



## Immigration Newsletters

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### FROM THE EDITOR'S DESK

*Hello and welcome to the August Immigration newsletter.*

August 2011 has been a particularly bad month for the global economy in general, and the U.S. economy in particular. Following closely after the US debt-ceiling crisis, Standard & Poor's (S&P), an independent credit rating agency downgraded the rating of the U.S. Treasury Bond for the first time in history, from AAA to AA+. Combined with the debt crisis in the Eurozone, markets around the world began a roller coaster ride of losses and gains. As September approaches and markets begin to stabilize, many economists predict that the global economy could be facing some tough times ahead.

August, however, was quite eventful in the field of immigration and definitely not as gloomy. In the area of employment-based immigration, this month's most notable development was the announcement of new initiatives from USCIS to spur entrepreneurial immigration and stimulate investment. Secretary of Homeland Security, Janet Napolitano, and USCIS Director, Alejandro Mayorkas, outlined a series of policy, operational, and outreach efforts, aimed at fueling the nation's economy and stimulate investment by attracting foreign entrepreneurial talent of exceptional ability or otherwise can create jobs, form startup companies, and invest capital in areas of high unemployment. Under these initiatives for example, USCIS clarified that entrepreneurs with an ownership stake in their own companies, including sole employees, may be able to establish the requisite "employer-employee relationship" to obtain an [H-1B visa](#) if they can demonstrate that the

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### YOUR OPINION

Do you think USCIS' new entrepreneur and investor initiatives will actually

company has the independent right to control their employment. In terms of permanent residency, entrepreneurs may obtain an employment-based second preference ([EB-2](#)) immigrant visa if they can satisfy the existing requirements of either the Department of Labor's labor certification process or by qualifying for a National Interest Waiver ([NIW](#)) if they can demonstrate that their business endeavors will be in the interest of the US. It is hoped that these initiatives will significantly enhance both the nonimmigrant and immigrant visa options available to foreign national entrepreneurs desirous of establishing start-up enterprises in the U.S.

USCIS has further announced that, as a part of these initiatives, it is enhancing the [EB-5](#) immigrant investor program by transforming the intake and review process. USCIS also announced that it plans on expanding its Premium Processing Service to immigrant petitions for multinational executives and managers [[EB-1.3](#)]. It is anticipated that these initiatives to promote start-up enterprises and spur job creation will allow the U.S. to realize the full potential of current immigration laws to attract the best and brightest from around the world to invest their talents, skills, and ideas to grow the U.S. economy and create American jobs.

In other immigration news:

1. USCIS has announced that E-Verify Self Check, a free online service that allows workers to check their own employment eligibility status, will now be available in Spanish and will be accessible to residents in 16 additional states.
2. USCIS has also issued a reminder to eligible nationals of Haiti, and persons without nationality who last habitually resided in Haiti, to file for Temporary Protected Status (TPS). TPS was originally designated for Haiti in January 2010 in response to a catastrophic earthquake that devastated the island country. TPS for Haiti was extended for 18 months and will remain in effect through Jan. 22, 2013.
3. On the PERM labor certification front, Prevailing Wage Determination (PWD) delays continue to be a major issue as the Department of Labor (DOL) confirmed that PWD processing for all but certain H-2B temporary nonagricultural worker cases was temporarily suspended. It is needless to say that the delays in PWD processing continue to cause anxiety and hardship to employers, foreign national employees and their families. DOL also confirmed in a meeting with the AILA that no exceptions would be made in the submission of PERM applications without valid PWDs. By the end of August, some practitioners were reporting that PWDs for prevailing wage requests submitted in early June 2011 were beginning to be returned.

Amidst all these developments, the [H-1B](#) cap count continues to inch forward. As of August 12, 2011, USCIS has received 25,300 regular cap eligible cases out of 65,000, and 14,700 master's cap cases out of 20,000. While the cap is not expected to be reached very soon, employers who intend to employ foreign workers should not assume anything. Make sure to [contact VisaPro](#) to discuss all options as soon as a position is offered.

promote startup enterprises and spur job creation in the U.S.?

