



Immigration Monitor
Monthly Immigration Updates



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FROM THE EDITOR'S DESK

Gone are the days when USCIS used to receive more than 65,000 H-1B visa petitions within a day or two of the start of the H-1B filing period, April 1. Increased scrutiny, rising US visa fees, stringent new rules and other factors have led to a steep fall in the demand for the coveted H-1B visa. The H-1B visa was once upon a time one of the most sought after visas categories but it has lost its luster in the past few years. Indian IT companies, one of the prominent users of H-1B visa program, are now sponsoring fewer Indian professionals for the H-1B visa and prefer to hire US nationals, or, in the alternative, make intracompany transfers, or extend the tenure of Indian professionals already working on an H-1B.

As of April 15, 2011, USCIS has received approximately 7,100 H1B cap-subject petitions and 5,100 H-1B petitions for foreign nationals with advanced degrees. As such, USCIS will continue to receive applications for the H-1B visa until the cap is reached. Some immigration experts believe that since the H-1B cap was not reached until January 2011 for Fiscal Year 2011 and December 2009 for Fiscal Year 2010, the H-1B for Fiscal Year 2012 will also be open for an extended period time.

Senator Grassley, one of the fiercest long time critics of both the L-1 and H-1B nonimmigrant programs, has [called](#) on the Inspector General of the Department of Homeland Security (DHS) to investigate the L-1 intracompany transferee program. Grassley has outlined specific areas of concern in his letter to Acting Homeland Security Inspector General Charles Edwards. Among those concerns are an unclear number of L-1 visa holders actually in the United States, a broad definition of "specialized knowledge," a disconnect between the Departments of Homeland Security and the Department of State on blanket petitions, and the alleged use of L-1 visas to circumvent requirements of H-1B visas. [Click here](#) to read Sen. Grassley's letter to Inspector General Edwards.

The USCIS has released Approval and Denial Statistics for EB-11 (Extraordinary Worker) and EB-12 (Outstanding Researcher/Professor) I-140 Petitions. The USCIS record reflects that EB-11 and EB-12 approval rates had been higher than 50% in general

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YOUR OPINION

Do you favor Sen. Grassley's concern that companies are using B-1 Visa Program to circumvent H-1B requirements?

- Yes
- No
- Can't say

[Cast Your Vote](#)
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IMMIGRATION QUIZ

from FY 2005 through FY 2010. The approval numbers have steadily increased more or less. Click the following image to view the exact numbers of approvals and denials.

Approval and Denial Statistics for I-140, Immigrant Petition for Alien Workers

Table A provides data on the approval and denial for the E-11 classification (Alien of Extraordinary Ability) of the Form I-140, Immigrant Petition for Alien Workers.

Table A: I-140 E-11 Approval/Denial by Fiscal Year 2005 to 2010

Fiscal Year	Approvals	Denials	Approval Rate	Denial Rate
2005	791	647	55%	45%
2006	1,646	1,032	61%	39%
2007	2,236	2,313	49%	51%
2008	2,329	2,667	47%	53%
2009	4,337	3,053	59%	41%
2010	3,200	1,998	62%	38%

Other Developments in Immigration Law

USCIS Receives 1200 H1B Cap-subject Petitions in One Week

USCIS has updated the count of H1B visa petitions received and counted towards the H1B cap for the fiscal year 2012 employment. As of April 15, 2011, USCIS has received approximately 7,100 H1B cap-subject petitions and 5,100 H-1B petitions for foreign nationals with advanced degrees.

USCIS Issues Final Rule on Employment Eligibility Verification Form

USCIS announced a final rule that adopts, without change, an interim rule to improve the integrity of the Employment Eligibility Verification (Form I-9) process. USCIS received approximately 75 public comments in response to the interim rule, which has been in effect since April 3, 2009.

H-1B Employees Have Right to Stay in the US While Extension is Pending

H-1B employees, whose timely- filed applications for extension of visas are pending before US immigration authorities, may not be arrested for "overstaying" now following a recent federal court ruling on the issue.

