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Comparative  
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Practical cross-border insights into corporate immigration law

# **Corporate Immigration 2022**

**Ninth Edition**

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## Foreword

AILA Global Migration Section



Anita E. J. Ninan

### An Introduction to AILA

The American Immigration Lawyers Association (AILA) (<http://www.aila.org>) is the premier Bar Association for U.S. licensed attorneys practising immigration and nationality law.

Founded in 1946, AILA is headquartered in Washington, D.C. with a national membership of more than 16,000 attorneys and law professors who practise and teach immigration law. As a non-partisan, non-profit organisation, AILA provides continuing legal education, information, professional services and expertise to its members through its 39 Chapters and over 50 National Committees.

AILA's mission is to promote justice, advocate for fair and reasonable immigration law and policy, advance the quality of immigration and nationality law and practice, and enhance the professional development of its members. AILA member attorneys represent U.S. families seeking permanent residence for close family members, as well as U.S. businesses seeking talent from the global marketplace. AILA members also represent foreign students, entertainers, athletes and asylum seekers, often on a *pro bono* basis.

### 75<sup>th</sup> Anniversary

AILA marked its 75<sup>th</sup> anniversary in October 2021. Throughout 2021–22, AILA has been offering events to mark the successes and challenges our community of immigration lawyers and advocates have encountered in the organisation's celebrated history. The origins of AILA can be traced to New York City. In Manhattan, 1946, 20 attorneys founded what would later become AILA for the noble purpose of advancing the practice of immigration law, promoting reform, facilitating justice, and elevating the standards of the field. In June 2022, under the gaze of our logo's icon, Lady Liberty, the association's membership will gather where it all began, to celebrate AILA's 75<sup>th</sup> anniversary at the 2022 AILA Annual Conference on Immigration Law.

### Our Membership

The majority of AILA members are practising attorneys who specialise in U.S. immigration and nationality law. There are several members who practise immigration law in concert with an intersecting practice of law, such as employment law, tax law, criminal defence law, healthcare law, administrative law, international law and humanitarian law. Within immigration law, AILA members' practices are quite diverse. Business immigration law and family-based immigration law are the primary focus of the majority of AILA members. Other areas of specialisation include: Removal Defence, Asylum and Humanitarian

Relief; Deportation Defence; Employer Sanctions; Investor; Litigation; Medical; Naturalisation; and Waivers of Inadmissibility. The number of AILA members specialising in consular visa processing has experienced notable growth in the last 10 years, while membership within the organisation's international Chapters has grown substantially in that time.

An overwhelming majority of AILA attorneys are solo practitioners or practise in a firm with fewer than 25 attorneys. An additional smaller portion of AILA members work in law firms with over 75 attorneys or serve as in-house corporate counsel. A small but growing number of members work for a registered non-profit organisation providing legal services to immigrant communities.

### Communities for Professional Development and Networking

The AILA membership community operates in a collaborative manner through Chapters, National Committees, Sections and Interest Groups. In addition to a significant national presence in the United States, AILA is well represented at the local level with 39 Chapters, including four international Chapters throughout the world. These Chapters provide networking opportunities, continuing legal education, mentorship, practice assistance, and an outlet for community involvement. The largest AILA Chapters include New York City, Texas, Southern California and Washington, D.C.

The four international Chapters spanning the globe include a Canada Chapter, an Asia-Pacific Chapter (APAC) (including China, India, Thailand, Japan, Philippines, Hong Kong and Singapore, focusing on U.S. immigration and consular visa processing in the entire Asia-Pacific region), a Latin America and Caribbean Chapter (LACC) (covering U.S. immigration and consular visa processing in all of the Caribbean, Central America and South America) and the Rome District Chapter – EMEA (RDC-EMEA) (focusing on serving the interests of AILA members who practise abroad and as a resource for U.S. consular visa processing in Europe, the Middle East, Russia and Africa). The latter three Chapters host annual and semi-annual conferences on immigration law in a number of interesting and appealing cities within their jurisdiction. AILA conference planners often look to AILA's international law community and the AILA Global Migration Section (GMS) for speakers and thought leaders.