- a. Yes
- b. No
- c. Can't say

[Cast Your Vote](#)

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## IMMIGRATION QUIZ

### 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 September 2011.

*I am an Australian national and I am looking to set up a company in the US. Will I be eligible to apply for an [E-2 visa](#)? Can my wife and 8 year old son, both of whom are citizens of China, accompany me to stay in the US as my dependents? Will my son be able to attend school in the US?*

[Submit Your Answer](#)



### Winner of the Immigration Quiz - July 2011:

Peter Willis

#### The Question:

I am here in the US in [O-1](#) Status and just received a job offer from another

## Other Developments in Immigration Law

### [USCIS Centralizes Filing of Form I-130](#)

Effective Aug. 15, 2011, petitioners residing in countries without USCIS offices must file their Form I-130, Petition for an Alien Relative, with the U.S. Citizenship and Immigration Services (USCIS) lockbox facility in Chicago. Petitioners residing in a country with a USCIS office may send their petitions to the USCIS Chicago lockbox, or file at the USCIS office in that country. Individuals who must file Form I-130 at the Chicago lockbox should use the addresses provided in the revised form instructions.

### [USCIS Extends Employment Authorization for Liberian Nationals covered under DED](#)

On August 16, 2011, USCIS announced its intention to automatically extend Employment Authorization for Liberian nationals covered under Deferred Enforced Departure (DED) through March 31, 2012. USCIS has announced that the six-month automatic extension of existing Employment Authorization Documents (EADs) will permit eligible Liberians to continue working while they file their applications for new EADs. The new EADs will cover the full 18 months of the DED extension. Liberian nationals covered under DED will also need to include the Application for Employment Authorization, I-765, and a filing fee of \$380, or a fee waiver request.

## Immigration Articles and Other Fun Stuff

Check out our **In Focus** section for this month, titled **'The H1B Visa and EB-2 Green Card for Entrepreneurs and Start-up Companies'** which has an in-depth discussion of the recent initiatives of the Obama Administration and USCIS aimed at promoting startup enterprises and spur job creation in the U.S., focusing on the [H-1B visa](#) and [EB-2 Green Card](#) options, as they apply to an alien entrepreneur. Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that 68.75% of the respondents think [H-1B visas](#) have lost their charm. 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 **Peter Willis** for winning last month's Immigration Quiz. We received a significant number of responses from our readers who came up with some creative solutions to support their position, but **Peter Willis** gave the best answer and won a free online consultation to discuss the concerned Immigration issues. 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](mailto: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*

job offer from another employer. Can I work for more than one employer while in O-1 status? Also, can I invite my spouse to join me in the US as my dependent? Are there any travel restrictions for an O-1 visa holder who wants to go to his home country?

### **The Winning Response:**

Yes, you can work concurrently for more than one employer while in [O-1](#) status, if each employer files a separate petition for you with the USCIS. Also, you may only engage in employment during the validity period of those petitions. Your spouse and unmarried minor children will be eligible to apply for an [O-3 visa](#), and they will be admitted for the same period as you. Your spouse will however, not be able to work on an O-3 visa. Also, there are no restrictions on the number of times you may travel in and out of the U.S. on an O-1.

**Peter Willis** receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of August 2011.

## **JOBS @ VisaPro**

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**Location:** Work from anywhere in the U.S. No need to relocate.

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## **NEW TO VisaPro?**

Do you have questions regarding [H-1](#), [L-1](#), [E-1](#), other work visas or green cards? VisaPro has answers to commonly asked immigration questions. [Click here](#) to know more.

Wanted to take part in our immigration events, but

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.

immigration events, but missed your chance? Check out the informative library of immigration law videos from past conferences.



