CAPITAL MARKETS · CROSS-BORDER COMPLIANCE · FOREIGN INVESTMENT

Foreign-Trained Legal Expertise as Critical Infrastructure

U.S. Cross-Border Compliance, Capital Markets Integrity, and Inbound Foreign Direct Investment

AN FTLA POLICY FRAMEWORK

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An institutional analysis of foreign-trained lawyers as professional infrastructure for U.S. cross-border legal practice.

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EXECUTIVE SUMMARY

The United States is the largest recipient of foreign direct investment in the world. **At year end 2024, the cumulative foreign direct investment position in the United States stood at $5.71 trillion**, a $332.1 billion increase from 2023. Foreign multinationals earned $310.9 billion on their U.S. investments that year; a 13.1 percent jump over the prior year. New foreign direct investment expenditures totaled $151.0 billion. The United States hosts more than 1,500 foreign domiciled exchange listed companies, the largest community of foreign issuers of any capital market on earth. The U.S. Department of Commerce, through its SelectUSA program, has facilitated more than $400 billion in cumulative inbound investment supporting more than 270,000 American jobs.

These flows do not move themselves. They move through legal infrastructure: securities counsel preparing Form 20-F disclosures; transactional counsel structuring cross border acquisitions; compliance counsel running due diligence under the Uyghur Forced Labor Prevention Act; regulatory counsel preparing CFIUS filings; corporate counsel drafting governance frameworks that satisfy both U.S. capital markets standards and home country corporate codes; and immigration counsel managing the visa categories on which inbound investment depends. Every one of those workflows requires reading a foreign legal system as fluently as the U.S. system. Most U.S. trained lawyers, however excellent, cannot do that without partnering with a lawyer who learned the foreign system from inside it.

This paper takes the position that the population of foreign trained lawyers integrated into U.S. legal practice is properly understood as *critical professional infrastructure* for the U.S. economy; comparable, in function if not in scale, to the cross border accounting profession or the international banking workforce. Like other forms of critical infrastructure, this professional segment has been undermanaged: there is no coherent national policy framework for it, no standardized recognition pathway across U.S. jurisdictions, no central professional development infrastructure, and no organized advocacy voice on questions of regulatory architecture. The Foreign Trained Lawyers Association (FTLA) is being launched to fill that gap.

Five findings

First, the cross border compliance burden on U.S. companies has reached a level that materially affects U.S. capital markets, foreign investment flows, and corporate decision making. The Committee on Foreign Investment in the United States reviewed 325 filings covering 269 distinct transactions in 2024, with active mitigation oversight of 242 agreements at year end. U.S. Customs and Border Protection detained 5,500 plus shipments worth roughly $2 billion under the UFLPA between mid 2022 and end 2024. The SEC issued a Concept Release on Foreign Private Issuer Eligibility in June 2025 reporting that approximately 55 percent of foreign private issuers as of fiscal year 2024 had no or minimal trading of their equity securities on any non U.S. market. Each of these enforcement architectures generates demand for legal services that bridge U.S. and foreign legal systems.

Second, the existing supply of legal professionals capable of meeting that demand is constrained by structural friction in U.S. licensing pathways. Of the 4,090 candidates who sat for the New York bar examination in February 2025, foreign educated candidates accounted for 2,225; 54 percent of all takers. Their pass rate was 30 percent, against a domestic ABA graduate pass rate that runs roughly two and a half times higher. The result is a profession in which a majority of bar takers in the country's most international legal market are foreign trained, but most do not pass on first attempt; those who do pass enter the profession with limited collective infrastructure to support continued professional development on cross border matters.

Third, the federal regulatory architecture that drives demand for cross border legal services is bipartisan, sector spanning, and growing. It includes the Sarbanes-Oxley Act of 2002 and the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (capital markets integrity); the Foreign Investment Risk Review Modernization Act of 2018 (national security review of foreign investment); the Uyghur Forced Labor Prevention Act of 2021 (supply chain integrity); the Office of Foreign Assets Control sanctions program (foreign policy enforcement); SEC disclosure obligations for issuers with material foreign operations; and the U.S. National Action Plan on Responsible Business Conduct (2024) recommitting the United States to the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights. Each is a current and active U.S. national priority.

Fourth, the United States has, through SelectUSA, the Department of Commerce's International Trade Administration, and the State Department's economic affairs apparatus, treated inbound foreign direct investment as a top tier national interest objective for more than four decades, across administrations of both parties. The 2026 SelectUSA Investment Summit, scheduled for May 2026 in National Harbor, Maryland, is described by the Department of Commerce as the highest profile event in the United States dedicated to facilitating foreign direct investment. The current administration in its first year reported $139 billion in FDI deals through the SelectUSA channel alone. The legal services that translate those announcements into closed deals are, in significant part, performed by foreign trained lawyers integrated into U.S. practice.

Fifth, notwithstanding the strategic importance of this professional segment, the United States has no organized institutional voice for foreign trained lawyers focused on cross border practice. The American Immigration Lawyers Association represents immigration practitioners. The American Bar Association's Section of International Law represents the international practice bar generally. Chambers of commerce represent foreign headquartered businesses. There is, however, no organization whose primary mandate is the integration and professional development of foreign trained lawyers *as a strategic asset for U.S. capital markets and foreign investment integrity*. FTLA is being established to fill that gap.

What this paper proposes

This paper offers an integrated policy framework with five components. It begins (Section I) by establishing the national interest problem: that U.S. cross border compliance demands now exceed what the domestic trained bar can handle alone, and that this gap is a strategic vulnerability for U.S. capital markets and economic competitiveness. It then quantifies the gap (Section II) using

current data from the Bureau of Economic Analysis, the Securities and Exchange Commission, the Treasury Department, U.S. Customs and Border Protection, the Department of Commerce, and the New York State Board of Law Examiners. Section III develops the original argument that foreign trained lawyers, properly integrated into U.S. practice, are an under recognized strategic asset for U.S. capital markets, investor protection, and regulatory enforcement. Section IV proposes a policy framework, admission pathways, recognition mechanisms, professional development standards, and ethics infrastructure, through which the United States can convert that latent asset into operational capacity. Section V describes the programmatic response of the Foreign Trained Lawyers Association, including its standards, mentorship, professional development, advocacy, and scholarship workstreams.

The paper concludes that the United States has, in foreign trained lawyers integrated into U.S. practice, a strategic asset whose value is currently underwritten by their individual effort but not by any organized professional infrastructure. The cost of building that infrastructure is modest. The cost of continuing to leave it unbuilt is paid in compliance failures, deal friction, lost foreign investment, and a less competitive U.S. capital market. FTLA exists to build that infrastructure.

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GLOSSARY OF ABBREVIATIONS

The following abbreviations are used throughout this paper. Citations to source materials appear in the Endnotes.

Abbreviation	Full term
ABA	American Bar Association
ADR	American Depositary Receipt
AILA	American Immigration Lawyers Association
BEA	Bureau of Economic Analysis, U.S. Department of Commerce
BIS	Bureau of Industry and Security, U.S. Department of Commerce
BIT	Bilateral Investment Treaty
BOLE	Board of Law Examiners (used herein principally for New York)
CBP	U.S. Customs and Border Protection
CFIUS	Committee on Foreign Investment in the United States
CLE	Continuing Legal Education
CRSP	Center for Research in Security Prices, University of Chicago Booth School of Business
CSRD	Corporate Sustainability Reporting Directive (European Union)
DERA	Division of Economic and Risk Analysis, U.S. Securities and Exchange Commission
DGCL	Delaware General Corporation Law
DOJ	U.S. Department of Justice
DXA	Display Approximately (typographic measurement unit; 1440 DXA = 1 inch)
EDGAR	Electronic Data Gathering, Analysis, and Retrieval system, U.S. Securities and Exchange Commission
EDO	Economic Development Organization
ESG	Environmental, Social, and Governance
FCPA	Foreign Corrupt Practices Act of 1977, as amended
FDA	U.S. Food and Drug Administration
FDI	Foreign Direct Investment

Abbreviation	Full term
FDIUS	Foreign Direct Investment in the United States
FIRRMA	Foreign Investment Risk Review Modernization Act of 2018
FLETF	Forced Labor Enforcement Task Force
FPI	Foreign Private Issuer (as defined under SEC rules)
FTLA	Foreign Trained Lawyers Association
GAAP	Generally Accepted Accounting Principles (used herein in the U.S. sense)
GDP	Gross Domestic Product
IBA	International Bar Association
ICSID	International Centre for Settlement of Investment Disputes
IFRS	International Financial Reporting Standards
IIP	International Investment Position (BEA statistical concept)
IJBRM	International Journal of Business Research and Management
IOSCO	International Organization of Securities Commissions
IPO	Initial Public Offering
ITA	International Trade Administration, U.S. Department of Commerce
LL.M.	Master of Laws degree
M&A	Mergers and Acquisitions
MFN	Most Favored Nation (treatment standard under treaty)
MMoU	Multilateral Memorandum of Understanding (here used for IOSCO's)
MNE	Multinational Enterprise
MPRE	Multistate Professional Responsibility Examination
MPT	Multistate Performance Test
NCBE	National Conference of Bar Examiners
NSPM	National Security Presidential Memorandum
NYSE	New York Stock Exchange
OECD	Organisation for Economic Co-operation and Development
OFAC	Office of Foreign Assets Control, U.S. Department of the Treasury
PCAOB	Public Company Accounting Oversight Board

Abbreviation	Full term
PRC	People's Republic of China
SDN	Specially Designated Nationals (used herein for the OFAC list)
SEC	U.S. Securities and Exchange Commission
SOX	Sarbanes-Oxley Act of 2002
TID	Technology, Infrastructure, or Data (FIRRMA classification of sensitive U.S. businesses)
UBE	Uniform Bar Examination
UBO	Ultimate Beneficial Owner
UFLPA	Uyghur Forced Labor Prevention Act of 2021
UNCITRAL	United Nations Commission on International Trade Law
USCIS	U.S. Citizenship and Immigration Services
USDIA	U.S. Direct Investment Abroad
USTR	Office of the United States Trade Representative
XUAR	Xinjiang Uyghur Autonomous Region (People's Republic of China)

I. The National Interest Problem

The premise of this paper is that the United States now faces a structural mismatch between the volume and complexity of cross border legal demands placed on U.S. companies and the supply of professional capacity available to meet those demands. The mismatch is not the product of any single statute or regulatory development. It is the cumulative result of two decades of federal policy choices, most of them deliberate, most of them bipartisan, that have built an increasingly dense architecture of cross border compliance obligations on top of an open investment economy that the United States has, since the Reagan administration, treated as a strategic asset.

