




Challenges for international Founders in US

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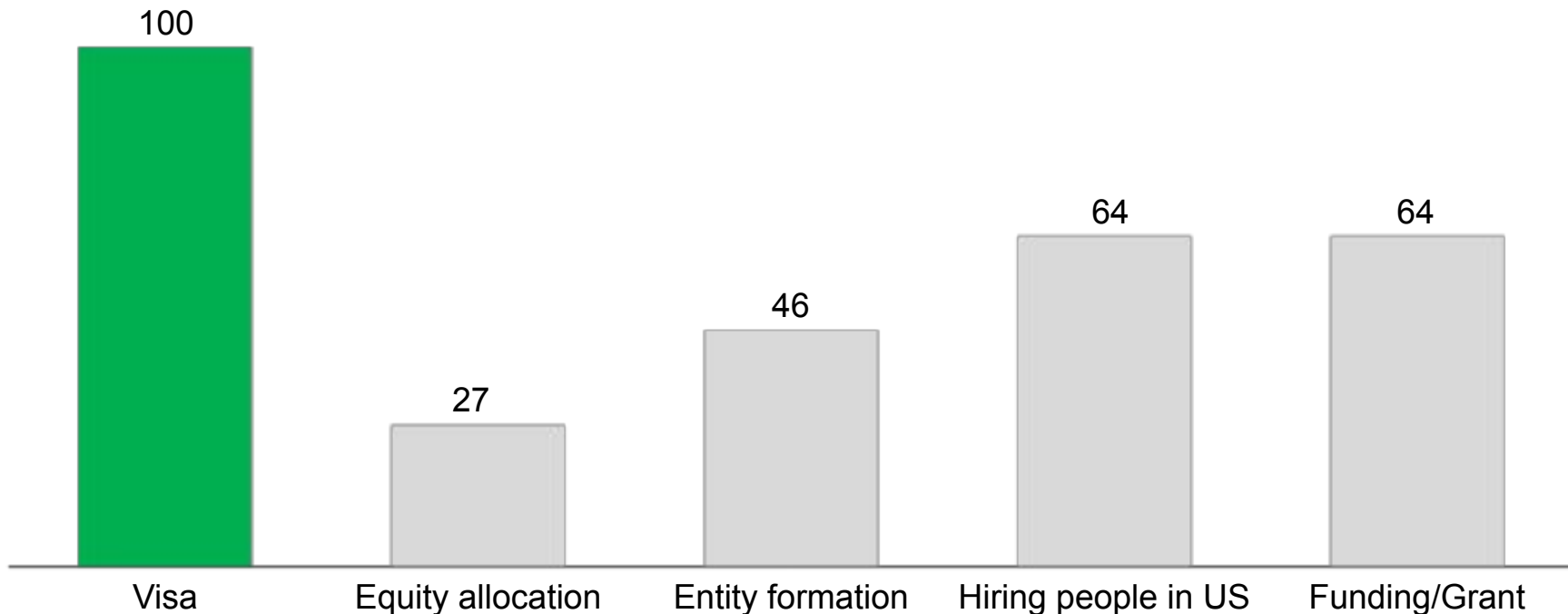


Summary

- International students who want to become an entrepreneur face a variety of issues. In this presentation, Visa, Entity formation and Hiring people in US will be covered
- **For Visa**, 100% of survey respondents are concerned about Visa, because information is bits and pieces and there are no single solutions that fit all of us
- Other than our passport country, (a) US citizen in your team (b) HQ location will affect our Visa options. Typically, H1B, O1, Entre parole, E2
- **Forming HQ** in your home country with a child company in US will increase Visa options, but the choice of HQ location may become the final choice in the future. Consider investment opportunities, recruiting, sales, legal, and tax perspectives
- For **hiring people in US**, it is better to pay attention that we are "Not working" and avoid hiring US people as "Volunteer"
- Unfortunately, everything is case-by-case... leverage MIT resources and talk to them now

Survey reveals 100% of international students who wants to be a founder are concerning about VISA

Do you have any concerns around being an entrepreneur in US as an international student? (N=11, Multi Answer)



A lot of concerns received from international students related to Visa, entity formation, equity allocation

Main concern is about ability to stay in the US legally and being able to found the company here.