Immigration Articles and Other Fun Stuff

Check out our **In Focus** section for this month, titled **'Dual Intent - Did the Consulate Deny Your Nonimmigrant Visa Because of It?'** explains why most of the nonimmigrant visas are denied, the responsibility of a foreign national seeking a nonimmigrant visa, an introduction to the doctrine of dual intent and a list of

Win a FREE Online Consultation!

Submit your answer to the query below. The best response will be published in the next **Immigration Monitor** and the winner will receive a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of April 2011.

Does a person who is already in the US on an H-1B visa lose his/ her status if the spouse comes to US on any other work visa (not as a dependent) and starts working for the visa sponsor?

[Submit Your Answer](#)



Winner of the Immigration Quiz - March 2011:

Mark Orlan

The Question:

Adam Martin was born in Australia but his family migrated to the U.K. when he was 3 years old and he has British citizenship. He is now 35 years of age and has received an offer from a U.S. company. Can he obtain an E-3 instead of an H-1B?

The Winning Response:

E-3 visa classification applies only to nationals of Australia. Since Adam was born in Australia, he may qualify for Australian

nonimmigrant classifications that support the dual intent policy. Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that **65.22 %** of the respondents think President Obama is doing enough to fix the immigration system. We appreciate that people take interest in the opinion question and cast their vote to give us their feedback. Keep it up! And continue to cast your vote to express **Your Opinion**.



We congratulate **Mark Orlan** for winning last month's Immigration Quiz. Again, we received a significant number of responses from our readers, who talked about various solutions to support their position, but **Mark Orlan** gave the correct answer and won a

free online consultation to discuss the concerned Immigration issues. So it's time to get ready for this month's quiz. If you know the correct answer your name might be featured in next month's newsletter. All the Best!!!

To ensure you receive your Immigration Newsletter, please add Immigration-Monitor@VisaPro.com to your address book or safe list.

See you next month with a lot more noise from the Immigration World!

Christine

We are pleased to share that the VisaPro team was a part of the Presidential Executive Mission to India.



Mr. Ramineni (standing on the extreme right, holding the President's hand) from our DC office is interacting with President Obama.

[Read Full Article in Los Angeles Times](#)

citizenship by birth. However, he would need to first confirm that his present country (U.K.) recognizes dual citizenship (Australia recognizes dual citizenship). Once he is able to prove that he is an Australian citizen, he may apply for an E-3 visa. Otherwise, the best bet may be H-1B. Also, for both visas, the position offered to you must be a specialty occupation, requiring at least a bachelor's degree, and you must possess the degree or its equivalent.

Mark Orlan receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of May 2011.

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LATEST NEWS

[Senator Grassley Concerned that Companies are Using B-1 Visa Program to Circumvent H-1B Requirements](#)

Senator Grassley wrote a letter to Secretary of State Hillary Clinton and Secretary of Homeland Security Janet Napolitano questioning the "B-1 in lieu of H-1B" policy currently in place. Grassley also referenced a formal complaint against Infosys that details how Infosys management in India decided to use the B-1 business visitor visa program to get around H-1B program restrictions. The plaintiff alleges that Infosys was importing foreign workers as B-1 business visitors under the guise of attending meetings rather than working for a wage as an employee of a U.S. company, which is forbidden under the statute and regulations governing the B-1 visa program.

[USCIS Releases Information on Automatic Extension of F-1 Student Status for Those with Pending H-1Bs](#)

USCIS grants a cap-gap extension for F-1 students whose status would normally expire while waiting for an H-1B petition to be reviewed. This is allowed only for those students whose H-1B is filed on or after April 1 while F-1 status is current. Eligible students can go to their Designated School Official to have a cap-gap I-120 issued showing an extension. Released on April 1, 2011, more frequently asked questions have been answered.

[Prince George's County Public School Charged with Violating H-1B Visa Program](#)

Department of Labor found that Maryland's Prince George's County Public Schools was willfully violating terms of the H-1B visa program by requiring the foreign national employees to pay fees related to the cost of filing for an H-1B visa petition, which the employer should have paid for. US Department of Labor orders \$4.2 million in back wages be paid to 1,044 teachers and fines school system \$1.7 million in civil money penalties.