This section maps that architecture, identifies why domestic trained legal capacity alone is insufficient to meet it, and frames the resulting capacity gap as a national interest problem. The argument is not that foreign trained lawyers are categorically superior to domestic trained lawyers, or that they should displace them. The argument is that the United States has built a body of regulatory expectations, applicable to U.S. companies operating abroad and to foreign companies operating in the United States, whose efficient execution depends on professionals who can read both legal systems involved. That class of professional includes a significant population of foreign trained lawyers integrated into U.S. practice, and the United States has not built the institutional infrastructure to recognize, develop, or organize that population.

A. The architecture of U.S. cross border compliance

The body of federal law that governs cross border conduct by U.S. and foreign companies has grown in five overlapping policy waves since the early 2000s. Each wave was driven by a distinct policy concern. Each remains in force in 2026. Together they constitute the architecture of U.S. cross border compliance.

1. Capital markets integrity: Sarbanes-Oxley and Dodd-Frank

The Sarbanes-Oxley Act of 2002 imposed disclosure, internal controls, and audit oversight obligations on issuers of registered securities, including foreign private issuers (FPIs), without regard to their country of incorporation or principal place of business. The Public Company Accounting Oversight Board (PCAOB), created by Sarbanes-Oxley, was given supervisory authority over the audit firms that audit U.S. listed companies, including foreign audit firms auditing FPIs. The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

extended the disclosure architecture into specialized regimes including conflict minerals reporting under Section 1502, resource extraction issuer disclosures under Section 1504, and whistleblower protections under Section 922. Each of these regimes has direct extraterritorial reach: a Canadian mining company listed on the New York Stock Exchange must comply with Section 1502 conflict minerals diligence on its African supply chain; a German automotive supplier whose securities are registered in the United States must comply with Sarbanes-Oxley internal controls certifications on operations conducted in Germany.

These regimes are not optional, and they do not become less burdensome because the underlying conduct occurs outside the United States. The SEC has consistently treated the registration of securities in U.S. capital markets as a sufficient jurisdictional hook to impose full disclosure obligations. The result is that the SEC's disclosure architecture is, in operation, a global compliance architecture for the population of issuers that have chosen to access U.S. capital markets.

In June 2025, the SEC issued a Concept Release on Foreign Private Issuer Eligibility soliciting public comment on potential changes to the FPI definition. The Concept Release reported that approximately 55 percent of foreign private issuers as of fiscal year 2024 had no or minimal trading of their equity securities on any non U.S. market and appeared to maintain listings of their equity securities only on U.S. national securities exchanges. The Commission identified the FPI population as having undergone significant demographic and behavioral change since the FPI rules were last comprehensively reviewed in 2003, and proposed six potential frameworks for revision: tightening eligibility criteria, requiring minimum non U.S. trading volume, requiring a major foreign exchange listing, conditioning FPI status on SEC assessment of the home country regulatory regime, establishing a mutual recognition system, and requiring participation in IOSCO's Multilateral Memorandum of Understanding on cross border enforcement cooperation.

Each of those six proposed frameworks would, if adopted, generate new demand for legal services that bridge U.S. and foreign legal systems. Each would also impose new compliance costs on the existing FPI population; costs that themselves are paid in legal fees. Whether the SEC ultimately adopts a tightened FPI definition, a mutual recognition system, or some hybrid, the regulatory direction of travel is unmistakable: the United States is moving toward more rigorous, not less rigorous, oversight of the foreign issuers in its capital markets, and that movement increases the demand for professionals who can read both regulatory regimes.

2. National security review of foreign investment: FIRRMA and CFIUS

The Foreign Investment Risk Review Modernization Act of 2018 (FIRRMA) substantially expanded the jurisdiction of the Committee on Foreign Investment in the United States (CFIUS) over inbound investment. Where the pre FIRRMA regime focused on transactions resulting in foreign control of U.S. businesses, the post FIRRMA regime extends to non controlling investments in U.S. businesses involved in critical technologies, critical infrastructure, or sensitive personal data (TID businesses), as well as to certain real estate transactions in proximity to military installations, airports, and maritime ports. FIRRMA also created a mandatory filing regime for certain transactions involving foreign government investors and TID businesses.

According to the CFIUS 2024 Annual Report to Congress released by the Department of the Treasury on August 6, 2025, CFIUS reviewed 325 covered transactions in calendar year 2024, comprising 209 written notices of covered transactions and 116 declarations. Practitioner analysis adjusting for withdrawn and refiled notices and declarations that converted to full notices puts the number of distinct transactions reviewed at approximately 266. CFIUS proceeded to a 45 day investigation in 116 of those 209 notices. Mitigation agreements were imposed on roughly 9 percent of covered transactions in 2024; down from 21 percent in 2023 and 23 percent in 2022, but with active oversight of 242 agreements at year end. Civil penalties for breaches of mitigation agreements continued, with one penalty assessed for material misstatements in a notice filing reaching $60 million; the largest in CFIUS history.

Of substantive importance for this paper, every CFIUS filing is a cross border legal undertaking by definition. The acquirer or investor is foreign by hypothesis. The target is, in the typical case, a U.S. business. The transaction documents must satisfy U.S. transactional norms, U.S. securities law, U.S. CFIUS filing requirements, and the home country corporate law of the foreign acquirer. Even routine declarations involve coordination across U.S. counsel, foreign counsel, and CFIUS specialist counsel. Mandatory filings under TID and foreign government tests carry meaningful penalties for non compliance; up to $250,000 per violation under the November 2024 final rule increasing CFIUS civil penalties.

The 2025 policy environment has further intensified CFIUS activity. The America First Investment Policy National Security Presidential Memorandum issued in February 2025 announced an Administration intention to end the use of overly bureaucratic, complex, and open ended mitigation agreements for U.S. investments from foreign adversary countries, while simultaneously

expanding the CFIUS toolkit through additional real estate jurisdiction and the Department of Agriculture's National Farm Security Plan. The combined direction is one of more selective, but more demanding, CFIUS engagement; favoring trusted allies while raising the bar for transactions involving investors from jurisdictions of concern.

3. Supply chain integrity: the UFLPA and forced labor enforcement

The Uyghur Forced Labor Prevention Act, signed into law on December 23, 2021, established a rebuttable presumption that goods mined, produced, or manufactured wholly or in part in the Xinjiang Uyghur Autonomous Region of the People's Republic of China, or by entities on the UFLPA Entity List, are made with forced labor and therefore prohibited from importation into the United States under 19 U.S.C. § 1307. To rebut the presumption, an importer must demonstrate to U.S. Customs and Border Protection that the goods were not produced with forced labor, that the importer has complied with diligence requirements, and that the importer has been responsive to CBP follow up inquiries.

Enforcement statistics from the CBP UFLPA dashboard make clear that the Act has matured from a notional regulatory innovation into a binding constraint on global supply chains. CBP detained approximately 5,500 shipments worth roughly $2 billion under the UFLPA between June 2022 and end of 2024. Detentions averaged 428 shipments per month in 2024, up from 342 per month in 2023; a 25 percent year over year increase. November 2024 alone saw 648 detentions, the highest single month figure on record. The country of origin pattern of detentions reveals the difficulty of compliance: a substantial share of detained shipments arrive from third countries, Malaysia, Vietnam, Thailand, where Xinjiang linked materials have been incorporated into finished goods upstream. Forty seven percent of shipments detained between June 2022 and December 2024 were ultimately denied entry into the United States.

UFLPA compliance is, structurally, a problem of cross border legal and factual investigation. The U.S. importer must trace its supply chain backward through multiple tiers of foreign suppliers, in foreign legal systems, often in languages other than English, and produce documentary evidence sufficient to satisfy CBP. The Forced Labor Enforcement Task Force has identified high risk sectors, cotton, polysilicon, tomatoes, aluminum, batteries, polyvinyl chloride, steel, tires, electronics, and increasingly automotive and aerospace components, where the diligence burden is particularly acute. A 2024 industry analysis found that the cost of a single UFLPA detention case can exceed $810,000 in legal fees, storage and demurrage charges, and lost sales. The 2024

enforcement year also saw a 1,580 percent increase in automotive and aerospace shipment detentions over 2023, reflecting CBP's movement into industries where supply chain complexity makes diligence particularly demanding.

4. Sanctions and foreign policy enforcement: OFAC

The Office of Foreign Assets Control of the U.S. Department of the Treasury administers and enforces economic and trade sanctions based on U.S. foreign policy and national security goals. The OFAC sanctions architecture is, in scale and complexity, among the most extensive cross border legal regimes operated by any government on earth. It includes country based programs covering Iran, Cuba, North Korea, Syria, and others; targeted programs based on the Specially Designated Nationals (SDN) List and various sectoral lists; and a rapidly expanding set of programs targeting Russian entities and individuals following the 2022 invasion of Ukraine. Civil monetary penalties for OFAC violations can reach the greater of $250,000 or twice the value of the underlying transaction, and aggregate penalty exposure in major cases has, over the past decade, run into the hundreds of millions of dollars.

OFAC compliance is irreducibly cross border. The sanctioned conduct, by definition, involves a foreign person, a foreign jurisdiction, or both. U.S. companies and their foreign subsidiaries must screen counterparties against constantly updated lists, monitor the beneficial ownership of customers and suppliers (50 percent rule), block or reject transactions accordingly, and file required reports. Foreign companies that touch the U.S. financial system through dollar clearing, U.S. origin goods or technology, or U.S. persons in their employ, a population that includes essentially every multinational of consequence, must do the same. Each of these compliance workflows requires legal capacity that bridges U.S. sanctions law and foreign jurisdictions where the customer, supplier, or transaction sits.

5. The Foreign Corrupt Practices Act and the 2025 enforcement landscape

The Foreign Corrupt Practices Act of 1977, as amended, prohibits U.S. issuers, U.S. domestic concerns, and certain foreign persons from corruptly offering or providing anything of value to foreign officials to obtain or retain business. For more than four decades, the FCPA has been a defining feature of U.S. cross border compliance, generating both DOJ led criminal enforcement and SEC led civil enforcement, often in coordination with foreign anti corruption authorities under the OECD Anti-Bribery Convention.

Executive Order 14209, issued February 10, 2025, directed a pause on new FCPA investigations and enforcement actions for a defined period, on the stated rationale that overbroad and unpredictable FCPA enforcement impedes American economic competitiveness and, therefore, American national security. The Order does not repeal the FCPA, only Congress can do that, and it does not extinguish the books and records or internal controls provisions that the SEC continues to administer for issuers. The statute of limitations on FCPA conduct continues to run during any enforcement pause, meaning conduct undertaken in 2025 remains subject to enforcement when the pause ends.

For practitioners, the 2025 enforcement environment requires the same compliance discipline as before. The relevant authorities outside the FCPA, including parallel anti bribery statutes in the United Kingdom, France, Germany, Brazil, and other major jurisdictions, the OECD Anti-Bribery Convention itself, and U.S. state law and securities fraud theories, remain fully active. Multinational compliance programs are not retired during a U.S. enforcement pause; they are maintained against the possibility of resumed enforcement and against the certainty of foreign enforcement. This continued compliance posture itself generates demand for cross border legal services, as companies must run programs that satisfy multiple anti corruption regimes simultaneously.

