

## FROM THE EDITOR'S DESK

VisaPro wishes all its readers *Happy Holidays* and a very prosperous *New Year 2011!*

Another year has passed and what a year it's been! With 2010 coming to a close, we have successfully completed one more year with you. The year 2010 has witnessed many crucial changes in the world of immigration. We look forward to welcome the year **2011** and wish that the New Year brings pleasant things to all our lives.

Let us have a look at some of the interesting events that took place in 2010.

On December 20, 2010, the federal agencies released the rule making agenda for the next six-months. For the last few years, the USCIS rule-making agenda has included a plan for the initiation of "preregistration" of EB-485 applications even during the period of immigrant visa retrogression as well as an accompanying plan to terminate the procedure of current "concurrent" filing of [I-140](#) petition and [I-485](#) application when the immigrant visa number becomes current for the employment-based immigrants. These plans are no longer in the rule-making agenda released on December 20th. The new agenda released this month in the Federal Register, did not cover the entire program as described here. However, no information is available whether USCIS has completely dropped its previous plan to pursue termination of concurrent filing. Oftentimes, agencies will initiate a proposed rule making process outside of the semi-annual agenda which are officially released every six months. For now, however, it is a relief that USCIS seems to have dropped this plan.

The most widely discussed USCIS development i.e. the 2<sup>nd</sup> increase in immigration petition fees in three years, went into effect on November 23, 2010. Most of the fees

Happy Holidays!  [CLICK HERE](#)

### IN THIS ISSUE

[Latest News](#)

[In Focus](#)

[Processing Times](#)

[Discussion Corner](#)

[Questions and Answers](#)

[Success Stories](#)

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increased on average by 10%. Notably, the fee for the [Naturalization](#) application did not increase. Furthermore, fees for [EB-5](#) regional center designation and civil surgeon designation were added.

USCIS' revised edition of Form [I-129](#) was also release on November 23, 2010 and just become mandatory for [H-1B](#), [L-1](#) and all other nonimmigrant visa categories that require the form. The new Form I-129 asks questions that are very important in the H-1B context with an increased level of scrutiny for H-1B employers who place employees at client sites is reflected in the new form. Interestingly, USCIS has also added a question about "sensitive data" and the Export Administration Regulations and the International Traffic in Arms Regulations and asks employer petitioners to certify that licensure is or is not required. Because of serious concerns raised by immigration practitioners and stakeholders, USCIS is now allowing employers to leave the question blank until February 11, 2011 giving both employers and practitioners the opportunity to examine the regulations and how it affects their employees.

And finally, the (really) bad news- the highly anticipated passing of the DREAM Act failed in the lame duck session of Congress. The most recently introduced version of the Development, Relief and Education for Alien Minors Act (DREAM Act) by the Senate Majority Leader Harry Reid was moved for debate cloture motion on December 17, 2010. Senate Reid needed 60 votes to invoke cloture. However, on December 18, 2010, the Senate failed to get 60 votes for the cloture motion for DREAM bill. DREAM is practically destroyed and dead not only for this year but also for years to come.

While 2010 was not a particularly good year for immigration, we can hope that 2011 will bring us better news!

## Other Developments in Immigration Law

### *USCIS Issues Final Rule For CNMI-Only Investor Program; The Rule Provides Status For Eligible Long-Term Investors*

USCIS posted a final rule in the Federal Register that creates a nonimmigrant investor visa classification in the Commonwealth of the Northern Mariana Islands (CNMI). The [E-2](#) CNMI Investor Visa allows foreign long-term investors to reside in the CNMI through December 2014. Petitions for the E-2 CNMI Investor classification will be accepted beginning Jan. 18, 2011. Petitions received before Jan. 18, 2011, will be rejected.

### *USCIS Revises Form for Naturalization Candidates Seeking*

## YOUR OPINION

Do you favor USCIS' Proposed Rule of Requiring Online Pre-registration of Employers who are filing [H-1B](#) Cap Petitions?

- 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 January 2011.

