

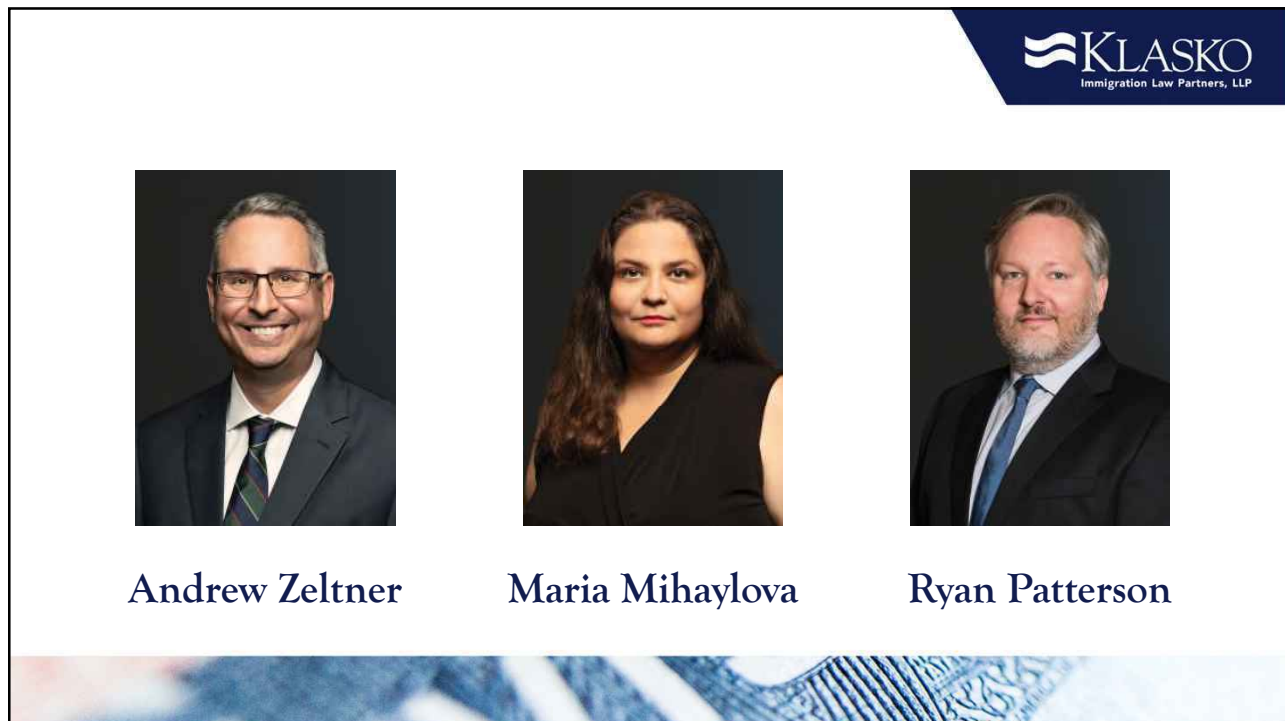
KLASKO
Immigration Law Partners, LLP

Immigration for Startups: *H-1B Lottery/Latest Updates & Visa Alternatives*




Andrew Zeltner • Maria Mihaylova • Ryan Patterson

February 8, 2024

1



KLASKO
Immigration Law Partners, LLP



Andrew Zeltner

Maria Mihaylova

Ryan Patterson

2

Agenda

- Lottery and Quota
- Process
- New rule
- Issues for Startups

3

POLL

Check all that apply. Are you:

- a startup founder?
- a startup employee?
- F-1 student?
- employed by a Venture Capital company?
- a recruiter?

4

POLL

Do you employ any students in F-1 status?

- Yes
- No

5

H-1B Lottery / Quota

- What is it, and what does it mean?
 - 65,000 visas
- Separate quota for US-educated advanced degree holders
 - 20,000 visas
- No data on approval/denials yet for FY2024
 - 758,994 registrations (+60% from 2023)
 - March – 110,791 selected
 - July – 77,609 selected

6

Lottery Process

- Pre-registration process
 - Electronic submission
 - \$10 fee for each beneficiary
 - Increase to \$215 next year
 - March 2024
- Post-registration process
 - Notification of selection through account
 - Notification in early April
 - File petitions only for selected beneficiaries
 - 90-day filing window if selected

7

New Rule to Modernize H-1B Program

- Updated lottery selection process
 - Beneficiary-centric (multiple submissions not considered)
 - Likelihood of implementation this year?
 - Impact/Greater chance of selection
- Updating the definition of specialty occupation
- Eliminating itineraries
- Deference to prior USCIS approvals
- Cap-Gap expansion
- Owner/founder H-1B eligibility

8

Issues for Startups

- Must establish company with employer tax I.D. number
- Company can be 100% owned by H-1B employee
 - Must be W-2 employee
 - Company separate entity from owner/employee
 - Independent Board of Directors or other mechanism

9

Issues for Startups

(cont'd)

- Importance of business plan/financial projections
- Profitability/ability to pay
- Real job to be done by H-1B
- Other employees helpful – not required

10

Issues for Startups

(cont'd)

- Prevailing Wage
- Remote work considerations/home address
 - HQ needed?