6. Responsible business conduct: the U.S. National Action Plan and the OECD framework

On May 22, 2024, the United States released its updated National Action Plan on Responsible Business Conduct, recommitting the United States to the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights. The G20/OECD Principles of Corporate Governance, revised in 2023 with U.S. participation and endorsement, set the international benchmark for board accountability, shareholder protection, and disclosure standards. Foreign companies operating in the United States, and U.S. companies operating abroad, are increasingly expected, by investors, by counterparties, and by certain regulators, to conform to these international frameworks.

These frameworks are not, in the U.S. system, formal sources of binding law in most cases. They are, however, increasingly material to corporate governance practice, to ESG disclosure, to investor relations with sovereign and pension fund investors, and to litigation risk under derivative claim, securities fraud, and consumer protection theories. The competent corporate counsel for a

U.S. multinational in 2026 must be conversant with the OECD Guidelines, the UN Guiding Principles, and the home country implementing law in jurisdictions where the company operates. That requirement extends a step further when the corporate counsel operates inside the United States but the underlying conduct, supply chain, or workforce sits abroad.

7. Investor protection and treaty obligations

The United States is party to a network of bilateral investment treaties and free trade agreement investment chapters that govern the treatment of foreign investors in the United States and U.S. investors abroad. While the post 2018 trend in U.S. policy has been to narrow investor state dispute settlement, the underlying treaty framework remains in force, and the obligations of national treatment, most favored nation treatment, fair and equitable treatment, and protection from uncompensated expropriation continue to apply. Compliance with these obligations is, in the first instance, a matter of statutory and regulatory administration; in the second instance, a matter for the U.S. Trade Representative and the Department of State; and, when disputes mature, a matter for arbitration under International Centre for Settlement of Investment Disputes (ICSID) rules or under ad hoc UNCITRAL procedures. The professional capacity to handle these matters is, by definition, cross border.

B. Why domestic trained capacity alone is insufficient

A recurring objection to the framing offered in this paper is that the U.S. legal profession is large, sophisticated, and well resourced, and that it has handled cross border matters for as long as the United States has been a global economy. The objection is not without force. The largest U.S. law firms maintain global offices, employ foreign qualified attorneys in those offices, and have developed deep practice groups in international transactions, sanctions, CFIUS, FCPA, ITAR, EAR, antitrust merger review, and the other specialized fields of cross border law. These firms perform critical work and the U.S. legal market is, in the relevant senses, the most capable in the world.

But the objection misreads the structure of the problem. The capacity gap that this paper identifies does not exist at the apex of the legal market. It exists in the middle and the lower tier; in the small and mid sized matters that, in aggregate, drive the bulk of inbound foreign investment, the bulk of cross border M&A by transaction count, and essentially all of the routine compliance work that the architecture described in Part I.A imposes on companies operating across borders.

A foreign small or medium sized enterprise establishing a U.S. subsidiary to enter the U.S. market does not, in the typical case, retain a Vault 100 firm at $1,800 hourly rates. It retains a smaller firm or a solo practitioner. The foreign headquartered family business with a $30 million U.S. acquisition, the Korean food company opening U.S. distribution, the Brazilian agricultural exporter dealing with a UFLPA adjacent supply chain question, the Indian pharmaceutical company addressing a routine FDA disclosure issue with foreign clinical trial data, the European fintech engaging a U.S. money services business compliance question; none of these is a Vault 100 client by economics. Each requires legal capacity that combines U.S. specialty knowledge with home country fluency. That capacity, at the relevant price point, is overwhelmingly delivered by foreign trained lawyers integrated into U.S. practice, often in solo or small firm settings, and often working across borders informally with home country colleagues.

There is also a deeper structural reason that domestic trained capacity alone is insufficient. Cross border legal work is not simply U.S. legal work performed on a foreign substrate. It is work that requires reading two legal systems against each other, identifying conflicts and incompatibilities, designing structures that comply with both, and translating concepts that do not have direct equivalents across systems. A U.S. trained lawyer with no exposure to civil law systems can, with effort, learn to recognize the distinctive features of the German Aktiengesetz or the Brazilian Lei das Sociedades por Ações. But the lawyer who learned that statute in law school as the foundational frame of corporate law, and only later learned U.S. corporate law as a comparative overlay, brings a different cognitive architecture to the same problem. Both perspectives have value. The U.S. profession underuses the second.

C. The cost of the capacity gap

The cost of the capacity gap shows up in three distinct forms, each of which has been documented in the practitioner and policy literature, and each of which corresponds to a recognized U.S. national interest concern.

1. Compliance failures

The first cost is regulatory non compliance by U.S. and foreign companies operating in the United States. The CFIUS 2024 Annual Report records the largest CFIUS civil penalty in history; $60 million, for material misstatements in a notice filing. The UFLPA enforcement record, with nearly half of all detained shipments ultimately denied entry, suggests systematic underinvestment in

supply chain diligence by importers. Recurring SEC enforcement actions against foreign issuers for disclosure failures, recurring OFAC enforcement actions against U.S. and foreign financial institutions for sanctions breaches, and recurring DOJ enforcement actions against multinationals for FCPA related misconduct (when those programs are active) all reflect, at the operational level, gaps between regulatory expectation and operational practice. Some portion of those gaps is attributable to bad faith. A larger portion is attributable to insufficient legal capacity to translate regulatory expectations into operational practice across jurisdictions.

2. Deal friction and lost investment

The second cost is deal friction in inbound foreign investment. The cumulative new foreign direct investment in the United States in 2024 was $151 billion; a 14.2 percent decrease from 2023, and below the ten year annual average of $277.2 billion. Multiple factors drive that figure, but practitioner accounts consistently identify regulatory process friction as a significant component: foreign investors withdrawing from contemplated transactions when the CFIUS pathway proves more demanding than anticipated, foreign issuers delaying U.S. listings as the FPI definition is reviewed, foreign trained executives unable to obtain timely visa relief to lead U.S. operations, and foreign small and mid sized businesses choosing not to enter the U.S. market when the legal services bill exceeds the projected first year operating budget. Each of these frictions has a price, and the price is paid in foreign capital and jobs that did not arrive.

3. Less competitive U.S. capital markets

The third cost is the long term competitive position of U.S. capital markets. The SEC's June 2025 Concept Release on Foreign Private Issuer Eligibility describes, with characteristic understatement, an FPI population that has changed materially in composition over the past two decades. Behind that observation is a more pointed concern: that the FPI accommodations originally designed to attract foreign issuers to U.S. capital markets are now being used by issuers whose securities trade almost exclusively on U.S. exchanges, who have minimal home country regulatory presence, and whose disclosure burden falls almost entirely on the U.S. side. If the FPI population has, in effect, become a population of de facto domestic issuers operating under a relaxed disclosure regime, then either the regime should tighten or the issuers should leave. Either outcome involves substantial cross border legal work. The U.S. profession's capacity to handle

that work, efficiently, cost effectively, and at scale, will materially affect whether U.S. capital markets retain their position as the preferred venue for foreign issuers worldwide.

These three costs, compliance failure, deal friction, and capital markets competitiveness, are recognized U.S. national interest concerns. The premise of this paper is that addressing them requires, among other things, building professional infrastructure for the segment of the legal profession best positioned to do the work: foreign trained lawyers integrated into U.S. practice. The next section quantifies that segment, and the regulated population it serves, with current data.

II. Quantifying the Gap

A policy paper without numbers is an opinion piece. This section presents the quantitative case for the framing offered in Part I, drawing exclusively from U.S. government sources or sources widely treated as authoritative in the field. The data is current as of April 2026, with each metric tied to its most recent reporting date. Three lines of inquiry are pursued: the size of inbound foreign investment in the United States; the volume of regulated cross border conduct generating demand for legal services; and the supply of foreign trained legal capacity in the U.S. profession.

A. The size of inbound foreign investment

The Bureau of Economic Analysis of the U.S. Department of Commerce reports the foreign direct investment position in the United States, the cumulative stock of inbound investment, measured on a historical cost basis, annually. The most recent figures, released by BEA on July 22, 2025, cover calendar year 2024.

Metric	Value (USD)	Period
Foreign direct investment position in the U.S.	$5.71 trillion	End 2024
Year over year increase in FDI position	$332.1 billion (+6.2%)	2023-2024
New FDI expenditures (acquisitions, establishments, expansions)	$151.0 billion	2024
Income earned by foreign multinationals on U.S. investment	$310.9 billion (+13.1%)	2024
U.S. liabilities to foreign residents (IIP basis)	$62.12 trillion	Q4 2024
U.S. direct investment abroad position	$6.83 trillion	End 2024

Several features of these data warrant attention. First, the size of the foreign direct investment position in the United States, $5.71 trillion at end 2024, is approximately equal to the gross domestic product of every country in the world other than the United States and China combined. The United States hosts more inbound FDI than any other country, by a substantial margin. Second, the position is growing: at $332.1 billion in 2024, the year over year increase exceeded the entire FDI position of most countries. Third, the income earned by foreign multinationals on their U.S. investments, $310.9 billion in 2024, up 13.1 percent over 2023, exceeds the GDP of approximately

150 of the 195 sovereign jurisdictions on earth. The United States is, by an order of magnitude, the most consequential venue for foreign business operations on the planet.

The geographic composition of the foreign parent FDI position is concentrated. As of end 2024, four countries, Japan ($754.1 billion), the United Kingdom ($742.7 billion), Canada ($732.9 billion), and the Netherlands ($726.4 billion), accounted for more than half of the total inbound FDI position. By country of ultimate beneficial owner, Japan ($819.2 billion) was first, Canada ($811.7 billion) second, and Germany ($677.3 billion) third. Each of these countries operates a sophisticated domestic legal system that is meaningfully different from the U.S. system; each generates ongoing cross border legal work for their U.S. subsidiaries and for U.S. counterparties.

On the inbound new investment side, that is, the flow of new FDI in 2024 rather than the cumulative stock, Ireland led at $30.1 billion, followed by Canada at $23.9 billion. Europe contributed 64.0 percent of all new investment expenditures in 2024 ($96.7 billion), with Asia and Pacific second at $23.2 billion. Texas received the most state level new investment ($22.8 billion), followed by Georgia ($16.3 billion) and California ($12.9 billion).

The U.S. Department of Commerce, through SelectUSA, reports that the program has facilitated more than $400 billion in cumulative client verified investment supporting more than 270,000 U.S. jobs since its inception in 2011. In the first year of the current administration (2025), SelectUSA reported $139 billion in FDI deals secured, with 88 specific investment projects valued at $22.1 billion attributed directly to SelectUSA facilitation. The 2025 SelectUSA Investment Summit drew more than 5,500 participants from over 100 international markets. The 2026 Summit, scheduled for May 3 6, 2026 at the Gaylord National Resort and Convention Center in National Harbor, Maryland, has been described by U.S. Secretary of Commerce Howard Lutnick as a key vehicle of the Administration’s America First investment policy and its commitment to channel capital into the U.S. economy and convert investment momentum into jobs, growth, and opportunity for American workers.

