Buchalter

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Visa Options for Start-Up Founders: An Overview of Options

Introduction:
The United States has long been a beacon for immigrants, and the entrepreneurial spirit of immigrants has led the U.S. to be at the forefront of groundbreaking innovations in business, science, education, technology and has fundamentally changed the way people all over the world live our daily lives.

The current immigration system is not without its challenges. The laws we follow today for immigration were written in 1990 – there is, at present, no "Start-Up Visa" for founders of small or emerging companies and the wait times for permanent residency can be decades long depending on your country of birth. We can all agree the system is in dire need of reform, but even with those limitations, there are multiple visa options that foreign entrepreneurs can and should explore to help guide their journey to the U.S.

This guide provides background knowledge on multiple options, but is not meant to be used in the absence of specific legal advice tailored to your specific circumstances.

Immigration humor to get us started and set expectations!
The Immigration and Nationality Act (INA) governs Immigration and Citizenship in the United States. It is famously inscrutable; confusing and contradictory as observed by some of the most learned judges tasked with trying to decipher and apply the laws.

Immigration law is a mystery and a mastery of obfuscation, and the lawyers who can figure it out are worth their weight in gold.
- *Karen Kraushaar, former USCIS Spokeswoman (cited in The Washington Post, 24 April, 2001)*

"...we are in the never-never land of the Immigration and Nationality Act, where plain words do not always mean what they say." *Yuen Sang Low v. Attorney General*, 479 F.2nd 820 (9th Cir. 1973)

"We have had occasion to note the striking resemblance between some of the laws we are called upon to interpret and King Minos's labyrinth in ancient Crete. The Tax Laws and the Immigration and Nationality Acts are examples we have cited of Congress's ingenuity in passing statutes certain to accelerate the aging process of judges". *Kwon v. INS*, 646 F.2nd 909 (5th Cir. 1981)

"It would seem that should be a simple issue with a clear answer, but this is immigration law where the issues are seldom simple and the answers are far from clear." *Alanis-Bustamante v. Reno* 201 F.34d 1303 (11th Cir. 2000)

Non-Immigrant or Temporary Pathways

International Entrepreneur Rule (IER):
Under the International Entrepreneur Rule (IER), the Department of Homeland Security (DHS) may use its authority to grant a period of authorized stay, on a case-by-case basis, to noncitizen entrepreneurs who show that their stay in the United States would provide a significant public benefit through their business venture and that they merit a favorable exercise of discretion. This period of authorized stay is called "parole."

Under this rule, entrepreneurs granted parole will be eligible to work only for their startup business. The spouse and children of the noncitizen entrepreneur may also be eligible for parole.

Threshold criteria and key elements of the International Entrepreneur Rule include:

- Entrepreneurs may be either living abroad or already in the United States.
- Startup entities must have been formed in the United States within the past five years.
- Beginning October 01, 2024, the following threshold applies:
    - If relying on an investment from a qualifying investor, the amount is increasing from $264,147 to $311,071.
    - If relying on a government award or grant, the amount is increasing from $105,659 to $124,429.
    - The revenue amount for consideration of re-parole is increasing from $528,293 to $622,142.
    - An individual or organization may be a qualified investor if they made investments in start-up entities comprising a total of no less than $746,571 (rather than $633,952) in a specified 5-year period and, subsequent to those investments, at least two of those entities have each created at least five jobs or generated at least $622,142 (rather than $528,293) in revenue with annualized revenue growth of at least 20%.

The spouse of the entrepreneur may apply for employment authorization after being paroled into the United States. (Children are not eligible for employment authorization.)

The entrepreneur may be granted an initial parole period of up to 30 months. If approved for re-parole, based on additional benchmarks in funding, job creation, or revenue described below, the entrepreneur may receive up to another 30 months. (At that point or earlier, there are other Options for Noncitizen Entrepreneurs to Work in the United States.)

Up to 3 entrepreneurs per startup can be eligible for parole under the International Entrepreneur Rule.

B-1: Temporary Visitor for Business Visa:
This may be an option for someone who has an entity that is not yet established or, if established, can provide proof of sufficient ties to the home country to demonstrate that they do not plan to live in the U.S.

A B-1 visitor may come to the United States in order to secure funding or office space, negotiate a contract, or attend certain business meetings in connection with opening a new business. However, a B-1

visitor is prohibited from working for or operating an already established U.S. entity. Similarly, a B-1 visitor may not begin operating or working for a new business in the United States.

