

# United States visa options for the Slovak entrepreneur, business or start-up

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There is a reason why the United States is known as the Land of Opportunity — it enjoys one of the most robust economies in the world and is a nation that rewards those that embrace opportunity with intellect, effort, and an entrepreneurial “can do” spirit. The United States owes much of its success to the stories of immigrants from all over the globe. Few countries offer as many opportunities for the immigrant entrepreneur as the United States’ culturally diverse and welcoming environment.

Although the United States has been and continues to be a destination for those migrating from their countries of birth to find new opportunities, the rules for entering — either as an immigrant or non-immigrant — are complex and increasingly more difficult to navigate. The United States is comprised of 50 states, but immigration is regulated by the federal government. There is one set of immigration laws in the entire United States, which is found in the Immigration and Nationality Act.

A foreign national coming to the U.S. is required to sort through the myriad of visa options for admission as a non-immigrant or the requirements of familial, employment, investor,

or humanitarian admission as an immigrant. Multiple federal government agencies must be encountered: the U.S. Department of Homeland Security, including Citizenship and Immigration Services, Customs and Border Protection, and the Transportation Security Administration; U.S. Department of State, including U.S. Embassies and Consulates abroad; and, often times in the employment context, the U.S. Department of Labor. This article will discuss the non-immigrant options available to the entrepreneur seeking to come to our country.

## Nonimmigrant versus Immigrant

A non-immigrant is a person who is not a citizen of the United States who legally enters the country and is allowed to stay for a specific reason and duration. Some examples of non-immigrants are visitors for business and for pleasure, temporary workers, certain investors, students, and exchange visitors. In contrast, an immigrant is a person that comes to our country to live indefinitely. From an entrepreneur perspective, a nonimmigrant classification may allow a foreign entrepreneur to explore or start a new business in the U.S., or work for an established U.S. employer.

## Nonimmigrant Visa Classifications

**B-1 Visitor Visa and the Visa Waiver Program (VWP).** The B-1 visa classification is available to foreign nationals coming to the United States as business visitors to secure funding or office space, negotiate a contract, or attend certain business meetings in connection with opening a new business here. The VWP allows citizens of specific countries to travel to the U.S. for tourism, business, or while in transit for up to 90 days without having to obtain a visitor visa.

**L Visa: Intracompany Transferee.** The L visa permits companies operating both in the U.S. and abroad to transfer certain classes of employees from their

foreign operations to their U.S. offices for a defined period of time. This visa is frequently used for individuals opening a U.S. branch of a foreign company or to enable a U.S. employer to transfer an executive or manager from a foreign affiliated office to one of its U.S. offices.

**H-1B Visa: Person in Specialty Occupation.** This is a non-immigrant visa for employees who wish to work for a U.S. employer in a specialty occupation. Generally, a specialty occupation is defined as a position that requires a higher educational degree (at least a bachelor’s degree) or its equivalent for entry to the field. An approved petition filed by the U.S. employer is a prerequisite to visa issuance. Federal immigration authorities typically look for a high salary as proof of the value of the position.

**E Visa – Treaty Trader (E-1) and Treaty Investor (E-2).** Treaty Trader (E-1) and Treaty Investor (E-2) visas are for citizens of countries with which the United States maintains treaties of commerce and navigation. Trade means the international exchange of goods, services, and technology. Examples of types of enterprises that constitute trade under E visa provisions are international banking, insurance, transportation, tourism, and communications.

To be eligible for a Treaty Trader (E-1), a person must engage in substantial trade, including trade in services or technology, in qualifying activities, principally between the U.S. and the treaty country.

A Treaty Investor (E-2) will develop and direct the operations of an enterprise in which person has invested a substantial amount of capital. The investment must be a real operating enterprise and an active commercial or entrepreneurial undertaking. The individual must be in control of the funds, and the investment must be at risk in the commercial sense. He or she must be coming to the United States to develop and direct the enterprise.

## The Visa Process

In order to obtain a visa, you will first need a U.S. citizen or employer to sponsor your petition, which is filed with the U.S. Citizenship and Immigration Services (USCIS). Generally, any visa process for entrepreneur/individual located outside of the U.S. starts with application to the local U.S. Embassy/Consulate and the payment of processing fees. Note that two types of visa applicants E-1 Treaty Trader/E-2 Treaty Investor— can petition for themselves. Therefore, E-1/E-2 applicants do not require the involvement of an U.S. employer to file a petition.

Once your application is submitted and the fees are paid, you will then need to interview at your local U.S. Embassy/Consulate. You must bring all of the original documents of your application, as well as your passport and medical examination results. Following your interview, the Embassy/Consulate will inform you of its decision.