11

What You Need to Do Now

- Register company's account
- Registration with Department of Labor for LCA
- Preparing for issues before registration
 - Occupational classification
 - Prevailing Wage
 - Status maintenance until October 1
 - New rule – April 1

12

H-1B Alternatives

- Continue F-1 work authorization (CPT, OPT, STEM-OPT)
- H-3 training
- J-1 research scholar
- Employment abroad and L-1 eligibility

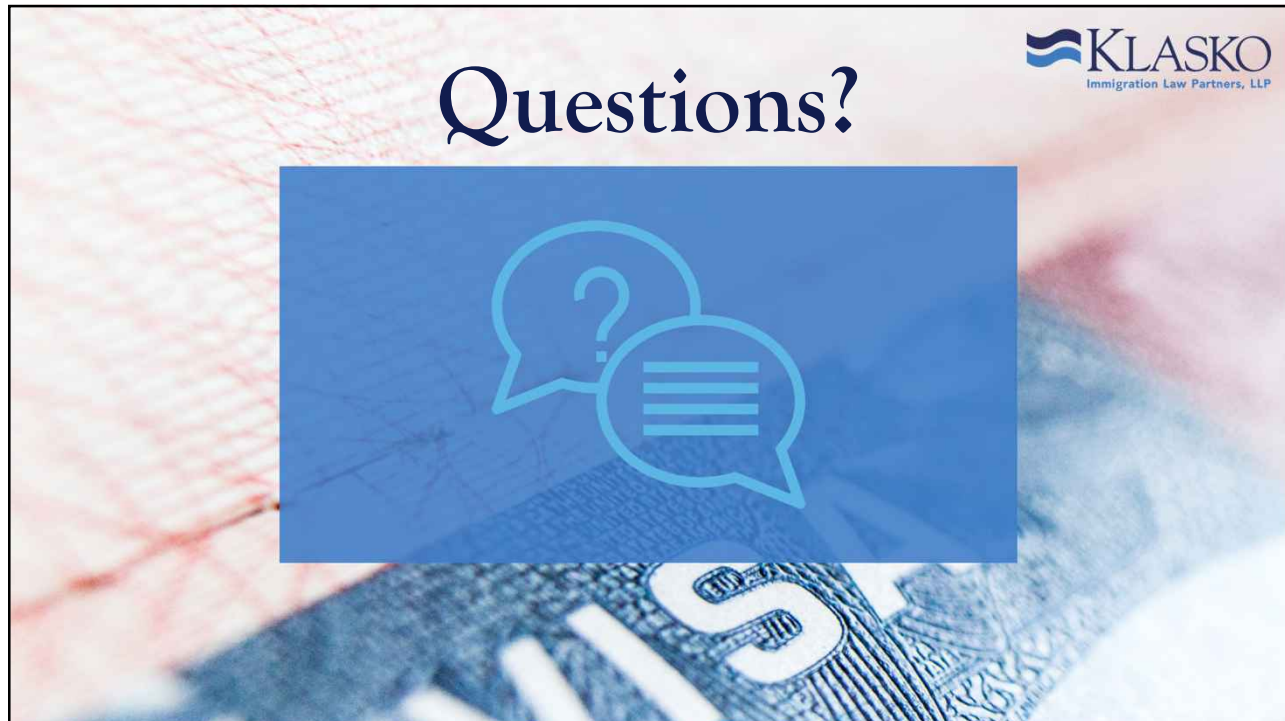
13

H-1B Alternatives

(cont'd)

- E-2 Treaty Investor
- Consider spousal status
- O-1 or EB-1 / NIW
- Labor certification / direct to green card
- Concurrent H-1B employment
- Entrepreneur in Residence (EIR)

14



Questions?

KLASKO
Immigration Law Partners, LLP

15



For Further Information

KLASKO
Immigration Law Partners, LLP



Andrew Zeltner
azeltner@klaskolaw.com




Maria Mihaylova
mmihaylova@klaskolaw.com



Ryan Patterson
rpatterson@klaskolaw.com

17



KLASKO
Immigration Law Partners, LLP


SCHEDULE A CONSULTATION:

KLASKOLAW.COM/CONSULT

REQUEST: Drew, Maria, or Ryan

18

Follow us on social media:



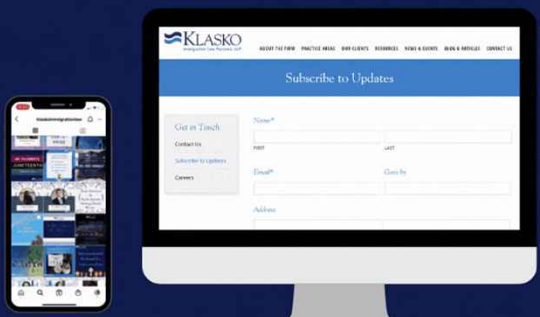
in Klasko Immigration Law Partners, LLP

Instagram **f** @klaskoimmigrationlaw

Twitter @klaskolaw

Sign up for emails:

KlaskoLaw.com/subscribe



19



Andrew J. Zeltner is a partner at Klasko Immigration Law Partners. Mr. Zeltner handles a wide array of corporate immigration matters including those involving the processing of permanent resident applications (green cards) on behalf of multinational corporate and individual clients, including labor certification applications, immigrant visa petitions and adjustment of status applications.

He has significant experience providing employment-based U.S. immigration services for large corporate clients, including applications for B-1 OCS, E-1/E-2, H-1B, H-3, J-1, L-1, O-1, TN, labor certifications, multinational manager and executive immigrant petitions, outstanding researchers, extraordinary ability aliens, and national interest waivers. He has provided extensive advice to human resources professionals and corporate counsel regarding immigration compliance matters including I-9 and LCA compliance issues.

Mr. Zeltner received a Bachelor of Arts degree in Politics (cum laude) from The Catholic University of America. He earned his J.D. (cum laude) from Quinnipiac University School of Law. While in law school, Mr. Zeltner served as Opinions Editor of the Quinnipiac Probate Law Journal.

KLASKO
Immigration Law Partners, LLP

Andrew J. Zeltner
Partner

20



Maria Mihaylova is a Senior Associate and works closely with both corporate and individual clients on a wide range of business and family-based immigration matters.

Maria has considerable experience processing and obtaining employment-based non-immigrant visas for professional employees, individuals of extraordinary ability and foreign entrepreneurs alike. She has successfully processed a wide range of visa matters involving H-1B, H-1B1, H-3, E-3, E-1/E-2 investor visas, L-1A/L-1B, J-1, TN, O-1, and P-1 visas.

With respect to immigrant petitions (green cards), Maria has successfully worked with multinational executives and managers, professors and researchers, and people of extraordinary and exceptional abilities alike. She has assisted married and engaged couples through their respective family-based processes. She possesses a comprehensive knowledge of the PERM Alien Labor Certification process and regularly advises and works with corporate clients to ensure regulatory compliance throughout the process.

She has successfully processed no objection J-1 waiver applications for Fulbright scholars and exchange visitors who are subject a two-year home residency requirement under the Department of State's Skills List. Maria has also gained experience with J-1 physician waivers through the US Department of Health and Human Services (HHS), the Pennsylvania Department of Health, and the Appalachian Regional Commission (ARC).

Maria received her Juris Doctor (J.D.) degree from Seton Hall University School of Law in 2012, graduating magna cum laude, Order of the Coif. In 2008, Maria also received a Bachelor of Arts degree in Social and Behavioral Sciences, summa cum laude, from Seton Hall University. She is a member of the American Immigration Lawyers Association. Maria is fluent in Bulgarian.

KLASKO
Immigration Law Partners, LLP

Maria M. Mihaylova
Senior Associate

21



Ryan Patterson is Counsel based in the firm's Washington D.C. office and is an esteemed immigration attorney with more than a decade of experience in the field. He specializes in creative innovative solutions that navigate the complexities of business, family, and humanitarian immigration law and serves a diverse range of clients across several industries.


Ryan first found his way to immigration as a way to practice and maintain Spanish fluency through volunteer work at an immigration legal services nonprofit. This experience ignited a larger passion for the field, leading him to a career boasting expertise across a broad spectrum of visa types, including H-1B, TN, O, L, E, F-1, J-1, U, B1/B2, Humanitarian Parole, DACA, PERM labor certification, I-140, complex waivers, family-based immigration petitions, including complex adjustment of status, consular process, and I-9 compliance. His focus extends to assisting highly skilled workers with in-demand skills in STEM and financial services.

Ryan earned a degree of Bachelor of the Arts in Journalism in 2008 and a Juris Doctorate in 2011 at the University of Oklahoma. In 2007, he studied abroad at the Universidad de Belgrano in Buenos Aires, Argentina. Ryan is trilingual, speaking English, Portuguese, and Spanish. He is currently licensed to practice law in Oklahoma.

Ryan Patterson
Counsel




22



Disclaimer/Copyright

The materials contained in this PowerPoint do not constitute direct legal advice and is for informational purposes only. An attorney-client relationship is not presumed or intended by receipt or review of this presentation. The information provided should never replace informed counsel when specific immigration-related guidance is needed.

Copyright © 2024 Klasko Immigration Law Partners, LLP.
All rights reserved.



23