

Newsletter

Immigration Monthly - January 2014

1/15/2014

Happy New Year and welcome to the January 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.

Additionally, we would like to use this opportunity to welcome two Immigration Specialists to our growing immigration team. Claude Kelly has joined our Houston office, and Elvia Muñoz has joined our office in Dallas.

DEPARTMENT OF HOMELAND SECURITY (DHS) UPDATE:

- At the beginning of January, U.S. Citizenship and Immigration Services (USCIS) has confirmed its acceptance of 16,799 H-2B petitions toward the 33,000 visa cap for the first half of FY2014. H-2B is a non-agricultural temporary work visa that allows U.S. employers to bring foreign nationals for temporary jobs that do not require college-level education credentials. To secure H-2B petition approvals for prospective employees, U.S. employers must undergo advertisement and recruitment for temporary positions with their companies.
- E-Verify program strongly promoted by the federal government as an employment eligibility verification and confirmation tool, has released new Memoranda of Understanding (MOU) for E-verify browser users and web services users and developers. Current E-Verify users do not need to execute a revised MOU, but can review a list of E-Verify enhancements and copies of the revised Memoranda at www.uscis.gov/e-verify. If undecided whether to sign up for E-Verify this year, contact your immigration legal counsel for further discussions and to gain better understanding of the E-Verify program.
- Petitioners for H-1B work permit extensions should note the USCIS adjudication delays with these petitions. The Vermont Service Center has recently started transferring H-1B cases to the California Service Center to help expedite processing. Petitioners and their counsel receive transfer notices and should allow 21 days from the date of the transfer notice, for the California Service Center to make a decision or request additional evidence.

DEPARTMENT OF LABOR (DOL) INFORMATION:

The president of the largest business lobby in the U.S., the U.S. Chamber of Commerce, has recently announced the Chamber's intention to strongly advocate passage of the much awaited immigration reform. With this strong support, there is a renewed expectation of the immigration laws overhaul in 2014. Stay tuned for further updates.

DEPARTMENT OF STATE (DOS) NEWS:

- The DOS Visa Bulletin for February 2014 experienced considerable movement. Most notably, Employment-Based 3rd (EB-3) "Skilled Workers, Professionals, and Other Workers" category for all countries, except India, advanced 2 months to a current priority date of June 1, 2012. EB-2 category for China also advanced 1 month to January 8, 2009. Several of the family-based preference categories experienced slight advancement ranging from 1 week to a little over a month. Of particular note was the 11 month retrogression in the Family-Based Mexico F2B category. The DOS further advises that it expects the Mexico F2A category to experience further retrogression from the September 1, 2013 priority date due to the continued heavy demand.
- With the substantial changes in this month's bulletin, it is important to discuss your or your employees' potential eligibility for an adjustment of status filing with your immigration counsel, to take advantage of the newly available immigrant visas.
- EB-5 Investment. The DOS has recently advised that it tentatively projects a cut-off date for EB-5 investor visas for China for more than 1 year due to the high demand for EB-5 visa numbers during 2013 and the volume of approved Form I-526 petitions at the National Visa Center. The DOS further stated that if a cut-off date is established, it will likely become effective in July 2014 or later. This tentative projection may lead to serious ramifications for Chinese investors.

- The DOS just announced that the Interview Waiver Pilot program that the Obama administration introduced in January 2012 has now been made permanent. The program allows consular officers to waive the interview requirement for applicants seeking to renew any nonimmigrant visa as long as the initial visa in the same classification expired less than a year ago. Interview waivers are also available for applicants applying for a renewal of their visa that expired between 12 and 48 months ago, with the exception of E, H, L, P, or R visas. There are ADDITIONAL REQUIREMENTS TOWARDS an applicant's eligibility for the interview waiver program so it is important that you seek advice from your immigration counsel.

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