B. Foreign issuers in U.S. capital markets

The U.S. capital markets host the largest community of foreign issuers in the world. Data compiled from the Center for Research in Security Prices reflects 1,515 foreign domiciled exchange listed companies on the New York Stock Exchange and Nasdaq combined as of end 2025, alongside 3,657 domestic operating companies. By comparison, the Tokyo Pro market segment of the Japan

Exchange Group, the second largest exchange operator in the world by listing count, hosted just six foreign companies as of January 2025. The London Stock Exchange, traditionally the European venue most attractive to foreign issuers, hosts a substantially smaller foreign community than U.S. exchanges. The Nasdaq alone, with 871 foreign listings, hosts more foreign companies than every non U.S. exchange operator on earth.

The SEC's June 2025 Concept Release on Foreign Private Issuer Eligibility provides the most authoritative recent characterization of this population. Drawing on the FPI Trends White Paper authored by SEC Division of Economic and Risk Analysis staff in December 2024, the Concept Release identifies an FPI population that has changed materially in three respects since the FPI rules were last comprehensively reviewed in 2003. First, the population has shifted geographically: where Canada and the United Kingdom dominated the FPI population in 2003, by 2024 the population includes substantial issuers from China, the Cayman Islands, Israel, Bermuda, Brazil, and a wider distribution of source jurisdictions. Second, the trading pattern profile has shifted: approximately 55 percent of FPIs as of fiscal year 2024 had no or minimal trading of their equity securities on any non U.S. market, suggesting a population that uses U.S. capital markets as its primary or exclusive trading venue. Third, the regulatory environment profile has shifted: a meaningful share of current FPIs are incorporated or headquartered in jurisdictions that operate less robust securities regulatory frameworks than were typical of FPI source jurisdictions in 2003.

Each of these shifts generates new cross border legal demand. As the FPI population shifts toward jurisdictions with less robust home country regulation, the U.S. compliance burden on those issuers, and the associated need for U.S. legal counsel, increases. As trading concentrates in U.S. markets, the FPI accommodations' original justification weakens, and the SEC's six potential reform frameworks (tightened eligibility, minimum non U.S. trading volume, major foreign exchange listing, SEC assessment of home country regulation, mutual recognition, IOSCO MMoU certification) each represent an additional layer of cross border legal work for issuers and their counsel.

Cross border IPO activity has remained robust through this period. According to Deloitte analysis of recent IPO trends, foreign private issuer IPOs grew relative to all IPOs on U.S. exchanges in 2023 and 2024, making this a highly active period for cross border listings. Investor demand for foreign private issuers remained strong, resulting in competitive valuations and high trading liquidity, and SEC accommodations for foreign private issuers continue to attract a diverse range of international companies to U.S. markets.

C. The volume of regulated cross border conduct

Beyond capital markets activity, the regulatory architecture mapped in Section I generates measurable annual volumes of regulated cross border conduct. Each line item below represents an enforcement workstream that, by definition, requires legal services bridging U.S. and foreign legal systems.

1. CFIUS filings (national security review of inbound investment)

Metric	Value	Period
Total CFIUS filings (notices + declarations)	325	2024
Distinct transactions reviewed (adjusted)	≈266	2024
Written notices of covered transactions	209	2024
Declarations submitted	116	2024
Notices proceeding to 45 day investigation	116 (56%)	2024
Mitigation agreements imposed	16 (≈9% of notices)	2024
Active mitigation agreements at year end	242	End 2024
Non notified transaction inquiries opened	76	2024
Largest CFIUS civil penalty in history	$60 million	2024

The 2024 CFIUS data reflect a regime that, despite a modest decline in filing volume from the 2022 peak, remains active, exacting, and increasingly enforcement focused. Filings from Chinese investors continued their year over year decline, while filings from French, Japanese, and UAE investors rose; the geographic shift reflects both deterrence of investment from foreign adversary jurisdictions and an accelerating distinction in CFIUS practice between trusted partners and higher risk source countries. The 78 percent declaration clearance rate in 2024, up from 76 percent in 2023 and 58 percent in 2022, suggests that the declaration pathway is increasingly effective for lower risk transactions, while the simultaneous decline in mitigation agreements (down more than

50 percent from 2023) reflects a Committee that is steering more cases toward either clearance or Presidential referral.

2. UFLPA enforcement (supply chain integrity)

Metric	Value	Period
Total shipments detained under UFLPA	≈5,500	June 2022-Dec 2024
Aggregate value of detained shipments	≈$2 billion	June 2022-Dec 2024
Average monthly detentions in 2024	428 shipments	2024
Year over year increase in detentions	+25%	2023-2024
Shipments denied entry (share of detained)	47%	June 2022-Dec 2024
Single month detention record (November 2024)	648 shipments	November 2024
Increase in automotive/aerospace detentions	+1,580%	2023-2024
Estimated cost of single UFLPA detention	> $810,000	2024

Two structural features of UFLPA enforcement bear emphasis. First, a substantial share of detentions involve shipments arriving from third countries, Malaysia, Vietnam, Thailand, and Mexico are the four most common origin countries for detained shipments, ahead of China itself, reflecting the practical reality that Xinjiang linked materials are increasingly incorporated into finished goods upstream from the U.S. importer. Second, the diligence burden imposed on importers under the rebuttable presumption standard is severe: importers must, in effect, document the absence of forced labor across multiple tiers of foreign suppliers, in foreign legal systems, often in languages other than English. The cost of failure includes not only the lost shipment but the consequential supply chain disruption: the German automotive case study widely reported in 2024, in which thousands of vehicles were impounded at a U.S. port because of a single component sourced from western China, illustrates the magnitude of the operational risk.

3. SEC foreign issuer regulatory activity

The Securities and Exchange Commission's 2025 Concept Release on Foreign Private Issuer Eligibility solicited comment on six potential reform frameworks. As of the September 2025 comment period close, the SEC had received approximately 70 substantive responses from issuers, exchanges, law firms, accounting firms, and investor groups. The breadth of comment volume reflects the magnitude of the regulatory question at issue: any non trivial change to the FPI definition would force a meaningful share of the current FPI population to either upgrade their U.S. disclosure to domestic issuer standards or exit U.S. markets entirely. Both pathways involve substantial cross border legal work; both reflect demand for the kind of bridging legal capacity this paper identifies.

4. International investment fora

The SelectUSA Investment Summit, hosted annually by the U.S. Department of Commerce, has grown from approximately 3,000 attendees in its early years to more than 5,500 in 2025, with representation from over 100 international markets. The Summit attracts foreign small and mid sized businesses considering U.S. market entry, foreign multinationals expanding U.S. operations, foreign sovereign wealth funds and pension funds evaluating U.S. opportunities, and the U.S. economic development organizations and service providers that support inbound investment. Each new investment project generated through the Summit pipeline initiates a sequence of cross border legal workstreams: entity formation, employment law, real estate acquisition, tax planning, intellectual property, regulatory licensing, immigration, and (for larger transactions) CFIUS and securities law work.

D. The supply side: foreign trained lawyers in the U.S. profession

The supply side of the equation, the population of foreign trained lawyers integrated into U.S. legal practice, is harder to characterize precisely, because the United States does not maintain a comprehensive registry of foreign trained lawyers as such. The strongest available proxies come from the New York State Board of Law Examiners (BOLE), which administers the largest U.S. bar examination by foreign educated participation.

Metric	Value	Period
Total candidates sitting for NY bar examination	4,090	February 2025

Metric	Value	Period
Foreign educated candidates	2,225	February 2025
Overall pass rate, all candidates	39%	February 2025
Pass rate, foreign educated candidates	30%	February 2025
Pass rate, out of state ABA school graduates (first time)	73%	February 2025
First time foreign educated pass rate (full year)	45%	2025

Three observations follow from this data. First, foreign educated candidates are not a marginal population in the New York bar; in February 2025, they were a majority of all candidates. New York is the most international legal market in the United States and the second largest by lawyer population, and foreign educated candidates are now the largest single demographic of bar takers in that market. Second, the pass rate gap between foreign educated and domestic trained candidates is substantial, roughly two and a half times in February 2025, reflecting the structural disadvantage that foreign educated candidates face in adapting to a U.S. multistate examination format. Third, even with that structural disadvantage, foreign educated candidates pass the New York bar examination at first attempt at a 45 percent rate over the full year, generating a substantial annual flow of newly admitted foreign trained lawyers into U.S. practice.

New York is the principal but not the sole U.S. jurisdiction admitting foreign trained lawyers. California, the District of Columbia, Texas, Illinois, New Hampshire, Alabama, Virginia, Massachusetts, North Carolina, Ohio, Pennsylvania, Tennessee, Washington, and Maryland each maintain pathways for foreign educated candidates. Most require completion of an LL.M. degree at an ABA accredited U.S. law school as a prerequisite for examination eligibility; some, including California, allow foreign licensed attorneys to sit for the bar examination without an LL.M. on the basis of substantial home country practice experience. Several jurisdictions, including the District of Columbia and the District's special legal consultant status, maintain limited pathways for foreign trained lawyers to advise on home country law without full bar admission.

The aggregate ABA accredited LL.M. enrollment of foreign trained lawyers in the United States runs in the thousands annually. The leading programs at U.S. law schools, including but not limited to Harvard, Yale, Columbia, NYU, Penn, Berkeley, Georgetown, Northwestern, and the University of Washington, admit foreign trained lawyers from a wide range of jurisdictions, with cohorts

often including representation from 30 or more countries. These programs constitute the principal pipeline through which foreign trained legal expertise enters the U.S. profession. They generate, conservatively, several thousand newly LL.M. credentialed foreign trained lawyers each year, of whom a meaningful subset proceed to U.S. bar admission.

The result is a foreign trained lawyer population integrated into U.S. practice that is large, geographically dispersed, professionally heterogeneous, and institutionally unorganized. There is no central registry, no comprehensive professional development infrastructure dedicated to this population's distinct competencies, no organized voice on questions of regulatory architecture, and no standardized framework for measuring the population's contribution to U.S. capital markets, FDI, and compliance objectives. The next section develops the case for treating that population as a strategic asset and for building the institutional infrastructure to support it.

III. Foreign Trained Lawyers as Strategic Asset

Sections I and II established two propositions: that the United States operates an increasingly dense architecture of cross border compliance obligations, and that the volumes of regulated cross border conduct generating demand for legal services are large, growing, and consequential to U.S. capital markets and foreign investment objectives. This section develops the proposition that follows: that foreign trained lawyers integrated into U.S. legal practice constitute a strategic asset for the United States in addressing this architecture, and that the U.S. policy and professional infrastructure has not, to date, treated this population as such.