Currently, AILA has four Sections that serve as specialty groups focusing on specific areas of immigration law. These Sections provide their members networking opportunities, avenues for information and idea sharing, and for receiving mentorship. The Sections are Business, Removal Defence, Federal Court Litigation and Global Migration.

Finally, AILA offers a variety of Interest Groups for members to exchange ideas, network, and get advice. These include the Women in Immigration Law Group, Hispanic/Latino Interest Group and Law Professors Interest Group, to name a few.

A significant development for AILA occurred in 2007 when it opened its membership, in a limited way, for immigration lawyers certified and practising outside of the United States. The creation of the non-member International Associate status enabled non-U.S. licensed lawyers to participate in the Association.<sup>1</sup> International Associates share their knowledge and expertise while speaking at AILA conferences, contributing to online publications, participating in webinars and panel discussions on regional spotlights, or simply by engaging in discussion on group email lists. This development has enabled AILA members to benefit not only from exposure to top international immigration practitioners and legal minds, but also to develop and expand their network of eminent international lawyers. With the increase in global mobility and migration for business, investment and tourism, and family immigration purposes, International Associates are critical to the continued growth of global immigration law knowledge within the AILA member community. International Associates represent more than 100 attorneys in over 50 countries.

## The Global Migration Section

Exponential growth in global mobility over the last decade provided the impetus to a small group of AILA members to form the Global Migration Action Group (GMAG) in 2008, to support the legal practice of global migration within the AILA community. The group was established to network, discuss legal issues and strategy, and to enhance the practice of global immigration law. GMAG grew as AILA members from all over the world met virtually and in-person, furthering this unique and ever-increasing area of specialisation within the AILA community.

The group officially became a Section of AILA in 2012. AILA GMS was officially launched to recognise and foster the growth of GMAG and to provide its members connections with qualified and approved experts on immigration laws in international jurisdictions around the world.

GMS is a community of AILA members and International Associates who are interested in furthering the practice of global migration. GMS provides a forum and a means for members to share ideas and information and to receive mentorship and education on global migration-related issues.

## GMS Membership

GMS membership has grown significantly since the group formalised in 2012, expanding to over 1,450 leading immigration practitioners worldwide, including over 100 International Associates licensed in jurisdictions outside of the United States. This number is expected to grow in the next few years as globalisation continues, presenting opportunities for migration as well as challenges amid growing geo-political conflicts and the future threat of global pandemics such as COVID-19.

While the majority of GMS members consist of U.S. immigration attorneys residing in the United States, there are significant pockets of GMS members (primarily International Associates) who live and work in Europe, Africa, the Middle East, Asia, Central America and South America.

## GMS Programmes and Resources

GMS membership continues to add to a robust list of resources, programmes and benefits designed to encourage networking

and business development, increase the dissemination of immigration law knowledge from an ever-increasing number of international jurisdictions, and enhance the practice of global immigration law. Specifically in 2021–22, GMS introduced regional spotlights on the Africa, and Latin America and Caribbean regions of its membership. The rationale for this initiative was to encourage greater participation of GMS members from regions that have been underrepresented previously in its various annual programmes and events, as well as to provide useful information and connection to leading immigration experts and resources in these regions. The regional focus involved: preparation of comparative analytic surveys for these regions on pertinent immigration issues and trends; call for articles from regional immigration law experts for the GMS monthly E-Bulletin; and presentation of audio-visual roundtables featuring panel discussions on key immigration and global mobility issues by leading international immigration lawyers.