*Can one recapture the time he or she has spent outside the U.S. while on [H-1B](#) status?*

[Submit Your Answer](#)

### Medical Disability Exceptions

USCIS has revised Form [N-648](#), Medical Certification for Disability Exceptions, for individuals with disabilities who are seeking exceptions from the English and civics requirements for naturalization. USCIS will accept the previous version of the Form N-648 for 90 days, from Dec. 22, 2010, until March 21, 2011. Beginning March 22, 2011, USCIS will only accept the current version of Form N-648, dated 9/24/2010.

### CBP Issues a Christmas Holiday Travel Reminder

CBP issued a Christmas holiday travel reminder to remind travelers planning trips across the border this weekend into the United States to make sure they have their proper documents and to anticipate heavy traffic during this Christmas season. Border traffic volumes are expected to increase during this holiday weekend and all travelers are reminded of a few simple steps they can employ to cross the border more efficiently.

### New Visa Procedures in U.S. Embassy, Mexico

Beginning January 10, 2011, the U.S. Embassy and Consulates in Mexico will process visas differently. Under the new procedure, most applicants would have to, prior to their consular interview, go to the Application Service Centers (ASC), which will be located in buildings separate from the U.S. Embassy and Consulates. The ASC staff will collect the applicant's biometric information that will be reviewed by the consular section prior to the applicant's interview. ASCs are part of a Global Support Strategy (GSS) aimed to be implemented at visa processing posts worldwide within the next two years. ASCs are to be implemented in large volume visa processing countries to improve the applicant experience.

### **Immigration Articles and Other Fun Stuff**

Check out our **In Focus** section for this month, titled **10 "Must-Dos" for Every F-1 Student and J-1 Exchange Visitor for Smooth Admission in the U.S.**, which is aimed to help [F-1](#) students and [J-1](#) exchange visitors by presenting 10 very important things they must do in order to ensure smooth admission into the U.S.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that **73.33%** of the respondents think that post the recent electoral setback President Obama would not be able to pass a Comprehensive Immigration Reform (CIR). We

Immigration  
Question?

Consult Our  
Experienced  
Attorneys



**Winner of the Immigration Quiz - November 2010:**

Sandra Paul

#### **The Question:**

*My name is John Smith; I am a citizen of Canada and a photographer by profession. I have my own unregistered company in Canada and I did photography for 6 months for free while I was in the U.S. last year for a renowned modeling agency. I would now like to go to the U.S. to work as a photographer. I have experience and pictures to prove my work. Please let me know if I qualify for an [H-1B](#) visa or if not, then which visa is best for photographers?*

#### **The Winning Response:**

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 **Sandra Paul** 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

**Sandra Paul** 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](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*

The H-1B visa will not work for you because as a photographer your visa options are limited to the O visa category - an artist of extraordinary ability. Within the arts "extraordinary ability" means "distinction," i. e., you would have to show that you have reached a high level of achievement in the field of arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered. While this sounds like a high standard it requires that the foreign national establish that the artist is "prominent in his or her field of endeavor."

**Sandra Paul** receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of December 2010.



**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](#)

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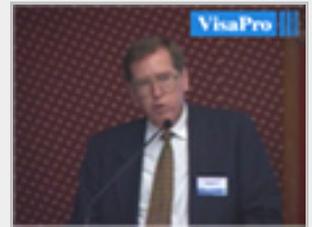
**Location:** Work from anywhere in the U.S. No need to relocate.

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**NEW TO VisaPro?**

Do you have questions regarding [H-1](#), [L-1](#), [E-1](#), 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 missed your chance? Check out the informative library of immigration law videos from past conferences.



[More Videos...](#)

## LATEST NEWS [XML](#)

### [USCIS Reminds Haitians to Register for Temporary Protected Status](#)

USCIS issued a reminder for Haitian nationals that the registration deadline for Temporary Protected Status (TPS) is Jan. 18, 2011. Haitian nationals who have continuously resided in the U.S. since Jan. 12, 2010, and who meet other TPS eligibility requirements, must file their applications for TPS no later than Jan. 18, 2011.

