

**Board of Sponsors**

\*Nobel Laureate

- \* Peter Agre
- \* Sidney Altman
- \* Philip W. Anderson
- \* David Baltimore
- \* Paul Berg
- \* J. Michael Bishop
- \* Michael S. Brown
- \* Linda B. Buck
- Ann Pitts Carter
- \* Martin Chalfie
- \* Stanley Cohen
- \* Leon N. Cooper
- \* E. J. Corey
- \* Johann Deisenhofer
- Ann Druyan
- Paul R. Ehrlich
- George Field
- \* Val L. Fitch
- \* Jerome I. Friedman
- \* Walter Gilbert
- \* Joseph L. Goldstein
- \* David J. Gross
- \* Roger C. L. Guillemin
- \* Leland H. Hartwell
- \* Dudley R. Herschbach
- \* Roald Hoffmann
- John P. Holdren
- \* H. Robert Horvitz
- \* Eric R. Kandel
- \* Wolfgang Ketterle
- \* Brian Kobilka
- \* Robert J. Lefkowitz
- \* Roderick MacKinnon
- \* Eric S. Maskin
- Jessica T. Mathews
- Roy Menninger
- Matthew S. Meselson
- Richard A. Meserve
- \* Mario Molina
- Stephen S. Morse
- \* Ferid Murad
- \* Ei-ichi Negishi
- \* Douglas D. Osheroff
- \* Arno A. Penzias
- \* David Politzer
- George Rathjens
- \* Richard J. Roberts
- \* Randy Schekman
- \* Phillip A. Sharp
- \* K. Barry Sharpless
- \* Robert M. Solow
- \* Joseph Stiglitz
- \* Daniel Tsui
- \* Harold E. Varmus
- Frank von Hippel
- Robert A. Weinberg
- \* Steven Weinberg
- \* Torsten N. Wiesel
- \* Eric Wieschaus
- \* Frank Wilczek

**Statement for the Record by the Federation of American Scientists (FAS)  
Submitted to the Immigration and Citizenship Subcommittee of the  
U.S. House of Representatives Committee on the Judiciary**

The Federation of American Scientists (FAS) submits this statement for the record to provide the House Judiciary Subcommittee on Immigration and Citizenship with information relevant to its April 28, 2021 hearing entitled “Why Don’t They Just Get in Line? Barriers to Legal Immigration.”

The Technology and Innovation Initiative at FAS is focused on the intersection of immigration policy and emerging technologies in advancing the nation’s national security and economic growth. Talent is one of the scarcest resources in the global race for predominance in artificial intelligence (AI) and other technologies, yet the United States risks squandering this advantage. Despite the high proportion of foreign-born students and professors in U.S. science and engineering departments, the vast majority of whom wish to stay in the United States, much of the nation’s resident technology talent does not have a clear path to U.S. citizenship.

**Addressing the Backlog Crisis**

Both Congressional action and administrative improvements are urgently required to upgrade all elements of the U.S. legal immigration system for the 21<sup>st</sup> century, including employment-based immigration, [family-based immigration](#), [humanitarian immigration](#), and [naturalization](#).

In recent years, [processing times](#) have skyrocketed at U.S. Citizenship and Immigration Services (USCIS), leading to onerous wait times for everything from work permits to green cards to the ultimate privilege of U.S. citizenship.

**Board of Trustees and Experts**

Gilman Louie <i>Chair</i>	Rosina Bierbaum <i>Vice Chair</i>	Nishal Mohan <i>Secretary-Treasurer</i>	Dan Correa <i>Acting President</i>
<b>Board of Trustees</b> Daniel Gerstein Don Lebell Jan Lodal Catherine Lotrionte	Robert Solow* Frank von Hippel*  *Ex officio	<b>Board of Experts</b> Alton Frye Robert Gard Martin Hellman Martha Krebs	Jan Lodal Maxine Savitz Michael Telson Valerie Thomas

**Average processing time by U.S. Citizenship and Immigration Services for key forms (months)**

Form	Purpose	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	Change since 2014
I-130	Green card sponsorship by immediate relative	6.8	6.1	6.0	7.7	9.7	10.6	10.3	51.5%
I-131	Travel permit	2.1	2.3	2.3	3.0	3.9	4.5	4.7	123.8%
I-140	Green card sponsorship by employer	2.9	5.1	5.7	6.9	7.8	5.3	6.0	106.9%
I-485	Green card application based on employment	4.5	6.5	6.8	8.1	11.1	12.8	14.4	220.0%
I-485	Green card application based on family	5.7	6.6	6.8	8.4	11.1	11.1	9.9	73.7%
I-751	Final step for green card based on marriage ("removal of conditions")	5.7	7.4	9.1	11.8	16.1	15.5	13.9	143.9%
I-765	Work permit	2.1	2.4	2.6	3.1	4.2	4.5	4.4	109.5%
I-914	T visas for victims of trafficking	5.8	6.4	7.9	9.0	11.4	16.1	16.3	181.0%
I-918	U visas for victims of crime, including domestic abuse	5.0	11.4	22.1	32.1	40.6	44.5	48.8	876.0%
N-400	Citizenship application	5.2	5.8	5.6	8.1	10.3	9.9	9.3	78.8%

Worse still, the average numbers above conceal even more dire wait times that vary by region and by immigration category. The [median processing time for a U.S. citizenship application](#) far exceeds one year in many parts of the country, and some applicants have been kept waiting for over two years, despite meeting all eligibility requirements.

Wait times for the [spouses of H-1B workers](#), most of whom are highly-skilled professionals in their own right, now regularly exceed two years, leading to loss of immigration status and a flight of talent from the United States.