Another new initiative by GMS leadership last year was to collaborate closely with AILA's overseas international Chapters on topical global migration issues of mutual interest to both sets of members. One instance of this cooperation was a webinar on the global migration impact on U.S. Third Country National (TCN) visa processing. GMS conducted a TCN survey of over 20 TCN-friendly countries, which formed the basis for the webinar. The webinar addressed issues of: TCN-friendly U.S. Consulates; visa requirements for TCN-friendly countries; the impact of COVID-19 on admission eligibility in TCN-friendly countries and COVID-19 compliance protocols; and the best strategies for TCN processing. GMS was successful in garnering its valuable resource of International Associates who were able to provide subject matter expertise regarding their jurisdictions on the important topics mentioned above.

The AILA/GMS Annual Global Migration Forum provides immigration practitioners access to eminent legal minds from a host of international jurisdictions. Emerging after two years of COVID-19, the 2022 Forum will be held this month, June 13–14, 2022 in New York City. This forum is specially designed to focus on the current state of global migration. Our expert panellists from around the world will address topics related to substantive issues such as global corporate transactions, COVID-19 travel requirements, and the increased competition for a skilled workforce. They will also explore issues related to practice management, including ethics, the increased reliance on technology, and how migration practitioners can seek to become better global citizens.

The 2021–22 Forum will feature the following exclusive highlights on business immigration around the globe, including:

- Two Tracks: Global Trends and Practice Management.
- Consular Tours at the Consulate Generals of India, Canada & Mexico.
- Attorney Compliance and Ethics: Tools to Navigate Global Migration.
- The New Normal: Designing Out-of-the-Box Migration Solutions.
- Current Impact of COVID-19 on Global Migration.
- Competing Globally for Talent and Essential Workers.
- The Road Ahead: What Do We Envision for the Future of Global Mobility?

GMS feature speakers from around the world also hold quarterly calls (now videoconferences), sharing their knowledge and perspective on a wide range of topics. These calls also provide International Associates the opportunity to speak and share their expertise with the AILA membership. Recent topics include:

- How Extraordinary Does Someone Need to Be to Move Seamlessly on a Global Scale?
- Vaccination Requirements in the Global Workplace: What You Need to Know.



#### ■ Global Data Privacy: What Immigration Lawyers Need to Know.

In general, GMS members benefit from the expertise of fellow practitioners transmitted via cutting-edge CLE conferences, consular webinars, informative articles and profiles, an active listserve, and information-sharing videoconference calls. Subcommittees within GMS produce monthly informative E-Bulletins, various comparative analytics research projects and consular practice insights and alerts. The regional spotlight initiative introduced in 2021–22 saw a seamless collaboration between the analytics, publications and audio-visual subcommittees to focus on a region, highlight leading practitioners and connect them to the larger AILA membership. The Latin America & Caribbean, and Africa regional spotlights were presented as AILA University Video Roundtables. Online resources support the practice of global immigration law and educate AILA members who are new to the practice or require assistance from practitioners abroad.

### Global Work Trends in a Post-COVID-19 World

As we know, the COVID-19 pandemic has radically transformed our lives and work. For global migration practitioners, rapidly changing travel requirements, restrictions, border closures, country lockdowns and restricted government processing have upended global migration and raised new challenges. Now more than ever, clients seek immigration counsel who can provide creative solutions to manage their global workforce and global mobility of their families and dependants.

We see that the countries that responded with agility and flexible immigration policies during COVID-19 benefitted the most in attracting highly skilled talent and gained opportunities for economic growth and innovation. For instance, in North America, we continue to see Canada and Mexico as global mobility-friendly jurisdictions. Canada offers several immigration options to attract highly skilled talent from around the world, including Express Entry, LMIA and LMIA-exempt work permit options such as the Global Talent Stream, Provincial Nominee Programs, and so on. Canadian immigration counsel have creatively used the “significant social, cultural or economic benefits or opportunities for Canadian citizens or permanent residents” to convince Canadian immigration officers to issue work permits to foreign nationals.