The argument proceeds in four steps. First, it identifies the structural problem that cross border legal work poses, a problem this paper terms the jurisdictional arbitrage problem, and explains why foreign trained lawyers are uniquely positioned to address it. Second, it specifies the comparative advantages that foreign trained lawyers bring to cross border compliance work. Third, it presents three case structures in which foreign trained legal capacity is decisive to the outcome. Fourth, it links the argument to the FPI population question raised by the SEC's 2025 Concept Release, where foreign trained legal capacity will be central to whatever reform pathway the Commission ultimately adopts.

A. The jurisdictional arbitrage problem

Cross border legal work is, at its analytical core, a problem of reading two legal systems against each other. The transactional or compliance question presented to counsel does not, in the ordinary case, sit in only one system: a U.S. acquirer's purchase of a Brazilian target requires both U.S. transactional documentation and Brazilian corporate law; a German company's registration of securities in U.S. capital markets requires both U.S. securities law disclosure and German corporate governance compliance; a U.S. importer's UFLPA diligence on a Vietnamese supplier requires both U.S. customs law and Vietnamese commercial registry data; a CFIUS filing by a Japanese investor requires both U.S. national security review and Japanese corporate law authorization for the underlying acquisition.

In each of these matters, the operative legal question is not which system applies, both apply, but how the systems interact, where they conflict, and how a structure can be designed to comply with both simultaneously. This is the jurisdictional arbitrage problem: identifying and managing the gaps and incompatibilities between two legal systems that simultaneously claim authority over the

same transaction or course of conduct. The problem is not unique to law; it is a feature of any cross border professional service. Cross border accountants address its analogue between U.S. GAAP and IFRS; cross border tax advisers address its analogue between U.S. Internal Revenue Code provisions and foreign tax codes coordinated by treaty. The legal version, however, is harder than the accounting and tax versions, because legal systems differ not only in their substantive rules but in their structural categories, their procedural mechanisms, their evidentiary frameworks, their interpretive methods, and the cultural assumptions embedded in their textual conventions.

A U.S. trained lawyer reading a German shareholders' agreement encounters not only different substantive rules but a different conceptual architecture. The German distinction between the Aufsichtsrat (supervisory board) and the Vorstand (management board) is not merely a different way of organizing the same corporate governance function; it reflects a different theory of corporate governance entirely, in which the supervisory board's codetermination requirements (Mitbestimmung) embed labor representation in the corporate form. A U.S. trained lawyer can, with study, learn to recognize these features. But the lawyer who learned German corporate law as the foundational frame, with U.S. corporate law later added as an overlay, brings a different cognitive architecture to a transaction that involves both. Both perspectives are legitimate. The U.S. profession, in its current organization, has not built the institutional infrastructure to deploy the second perspective at scale.

B. Comparative advantage in cross border compliance

The comparative advantage of foreign trained lawyers in cross border practice operates along five dimensions. None is absolute; each is a matter of degree and depends on the practitioner's specific background and ongoing professional development. Taken together, they support the structural claim that foreign trained lawyers integrated into U.S. practice are a distinctive professional resource for the U.S. economy.

1. Native system fluency

A lawyer who studied law in the country whose legal system is at issue brings a level of fluency that a non native reader of the system, however accomplished, does not match. This is not primarily a matter of vocabulary, although technical vocabulary is part of it. It is a matter of structural knowledge: of how the foreign system's components relate to each other, of which provisions are mandatory and which are default, of what conduct is regulated by statute and what by judicial

doctrine, of which questions are resolved at the federal or central level and which at the regional or local level. A lawyer who learned the system from inside it has internalized this structure. A lawyer who learned the system from outside it must, on each occasion, reconstruct it. The reconstruction is feasible, particularly for sophisticated lawyers working in well resourced firms, but it is slower, more expensive, and more prone to error than the reconstruction performed by a lawyer with native system fluency.

2. Linguistic and cultural access

A material share of cross border legal work involves source documents, witnesses, regulators, and counterparties operating in languages other than English. UFLPA diligence on a Chinese language supply chain, CFIUS review of a transaction with German language corporate documents, FCPA equivalent compliance review of Brazilian Portuguese expense records, OFAC sanctions screening of Russian language counterparty information; each requires linguistic capacity that, for most U.S. trained lawyers, requires retention of foreign language counsel or translation services. Foreign trained lawyers integrated into U.S. practice frequently bring native or near native fluency in the relevant language, eliminating a layer of intermediation that adds cost, time, and risk of translation error.

3. Regulatory and bar relationship knowledge

Cross border legal work often requires interaction with foreign regulators, courts, and bar associations. Foreign trained lawyers frequently maintain professional networks in their home jurisdictions, former classmates, former colleagues, faculty mentors, professional contacts, that provide informal but operationally important channels for understanding regulatory expectations, anticipating procedural developments, and identifying credible foreign counsel for collaboration on specific matters. These networks are difficult to replicate from outside the home jurisdiction, and they are particularly valuable in jurisdictions where formal regulatory guidance is sparse and informal practitioner knowledge is decisive.

4. Comparative method analytical training

Foreign trained lawyers who have completed U.S. LL.M. programs and obtained U.S. bar admission have, by definition, been trained in two legal systems. The cognitive habit of comparing systems, of identifying where the U.S. and home country approaches converge, where they

diverge, and how the divergence might be managed, is one of the principal cognitive capacities that LL.M. programs at the leading U.S. law schools develop in their students. This comparative method training is precisely the capacity that cross border legal work demands. A lawyer who has been trained, formally, to read two systems against each other brings to the work a skill that a lawyer trained in only one system has had to develop, if at all, on the job.

5. Lower marginal cost on cross border matters

For the small and mid sized matters that drive the bulk of inbound foreign investment, the marginal cost of legal services is decisive. A foreign trained lawyer integrated into U.S. practice, who can handle both the U.S. and home country legal questions in a transaction without separately retaining foreign counsel, delivers legal services at a materially lower cost than a U.S. only firm coordinating with a separate foreign jurisdiction firm. The cost differential is most pronounced at the small and mid sized end of the market, where the foreign jurisdiction coordination cost can equal or exceed the U.S. legal fee. Foreign trained lawyers, by collapsing the coordination cost into a single retention, materially expand the population of foreign businesses that can afford U.S. market entry. This expansion is, in direct terms, an expansion of inbound foreign direct investment into the United States.

C. Three case structures where foreign trained capacity is decisive

The argument advanced in the previous subsection can be made concrete by identifying three case structures in which foreign trained legal capacity, by virtue of the comparative advantages enumerated, is decisive to the outcome. Each structure recurs daily across the U.S. legal market; each represents an ongoing demand for the kind of legal capacity this paper identifies.

1. The mid market inbound acquisition

Consider a Brazilian family owned agribusiness with annual revenues of approximately $200 million seeking to acquire a U.S. competitor with a $40 million enterprise value. The transaction is too small to justify retention of a Vault 100 firm at New York rates. The Brazilian principals do not speak English fluently and require all transaction documents to be reviewed in Portuguese before execution. The U.S. target operates in a sector subject to UFLPA scrutiny on imported inputs and to U.S. Department of Agriculture licensing. The transaction structure must satisfy Brazilian Lei das Sociedades por Ações shareholder approval requirements and U.S. Delaware

General Corporation Law fiduciary duty standards. Closing requires Brazilian Central Bank registration of the outbound investment and U.S. Hart-Scott-Rodino antitrust pre merger notification.

A foreign trained lawyer, admitted in both Brazil and New York, fluent in Portuguese, with an LL.M. from a U.S. law school covering U.S. corporate law and securities regulation, can manage this transaction end to end at a fraction of the cost of a multi firm engagement. The same lawyer can advise the Brazilian principals on Brazilian side regulatory steps in their native language, draft U.S. transaction documents in English, coordinate with U.S. specialists on UFLPA diligence and antitrust pre merger notification, and serve as the single point of contact for the U.S. target's counsel. The transaction proceeds. Without that capacity, the cost of separately retained Brazilian and U.S. counsel may make the transaction uneconomic, and the deal does not close.

2. The CFIUS affected technology investment

Consider a Japanese venture capital fund seeking to lead a Series B round in a U.S. startup developing artificial intelligence enabled medical diagnostic software. The startup's technology may qualify as a critical technology under the FIRRMA TID framework, triggering a mandatory CFIUS declaration. The Japanese fund's limited partner investor base includes Japanese pension funds, Japanese sovereign wealth funds, and a single non Japanese sovereign related limited partner whose participation may, depending on its structure, trigger the substantial interest test for mandatory filing. The fund must, in coordinated fashion, conduct CFIUS analysis under U.S. law, structure its participation to satisfy Japanese pension regulatory limits on alternative asset allocation, and document its limited partner due diligence to a standard that will satisfy CFIUS information requests if mandatory filing is triggered.

A foreign trained lawyer, admitted in Japan and the United States, with prior CFIUS practice experience, can advise the fund manager simultaneously on U.S. CFIUS exposure and Japanese pension regulatory compliance. The same lawyer can read the Japanese pension fund investor agreements in their original language to identify structural features that may trigger CFIUS scrutiny, and translate the resulting CFIUS analysis back to the fund manager in Japanese where required for board level discussions. The investment proceeds with appropriate filings. Without that capacity, the fund must coordinate between separately retained Japanese counsel and U.S. CFIUS counsel; a coordination cost that, for a Series B financing of moderate size, may exceed

the available legal budget and force the fund to either decline the investment or proceed without adequate CFIUS analysis.

3. The cross border corporate governance translation case

Consider a German Aktiengesellschaft (AG), a publicly held stock corporation organized under the German Aktiengesetz, preparing for a U.S. listing of American Depositary Receipts on the New York Stock Exchange. The German company operates a two tier board structure (Aufsichtsrat and Vorstand) under codetermination requirements that embed labor representation in the supervisory board. Its existing internal controls reflect the German Corporate Governance Code (Deutscher Corporate Governance Kodex). It must, in connection with its U.S. listing, prepare disclosures responsive to the SEC's Form 20-F requirements, structure its Audit Committee in accordance with NYSE listing standards adapted for foreign private issuers, design Section 404 internal control documentation calibrated to its existing German processes, and develop ESG disclosures responsive both to U.S. investor expectations and to the Corporate Sustainability Reporting Directive obligations operating in its home jurisdiction. The translation is not, primarily, a translation of language. It is a translation of governance architectures.

A foreign trained lawyer, qualified in Germany and admitted in New York, who has practiced in cross border corporate governance, can mediate this translation work in a way that a single system practitioner cannot. The lawyer can identify which features of the German governance architecture map directly onto U.S. NYSE expectations (independent audit committee composition, for example), which features require structural adaptation (the Aufsichtsrat composition and U.S. independence standards), and which features require disclosure rather than restructuring (codetermination as a feature of corporate governance disclosure to U.S. investors, not a defect to be cured). The lawyer can read the existing German governance documentation in the original language and translate not only its words but its conceptual content. The resulting U.S. disclosure satisfies both the SEC's investor protection mandate and the issuer's home country governance requirements.