By the end of Fiscal Year 2020 (the latest date for which agency data is currently available), many of the most important services provided by USCIS had become burdened by extraordinary backlogs.

Stated simply, the entire U.S. legal immigration system is in a state of crisis, and without concerted policy and operational improvements, global talent will increasingly flow to other, more welcoming countries.

**Board of Trustees and Experts**

Gilman Louie  
*Chair*

Rosina Bierbaum  
*Vice Chair*

Nishal Mohan  
*Secretary-Treasurer*

Dan Correa  
*Acting President*

**Board of Trustees**  
Daniel Gerstein  
Don Lebell  
Jan Lodal  
Catherine Lotrionte

Robert Solow\*  
Frank von Hippel\*  
  
\**Ex officio*

**Board of Experts**  
Alton Frye  
Robert Gard  
Martin Hellman  
Martha Krebs

Jan Lodal  
Maxine Savitz  
Michael Telson  
Valerie Thomas

**Number of pending applications (i.e. backlog) at U.S. Citizenship and Immigration Services for key form**

Form	Purpose	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	Change from FY16-20
I-130	Green card sponsorship by immediate relative	938,577	1,289,088	1,520,249	1,564,880	1,472,788	56.9%
I-485	Green card application based on family	247,062	314,939	372,185	322,562	357,639	44.8%
I-765	Work permit	533,130	649,428	580,765	637,811	648,985	21.7%
I-918	U visas for victims of crime, including domestic abuse	150,561	190,361	229,230	255,495	270,074	79.4%
N-400	Citizenship application	520,589	728,301	734,817	644,121	938,154	80.2%
I-539	Extension or change of temporary status (e.g. spouses of H-1B workers)	59,330	87,848	95,938	97,201	349,631	489.3%

**Streamlining Immigration for AI Professionals**

New applications of artificial intelligence (AI) [are expanding rapidly](#), while countries all over the world are fiercely competing for the talent necessary to take advantage of these increasingly consequential technologies. The United States is still one of the top destinations for AI students and professionals, but it [may not stay that way for long](#). Many countries, such as [Canada](#) and the [United Kingdom](#), among [others](#), are adapting their immigration systems to make it easier for AI experts to study, work, and stay permanently.

One of the biggest barriers to global AI talent recruitment is the sheer time required to obtain a green card. In addition, current guidance for USCIS adjudicators makes no reference to particular technology areas, and it is not clear how AI-specific achievements fit into the requirements for various immigration options. USCIS can provide clearer guideposts for AI professionals seeking to demonstrate their eligibility for employment-based permanent residency pathways, such as EB-1s, EB-2s with National Interest Waiver, and EB-3s with [Schedule A](#) designation.

More information can be found in our report, [“Winning the Global Race for Artificial Intelligence Expertise: How the Executive Branch Can Streamline U.S. Immigration Options for AI Talent,”](#) *N.Y.U. J. Legis. & Pub. Pol’y Quorum* (2021).

**Welcoming Immigrant Entrepreneurs**

The [International Entrepreneur Rule](#) (IER) was finalized at the end of the Obama Administration as a way for the America to attract entrepreneurs to launch and grow innovative startups in the

United States. It is an agency regulation that was developed by the Department of Homeland Security (DHS), rooted in the DHS Secretary's statutory authority to grant parole on a case-by-case basis for "urgent humanitarian reasons or significant public benefit." During the Trump Administration, DHS attempted to rescind the rule—and though the rule ultimately survived, its precarious situation over the last four years has dissuaded all but [the most iron-willed entrepreneurs](#) from utilizing it.

There are many ways to achieve the full promise of the International Entrepreneur Rule through administrative changes, such as improving outreach and marketing; issuing clarifying and streamlined guidance; and issuing new rules to bridge the gap between the IER and existing immigration pathways for permanent residence.

The uncertainty around long-term permanent resident status in the United States cannot be relieved through parole alone, however. Ultimately, only Congress can pass more enduring startup visa legislation, expand the number of green cards available, and reform existing immigration pathways such that they would be more suitable for an international entrepreneur seeking to start a firm in the United States.

In fact, [not one but two statutory pathways](#) for entrepreneurs were already passed by the Senate in its bipartisan 2013 comprehensive immigration bill. Congress could consider reintroducing such pathways, updating them with the best parts of the IER while maintaining DHS' flexibility. Such changes could include:

- Removing the 2013 bill's requirement for applicants to submit a business plan, which DHS adjudicators are unlikely to have adequate time and expertise to review—unlike professional investors with "skin in the game";
- Allowing a simplified process to evaluate the qualifications of the startup's investors, with deference to previous approvals;
- Providing a more explicit way for adjudicators to account for the value of a startup being accepted into an exclusive accelerator program as evidence of its potential for rapid growth; and
- Granting DHS the flexibility to adjust investment and revenue thresholds to account for changing industry standards.

In addition to these changes, Congress should make a point to gather stakeholder feedback on the details, particularly on the definition of a qualified investor, to ensure that no legitimate investors are barred from participating.

More information can be found in our report, co-authored with Caleb Watney, “[Long Live the International Entrepreneur Rule: An Opportunity to Boost Jobs and Economic Growth is Hiding in Plain Sight](#),” *Progressive Policy Institute* (2021).

Thank you for your attention to these important matters.

Sincerely,

Doug Rand  
Senior Fellow  
Director, Technology and Innovation Initiative  
Federation of American Scientists

Lindsay Milliken  
Research Associate  
Federation of American Scientists