



Expanding Across the Pond

Immigration Guidance & Work Visa Strategies for
UK Companies Expanding and Operating in the US



Today's Presenters



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ABOUT US

ELLISPORTER

With over 65 immigration attorneys and professionals, Ellis Porter is one of the 15 largest immigration law firms in the US, and the 2nd largest US immigration firm with a UK presence.



Full-Service US Immigration Law Firm

Ellis Porter provides a comprehensive list of US immigration legal services for companies, investors and individuals.



US Offices

Ellis Porter has three US offices in **Metro Detroit (Troy), MI, Ann Arbor, MI** and **Chicago, IL**



UK Office

Ellis Porter's UK office is located in **London**

Strategic Immigration & Global Mobility Services



Ellis Porter's strategic US Immigration and global mobility services for UK companies include:

- ✓ Establishing New US Offices and Staffing with Key Personnel
- ✓ Immigration Regulatory Compliance for Employers and Employees
- ✓ Managing the Immigration Impacts of Direct Investment and Venture Capital Investment
- ✓ Managing the Immigration Impacts of Mergers and Acquisitions
- ✓ Global Mobility and International Tax Strategy Coordination



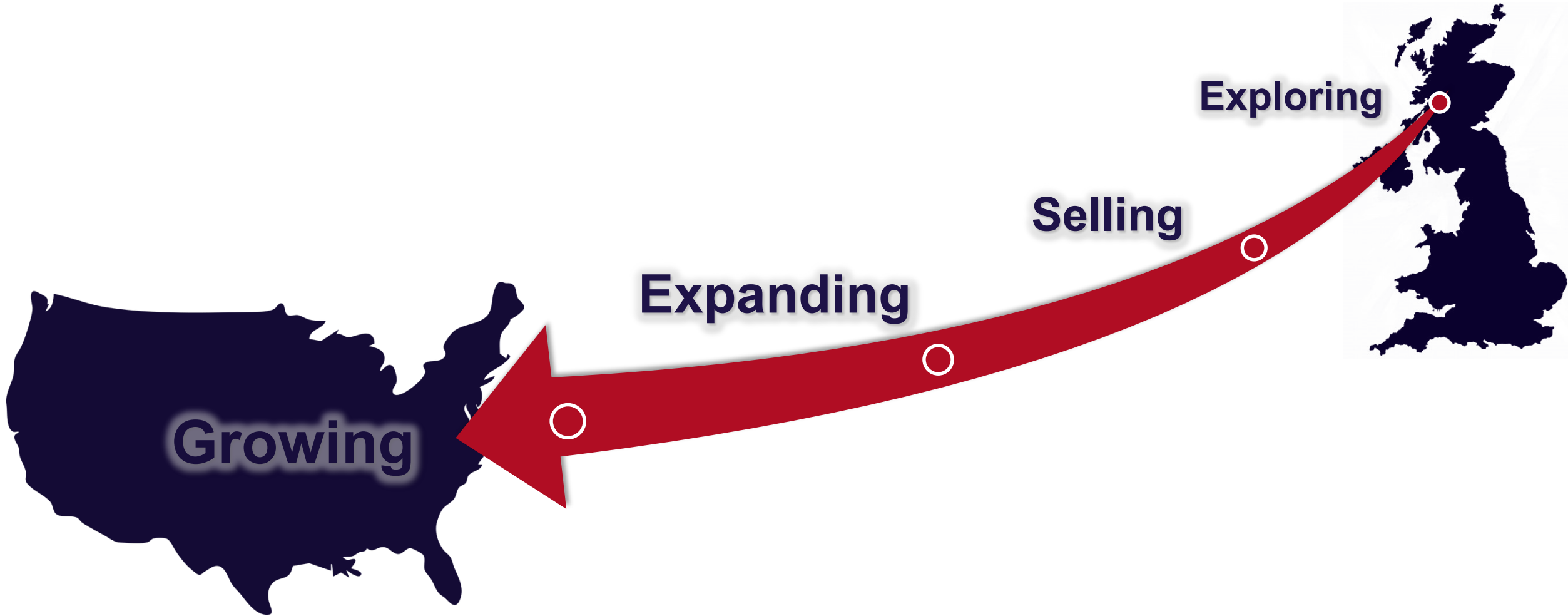
ABOUT US

The UK's DIT



Department for
International Trade

How DIT USA supports UK companies



How DIT USA supports UK companies

Exploring:

- Connection to UK ITA
- Market research
- Client location analysis
- Leads list & cold emailing services (managed by outsourced partner)

Selling:

- Overview of local ecosystem
- Guidance on product market fit & US pitch
- Network/Partner Introductions
- Client Matchmaking
- VC Matchmaking
- Inclusion in trade missions

Expanding & Growing:

- Assistance on US launch and scaling across US
- Connection to local service providers
- Amplification of success stories
- Use of Consulate & Residence event spaces
- Membership in GBBC (NYC)
- Continued selling support



B-1 Visas

US Immigration Options for UK Companies Expanding and Operating in the US Market

B-1 Business Visits – Permitted Activities

UK business professionals are permitted to enter the US as a business visitor under the B-1 visa category for the following activities:

- Consulting with business associates
- Soliciting services, negotiating, or finalizing contracts
- Purchasing goods or materials
- Participating in short-term training
- Attending meetings and networking
- Attending board meetings or annual meetings



B-1 Visas

US Immigration Options for UK Companies Expanding and Operating in the US Market

B-1 Business Visits – Prohibited Activities

The following activities are not permitted under the B-1 visa category:

- Performing work activities requiring US work authorization
- Accepting employment paid by a US source

Visa Waiver

Citizens of “Visa Waiver” countries (includes UK) can be admitted in B-1 status for up to 90 days without obtaining a B-1 visa sticker from a US Consulate. ESTA registration is required.