4. The supply chain UFLPA case

Consider a U.S. consumer electronics company that imports finished goods from a Vietnamese assembly contractor whose own input supply chain extends through Malaysian and Chinese suppliers. CBP detains a shipment under the UFLPA on suspicion that one component was

manufactured by an entity on the UFLPA Entity List. To rebut the rebuttable presumption, the U.S. importer must, within 30 days of detention notice, produce supply chain documentation tracing the component's origin through every tier from the Vietnamese assembler back to its Malaysian sub supplier and the underlying Chinese fabricator. The documentation must be in English or accompanied by certified English translations. The Vietnamese sub supplier's commercial registration documents are in Vietnamese; the Malaysian sub sub supplier's in Bahasa Malaysia; the Chinese fabricator's in Mandarin. The U.S. importer's general counsel does not read any of these languages.

A foreign trained lawyer integrated into U.S. practice, with native or near native fluency in one or more of the relevant languages and with established professional contacts in the relevant Asian jurisdictions, can complete the diligence within the 30 day window. The same lawyer can identify the documentary form and content that CBP expects, communicate with foreign suppliers in their native languages to request the necessary documents, evaluate the documents for completeness and authenticity, and draft the U.S. importer's submission to CBP. The shipment is released. Without that capacity, the importer faces detention costs that, by industry analysis, can exceed $810,000 for a single case.

The four case structures presented are not exotic. Each represents a category of work that occurs regularly across U.S. legal practice. Each represents a category in which foreign trained legal capacity is not merely useful but decisive; the difference between the transaction proceeding and not proceeding, between compliance and non compliance, between supply chain continuity and supply chain disruption. The aggregate value of work performed by foreign trained lawyers integrated into U.S. practice, across all such case structures, is properly understood as a contribution to U.S. capital markets integrity and inbound foreign investment integrity that the United States has not, to date, measured or organized as such.

D. Corporate governance as the analytical frame

The four case structures presented above share a common analytical structure: each requires translating between two corporate governance regimes, identifying the structural points at which the regimes converge or diverge, and designing the legal documentation that satisfies both regimes simultaneously. The author has developed this analytical frame at greater length in prior published scholarship, *"The Function of U.S. Corporate Governance in Investor Protection and Capital Markets Integrity,"* International Journal of Business Research and Management (2025), and the

present paper extends that framework to the population of foreign trained lawyers as the practitioners best positioned to perform this translation work at scale.

The argument of the prior scholarship can be summarized as follows. U.S. corporate governance, as it has developed since the Sarbanes-Oxley Act of 2002 and as it has been further specified through Dodd-Frank, NYSE and Nasdaq listing standards, Delaware General Corporation Law as interpreted by the Delaware Court of Chancery, and the disclosure regime administered by the Securities and Exchange Commission, performs three functions for the U.S. capital market. First, it disciplines management on behalf of dispersed shareholders through fiduciary duties, board independence requirements, and audit committee oversight of financial reporting. Second, it provides standardized disclosure that allows U.S. and foreign investors to compare investment opportunities across issuers and over time. Third, it provides enforcement infrastructure, through the SEC, through DOJ in egregious cases, through state attorneys general, and through private securities fraud litigation, that gives the disclosure regime operational credibility. The combination of these three functions is the foundation on which U.S. capital markets integrity rests.

Foreign issuers and foreign controlled subsidiaries operating within this U.S. corporate governance regime present a distinctive analytical problem. The home country corporate governance regime under which the foreign issuer was organized may perform the same three functions through different structural mechanisms (a two tier board structure rather than a single tier audit committee, statutory rather than judicial fiduciary duties, public prosecutor led rather than private litigation led enforcement). The U.S. regime's mechanisms may not map cleanly onto the home country mechanisms; the home country mechanisms may produce equivalent outcomes through paths that the U.S. regime does not recognize as such. The translation work that bridges these regimes is, on the prior scholarship's account, the activity that determines whether U.S. corporate governance protections are extended to U.S. investors in foreign issuer securities, or whether those investors instead bear the residual risk of regulatory gaps that no party has been positioned to identify and close.

The present paper extends that argument by identifying the practitioner population through which the translation work is performed: foreign trained lawyers integrated into U.S. practice. The prior scholarship treated the translation problem as an abstract regulatory architecture question; the present paper grounds it in the practitioners who, in operational terms, perform the work. The two papers, taken together, support the claim that U.S. capital markets integrity in cross border contexts

depends on a population of practitioners whose institutional infrastructure the United States has not, to date, organized.

A second extension follows. If the practitioner population through which corporate governance translation work is performed is undermanaged at the institutional level, without standardized recognition pathways, without organized professional development, without a coordinated voice on regulatory architecture, then the residual risk borne by U.S. investors in foreign issuer securities is correspondingly larger than it should be. The U.S. capital markets integrity question, in this framing, is not only a question of regulatory architecture (the function of the SEC's 2025 Concept Release on FPI Eligibility) but also a question of professional infrastructure (the function of the Foreign Trained Lawyers Association's programmatic workstreams). The two questions are mutually reinforcing; neither is sufficient on its own.

E. Capital markets integrity and the FPI population

The link between foreign trained legal capacity and U.S. capital markets integrity is most clearly visible in the FPI population question raised by the SEC's June 2025 Concept Release. The Commission's six potential reform frameworks, tightened eligibility criteria, minimum non U.S. trading volume, major foreign exchange listing, SEC assessment of home country regulation, mutual recognition, and IOSCO MMoU certification, each represents a different theory of how to manage an FPI population that has, in the SEC's assessment, drifted from the demographic and behavioral profile that animated the original FPI accommodations. Each pathway, if adopted, would generate substantial cross border legal work for issuers, exchanges, and the bar.

A tightened eligibility framework would force a meaningful subset of current FPIs to either upgrade their U.S. disclosure to domestic issuer standards (a substantial cross border legal undertaking) or exit U.S. markets (an even more substantial cross border legal undertaking). A minimum non U.S. trading volume framework would force FPIs to either build trading liquidity on home country exchanges or accept domestic issuer status. A major foreign exchange listing requirement would force FPIs to maintain dual listings in jurisdictions whose exchange rules differ from U.S. norms in ways that would require ongoing reconciliation. An SEC assessment of home country regulation framework would, in effect, condition FPI status on the regulatory quality of the issuer's home jurisdiction; a framework that would generate not only continuous regulatory diligence on issuer jurisdictions but periodic compliance reassessment as home country regulatory regimes evolve. Mutual recognition and IOSCO MMoU certification would each restructure the

relationship between the SEC and home country securities regulators in ways that would reshape the practice of foreign private issuer counsel.

Whichever pathway the Commission ultimately adopts, and the Commission may adopt some hybrid not corresponding precisely to any of the six discrete frameworks, the resulting compliance landscape will require a substantially expanded population of practitioners who can read both U.S. securities law and home country corporate governance and securities law frameworks. That requirement aligns with the comparative advantages of foreign trained lawyers integrated into U.S. practice. To the extent the United States approaches the FPI question as a problem of regulatory architecture only, without simultaneously developing the professional infrastructure to support the population of practitioners who will be central to its implementation, the resulting reforms will be harder, more expensive, and slower to produce the intended capital markets benefits than they would be otherwise.

It is in this sense, that the U.S. capital markets reform agenda for the FPI population, however it ultimately resolves, will depend on cross border legal capacity for its implementation, that the population of foreign trained lawyers integrated into U.S. practice is properly characterized as critical professional infrastructure. The next section turns from diagnosis to policy framework: what should the United States actually do to convert this latent asset into operational capacity?

IV. A Policy Framework

The diagnosis offered in Sections I through III suggests a policy program with four components: admission and recognition pathways that better reflect the comparative advantages of foreign trained lawyers; professional development standards that build cross border practice competencies systematically; ethics infrastructure that addresses the distinctive risks of cross border practice; and coordination mechanisms across the federal, state, and professional bodies whose decisions shape the operational environment. This section presents each component in turn, framed as a policy framework rather than a set of specific legislative or regulatory recommendations. The Foreign Trained Lawyers Association takes the position that detailed policy specifications are properly developed through stakeholder consultation, not delivered ex cathedra by any single organization. The policy framework offered here is intended as a structural map for that consultation, not a substitute for it.

A. Admission and recognition pathways

The current U.S. system for admitting foreign trained lawyers operates state by state, with each jurisdiction setting its own eligibility rules under the supervision of its highest court. The result is a patchwork that, while preserving the federalist structure of legal profession regulation, generates inefficiencies that the United States can no longer afford given the scale of cross border legal demand documented in Section II. The patchwork is most inefficient at three points.

1. Inconsistent recognition of foreign legal education

New York applies a substantive equivalence test under Rule 520.6 of the Rules of the Court of Appeals, requiring that the foreign legal education be substantially equivalent in duration and content to that provided by an ABA approved law school. California permits foreign licensed attorneys to sit for the California bar examination on the basis of substantial home country practice, regardless of whether the foreign legal education would meet New York's substantive equivalence test. The District of Columbia, Massachusetts, and a handful of other jurisdictions permit admission on motion for foreign trained attorneys with five or more years of practice and an ABA accredited LL.M. Texas, Illinois, and other jurisdictions maintain separate frameworks. The result is that the same foreign trained candidate may be eligible for examination in California, ineligible

in New York, and required to complete additional coursework in the District of Columbia, all on the basis of the same legal education and practice background.

A federal level harmonization of foreign credentials evaluation would reduce friction without disturbing the state level admission decision. The American Bar Association, through its Section of Legal Education and Admissions to the Bar, is well positioned to issue model standards for foreign credentials evaluation that state bars could adopt voluntarily. The National Conference of Bar Examiners, through its Comprehensive Guide to Bar Admission Requirements, already publishes the comparative information needed to identify the points of greatest divergence; it could move from descriptive to prescriptive by issuing best practice recommendations. Neither of these steps requires legislative action.

2. The Uniform Bar Examination and foreign trained candidate performance

The Uniform Bar Examination, adopted by 41 jurisdictions as of 2026, has produced significant convenience benefits for U.S. trained candidates seeking multi jurisdiction admission. Its impact on foreign trained candidates has been mixed. The UBE format, multistate multiple choice, multistate essay, and multistate performance test components, places significant weight on rapid issue spotting in legal areas (Constitutional Law, Civil Procedure, Evidence, Criminal Law) that foreign trained candidates may have studied less intensively than U.S. trained candidates during LL.M. coursework. The structural pass rate gap between foreign educated and ABA graduate candidates documented in Section II, roughly two and a half times in February 2025, is, in significant part, a feature of this examination format rather than a measure of practice readiness.

