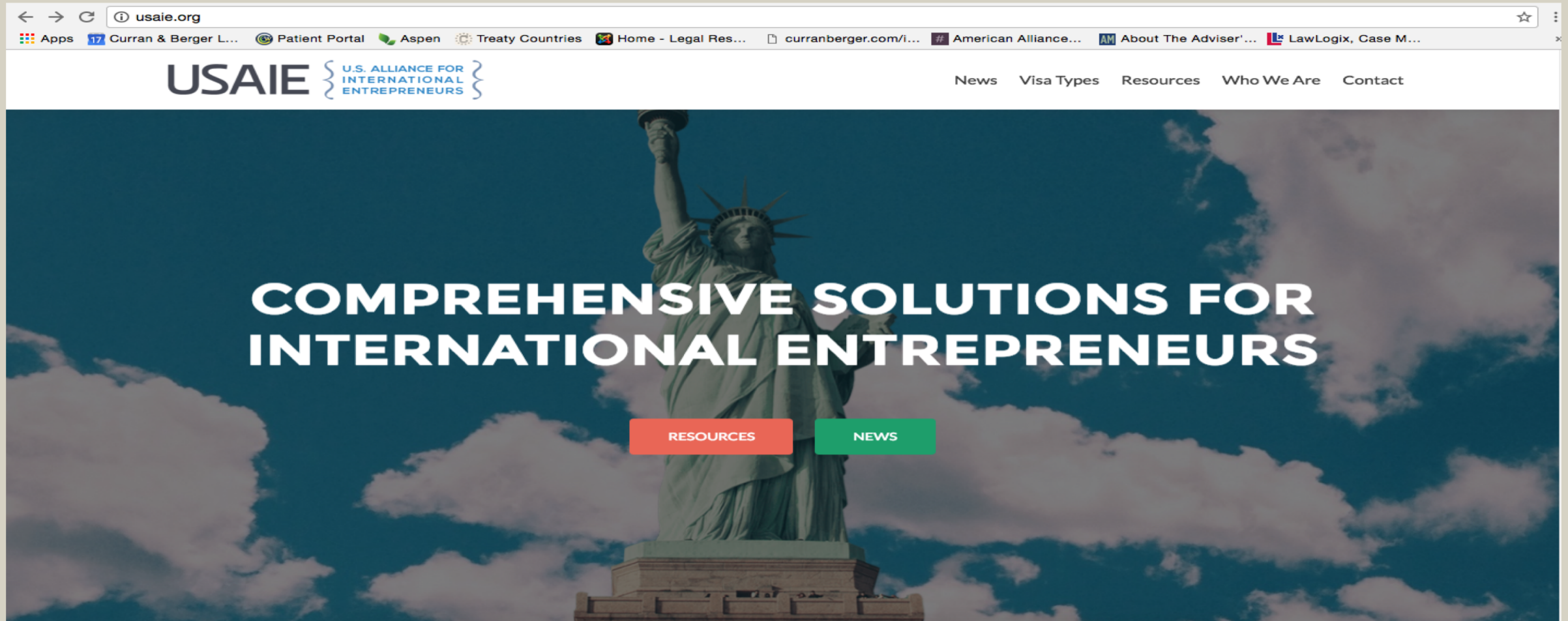
STANCLIFFE, Syl....pdf

All About Parole.....pdf

fulltext\_stamped.pdf

Show All

For entrepreneur-specific news and information



## **“If You Want Something New, You Have to Stop Doing Something Old”\* – Innovative Visa Options for Immigrant Entrepreneurs**

**By Dan Berger, Rita Georges, Michael Serotte, and Stephen Yale-Loehr**

### **Introduction**

The United States lacks a specific visa category for international entrepreneurs. Thus, such individuals must work within the existing visa framework. No one option is ideal for all international entrepreneurs, so each person's situation must be carefully analyzed to determine which option may work best. This article summarizes eight nonimmigrant visa categories and how they might apply to international entrepreneurs.

As background, U.S. immigration laws bar foreign nationals from engaging in activities inconsistent with the purpose of their visa. In this sense, even passive investments and volunteer work can be problematic if they become a central part of a foreign national's life in the United States. Each visa is issued for a particular purpose, and visa holders are expected to spend the majority of their time engaged in the activities for which the visa was issued. Even individuals who hold visas that grant specific work authorization should avoid activities outside the scope of employment authorized under their visa category.

any kind of remuneration for service can result in a violation of visa status if done without work authorization. The definition of employment for immigration purposes is at 8 C.F.R. § 274a.1(h). Subsection (12) lists the classes of visas that provide work authorization.

*Volunteer work:* Work authorization is not required for volunteer work. However, state labor and worker's compensation laws generally do not allow someone to “volunteer” in a position that is usually paid. The federal government is concerned about unauthorized foreign workers taking jobs away from U.S. workers. Just because an employer is willing to allow a foreign national to volunteer does not mean that the activity has no risk for that individual's visa status.

