Visa Roadmap
How to embark on navigating the Visa process
Change is constant and it’s never too early to start planning ahead to ensure you can successfully navigate the Visa process. Whether you have a great idea for a start-up business, receive a job offer in Silicon Valley, or want to extend your stay in the United States, it’s critical to evaluate your status and identify available options. Since this process can be time consuming and most students need to work with an immigration attorney, we have developed the following information to help you plan accordingly.

**F-1**

**Are you on an F-1?**

**Yes**

In F-1 status, you can form a company, be an owner (including majority shareholder), and a member of the board. You can also talk to potential investors, meet with a tax advisor and corporate attorney, do market research, develop a business plan, look for office space, etc.

You may invest passively in the United States without work authorization.

Visa holders may manage their own investments and may even purchase a running business, as long as they do not provide any labor or services and are not actively running the business and as long as these activities do not interfere with the primary purpose of your F-1 status. In F1 status, the regulations are very complicated in regards to entrepreneurship and forming a company. Best practices recommended are to have work authorization.

Note: You must have an employer for Curricular Practical Training (CPT). You cannot be self-employed under CPT.

**Are you on (STEM) OPT?**

**Yes**

**Are you in the first 12 months of OPT?**

**Yes**

You can open a business directly related to your major, work on developing it, and receive revenue.

You can also explore options for other types of working or investment visas, and use the OPT time to set up the other visa as the company grows (see H-1B, E-2, O-1 below).

Consider establishing a corporate structure that allows you to continue your start-up through the additional 24 months of OPT for STEM majors and/or for future H-1B status should you choose that route, such as independent board members with voting rights to fire you; employment contract; intellectual property (IP) assignment (connect to H-1B/TN/O-1 routes).

Starting a business in the United States based upon a new technology, and the demonstrated ability to create jobs in the United States, may meet two criteria for O-1s. During the OPT timeframe, an F-1 entrepreneur can write articles that are published, give speeches, present at conferences, and be a judge of the work of others. All these encompass criteria needed to meet the extraordinary ability test for an O-1 (connect to O-1 route).

**Are you in the additional 24 months available under the new STEM OPT rules?**

**Yes**

Entrepreneurial work can only continue if you have a written training program and a bona fide employer/employee relationship. You must be an employee of the company. Work under STEM OPT must be directly related to your STEM field.

**J-1**

**Are you on a J?**

**Yes**

Even if you are subject to the 2-year home-residency requirement, the O-1 or E visa (E-1 or E-2) could be a possibility.

You may invest passively in the United States without work authorization. Visa holders may manage their own investments and may even purchase a running business, as long as they do not provide any labor or services and are not actively running the business as long as these activities do not interfere with the primary purpose of your J-1 stay.

**Are you the spouse of a J-1 visa holder?**

**Yes**

You may apply for work authorization in J-2 dependent status and start your own business.

**Are you interested in learning about established U.S. companies in your field of interest before opening your business?**

**Yes**

A J-1 visa may be useful as a way to gain experience and incubate and exchange ideas at an established U.S. company as part of a program of practical learning.
**H-1B (H-1B ROUTE) SPECIALTY OCCUPATION**

**is there a legitimate employer-employee relationship?**

NO  
YES

[see also TN and O-1]

**is your position a “specialty occupation” with a salary that meets DOL standards?**

YES

**are cap subject H-1Bs available?**

NO  
YES

Consider having your company petition for an H-1B.

Consider the other routes described here.

Entrepreneurs have obtained a “cap-exempt” H-1B through a university or research institution and then, based on USCIS guidance, have obtained a concurrent cap-subject H-1B to also work for an entrepreneurial venture. The concurrent H-1B must be for employment in furtherance of the cap-exempt employment. For example, a student working at a university as a post-doctorate research graduate in big data may obtain a concurrent cap-subject H-1B with a company working on big data or a related field.

**L-1 (L-1 ROUTE) INTRACOMPANY TRANSFEREE**

can the business you plan to open be a subsidiary/affiliate, joint venture, or branch office of a foreign company? For example, did you work for a family business, or for a business you continue to have close relationship with the owner?

