

Founder Fundamentals

Immigration Considerations for Startups: Visa Options for Entrepreneurs and Investors in Emerging Companies

By Ali Brodie

Immigrant entrepreneurs, immigrant investors and immigrant-founded companies have always been at the core of the American economy — contributing intellectual property and innovation leading to significant socioeconomic advancements within the United States. The below chart provides an overview of the nonimmigrant and immigrant visa options available to immigrant investors, entrepreneurs and foreign companies looking to enter the U.S. marketplace.

The business immigration attorneys at Fox Rothschild are happy to offer an immigration strategy consultation regarding the various nonimmigrant and immigrant visas available to startups, entrepreneurs and investors; often, the visa applicant may be eligible for more than one of the categories below and it is important to strategize the best solution. We offer creative fee structures including both flat fee and hourly.

Nonimmigrant Visa Options

Visa Type	General Description of Visa
B-1: Business Visitor	The B-1 visa is for temporary business visitors. The visa itself does not provide work authorization, however it does allow the foreigner to engage in limited business activities.
E-2: Treaty Investor	The E-2 visa is for foreign entrepreneurs who make a substantial investment in a new U.S. business or acquire an existing business. The visa category allows for self-petitioning by the investor and can be renewed indefinitely based on the viability of the business. The visa is only available to nationals of countries that have entered into treaties with the United States (notably excluding the BRIC countries). The E-2 visa was made available to citizens from Israel and New Zealand in 2019.
H-1B	The H-1B visa is for employment in a specialty occupation (generally an occupation requiring the attainment of at least a bachelor's degree or its equivalent). This visa requires employer sponsorship and the petition must illustrate the employer/employee relationship exists where the employer can demonstrate control over the employee.
L-1A: Intracompany Transferee	The L-1A visa category is reserved for intra-company managerial transferees where a foreign national has worked for the company abroad and is being transferred to the United States to either start a new office or work for the U.S. subsidiary/affiliate. This visa category is ideal for foreign companies looking to open a new office in the United States.
O-1: Extraordinary Ability/ Achievement	The O-1 visa is a unique category for those who can demonstrate extraordinary ability or achievement in the sciences, arts, education, business, athletics, film or television. This visa may be a suitable option for entrepreneurs in high-tech businesses who invent a new technology and receive significant recognition.

Immigrant Visa Options

Visa Type	General Description of Visa
EB-1A: Extraordinary Ability	The EB-1A category is for immigrants who can demonstrate extraordinary ability in the sciences, arts, education, business or athletics through documented national or international acclaim. This category allows for self-petitioning.
EB-1C: Manager or Executive Transferee	The EB-1C category is for immigrant manager or executive transferees. This allows an established, small or startup company overseas to expand its business operations in the United States. Most EB-1C petitions are filed for managers and executives who meet the L-1A nonimmigrant standards and are now interested in becoming lawful permanent residents; although having L-1A status is not a prerequisite for an EB-1C.
EB-2: National Interest Waiver	The EB-2 category is for immigrants who are a member of a profession holding an advanced degree or have exceptional ability. Though most filings in the EB-2 category require employer sponsorship, there is an exception for immigrants seeking a national interest waiver. In these cases, the individual may self-petition and request a waiver of the Labor Certification requirement due to the job being in the national interest of the United States. These are typically favored for foreigners of exceptional ability in the arts/sciences/business, and whose employment would benefit the United States.
EB-5: Immigrant Investor	The EB-5 category is for immigrant investors who invest \$900,000 or \$1.8 million in a Regional Center or their own business, and create 10 jobs per investor. This is an excellent option for foreigners who want to obtain a green card and focus on their entrepreneurial pursuits.



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