It is difficult because **once the program is finish we are forced to leave the country, then the dream to incorporate is almost impossible**

I really don't know how flexible the Visa status and norms are for creating and working on your own venture.

I'm an international student from India pursuing Sloan Fellows MBA. Plan to develop my new start-up concept and setup a legal entity in US. Need advise as to the criteria and process to do the same. I heard it's possible but need a US citizen as an equity partner and demonstrate myself as an employee.

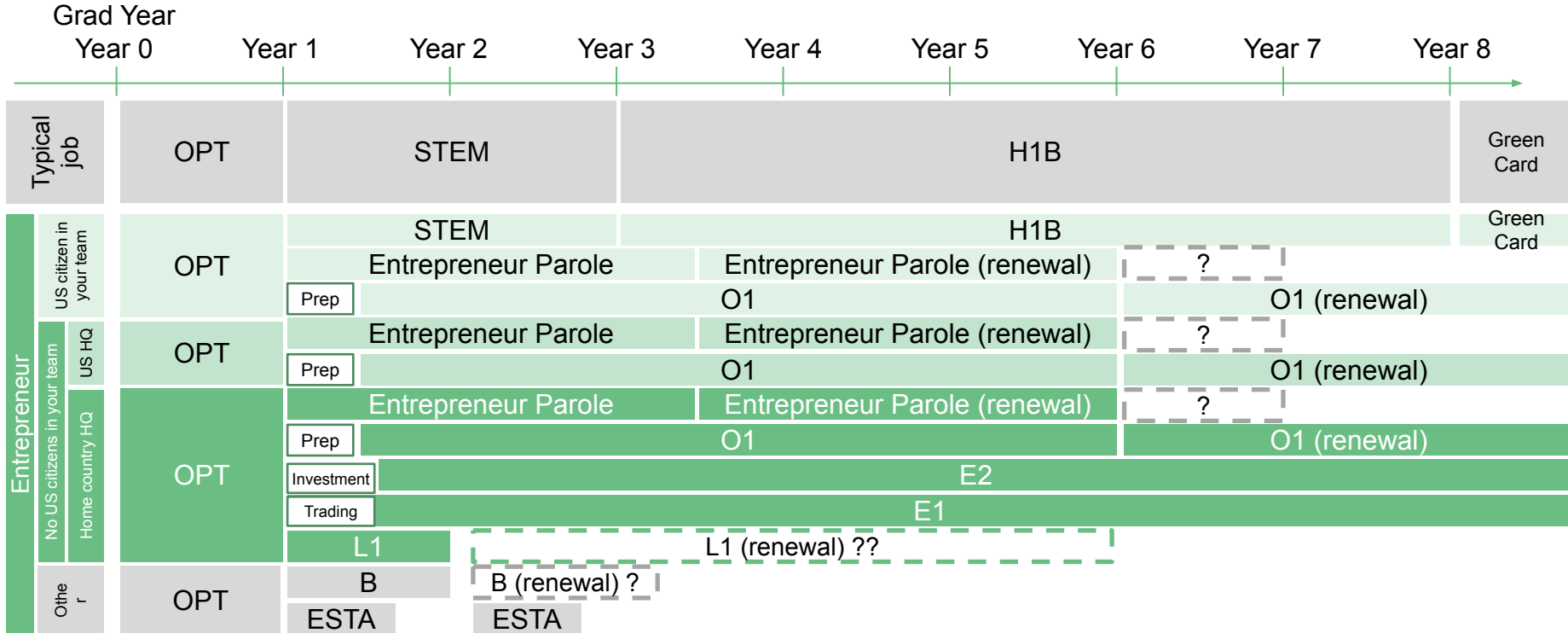
Afraid to lose right to remain in the US if I don't raise capital or my venture fails

Visa issue since typically on a H1b you are not allowed to start a company and be a founder.