L-1 Visas

US Immigration Options for UK Companies Expanding and Operating in the US Market

Visa Options for Establishing and Staffing a US Office

L-1 Intracompany Transfer Visas

- The “New Office” L-1 visa allows companies to set up new US office
- L-1 visas can be used to transfer executive/managerial (L-1A) and specialized knowledge (L-1B) employees of your company to US office
- L-1A visas: Up to 7 years. L-1B visas: Up to 5 years.
- L-2 spouses are eligible for work authorization



E-1 & E-2 Visas

US Immigration Options for UK Companies Expanding and Operating in the US Market

Visa Options for Establishing and Staffing a US Office

E-1 Treaty Trader and E-2 Treaty Investor Visas

- **E-1 Visa:** Requires “substantial” trade in goods or services with the US
- **E-2 Visa:** Requires a “substantial” investment to start up a US business operation
- E-1/E-2 visas can be used to transfer additional executive, managerial and essential skills employees to a US office (**employees must have UK citizenship**)
- E-1/E-2 visas are valid for 5 years and renewable indefinitely. Status is granted in two-year increments.
- E-1/E-2 spouses are eligible for work authorization



H-1B & O-1 Visas

US Immigration Options for UK Companies Expanding and Operating in the US Market

Other Work Visa Options for Your US Employees

- **H-1B:** Can be used for employees working in professional occupations that require at least a Bachelor's Degree
- **O-1:** Can be used for employees who can demonstrate "extraordinary ability" in their field



Green Cards

US Immigration Options for UK Companies Expanding and Operating in the US Market

Options for Long-Term Employment in the US

There are several options to obtain US Permanent Resident (Green Card) status:

- **EB-1A:** For individuals with “extraordinary ability”
- **EB-1B:** For “outstanding researchers”
- **EB-1C:** For multinational executives and managers
- **NIW:** For individuals whose work benefits the national interests of the US; can include entrepreneurs and business professionals
- **EB-2 & EB-3/PERM:** For employees in professional occupations

Travel Limitations and Exemptions

Current US Immigration Challenges and Solutions: Travel Limitations



Blanket restrictions on travel from the UK

Presidential proclamations have barred foreign nationals from entering the US if they have been in one of the following countries 14 days prior to their attempted entry:

*China, Iran, the Schengen Countries, **UK**, Ireland, or Brazil*

However:

- Preliminary travel to a non-listed country is also a strategy
- ***Employers can apply for a National Interest Exception (NIE) to allow their foreign national employee to enter the US despite the restrictions***

Travel Limitations and Exemptions

Current US Immigration Challenges and Solutions: Travel Limitations



National Interest Exemptions (NIE) are available for individuals traveling from the UK

- Available only for business travelers, investors, treaty traders, academics and students traveling from the Schengen countries, **UK** and Ireland (not China, Iran or Brazil)
- Must contact the U.S. Consulate to apply for NIE
- Must demonstrate that proposed travel will provide a significant economic or public health benefit to the U.S.



Visa
Limitations
and Exemptions

Current US Immigration Challenges and Solutions: Visa Limitations

Immigrant Visa Suspension - 22 April 2020

- Only suspends the issuance of new immigrant visas
- ***Green card sponsorship for US-based employees (PERM, I-140, I-485) is still permitted***
- Limited National Interest exemptions (NIE) available
- Effective until Dec. 31.



**Visa
Limitations
and Exemptions**

Current US Immigration Challenges and Solutions: Visa Limitations

Nonimmigrant Visa Suspension – 22 June 2020

- Only suspends the issuance of new L-1, H-1B, H-2B and some J-1 work visas (also dependents)
- ***Visa categories not affected: B-1, E-1, E-2, E-3, O-1, TN and F-1 (including CPT/OPT)***
- Individuals already possessing valid visas, or who were in US on June 24, are not affected
- National Interest Exceptions can be requested
- Effective until Dec. 31



Visa
Limitations
and Exemptions

Current US Immigration Challenges and Solutions: Visa Limitations

National Interest Exemptions to Nonimmigrant Visa Suspension: L-1A Visas

Four NIE Categories for L-1A: (1) public health; (2) request by US government agency; (3) employees resuming ongoing employment and (4) employees filling critical business need.

For L-1A critical business need, must meet 2 of 3 criteria:

- Senior-level executives or managers
- Long-tenured employees with substantial knowledge and expertise specific to the organization
- Employees filling a critical business need for a company meeting a critical infrastructure need
- **Note:** New office L-1As must meet 2 of 3 criteria and show new office will employ 5+ U.S. workers



**Visa
Limitations
and Exemptions**

Current US Immigration Challenges and Solutions: Visa Limitations

National Interest Exemptions to Nonimmigrant Visa Suspension: L-1B Visas

Same four NIE Categories as L-1A.

For L-1B critical business need, must meet 3 of 3 criteria:

- Employee's job duties and specialized knowledge will provide significant/unique contributions to the employer
- Employee's specialized knowledge is specifically related to a critical infrastructure need
- Employee's long tenure with the company indicates a substantial knowledge/expertise within the organization that would require extensive and financially-burdensome training to replicate



Consular
Service
Limitations

Current US Immigration Challenges and Solutions: Consular Limitations

US Consulate Closures and Limited Visa Services

- Routine visa services at U.S. Consulates worldwide were suspended in March, except for emergency visa appointments
- On July 14, DOS announced a phased-in, post-by-post resumption of routine visa services
- ***Routine visa operations at the US Consulate in London have partially resumed***
- Even as visa services resume at US Consulates, expect significant appointment delays



Questions & Answers



Thank you for attending.

Questions? Let's talk.

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