The biggest drawback of this visa type are the severe restrictions on permissible activities that one can engage in whilst on this visa and the restricted time. No entry to the U.S. can be for a period that is longer than 180 days per trip, with a maximum limit of one initial visa and one extension per year.

Activities permitted whilst on B-1Visa:

- Consulting with business associates
- Traveling for a scientific, educational, professional or business convention, or a conference on specific dates
- Settling an estate
- Negotiating a contract
- Participating in short-term training

E-2 Visas:

The E-2 nonimmigrant classification allows a national of a treaty country (a country with which the United States maintains a treaty of commerce and navigation, or with which the United States maintains a qualifying international agreement, or which has been deemed a qualifying country by legislation) to be admitted to the United States when investing a substantial amount of capital in a U.S. business. Certain employees of such a person or of a qualifying organization may also be eligible for this classification.

Eligibility Criteria: To qualify for E-2 classification, the treaty investor must:

- Be a national of a country with which the United States maintains a treaty of commerce and navigation;
- Have invested, or be actively in the process of investing, a substantial amount of capital in a bona fide enterprise in the United States; and
- Be seeking to enter the United States solely to develop and direct the investment enterprise. This is established by showing at least 50% ownership of the enterprise or possession of operational control through a managerial position or other corporate device.

Investment in this context, means that the prospective investor must have placed the capital, including funds and/or other assets, at risk in the commercial sense with the objective of generating a profit. The capital must be subject to partial or total loss if the investment fails. The treaty investor must show that the funds have not been obtained, directly or indirectly, from criminal activity. See 8 CFR 214.2(e)(12) for more information.

I advise my clients to place the funds in an escrow account since that meets the requirement of placement at risk or conversely to work with experienced counsel to craft the terms of the investment with a business partner in a way where the funds are able to be retrieved if the visa application is denied.

A substantial amount of capital is generally agreed upon as $100,000USD, but it is possible to gain approvals for a lower threshold of investment.

- Substantial in relationship to the total cost of either purchasing an established enterprise or establishing a new one
- Sufficient to ensure the treaty investor's financial commitment to the successful operation of the enterprise

- Of a magnitude to support the likelihood that the treaty investor will successfully develop and direct the enterprise. The lower the cost of the enterprise, the higher, proportionately, the investment must be to be considered substantial.

A bona fide enterprise refers to a real, active, and operating commercial or entrepreneurial undertaking which produces services or goods for profit. It must meet applicable legal requirements for doing business within its jurisdiction.

An E-2 validity is dependent on reciprocal agreement with the treaty country. Some nationalities are eligible for 5 year duration whereas others may receive an E-2 for as little as three to 6 months before they need to extend/renew the visa.

F-1 OPT:
Optional Practical Training (OPT) is a temporary employment that is directly related to an F-1 student's major area of study. Eligible students can apply to receive up to 12 months of OPT employment authorization before completing their academic studies (pre-completion) and/or after completing their academic studies (post-completion). However, all periods of pre-completion OPT will be deducted from the available period of post-completion OPT.

Types of OPT
All OPT must be directly related to your major area of study. If you are an F-1 student, you may be eligible to participate in OPT in two different ways:

Pre-completion OPT: You may apply to participate in pre-completion OPT after you have been lawfully enrolled on a full-time basis for one full academic year at a college, university, conservatory, or seminary that has been certified by the U.S. Immigration and Customs Enforcement (ICE) Student and Exchange Visitor Program (SEVP) to enroll F-1 students. You do not need to have had F-1 status for the one full academic year; you can satisfy the "one full academic year" requirement even if you had another nonimmigrant status during that time.

If you are authorized to participate in pre-completion OPT, you may work (20 hours or less per week) while school is in session. You may work full time when school is not in session.

Post-completion OPT: You may apply to participate in post-completion OPT after completing your studies. If you are authorized for post-completion OPT, you must work part time (at least 20 hours per week) or full time.

Impact of Pre-completion OPT on Requests for Post-completion OPT at the Same Education Level
If you have already received 1 year of part-time (20 hours per week) pre-completion OPT, the total time of full-time OPT still available would be reduced by six months, 50% of the previously authorized year at the same education level. In this scenario, you would only be entitled to a remaining period of 6 months full-time post-completion OPT employment authorization.