[More Videos...](#)

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### LATEST NEWS

XML

['E Verify Self Check' now available in Spanish](#)

USCIS has announced that Self Check, a free online service that allows individuals in the U.S. to check their own employment eligibility status before formally seeking employment, is now available in Spanish. The online service has also been expanded and made available to residents in 16 additional states. Self Check is now available to individuals who maintain addresses in: Arizona, California, Colorado, Idaho, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New York, Ohio, South Carolina, Texas, Utah, Virginia, Washington, and the District of Columbia.

[25,300 H-1B Cap-subject Petitions Received](#)

USCIS has updated the count of H1B visa petitions received and counted towards the H1B cap for the fiscal year 2012 employment. As of August 12, 2011, USCIS has received approximately 25,300 H1B cap-subject petitions and 14,700 petitions for foreign nationals with advanced degrees.

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### IN FOCUS

XML

## The H1B Visa and EB-2 Green Card for Entrepreneurs and Start-up Companies

The recent initiatives outlined by the Obama Administration and USCIS significantly enhance the visa options that would be available to an alien entrepreneur desirous of setting up an enterprise in the U.S. and running it, both temporarily and as a permanent resident. Under these initiatives foreign entrepreneurs who want to start a company in the U.S. may now become eligible for an H1B visa or an EB-2 Green Card as entrepreneurs, if otherwise qualified. These initiatives will be extremely helpful for individuals who cannot qualify for the E-1 or E-2 visas, or the L-1 visa, or those who cannot meet the high threshold set out for the EB-5 program.

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- ▶ [Visa Bulletin](#)    ▶ [USCIS Processing Times](#)    ▶ [Local USCIS Offices](#)



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## QUESTIONS AND ANSWERS

**Q1. I am currently in the U.S. on a J-1 visa. I am subject to the 2-year residency requirement. My J-1 program will complete on September 15 and I am traveling back to my home country. Can you please let me know if I can travel back to the US to visit on a Visitor Visa anytime during the next two years or will I be denied a tourist visa or entry into the US as a tourist because of the 2 year residency requirement?**

**Ans.** If you are subject to the two-year home-country physical presence (foreign residence) requirement, you will be required to return to your home country for two years at the end of your J-1 program and you cannot change your status to that of H, L, K, or immigrant lawful permanent resident (LPR) until you have returned to your home country for at least 2 years or have received a [waiver](#) of that requirement. However, being subject to this regulation does not prevent you from returning to the US as a tourist on B1/B2 visa or under the visa waiver program. Hence, if you are the national of a country which is on the list of Visa Waiver countries, you would be able to travel to the US on the Visa Waiver program, if you are otherwise qualified. If your country is not on the list of Visa Waiver countries, you could apply for a B-2 tourist visa in an appropriate American Embassy or Consulate and you could travel to the US on a valid B2 visa.

### 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.

**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.

[Ask Your Question](#)

**Q2. I am a UK national and I will be joining a new employer shortly. They do not have any office or branch in the US currently, and they want to set up a new branch in the US. They want me to go to the US and start the operations, hire staff and manage the branch. Can I apply for an [L-1 visa](#) to accomplish this?**

**Ans.** [L-1](#) Intra Company Transferee visa is an appropriate visa to start up a branch office in the US. In an L-1 visa, an employee of your company in the UK would come over to open up and start that branch office in the US. However, under the regulations, to qualify for the L-1 visa, among other requirements, that person must have been employed in the UK by your UK Company for at least a year before he can be transferred over to the US. In your case, you are yet to join the employer, and you will be joining him shortly. You personally cannot qualify for that L-1 transferee visa, until you have worked in the UK for your employer there in the UK for at least 1 year. Therefore, an [L-1 visa](#) is not an appropriate visa for you, in your situation.

[More Q&A](#)

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## SUCCESS STORIES

"Thanks Visa-Pro team, for your tremendous efforts put in clearing the [L1 visa process](#) for our boss in one go as everybody is aware that these days getting visa is very difficult and you have completed the approval before the stipulated time given to us.

We would definitely recommend your service to any other person in our fraternity looking to come to USA to setup office or transferring employees."

**Manuj, Director**  
[Ve Systems USA](#)

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