YES  

did you have an executive, managerial or specialized knowledge position for that foreign company for one year out of the last three years?

YES  

An L-1 intracompany transferee visa might be right for you.

**TN (TN ROUTE) TN NAFTA PROFESSIONALS**

**are you a national of Canada or Mexico?**

YES

**do you own a company in your country of nationality?**

NO  
YES

If feasible, consider forming a foreign corporation to enter into contract services with the U.S. startup.

If not feasible, consider addressing the prohibition against self-employment with the following:

- A formal board of directors, where the applicant has only one of at least three board seats (the more board seats overall the better)
- An executed employment agreement where a majority of the board can fire the TN applicant
- An intellectual property assignment agreement is in place

A TN visa might be right for you.

Consider the E-2 route.

**F-1**

**J-1**

**H-1B**

**L-1**

**TN**

**B-1**

**O-1**

**E-1**

**E-2**
**B-1 (B-1 ROUTE) BUSINESS VISITOR**

are you seeking temporary entry (less than 6 months) to the U.S. to engage in entrepreneurial activities?

**YES**

A B-1 visa may be right for you.

You can engage in startup activities, such as forming a company, owning stock, being a member of the board of directors, attending board meetings, conducting market research, negotiating for funding with angel investors and venture capitalists, negotiating contracts, establishing office space, attending networking activities, and discussing ideas for new business products and services, as well as elect officers.

**NO**

do you have an established foreign company as well as a U.S. startup, and are waiting for approval of an H-1B visa?

**YES**

A "B-1 in lieu of H-1" option may be right for you for temporary entry.

**NO**

**0-1 (0-1 ROUTE) O-1A EXTRAORDINARY ABILITY AND ACHIEVEMENT**

do you have significant academic credentials and recognized experience/achievements in your field?

**NO**

**YES**

Consider the other routes described here.

**NO**

**YES**

Consider the other routes described here.

**NO**

The O-1 visa might be right for you.

Consider the other routes described here.
**E-1 ROUTE IMMIGRANT VISAS**

**are you from a treaty country?**

- **NO**
  - does your family or a close friend who are also citizens of your home country control a business?
    - **YES**
      - does that business generate sales from US customers, or sells products or services to US customers?
        - **YES**
          - Are you the spouse of an E-1 applicant? You may apply for E-1.
        - **NO**
          - Consider the E-1 route.

  - Are you the spouse of an E-1 applicant? You may apply for E-1.

**E-2 ROUTE TREATY INVESTOR**

**are you from a treaty country?**

- **YES**
  - do you have “at-risk” funds?
    - **NO**
      - can you make a substantial investment?
        - **NOT SURE**
          - is it a real business that you control?
            - **NOT SURE**
              - Consider borrowing or receiving a gift of the investment amount from a family member (this would qualify as “at-risk”).
        - **YES**
          - Substantiality can be met by demonstrating that: (i) the amount invested is substantial in proportion to the total value of the enterprise for similarly established enterprises; or (ii) the amount invested is the normal amount necessary to establish a viable enterprise for new businesses.
    - **YES**
      - can you make a substantial investment?
        - **NO**
          - is it a real business that you control?
            - **NO**
              - Are you the spouse of an E-2 applicant?
                - **YES**
                  - You may apply for work authorization under E-2 derivative status and start your own business.
                - **NO**
                  - Consider the E-1 route.
WHERE TO GO FOR ADDITIONAL SUPPORT

This content was developed in collaboration between the Stanford GSB Career Management Center, Bechtel International Center and Immigration Attorneys.

Should you have any additional questions, contact the following resources:

**Bechtel International Center (F-1 & J-1 Visa Information)**
Information on F-1/J-1 Student Visas, email: internationalstudents@stanford.edu
Information on J-1 Scholar, email: internationalscholars@stanford.edu

**Stanford GSB Career Management Center (CMC)**
Laleh Rongere: lrongere@stanford.edu

**U.S. Alliance for International Entrepreneurs (USAIE)**
A network of professionals helping foreign national students and entrepreneurs grow their companies in the United States.
usaie.org

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