

# Newsletter

## Immigration Monthly - March 2016

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Welcome to the March issue of our monthly newsletter! This is a complimentary service to clients and friends of the Firm to keep you informed of immigration law developments that may affect you or your organization. Please contact Munsch Hardt's Immigration Team with your comments and questions.

#### **DEPARTMENT OF HOMELAND SECURITY (DHS) UPDATE:**

- H-1B Reminder. Now is the time to complete H-1B petitions for filing under the annual "cap." USCIS will begin accepting applications April 1, 2016, but, just as in the prior recent years, the filing season is expected to be brief (i.e., first week of April). If more petitions are received than there are available H-1B visas, visa numbers would be distributed via computerized lottery. Importantly, while submission of the H-1B proceedings via expedited (i.e., Premium) processing should help you learn the adjudication outcome sooner, it does not assure the H-1B petition lottery "win". Be sure to discuss your preferred petition submission route with your immigration counsel. Importantly, the mandatory pre-H-1B filing Labor Condition Application (LCA) certification by the Department of Labor (DOL) takes 7 business days so LCA submission timelines should be planned accordingly.
- On March 11, 2016, DHS published a final rule regarding the Optional Practical Training (OPT) program for international students in science, technology, engineering, and mathematics (STEM) fields. The rule will go into effect on May 10, 2016. Below are some of the key changes made to the existing regulations: - The rule lengthens the STEM OPT extension from the current 17 months to 24 months
- To be eligible for the 24-month extension, the STEM degree must be awarded by a school accredited by a U.S. Department of Education-recognized accrediting agency and certified by the Student and Exchange Visitor Program (SEVP), at the time of filing for the extension
- Students may base the OPT extension on a previously-earned qualifying STEM degree
- Students may be eligible for up to two separate STEM OPT extensions upon completion of two qualifying STEM degrees at different educational levels. Students and their employers will be required to prepare and execute a formal training program. Any material changes to the training plan will need to be reported to the student's Designated School Official (DSO)
- Students and employers will be subject to several reporting requirements including validation of biographical, residential, and employment information, self-evaluations, and reporting of changes in employment status
- To guard against adverse effects on U.S. workers, the terms and conditions of a STEM OPT, including duties, hours, and compensation, must be commensurate with those applicable to similarly situated U.S. workers

It is important to consult your immigration legal counsel regarding the possible effects of the final OPT STEM rule on your and your employees' immigration planning.

#### **DEPARTMENT OF STATE (DOS) NEWS:**

The April 2016 DOS Visa Bulletin "Final Action" chart for employment-based preference cases provides significant updates. Immigrant visa priority dates under the EB-2 "Members of the Professions Holding Advanced Degrees or Persons of Exceptional Ability" category for nationals of China progressed 1 month to September 1, 2012 and EB-2 for nationals of India advanced 3 weeks to November 8, 2008. Immigrant visa availability under the EB-3 "Skilled Workers/Professionals" category for Chinese nationals progressed 10

months to August 15, 2013, and EB-3 “Other Workers” for China advanced 1 month to March 1, 2007.

Immigrant visa availability under the EB-3 Philippines “Skilled Workers/Professionals” and “Other Workers” categories advanced 1 ½ months to a cut-off date of May 1, 2008. Immigrant visa priority dates for EB-3 “Skilled Workers/Professionals” and “Other Workers” categories for Mexico and All Chargeability areas except China, India, and the Philippines are almost current with a cut-off date of February 15, 2016. Continue monitoring the monthly Visa Bulletin for further developments.

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