If you have already received a one-year of full-time (40 hours per week) pre-completion OPT, the total time of full-time optional practical training still available would be reduced by one year, 100% of the previously authorized year at the same education level. In this scenario, you would not be entitled to any period of post-completion OPT employment authorization.

STEM OPT Extension

If you have earned a degree in certain Science, Technology, Engineering and Mathematics (STEM) fields, you may apply for a 24-month extension of your post-completion OPT employment authorization if you:

- Are an F-1 student who received a STEM degree included on the STEM Designated Degree Program List (PDF);
- Are employed by an employer who is enrolled in and is using E-Verify; and
- Received an initial grant of post-completion OPT employment authorization based on your STEM degree.

H-1B Visa:

In general, H-1B applicants are required to show a valid employer-employee relationship in order to obtain an H-1B visa. This is determined by whether the U.S. employer may hire, pay, fire, supervise, or otherwise control the work of the H-1B worker. In some instances, the sole or majority owner of the company petitioning for the visa may be able to establish a valid employer-employee relationship if they are able to show that they have the right to control the beneficiary's employment.

You may not be self-employed in the traditional sense and be the beneficiary of an H-1B application for that same company. There must be an independent company that can exert the authority to hire, pay, supervise, and fire outside of your control.

However, if you own your own company, you may still be able to demonstrate that there is an employer-employee relationship if the control of your work is exercised by someone other than yourself. For instance, if your company has investors, a board of directors, preferred shareholders, or other factors that show that your organization has the right to control the conditions and terms of your employment, then it is possible for you to meet this requirement. Specifically, it should be shown that the right to hire, fire, pay, supervise, or otherwise control your work is done by others.

You will also need to prove that there is an offer for a bona fide job, that the position offered is for a member of the profession, that the employer has demonstrated an ability to pay the prevailing wage, that you have at least a bachelor's degree related to the job area or a foreign equivalent, and that the job creates job opportunities for U.S. workers.

H-1B visas are generally valid for a three year period with one extension of another three years. It is capped at six years unless the applicant has an approved I-140 in which case, the applicant can be eligible for unlimited 3-year extensions.

L-1 Multinational Executive Visa

The L-1 visa is designed for intracompany transferees, allowing multinational companies to transfer key employees to their U.S. branch, subsidiary, or affiliate. It can be suitable for startup founders with an established company abroad.

The L-1 visa offers non-immigrant status for eligible intracompany transferees and their families, allowing them to temporarily work and live in the U.S.

Startup founders who are owners or executives of a foreign company and plan to establish a U.S. office or have an already-existing U.S. presence can apply for the L-1 visa.

Eligibility and requirements includes but are not limited to the following core requirements:

- The applicant must have been employed by the foreign company for at least one continuous year within the past three years
- The US branch or subsidiary should have a qualifying relationship with the foreign company
- The employee must be able to prove their position as either a Manager or an Executive (L-1A) or that they have a specialized knowledge or skill that is specific and particular to the entity and one that would not be easily transferable to another employee (L-1B "Specialized Knowledge Employee)

The L-1 visa is valid for a maximum period of 7 years.

O-1 Visa: Individuals with Extraordinary Ability or Achievement

The O-1 visa is for individuals with extraordinary ability or achievement in specific fields, including science, education, business, arts, or athletics. Their dependents are also eligible.

The O-1 visa grants temporary non-immigrant status to its recipients for an initial term of 3 years after which they are eligible for one year extensions with no outward limit on maximum duration of stay.

Eligibility and requirements

O-1 visas are classified based on the kind of ability in question. According to US Citizenship and Immigration Services, they are:

- O-1A: Individuals with an extraordinary ability in the sciences, education, business, or athletics (not including the arts, motion pictures, or television industry)
- O-1B: Individuals with an extraordinary ability in the arts or extraordinary achievement in the motion picture or television industry
- O-2: Individuals who will accompany an O-1 artist or athlete to assist in a specific event or performance
- O-3: Individuals who are the spouse or children of O-1 and O-2 visa holders

Key eligibility criteria:

- Applicants must be sponsored by an employer.
- Applicants must be planning to temporarily come to the United States to continue working in their extraordinary ability field.
- These visas are granted for a specific duration depending on the nature of the project or assignment.
- They do not directly lead to permanent residency.