Entity formation since the resources are not consolidated so the entire process seems overwhelming

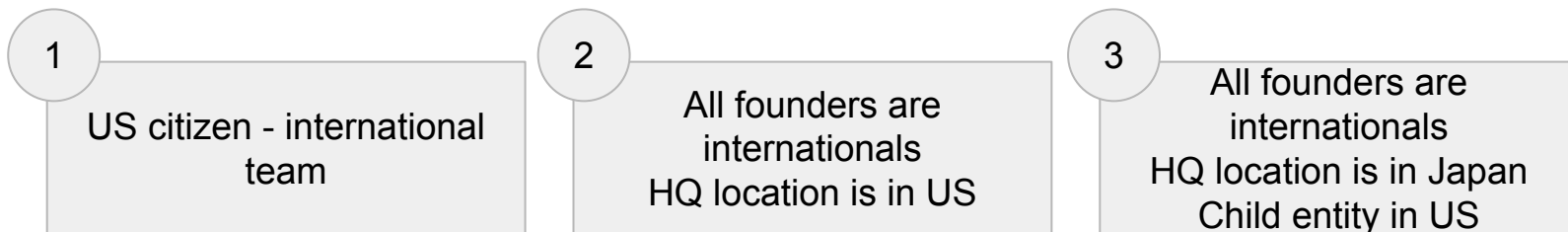
Equity allocation since most of the founders are American and typically white so there is little to no representation.

OPT-STEM-H1B, the usual path for international students does not work for starting up company because we are not employed by a big company



Note: This information is intended to help international students understand overall options and may not be exhaustive. Visa option may differ by your passport country. For more situation specific question, talking to immigration lawyers is highly recommended

There are two key criteria that may affect your ease of getting Visa: (a) US citizen in your team (b) HQ location



Recommended Options:

OPT->STEM->H1B
OPT->Entrepreneur Parole
OPT->O1

OPT->Entrepreneur Parole
OPT->O1

OPT->Entrepreneur Parole
OPT->O1
OPT->E2

Typically, Visa options will be, OPT, STEM, H1B, E2, E1, L1, B, O1, International Entre parole

	○ : Eligible, △ : Eligible, but low chance to win, ? : Depends, x : Not eligible	Period	Legal fee	Other fee	1	2	3
OPT	Staying nine months in program before you graduate. Self-employed accepted.	1yr	-	-	○	○	○
STEM	You should be Trainee, such as employed by the company, (could be fired by others, cannot own high percentage of equity)	2yr	-	-	?	x	x
H1B	You should be employed by the company, (could be fired by others, cannot own high percentage of equity). Use Proxy Voting to delegate voting right to US-nationals. Lottery on March	3yr	\$3.5K	\$1-2K	○	x	x
E2	\$100-200k investment from founder's pocket money to US before Visa application, maintain 51% share by internationals, hire at least 1 US citizen, and may require revenue generation in US. 5-Year visa	5yr	\$6K	\$100-200k	x	○	○
E1	Require at least six-months trading history. Maintain US-YourCountry over 50% of all international trading. 5-Year visa	5yr	\$5K	-	x	○	○
L1	HQ outside US, and child company in US. Need over 1 year work experience in the company outside US. First Visa (1 year exp.) easy but difficult to renew (Great progress, e.g. high sales, hiring, is required for renew.)	1yr	\$5K	-	x	x	△ Not recommen ded
B	Reviewing process becomes more and more strict recently. Rejection of B-visa will lose ESTA. The difference of B-visa and ESTA is length of duration	1yr	\$1K	-	x	x	○
O1/EB1	Show Extra-ordinary skills in three area within eight area, to show yourself famous, such as winner at Hackathon, Media exposure, Reviewer of competition. No company requirement. Unlimited Renew, three-year Visa	3yr	\$10-15k	-	○	○	○
International Entrepreneur Parole	Company should be founded within last five years, you should hold over 10% stock, and operate the company. Satisfy either of "over \$265K investment by successful US company", "received over \$106k from government", "Beneficial for US such as joining famous accelerator, revenue, customers". 2.5 Year + 2.5 Year	2.5yr	-	-	○	○	○