*Self-employment:* The Board of Immigration Appeals (BIA) has held that “employment” includes self-employment. Thus, running a business violates a foreign national's status, absent work authorization. See *Matter of Tong*, 16 I. & N. Dec. 593 (BIA 1978), in which a student was running his own used car

# Treaty Countries

Albania	E-2	Croatia <sup>11</sup>	E-2
Argentina	E-1	Czech Republic <sup>2</sup>	E-2
Argentina	E-2	Denmark <sup>3</sup>	E-1
Armenia	E-2	Denmark	E-2
Australia	E-1	Ecuador	E-2
Australia	E-2	Egypt	E-2
Austria	E-1	Estonia	E-1
Austria	E-2	Estonia	E-2
Azerbaijan	E-2	Ethiopia	E-1
Bahrain	E-2	Ethiopia	E-2
Bangladesh	E-2	Finland	E-1
Belgium	E-1	Finland	E-2
Belgium	E-2	France <sup>4</sup>	E-1
Bolivia	E-1	France <sup>4</sup>	E-2
Bolivia	E-2	Georgia	E-2
Bosnia and Herzegovina <sup>11</sup>	E-1	Germany	E-1
Bosnia and Herzegovina <sup>11</sup>	E-2	Germany	E-2
Brunei	E-1	Greece	E-1
Bulgaria	E-2	Grenada	E-2
Cameroon	E-2	Honduras	E-1
Canada	E-1	Honduras	E-2
Canada	E-2	Iran	E-1
Chile	E-1	Iran	E-2
Chile	E-2	Ireland	E-1
China (Taiwan) <sup>1</sup>	E-1	Ireland	E-2
China (Taiwan) <sup>1</sup>	E-2	Israel	E-1
Colombia	E-1	Italy	E-1
Colombia	E-2	Italy	E-2
Congo (Brazzaville)	E-2	Jamaica	E-2
Congo (Kinshasa)	E-2	Japan <sup>5</sup>	E-1
Costa Rica	E-1	Japan <sup>5</sup>	E-2
Costa Rica	E-2	Jordan	E-1
Croatia <sup>11</sup>	E-1	Jordan	E-2

Kazakhstan	E-2
Korea (South)	E-1
Korea (South)	E-2
Kosovo <sup>11</sup>	E-1
Kosovo <sup>11</sup>	E-2
Kyrgyzstan	E-2
Latvia	E-1
Latvia	E-2
Liberia	E-1
Liberia	E-2
Lithuania	E-2
Luxembourg	E-1
Luxembourg	E-2
Macedonia, the Former Yugoslav Republic of (FRY)	E-1
Macedonia, the Former Yugoslav Republic of (FRY)	E-2
Mexico	E-1
Mexico	E-2
Moldova	E-2
Mongolia	E-2
Montenegro <sup>11</sup>	E-1
Montenegro <sup>11</sup>	E-2
Morocco	E-2
Netherlands <sup>6</sup>	E-1
Netherlands <sup>6</sup>	E-2
Norway <sup>7</sup>	E-1
Norway <sup>7</sup>	E-2
Oman	E-1
Oman	E-2
Pakistan	E-1
Pakistan	E-2
Panama	E-2

Paraguay	E-1
Paraguay	E-2
Philippines	E-1
Philippines	E-2
Poland	E-1
Poland	E-2
Romania	E-2
Serbia <sup>11</sup>	E-1
Serbia <sup>11</sup>	E-2
Senegal	E-2
Singapore	E-1
Singapore	E-2
Slovak Republic <sup>2</sup>	E-2
Slovenia <sup>11</sup>	E-1
Slovenia <sup>11</sup>	E-2
Spain <sup>8</sup>	E-1
Spain <sup>8</sup>	E-2
Sri Lanka	E-2
Suriname <sup>9</sup>	E-1
Suriname <sup>9</sup>	E-2
Sweden	E-1
Sweden	E-2
Switzerland	E-1
Switzerland	E-2
Thailand	E-1
Thailand	E-2
Togo	E-1
Togo	E-2
Trinidad & Tobago	E-2
Tunisia	E-2
Turkey	E-1
Turkey	E-2
Ukraine	E-2

United Kingdom <sup>10</sup>	E-1
United Kingdom <sup>10</sup>	E-2
Yugoslavia <sup>11</sup>	E-1
Yugoslavia <sup>11</sup>	E-2

- If the principal employer is not an individual, it must be an enterprise or organization at least 50% owned by persons who have the nationality of a treaty country





# The Internet: A tool for you, and for USCIS



- Google
- LinkedIn
- Facebook
- Online articles

**Make sure your web presence only has authorized work!**

# Biden-Harris Administration Actions to Attract STEM Talent and Strengthen our Economy and Competitiveness

JANUARY 21, 2022 STATEMENTS AND RELEASES

The Biden-Harris Administration believes that one of America's greatest strengths is our ability to attract global talent to strengthen our economy and technological competitiveness, and benefit working people and communities all across the country.

*Research* **Live**



UNIVERSITY OF  
**GEORGIA**

## Five Initiatives that does not require rulemaking or Congress

1. **Expanded STEM OPT** - by adding 22 qualifying fields of study including Cloud Computing, Climate Science, Mathematical Economics, Business Analytics, Data Visualization, Financial Analytics
1. **Updating O-1A visa criteria** - comparable evidence, compensation
1. **Updating National Interest Waiver criteria** - critical fields list

**Early Career STEM Research Initiative** - use J-1 for work at private company

**Expanding J-1 Academic Training** after bachelors or masters degree

*Research* **Live**



UNIVERSITY OF  
**GEORGIA**

## Case study #1

Postdoc is in second year of five years as a J-1 research scholar at university and gets offer for dream job in industry. Previously would try H-1B lottery, squeeze into subjective O-1 if employer will wait, or try self-petition green card. Now , maybe able to use remaining J-1 time.

*Research* **Live**



UNIVERSITY OF  
**GEORGIA**

## Case study #2

Company wants to sponsor employee for green card, but company does not yet have regular income to pay market rate salaries. Or realizes delays at Department of Labor for regular green card. Can try National Interest Waiver now if related to critical field list.

*Research* **Live**



UNIVERSITY OF  
**GEORGIA**