A reformed examination framework better calibrated to the practice profile of foreign trained candidates would not require lower standards. It would require different ones. A specialized examination component testing comparative method competency, cross border transaction structuring, and applicable foreign law analytical skills would test the competencies that foreign trained lawyers actually deploy in U.S. practice, rather than testing competencies that bear no relation to the work they do. The recently announced NextGen Bar Exam, scheduled for phased implementation across multiple jurisdictions, presents an opportunity to address this calibration question. FTLA proposes that a foreign trained lawyer specialty pathway be considered as part of the NextGen design.

3. The foreign legal consultant framework

A subset of jurisdictions, most prominently New York and the District of Columbia, maintain a foreign legal consultant framework that permits a foreign licensed attorney to advise on home country law without full bar admission. The framework is, in concept, a sensible accommodation: it permits a foreign trained lawyer to deliver legal services on the matters where home country qualification is decisive (advising on home country law), without requiring full U.S. bar admission for matters that do not require U.S. legal capacity. In operation, the framework is underused. The licensing fees, the documentary burden, and the geographic restrictions limit its uptake to a small population of practitioners primarily affiliated with foreign headquartered law firms' U.S. offices.

A modernized foreign legal consultant framework, with reduced licensing friction, broader geographic recognition through interstate compacts, and clearer permitted scope of practice, would expand the pathways through which foreign trained legal expertise can be deployed in U.S. practice without requiring every practitioner to navigate the full bar admission process. FTLA proposes that state bars consider foreign legal consultant framework reform as a complement to, not a substitute for, full admission pathway reform.

B. Professional development standards

Admission, however well calibrated, is the start of a legal career, not its conclusion. The professional development infrastructure available to foreign trained lawyers in U.S. practice is, by comparison with the infrastructure available to domestic trained lawyers, underdeveloped. CLE programming addressed specifically to cross border practice exists but is not systematically organized. Mentorship pathways for foreign trained lawyers entering small and mid sized firm practice are thin. The professional networks that domestic trained lawyers develop through law school affiliations, regional bar associations, and practice area sections are less accessible to foreign trained lawyers, who often arrive in the U.S. profession without comparable networks.

A coordinated professional development infrastructure for foreign trained lawyers should address four areas.

1. Substantive cross border practice CLE

CLE programming addressing the substantive areas in which cross border legal capacity is most consequential; capital markets and securities (FPI status, Form 20-F preparation, cross border IPO mechanics), national security review (CFIUS notice and declaration drafting, mitigation agreement compliance, non notified transaction risk analysis), supply chain integrity (UFLPA detention response, Forced Labor Enforcement Task Force engagement, Section 307 administrative practice), sanctions compliance (OFAC SDN screening, sectoral sanctions, secondary sanctions risk analysis), anti corruption compliance (FCPA in current enforcement environment, foreign anti bribery statutes, OECD Convention practice), and corporate governance (G20/OECD Principles, comparative board structures, ESG disclosure regimes); would provide foreign trained lawyers with structured access to the substantive knowledge that cross border practice requires. FTLA contemplates a modular CLE curriculum spanning these areas, accredited in jurisdictions where FTLA members concentrate, and made available at low or no cost to FTLA members.

2. Bar examination preparation calibrated to foreign trained candidates

The pass rate gap documented in Section II reflects, among other things, the structural mismatch between standard bar preparation programming (designed for ABA graduate candidates emerging directly from a J.D. program) and the actual learning needs of foreign trained candidates. Foreign trained candidates typically need more intensive preparation in the core common law subjects (Contracts, Torts, Civil Procedure, Property, Constitutional Law, Evidence, Criminal Law and Procedure) where their LL.M. coursework may have provided less coverage than a J.D. program. They typically need less preparation in the comparative method, statutory construction, and analytical writing skills where their international training may have provided more rigorous foundations. A bar preparation framework calibrated to this profile, with longer common law foundation modules and shorter analytical skills modules, would address the structural mismatch.

3. Mentorship and integration into U.S. practice

The professional networks that ease entry into U.S. practice for domestic trained lawyers are less available to foreign trained lawyers. A structured mentorship program pairing newly admitted foreign trained lawyers with experienced U.S. practitioners, drawn from law firms, in house departments, and government practice, would compress the integration timeline from years to months. FTLA proposes a mentorship program operated as part of its core membership benefits, with mentors drawn from a roster of FTLA affiliated senior practitioners and academic faculty.

4. Practice management and small firm capacity building

A meaningful share of foreign trained lawyers enter U.S. practice in solo or small firm settings, often serving foreign origin client bases that the larger U.S. legal market does not efficiently serve. These practitioners face practice management challenges, fee structuring, conflicts management, technology adoption, financial management, marketing, that mid sized and large firms address through firm administrative infrastructure but that solo and small firm practitioners must address individually. A practice management curriculum tailored to the needs of foreign trained solo and small firm practitioners would expand the operational capacity of this segment of the profession, with downstream benefits for the foreign origin clients they serve.

C. Ethics infrastructure for cross border practice

Cross border practice presents ethics questions distinct from those that arise in single jurisdiction practice. Conflicts of interest may need to be analyzed under both the ABA Model Rules of Professional Conduct and the home country bar rules. Confidentiality obligations may differ across jurisdictions, with implications for how legal privileged communications are handled when transmitted across borders. The unauthorized practice of law, the doctrine that prohibits a lawyer admitted in one jurisdiction from practicing law in another in which the lawyer is not admitted, operates differently for foreign trained lawyers practicing through foreign legal consultant or in house frameworks than for domestic trained lawyers operating through full bar admission. Trust account and client funds management may need to comply simultaneously with U.S. and home country requirements when foreign origin clients deposit funds in connection with transactions that span both jurisdictions.

These ethics questions are not adequately addressed in the standard ABA Model Rules training that constitutes the principal U.S. legal ethics infrastructure. Nor are they consistently addressed by foreign bar associations, whose rules are calibrated primarily to domestic practice and only secondarily, if at all, to the cross border practice in which their members may engage when working in the United States. The result is a gap in the ethics infrastructure available to foreign trained lawyers: the U.S. side of their practice is governed by Model Rules they have studied for the MPRE, while the cross border dimensions of their practice are governed by a patchwork of home country rules, U.S. choice of law principles, and informal practitioner consensus.

FTLA proposes that an integrated cross border practice ethics infrastructure be developed, drawing on the Model Rules, the comparable home country rules of the principal source jurisdictions of foreign trained lawyers in the United States, and the existing CCBE Charter of Core Principles of the European Legal Profession and the IBA International Principles on Conduct for the Legal Profession. The deliverable would be a Cross Border Practice Ethics Handbook, accompanied by a CLE accredited training program, addressing the recurrent ethics questions in cross border practice and offering recommended approaches consistent with both U.S. and home country requirements.

D. Coordination across federal, state, and professional bodies

The policy framework outlined in this section involves federal level actors (the SEC, the Department of the Treasury, the Department of Commerce, U.S. Customs and Border Protection, U.S. Citizenship and Immigration Services), state level actors (state bar admission authorities, state attorneys general, state economic development organizations), and professional bodies (the American Bar Association, the National Conference of Bar Examiners, state and local bar associations, practice area sections, and law school administrators). No single actor controls the relevant decisions; no single coordination mechanism yet brings them into alignment.

The FTLA framework does not propose a new federal agency or a new layer of regulation. It proposes a coordination function that the existing actors can perform if they choose, with FTLA serving as an institutional voice representing the affected practitioner population. Specifically:

- **Federal coordination** through the U.S. Department of Commerce's SelectUSA program, which already coordinates federal agencies for purposes of inbound foreign investment, can be extended to coordinate on the legal services dimension of inbound investment, with FTLA serving as a designated practitioner representative to SelectUSA on cross border legal services questions.
- **State coordination** through the National Conference of Bar Examiners and the Conference of Chief Justices, both of which already provide forums for inter state bar admission coordination, can be extended to address the foreign trained lawyer admission framework specifically.
- **Professional coordination** through the American Bar Association's Section of International Law and Section of Legal Education and Admissions to the Bar, both of

which already address aspects of the cross border legal practice question, can be extended through formal liaison arrangements with FTLA.

- **Academic coordination** through the Association of American Law Schools and the U.S. LL.M. program directors of the leading U.S. law schools, both of which already coordinate on LL.M. curriculum and admissions standards, can be extended through formal liaison arrangements with FTLA on cross border practice curricular content and bar preparation infrastructure.

None of these coordination mechanisms requires legislation, rulemaking, or new regulatory structures. Each builds on existing institutional infrastructure. The marginal cost of each is modest. The marginal benefit, a more efficient, more reliable, and more competitively positioned U.S. cross border legal services profession, is, by the analysis offered in this paper, substantial.

The next section describes how FTLA, as an organization, will operate within this framework, with reference to the specific programmatic workstreams the Association is launching in 2026.

V. The FTLA Programmatic Response

The Foreign Trained Lawyers Association was established in December 2025 to serve as the organized professional voice for foreign trained lawyers integrated into U.S. legal practice. Its mission is to support the integration, professional development, and effectiveness of this practitioner population, framed in terms of the U.S. national interest objectives identified in this paper: capital markets integrity, inbound foreign investment integrity, and the regulatory effectiveness of the federal cross border compliance architecture. This section describes the programmatic workstreams through which FTLA pursues that mission in 2026 and over the medium term.

Five workstreams are presented in turn: standards and credentialing, mentorship and integration, continuing professional development, advocacy and policy engagement, and applied scholarship through the FTLA Quarterly Review. Each is presented at the level of operational specificity appropriate to a foundational policy paper; detailed program documentation is published separately on the FTLA website.

A. Standards and credentialing

FTLA maintains a tiered membership framework calibrated to the diverse population of foreign trained lawyers in U.S. practice.

- **Full Members** are foreign trained lawyers admitted to a U.S. bar (any U.S. jurisdiction). Full membership entitles the member to vote in FTLA elections, hold FTLA office, participate in all programming, and use the FTLA member designation in professional communications.
- **Associate Members** are foreign trained lawyers in U.S. LL.M. programs, foreign trained lawyers preparing for U.S. bar examination, foreign trained lawyers operating in the United States under foreign legal consultant or in house frameworks, and foreign trained lawyers practicing in U.S. firms' foreign offices. Associate membership entitles the member to participate in programming and access member resources.
- **Affiliate Members** are domestic trained U.S. lawyers, U.S. based law firm partners, in house counsel, academics, and other professionals whose practice or scholarship engages

cross border legal questions. Affiliate membership supports collaborative work between FTLA's primary practitioner population and the broader U.S. legal community.

- **Institutional Members** include law firms, law schools, bar associations, and corporations whose institutional engagement with cross border legal services aligns with FTLA's mission. Institutional membership supports FTLA's programmatic work financially and creates structured channels for institutional engagement on policy questions.