Criteria to Meet:

In order to qualify for an O-1A visa, you'll have to demonstrate extraordinary ability in your field through a combination of criteria. While there are no specific criteria set by law, the regulations provide a list of eight possible pieces of evidence that can be used to support your application.

Applicants must provide evidence **from at least three of these eight categories** to demonstrate extraordinary ability in their field. Here's a breakdown of the eight categories or types of evidence that applicants can use to satisfy the criteria:

1. **Receipt of Awards or Prizes:** Evidence of receiving significant awards or prizes for excellence in the field.* Can count certain Venture funding as an award
2. **Membership in Professional Associations:** Membership in professional associations or organizations that require outstanding achievements of their members.
3. **Published Material:** Evidence of published material about the applicant's work in professional or major trade publications or other major media.
4. **Judging the Work of Others:** Service as a judge of the work of others, either individually or on a panel.
5. **Original Contributions:** Evidence of original scientific, scholarly, or business-related contributions of major significance.
6. **Authorship:** Authorship of scholarly articles or publications in professional journals or other major media.
7. **High Salary or Remuneration:** Evidence of a high salary or other substantial remuneration for services in relation to others in the field. For startup founders, this could be the equity you hold in your company. Note: Stock options do not count.
8. **Work in a Critical Role for Organizations or Establishments:** Evidence of participation in a critical or leading role for organizations or establishments that have a distinguished reputation.

Immigrant Pathways i.e. "Green Card" Options

EB-1: Employment-Based First Preference – Extraordinary Ability
Sometimes referred to as the "Einstein Visa", the EB-1 demands documentary evidence of sustained national and international acclaim by applicants. One of the main benefits of this visa is that you can self-petition. You do not need to have an employer or agent sponsor you.

Applicants can show either a one-time award such as an Oscar or demonstrate that they meet, at minimum, three of the below listed criteria.

Subcategories:
- EB-1A: Individuals with Extraordinary Ability (Science, Arts, Business)
- EB-1B: Extraordinary Professor or Researcher
- EB-1C: Extraordinary Multinational Manager or Executive

Tip: It is never enough to demonstrate the minimum three. USCIS will often challenge one or two criteria, so filing with evidence of just three criteria often leads to denial of these cases.

Criteria for Extraordinary Ability:
- Receipt of lesser nationally or internationally recognized prizes or awards for excellence in your field of endeavor
- Membership in associations in your field of endeavor, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields
- Published material about you, in professional or major trade publications or other major media, relating to your work in your field of endeavor
- Participation, either as an individual or as part of a panel, as a judge of the work of others in the same or an allied field of specialization for which classification is sought
- Original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in your field of endeavor
- Authorship of scholarly articles in your field, in professional or major trade publications or other major media
- The display of your work in your field at artistic exhibitions or showcases
- You have performed in a leading or critical role for organizations or establishments that have a distinguished reputation
- You have commanded a high salary or other significantly high remuneration for services, in relation to others in your field
- You have achieved commercial successes in the performing arts, as shown by box office receipts or record, cassette, compact disk, or video sales.

EB-1 Visa v. "Green Card": EB-1 is not a direct pathway to an automatic Green Card. The EB-1 is a Visa which when approved, allows the applicant to apply for a "Green Card". The ability to apply for a "Green Card" concurrently with the visa application or immediately post approval of the visa application, depends on if the applicant is in the United States and their country of birth. Example, Individuals born in India and China are not immediately eligible for "Green Cards" as there is a visa backlog for these countries.

EB-2 -National Interest Waiver (NIW): This option, as the name suggest, requires the applicant to show that their work is crucial enough that is has significant merit and is of national interest to the United States. It is extremely important to understand that this is still not a direct pathway to "Green Card" as it is an EB-2 preference category so even if the underlying National Interest Waiver application is approved, the applicant may still end up waiting in line for a visa availability depending on their country of birth.

The major benefit of an EB-2/NIW is that you can self-petition (i.e. do not need an employer) and you can bypass the PERM/Labor Certification Process, which at the time of writing this guide (November 2024) is a 2 year long process BEFORE you can apply for the I-140.

You must have either an Advanced Degree (U.S. Masters or foreign equivalent, or U.S. Bachelors or foreign equivalent plus five years of post-Bachelors work experience) or meet three of six "Exceptional Ability" criteria.