During COVID-19, Mexico emerged as a haven for TCN visa processing, as a third-country destination for U.S. entry and to meet U.S. vaccination and quarantine requirements for such entry, and as a temporary parking venue for U.S. or other nationality employees awaiting work permit approvals, due to the relative ease of securing temporary Mexican work and residence permits.

Several countries, including in Europe and the Caribbean, introduced the digital nomad visa to lure highly skilled talent to their destinations. Other countries, including the United States, introduced flexibilities in their immigration regulations to provide accommodation for remote working during COVID-19.

In contrast, those that responded with lockdowns, bans and border closures, such as the United States, Australia and New Zealand, are facing tight labour markets and high inflation. For instance, in the early days of the pandemic, the United States responded with strict COVID-19 masking and quarantine requirements and regional COVID-19 bans. These have given way to more flexible immigration policies, including the admission of international visitors, provided they meet vaccination and testing requirements. Nevertheless, visa processing backlogs at the United States Citizenship and Immigration Services (USCIS), consular staffing shortages compounded in COVID-19 hotspots worldwide, along with inherent failures of the U.S. immigration system to address labour market shortages, in both the highly skilled and seasonal low-skilled segments through comprehensive immigration reform, have exacerbated labour supply at both ends.

Similarly, Australia, which tackled the pandemic with severe admission, quarantine and masking requirements, has now eased those restrictions. However, its temporary worker visa programmes in the low-skilled category such as the Working Holiday Maker (WHM) programme, have not rebounded yet to pre-COVID-19 levels.

### Conclusion

Global mobility is here to stay, in our increasingly interconnected and interdependent world. Companies, large and small, seek to access global markets for new resources, products, services and technologies. This requires the smooth and seamless movement of their workforce. While COVID-19 was the great disruptor in the past two years, it has elicited a myriad novel responses and creative solutions worldwide.

While GMS too faced challenges during this period, the array of robust cutting-edge resources, programmes, networking events and substantive content that GMS continually produces for its members will ensure that it stands tall as a leading organisation in the practice of global migration.

### Endnote

1. For more information, see <https://info.aila.org/ia>.



**Anita E. J. Ninan** is a dual-licensed attorney admitted to practise in the state of Georgia and a certified lawyer admitted to practise in India. She is the founder and principal attorney of Ninan Legal LLC, a boutique U.S. immigration practice law firm. Ms. Ninan currently serves as Vice Chair of the Steering Committee of AILA Global Migration Section (GMS) for 2021–22 and will be Chair for 2022–23. She served as Chair of the Consulate Liaison Committee of AILA GMS for the year 2020–21 and has previously served on the publications and conference committees of AILA GMS. Ms. Ninan is a Board Member of the Georgia Indo-American Chamber of Commerce, having served as its immediate prior Chair and President for the last four years. In this capacity, she has been invited to serve on the Georgia Chamber Global Talent Initiative Task Force to influence immigration reform in Georgia by growing the state's talent base and increasing economic prosperity. She also serves as an Honorary Legal Advisor to the Indian Consulate General of Atlanta. She is a member of the Advisory Council, Dean Rusk International Law Center, at the University of Georgia School of Law, Athens, Georgia, USA.

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The American Immigration Lawyers Association's (AILA) Global Migration Section (GMS) includes over 1,450 leading immigration attorneys from approximately 50 different countries throughout North America, South America, Europe, the Middle East, Africa and Asia. The AILA/GMS Annual Global Migration Forum brings together GMS members and other lawyers, paralegals and corporate human resources representatives interested in the field of global migration for networking sessions, consular tours and a dual-track multi-day conference covering the latest topics in global migration. The mission of GMS is to educate AILA members and International Associates on matters of non-U.S. immigration law and to connect immigration lawyers around the world. We focus primarily on corporate global mobility issues and the laws, policies and procedures applicable to the

international movement of employees around the world. GMS works to advance the quality of global migration practice and to enhance the professional development of its members.

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