[Grassley's Letter to DHS Inspector General, Explaining his Concern about L-1 Visa Fraud and Abuse](#)

Senator Grassley has called on the Inspector General of DHS to investigate the L-1 intracompany transferee program. Grassley outlined specific areas of concern in his letter to Acting Homeland Security Inspector General Charles Edwards. Among those concerns are an unclear number of L-1 visa holders actually in the United States, a broad definition of "specialized knowledge," a disconnect between the Departments of Homeland Security and State on blanket petitions, and the alleged use of L-1 visas to circumvent requirements of H-1B visas.

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IN FOCUS

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Dual Intent - Did the Consulate Deny Your Nonimmigrant Visa Because of It?

Most of the foreign nationals seeking nonimmigrant visas are unclear about the "presumption of immigrant intent" and suffer visa denials because they are unable to prove their temporary intent to remain in the U.S. This article explains why most of the nonimmigrant visas are denied, the responsibility of a foreign national seeking a nonimmigrant visa, an introduction to the doctrine of dual intent and a list of nonimmigrant classifications that support the dual intent policy.

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DISCUSSION CORNER

[Australian to US on a L1 & Brining family](#)

By Sillybilly

[Citizenship application with 180 days each year](#)

By Normargb

[Social Security no for F1 holders...](#)

By Khai_Kohokoho

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QUESTIONS AND ANSWERS

Q1. I am a British Citizen and two years back, I was transferred from a Foreign Company to a US Company on an L-1 visa. I was issued the L-1 visa for 3 years and it is still valid for another year. I have a friend who is moving to another city in US and I am also planning to move to that city with him. Will I be able to transfer my L-1 visa to another company if I get a job offer there? If not, what are the options available for me to remain legally in the US? I have

GOT A QUESTION?

If you have a short, simple query on immigration to the U.S., send your questions to us. We will select and answer a few of the queries in every issue.

master's degree and a of total seven years of experience.

Ans. The L-1B visa is company specific; it is not transferable to another US company. However, based on your experience and education, you would qualify for other visas. The most commonly used would be the H-1B visa, but as you probably know, there are no H-1B visas available until October 1, 2011.

If you find a qualifying position, you may be able to use a [J-1](#) visa as a stop gap allowing you to train or intern with the new employer until the H-1B becomes active in October. The J-1 visa can be used in the right circumstances for up to 18 months.

Other options that may also work for you include the [E-2](#) (if you go to work for a British owned company in the US), or an [H-2B](#) (for temporary - seasonal or one-time occurrence - positions). Depending on your qualifications and background, you may also be eligible for an O-1 visa (if you are "extraordinary" in your specific field.)

Q2. I am an actor and have extensive experience in performing guest-star roles, theatre roles, and short films. Currently I am in the US on a tourist visa and have an offer from one organization who will offer me guest roles so I am planning to get my status changed to an artist visa. I would like to know what options are available for me?

Ans. There are only 2 categories that actors or entertainers fall into, the [O](#) and [P](#) visas. The O visa is for those who have extraordinary ability, in other words, those who are outstanding, notable or leading in the motion picture or television field.

The P visa has 3 subcategories: members of internationally acclaimed entertainment groups, individuals coming under a reciprocal exchange agreement, or someone who is coming for a culturally unique program.

Your qualifications to date do not seem to place you at the top of your field, and you are not seeking to enter the US as part of an internationally recognized group, so the only classification that you can take advantage of would be a reciprocal exchange program.

There are several organizations, mostly unions, that have exchange agreements in place. You would most likely have to become a member of one of these organizations to be able to use their exchange program.

[More Q&A](#)

SUCCESS STORIES

"Thank you so much. You and your staff have been truly outstanding to work with! I cannot imagine anyone trying to do this on their own without the help of a professional to guide them through the bureaucratic maze of the H2B process. Please pass along my sincere thanks to your entire staff."

Kind Regards,

Marc Ray, GM/COO
[Hammock Dunes Club, Inc.](#)

Note: Responses posted in this section provide only general information. Since immigration law is a complex matter, please [consult](#) an immigration attorney before acting upon any responses provided.

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