Eligibility criteria, specific to Start Up founders/ entrepreneurs are: The criteria for the EB-2 NIW also make it a great fit for startup founders. In addition to having an Advanced Degree or Exceptional Ability (described above), you'll need to provide evidence that you meet three National Interest Waiver criteria. Here is how these criteria apply to startup founders:

Your proposed work in the US has National Importance and Substantial Merit
To start, the first criteria of the NIW, National Importance and Substantial Merit, is forward-looking. This criteria lets you dream big for the potential of your work/service or product.

Think about the future impact of your startup and how it will positively impact the U.S. in regards to the economy, U.S. businesses, education, health, or other areas. The "usual suspects" of AI and ML have proliferated across industry verticals. Being able to talk about what the current uses are and also possibilities for future expansion for your product or service is a great way to further enhance your skills being crucial to the U.S.

You are well-positioned to succeed
The second criteria looks at your past achievements, as well as any other factors that might indicate your future success, to determine that you are well-positioned to succeed with your future endeavors.

This is great for founders since many of your become founders after identifying a problem at your prior jobs. You can use any evidence of past accomplishments and relevant work experience to further solidify the case for why you are best position to drive the success of this startup.

There are no strict requirements about what you have to show as evidence that you are "well positioned" so you can use the material that makes sense for your case.

It is beneficial for the US to waive the PERM requirement
The third criteria weighs whether or not it is beneficial to the US to waive the PERM labor certification process, which is required for regular EB-2s but waived for EB-2 NIWs.

EB-5 Investor Visa: The EB-5 visa is not an easy option for most as the required capital investment can be significant. The EB-5 is a direct path to "Green card" and requires the investor/entrepreneur to prove that the investment has resulted in the creation of full time jobs for 10 qualified workers.

Investment Requirements:
EB-5 has two investment levels:

Targeted Employment Area (TEA) areas are areas that meet the definition of:
Rural Area; High Unemployment Area or an infrastructure project: Minimum investment amount required is $800,000.

For areas or investments in areas outside of TEA areas, the minimum investment amount required is $1.05 Million.

The EB-5 visa offers a pathway to permanent residency for founders who meet the program's investment and job creation requirements.

This is one of the more complicated and technical application types within U.S. Immigration law. Only a handful of immigration lawyers in the U.S. practice this at volume enough to be considered an expert in these visa types. There are definite advantages, but it is an option for a small percentage of start-up founders/foreign investors.

Conclusion
Securing a U.S. visa as a start-up founder while not a simple task can nevertheless open up exceptional opportunities for growth, both personally and professionally.

Navigating the U.S. visa process is often complex, and working with an experienced immigration attorney can ensure you have a dedicated, long-term partner throughout this journey. At Buchalter, our Immigration team collaborates closely with other practice areas, including corporate/business law, tax, and U.S. trade laws. This comprehensive approach helps address key factors that may affect foreign founders or entrepreneurs, such as tax considerations and compliance with trade regulations, making the pathway to the U.S. smoother and more aligned with your business goals.

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Languages:
Nepali
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Urdu
Spanish

Areas of Practice

Immigration
Labor & Employment
International Business & Trade

Kripa Upadhyay's practice intersects Immigration, Corporate/Business Law, Foreign Direct Investment, and International Trade Compliance. She has expertise in guiding corporate clients and individual investors through the complex web of laws and regulations related to immigration to the United States.

Her role is to guide clients through issues that arise in the following areas:

Employment Laws
Ms. Upadhyay routinely advises HR and business leaders on the immigration-related consequences of onboarding and terminating foreign national employees. This includes developing immigration strategies for companies that frequently onboard or transfer employees from jurisdictions outside the U.S. She regularly counsels corporate clients on compliance with Immigration and Department of Labor regulations regarding the employment of foreign nationals in the United States. Additionally, Ms. Upadhyay assists in developing Standard Operating Procedures (SOPs) to ensure corporations maintain compliance with relevant immigration and labor laws.

Corporate Law
Ms. Upadhyay advises corporations on various issues that arise for their employees in cases of mergers, sales, or acquisitions of the employing entity. The immigration status of employees and executives can be severely impacted by these activities. Her role is to ensure that all immigration-related issues are addressed and planned for prior to the finalization of any M&A activity.