### [USCIS Received 53,900 H1B Cap Subject Petitions Till Date](#)

As of December 17, 2010, USCIS has received 53,900 H1B cap subject petitions and 19,700 petitions qualifying for the advanced degree cap exemption. USCIS will continue to accept both cap subject petitions and advanced degree petitions until a sufficient number of H1B petitions have been received to reach the statutory limits.

[Read More News](#)

## 10 “Must-Dos” for Every F-1 Student and J-1 Exchange Visitor for Smooth Admission in the U.S.

Each year, U.S. records thousands of foreign nationals visiting as F-1 students and J-1 exchange visitors and that count is steadily rising. In light of this steady increase combined with looming security threats, security measures at all U.S. ports-of-entry have been increased. It is therefore important that all F-1 students and J-1 exchange visitors provide proper documentation and comply with the entry procedures; failure to do so may cause the F-1 student or J-1 exchange visitor to be denied an entry into the United States. With an aim to help F-1 students and J-1 exchange visitors coming to the United States, we have developed this article presenting 10 very important things every F-1 student and J-1 exchange visitor must do in order to ensure smooth admission into the U.S.

[Read Full Article](#) | [Read More Articles](#)

## PROCESSING TIMES XML

▶ [Visa Bulletin](#)

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## DISCUSSION CORNER

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

By Sillybilly

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

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[Drink Driving conviction and Visa Waiver](#)

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## QUESTIONS AND ANSWERS

**Q1. I am currently working in the US on an [L-1](#) status; my partner is accompanying me on a [B-2](#) visa. As we are not yet married is there any way to obtain an [L-2](#) visa for her in order that she can work?**

**Ans.** Unfortunately, there is no way for your partner to qualify for the L-2 visa. By statute and regulation only a spouse or child will qualify for L-2 status, and subsequently [work authorization](#).

While she cannot qualify for L-2 status, and get work authorization through that route, depending on her education and experience there may be other visa options that may be available to her.

**Q2. I am a Kenyan citizen who is a Green Card holder. I got my green card via DV Lottery. My girlfriend, who is also a citizen of Kenya, is in the U.S. at the moment on visitor's visa. Her visa expires on 30th March 2011. Should I marry her before she leaves and then file an [I-130](#) for her, or should I wait till I become a citizen and then either go to Kenya to marry her and bring her as a [wife of a U.S. citizen](#) or on [fiancée visa](#)? What are my options? Can we get married while she is in the U.S. on her [tourist visa](#)?**

**Ans.** Right now with the Green Card, you cannot file an I-130 for your girlfriend. You can file an I-130 for your spouse only after marriage, and all that it is going to do is put her on a family 2A quota waiting list which is backed up by 5 -6 years now. She can wait until her place in that waiting line till the quota is reached in may be 6 years from now or until you become a citizen, whichever occurs first. However, just filing the I-130 does not allow her to stay and work here and also does not allow her to go in and out of the U.S.

**[K-1 Visa](#):** For a fiancée visa, you would have to first become a U.S. citizen and you would have to file a petition. You have to prove that you are a citizen and you have to prove that you are legally able to get married when she comes here. And you have to prove that you have met each other in person at least 1 time in a 2 year period. Once filed, it gets approved in U.S. and sent to the U.S. Embassy in Nairobi. She will be processing her K-1 visa in Nairobi. When she gets it, she comes to the U.S. and both of you can get married in the U.S.

**[K-3 Visa](#):** For a K-3 visa also, you would have to first become a U.S. citizen. You have to go to Kenya to marry her and then you come back to U.S. and file a K-3 petition. The K-3 petition will allow her to come to U.S. and finish her Green Card process while she is present in U.S.

It is legal to come to the U.S. on a tourist visa for a purpose of getting married to a U.S. citizen as long as she remains a tourist and intends to go back to her home country and finish her Green Card process in Kenya.

### 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](#)

[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.](#)

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