Source: Interview with Immigration lawyers; Literature search

Green Card option, usually harder than previous options and other options

- EB-2 NIW – Upper version of O1
- EB-2 Extra-ordinary – Upper version of O1
- EB-5 – Lots of investment
- Other options
 - CAP-exempt H1B+ Concurrent H1B – Entrepreneur in Residence. Hired by VC or schools to work on Startup

Entity Formation

Forming parent entity outside with child entity in US will increase Visa options, but your choice of HQ location could be final choice. There are several key consideration

Structure:

US Parent

**Your country
Parent**

Licensing

Parent
company:

US

Your
Country

Your
Country

US

Subsidiary:

Your
Country

US

Key
consideration:

- VC investment
- Recruiting difficulties
- Sales effectiveness
- Administrative cost
- Cost and tax on corporate inversion

Comparison among potential structures (Japan-US, BoostDraft example)

	Hiring US Engineer	Sales in US	Sales in Asia	Exiting from US market	Fund raising	Developing International culture in team	Tax	Legal Risk
US Parent	◎ Sounds familiar with many; more people will join	◎ Sounds familiar with us clients (Track record matters over structure?)	○ No bad impression on US company	× Difficult to close US operation only	◎ Early stage US VCs only invest in US corps	◎ Suited for a global expansion	× Generally Heavy and complex (Need to investigate further)	× Direct exposure to US legal risks
JP Parent	△ Fewer people will come to JP company (Need to confirm)	△ Not familiar with US clients (Track record matters over structure?) (Need to confirm)	○ JP Company has strong presence	◎ Just closing US branch	× Only JP funding is available until the later stage	○ members matter over HQ country? (Need to confirm)	○ Not very complicated	○ Indirect exposure (Not very different given corporate veil?)

You should be careful when you deciding HQ location decision because corporate inversion will cost a lot

- Changing HQ location after you formed entity usually requires to Corporate Inversion, which costs a lot
 - Legal fee
 - Government tax for capital gain
 - Other taxes
 - e.g. US -> Japan inversion ... \$200K, Japan -> US inversion ... \$50K
- Without any investment, forming a new entity is easiest way
 - Giving away your stake to yourself in the new entity
 - With investment (when your company already has value), you may incurred a capital gain

Licensing is not usually great because that will create a lot of works and troubles

- Some investor may want to invest one of them, and that creates a lot of troubles...
- Lots of administrative work related to licensing
- Usually resulted in one company acquiring the other, which is bad efficiency of funds operation

Key consideration on hiring People in US is Visa and Minimum wages

- Visa : F-1 Visa students should "Not working" but you are hiring people. Need to double check with expert. Possible options will be
 - In-Semester OPT
 - Part of course work e.g. Sandbox
- Minimum Wages : Free-work is not legally acceptable in MA
 - Consent does not mean anything
 - Take 15.621 "Your Career and the Law: Key Junctures, Opportunities and Risks" by Louis Anthony Rodriques

Resources/Point of contact

- Visa

- ISO

- <https://iso.mit.edu/employment/>

- https://iso.mit.edu/wp-content/uploads/2020/07/Goss_presentation_WorkVisaOptions_MIT_03132019.pdf

- Contact : Allison Day alisond1@mit.edu

- Sandbox Expert (Immigration Lawyers)

- Sandbox office hours <http://sandbox.mit.edu/experts#immigrationlaw>

- [Rachel Casseus](#), [Mahsa Khanbabai](#)

- Immigration lawyers (Usually first time is free)

- Yohei Fujii; yohei@mit.edu

- Entity Formation

- BU Law clinic <https://sites.bu.edu/startuplaw/> Free support by BU law students supervised by lawyers

- Sandbox Expert ([Therése Klasson](#), [WilmerHale](#))

- Hiring people in US

- 15.621 "Your Career and the Law: Key Junctures, Opportunities and Risks" by Louis Anthony Rodriques

Thank you!



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