Trade Compliance
Ms. Upadhyay routinely works with direct foreign investors to ensure compliance with rules regarding the transfer of funds from foreign jurisdictions. This includes ensuring that third-party advisors involved have the necessary clearances to work as registered and authorized broker-dealers and that investors are cleared in accordance with Office of Foreign Assets Control (OFAC) regulations.

Export Licenses
Ms. Upadhyay regularly advises corporations on the "deemed export" rule, often encountered in the employment context where a company releases controlled technology or software to a foreign national employee. This applies to foreign nationals working under various U.S. visa options, enabling them to work in the United States.

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Mandamus Delay Litigation
Ms. Upadhyay has successfully challenged lengthy delays in the adjudication of immigration petitions through Mandamus actions. Ms. Upadhyay has spearheaded numerous Mandamus cases, particularly involving I-526 (EB-5 Investor Visa) delays, and played a key role in major class action lawsuits against U.S. Citizenship and Immigration Services (USCIS). With her extensive experience and deep understanding of immigration law, Ms. Upadhyay is well-positioned to develop winning litigation strategies against both USCIS and the Department of State, addressing a wide range of immigration matters.

Awards and Honors
- Chambers USA, Immigration Law, 2024
- EB5 Magazine as Top 10 Rising Star, 2023
- Washington State Bar Association's (WSBA) Community Service Award, 2011
- Rising Star by Super Lawyers magazine for Immigration Law, 2014 – 2018

Professional Involvement
- Member, AILA's National committee for EB-5 (investor-based immigration)
- Member, American Immigration Lawyers Association- AILA (Washington State chapter) Chair of Programs, Executive Committee Chair, Continuing Legal Education Committee Vice Chair, Continuing Legal Education Committee Chair, Executive Office for Immigration Review (EOIR) Committee Chair, Citizenship Day Committee Vice Chair, Citizenship Day Committee
- Charter Member, The Indus Entrepreneurs (TiE) Seattle chapter

Community
- Board Member, Joint Minority Mentorship Program

Deals & Cases
- In ***Shergill v. Mayorkas***, Kripa Upadhyay, played a pivotal role as counsel in a groundbreaking class action lawsuit that secured key reforms for nonimmigrant H-4 and L-2 spouses experiencing significant delays in employment authorization processing. The lawsuit successfully overturned a U.S. Citizenship and Immigration Services (USCIS) policy, which had previously prevented H-4 spouses from receiving automatic extensions of their work authorization while standalone employment authorization document (EAD) applications were pending. Additionally, the agreement resulted in a major policy shift for USCIS, which now recognizes that L-2 spouses are automatically authorized to work as part of their immigration status. This means spouses of executives and managers no longer need to apply for work authorization before beginning employment in the U.S.
- In ***Bajaj v. Blinken,*** Kripa Upadhyay served as counsel in this significant class action filed in the U.S. Federal Court for the Western District of Washington in February 2022. The lawsuit challenged the U.S. Department of State's failure to process EB-5 applications following the 2019 lapse in the program's reauthorization by Congress. During this lapse, no Regional Center could accept new investors until reauthorization. However, the Department of State wrongly halted the consular processing and visa issuance for previously approved I-526 petitions. The

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lawsuit contested the Department's misapplication of the law, though it was eventually withdrawn when Congress reauthorized the EB-5 program through the passage of the Reform and Integrity Act of 2022.

Presentations & Publications

- Presenters, 2024 Labor and Employment Seminar (Presentation)
- Presenter, EB-5/Immigrant Investors (Presentation)
- Presenter, EB-5 and Immigrant Investors (Presentation)
- Panelist , Worksite Enforcement: I-9 Compliance (Presentation)
- Presenter, Humanitarian Parole Process for Afghan and Ukrainian Nationals (Presentation)
- Best Practices for I-9 Compliance in 2024 (Publication)
- How Chinese EB-5 investors can deal with money transfer restrictions (Publication)
- Indian and Middle Eastern EB-5 source of funds: an immigration lawyer speaks to the challenges and solutions (Publication)

Education

Ms. Upadhyay earned her J.D. from Seattle University School of Law. She earned her B.A. in Political Science from California State University, Long Beach.

Court Admissions

- Washington State Supreme Court
- United States District Court, Eastern District of Washington
- United States District Court, Western District of Washington
- United States Court of Appeals, Ninth Circuit