Beyond membership, FTLA contemplates a Cross Border Practice Certification offered to Full Members who complete a structured curriculum in cross border legal practice and pass a competency examination. The certification is offered as a voluntary professional credential, not a licensing requirement, and is intended to provide a market signal of cross border practice competency that clients, employers, and counterparties can recognize. Initial certification tracks include capital markets cross border practice, national security review (CFIUS) cross border practice, supply chain integrity (UFLPA and OFAC) cross border practice, and cross border corporate governance practice.

B. Mentorship and integration

FTLA operates a structured mentorship program pairing newly admitted foreign trained lawyers with experienced U.S. practitioners. The program is organized around three mentorship pairing models, each calibrated to the specific integration challenges of different career stages and practice settings.

1. A senior mentorship track pairs newly admitted foreign trained lawyers (within five years of U.S. bar admission) with senior U.S. practitioners (15+ years of practice) for one to one mentorship over a 12 month engagement period. Pairings are made on the basis of substantive practice area, geographic location, and language compatibility where relevant.
2. A peer mentorship track pairs newly admitted foreign trained lawyers with foreign trained lawyers admitted to U.S. practice 5 10 years prior. Peer mentorship addresses the specific integration challenges of transitioning from LL.M. completion through bar examination through first U.S. practice engagement.
3. An institutional mentorship track operates at the firm or organization level, with FTLA affiliated firms designating a foreign trained lawyer integration officer responsible for

coordinating mentorship arrangements within the firm. Institutional mentorship is offered as part of the FTLA Institutional Member benefit.

Beyond mentorship, FTLA operates monthly integration programming, virtual and (in major U.S. legal market cities) in person, addressing the practical aspects of U.S. legal practice that are less covered by formal CLE programming: client development practices, conflicts management for cross border practitioners, fee structures for foreign origin clients, technology adoption for solo and small firm practice, and (where applicable) navigation of U.S. immigration status implications of legal practice engagement.

C. Continuing professional development

FTLA's continuing professional development workstream operates through three principal channels.

1. Substantive cross border practice CLE

FTLA produces a curriculum of CLE accredited programs addressing the substantive areas mapped in Section IV.B.1: capital markets and securities, national security review, supply chain integrity, sanctions compliance, anti corruption compliance, corporate governance, immigration law as it interacts with corporate practice, and cross border ethics. Programming is delivered in modular form to accommodate the time constraints of practicing lawyers, with each module representing a single CLE credit hour. The full curriculum spans approximately 60 hours of programming, sufficient to support multi year CLE compliance for FTLA members across most U.S. jurisdictions.

2. Cross Border Practice Ethics Handbook

FTLA is developing a Cross Border Practice Ethics Handbook addressing the ethics questions identified in Section IV.C. The Handbook will be published on the FTLA website with annual updates, accompanied by a CLE accredited training program, and offered to FTLA Full Members and Associate Members at no additional cost. The Handbook is being developed in consultation with practitioners, academics, and bar counsel offices in the principal U.S. jurisdictions admitting foreign trained lawyers, and with reference to the comparable rules of the principal source jurisdictions of foreign trained lawyers in the United States.

3. Bar examination preparation support

FTLA does not operate a bar examination preparation course; that market is well served by established commercial providers. FTLA does, however, operate supplementary programming addressed to the structural challenges that foreign trained candidates face in standard bar preparation programs, including a focused common law foundations workshop, a Multistate Performance Test (MPT) skills clinic, and a Multistate Professional Responsibility Examination (MPRE) preparation track. Programming is offered to Associate Members at no cost.

D. Advocacy and policy engagement

FTLA represents foreign trained lawyers integrated into U.S. practice in policy fora addressing the issues identified in this paper. Advocacy and policy engagement is conducted through three principal channels.

- **Federal regulatory engagement.** FTLA submits comment letters in federal regulatory proceedings affecting cross border legal services and inbound foreign investment, including (as applicable) SEC rulemaking on FPI eligibility and disclosure requirements, Treasury rulemaking on CFIUS and OFAC, and Commerce rulemaking on inbound investment promotion.
- **State bar engagement.** FTLA engages with state bar admission authorities and state attorneys general on questions affecting foreign trained lawyer admission and practice. Engagement includes formal participation in NCBE proceedings on bar examination architecture, formal participation in state court rulemaking on Rule 520.6 and analogous rules in other jurisdictions, and informal consultation with bar admission staff on specific questions affecting FTLA members.
- **Professional body engagement.** FTLA pursues formal liaison arrangements with the American Bar Association's Section of International Law and Section of Legal Education and Admissions to the Bar, the New York City Bar Association's International Law Committee, and analogous bodies at the state and local level.

FTLA's advocacy work is conducted on a non partisan basis. FTLA does not endorse candidates for public office, does not contribute to political campaigns, and maintains positions on policy questions only after deliberative process within its Policy Committee. The Association's effectiveness as a policy voice depends on its credibility as a non partisan, evidence based representative of its practitioner constituency.

E. Applied scholarship and the FTLA Quarterly Review

The fifth FTLA workstream is applied scholarship. FTLA is launching the *FTLA Quarterly Review* as a peer reviewed journal of cross border legal practice, with its first issue scheduled for the second quarter of 2026 and quarterly issues thereafter. The Quarterly Review's scope encompasses cross border legal practice, regulatory compliance, foreign investment law, the integration of foreign trained legal professionals into U.S. and other common law legal systems, and adjacent fields including corporate governance, securities regulation, and international economic law. The Quarterly Review serves three functions. First, it provides a publication venue for original scholarship by FTLA members, drawn from the practitioner population whose work this paper has characterized. Second, it provides a body of applied research to support FTLA's policy engagement, with empirical and doctrinal analysis grounded in the day to day practice of cross border legal services. Third, it provides a vehicle for collaboration between FTLA members and the broader U.S. legal academic community, with affiliated faculty members at U.S. law schools serving on the editorial board and contributing scholarship. Beyond the Quarterly Review, FTLA produces periodic policy papers addressing specific questions of cross border legal practice and regulatory architecture. The present paper is the inaugural FTLA Policy Paper. Subsequent papers in the 2026 series are contemplated on the SEC's FPI reform proposals (anticipated for the third quarter of 2026, contingent on the timing of SEC action), on the integration of foreign trained lawyers into the small and mid sized U.S. firm market (anticipated for the fourth quarter of 2026), and on the cross border ethics infrastructure described in Section IV.C of this paper (anticipated for early 2027 in coordination with the Cross Border Practice Ethics Handbook). The applied scholarship workstream is intended to position FTLA not merely as a representative organization but as a substantive contributor to the U.S. policy and academic discourse on cross border legal practice. The premise is that the practitioner population FTLA represents possesses substantial collective expertise that the U.S. policy and academic community has not, to date, systematically engaged with. FTLA's applied scholarship workstream is the structured channel through which that engagement occurs.

Conclusion

This paper has argued that foreign trained lawyers integrated into U.S. legal practice should be understood as critical professional infrastructure for the U.S. economy: a population whose work is essential to the operation of the U.S. cross border compliance architecture, to the integrity of U.S. capital markets in their dealings with the global FPI population, and to the realization of the inbound foreign investment objectives that the United States has pursued through SelectUSA and analogous programs for more than four decades. The paper has presented this argument with reference to current data on inbound foreign investment, on the regulated cross border conduct of U.S. and foreign companies, and on the supply of foreign trained legal capacity in the U.S. profession. It has identified the structural reasons that domestic trained legal capacity alone is insufficient to meet the cross border compliance demand documented in the data. And it has set out a policy framework, and the FTLA programmatic response, through which the United States and the U.S. legal profession can convert this latent asset into operational capacity.

Three points warrant emphasis as the paper closes.

First, the framing offered here is non partisan and consistent with the U.S. national interest as articulated by every administration since the Reagan administration's 1983 Statement on International Investment Policy. The Sarbanes-Oxley framework is bipartisan; FIRRMA was enacted under bipartisan congressional leadership; the UFLPA was signed into law by a Democratic president and continues to be enforced under a Republican administration; SelectUSA was established under a Democratic administration and has been credited as instrumental by the current Republican administration. The cross border compliance architecture is, in this sense, a settled feature of U.S. policy across administrations. The professional infrastructure to support its operation should be similarly bipartisan, and FTLA is constituted on that basis.

Second, the framing offered here is grounded in the objective interests of the United States, not in the interests of foreign trained lawyers as such. The case for organized professional infrastructure for foreign trained lawyers is not that this population deserves better treatment because of who they are. It is that the United States gets better outcomes, more efficient capital markets, more reliable foreign investment processes, more rigorous compliance, and more competitive economic positioning, when the professional segment best positioned to deliver cross border legal services has the institutional infrastructure to do so well. The case is, in the precise sense, an argument about U.S. national interest in the same register as the SEC's mission of

protecting investors and facilitating capital formation, the Treasury Department's mission of safeguarding the integrity of the financial system, and the Commerce Department's mission of promoting American economic competitiveness.

Third, the work proposed here is institutional, not regulatory. The policy framework set out in Section IV does not call for new federal agencies, new federal statutes, or new federal regulatory authorities. It calls for harmonization of existing frameworks, professional development of an existing practitioner population, ethics infrastructure addressing existing gaps, and coordination among existing institutional actors. The marginal cost of implementing this framework is modest. The marginal benefit, by the analysis offered, is substantial. The United States has, in this practitioner population, an underused asset; FTLA exists to help convert it.

The Foreign Trained Lawyers Association will, in the months and years following the publication of this paper, pursue the programmatic workstreams set out in Section V. It will publish quarterly issues of the FTLA Quarterly Review beginning in the second quarter of 2026. It will publish further policy papers on specific questions of cross border legal practice. It will engage in advocacy and policy work in the federal regulatory, state bar admission, and professional body fora identified in Section IV.D. It will operate the standards, mentorship, and continuing professional development workstreams set out in Sections V.A through V.C. And it will continue to refine its institutional capacity in response to the evolving needs of the practitioner population it represents and the evolving regulatory architecture it operates within.

The work is institutional, and the institutional work is the work of years, not months. The premise of this paper is that the work is worth doing; that foreign trained lawyers integrated into U.S. legal practice are an asset the United States has not yet learned to use as fully as it should. The Foreign Trained Lawyers Association is constituted to help build the infrastructure through which that learning can occur.

Inquiries regarding FTLA membership, programmatic engagement, institutional collaboration, or contributions to the FTLA Quarterly Review may be directed to the Association at the contact information published on the FTLA website.

Endnotes

A note on sources. This paper draws principally on U.S. government sources, including statistical releases from the Bureau of Economic Analysis, regulatory filings and concept releases of the U.S. Securities and Exchange Commission, the annual reports of the Committee on Foreign Investment in the United States, the enforcement dashboards of U.S. Customs and Border Protection, releases of the U.S. Department of Commerce and the SelectUSA program, and the bar examination statistics of the New York State Board of Law Examiners. Where practitioner analysis is cited, the cited sources are publicly available and have been independently verified against the underlying primary materials. URLs are accurate as of the date of publication and may evolve thereafter.

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