

FROM THE EDITOR'S DESK

Hello and welcome to the December Immigration newsletter.

*VisaPro wishes all its readers **Happy Holidays** and a very prosperous **New Year 2012!** We are very happy to have successfully completed one more year with you!!*

2011 is coming to a close and what an eventful year it has been: monumental events in world politics, continued turmoil and uncertainty in the business and economic fronts, and finally, rays of hopes as signaled by the sudden filling up of the H1B cap numbers hinting at an economic revival! As we welcome **2012**, we hope that the New Year brings pleasant things to all our lives. Let's take a quick recap on some of the most interesting and key developments in the world of immigration in 2011:

In what many Business Immigration Practitioners opine as the most important development of the year, the Obama Administration and USCIS outlined a series of initiatives to continue to promote start-up enterprises and spur job creation in the US in August of this year. These initiatives clarified how qualified entrepreneurs, including sole employees, can utilize the [H1B visa](#) to establish and run a business in the US temporarily. The Administration also clarified how qualified entrepreneurs can seek permanent resident status through the [EB-2](#) Green Card category, either through the Labor Certification process or through the National Interest Waiver ([NIW](#)) category. The Administration also announced the expansion of Premium Processing to include the [EB-1](#) Multinational Executive and Manager category and enhancements to further streamline the [EB-5](#) process. These initiatives are intended to significantly enhance the visa options that are available to alien entrepreneurs, especially those who cannot qualify for

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the [E-1](#) or [E-2](#) visas and for individuals who do not qualify for the [L-1 visa](#) because there is no qualifying entity abroad.

USCIS announced that the H1B cap numbers for FY 2012 reached the statutory cap of 65,000 on November 22, 2011, which the USCIS declared as the final receipt date for FY 2012 H1B Specialty Occupation petitions. Employers (except cap-exempt organizations) who wish to file new H1B petitions will now have to wait until April 1, 2012 to file for a new H-1B (with a start date no earlier than October 1, 2012) when the filing period for FY 2013 H1B cap reopens. After a moderate start in April 2011 and slow down over the summer, many practitioners predicted the cap would stay open until January, as it did for FY 2011. The H-1B cap numbers for FY 2012, however, saw a sudden and dramatic acceleration during late October-early November, 2011. Many experts suggest that the sudden increase in H1B filings would seem to indicate that the US economy is slowly on its way to revival as employers are cautiously starting to hire again.

Another development that was noted with joy by Business Immigration Practitioners was the significant progression in EB-2 numbers for India and China that was witnessed in the past few of months of this year. Beginning with an [EB-2](#) priority date of 15 July, 2007 for India and China in the October 2011 Visa Bulletin, the EB-2 priority date has continued advancing and has reached January 1, 2009 as announced in the January 2012 Visa Bulletin. With retrogression in this category in the coming months not being ruled out, it is advisable that you [Contact VisaPro](#) immediately if you believe your priority date is now current and you need any assistance in filing for an [Adjustment of Status](#) application or for an Immigrant Visa.

On the legislative front, the U.S. House of Representatives passed the '[Fairness for High-Skilled Workers Act](#)' that proposes, among other provisions, a provision to end per-country quota for employment based Green Cards, under which citizens of a country can be issued no more than 7% of total employment-based Green Cards available annually. If this per-country quota system is eliminated, it would result in lesser waiting periods for citizens of China and India (but longer wait times for citizens of other countries). The bill, however, now must be passed by the Senate. With the bill now being put on "hold" by Senator Chuck Grassley, immediate movement of the bill is not expected.

Also on the legislative front, 2011 saw the introduction of a bill to induce foreign investment in the U.S. real estate market called the '[Visa Improvements to Stimulate International Tourism to the United States of America Act](#),

YOUR OPINION

Do you welcome an end to per-country quota for Employment Based Green Cards that is proposed by the 'Fairness for High-Skilled Workers Act'?

- a. Yes
- b. No
- c. Not Sure

[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 November 2011.

Hi, I came to the US on a B-1 visa on behalf of my Indian company to meet our US based clients. Our original plan was to finish all meetings in 3 weeks, and accordingly we asked for and were granted time for 3 weeks on B-1. After arriving in the U.S., however, we have realized that additional meetings will be required and that I may need a couple of more weeks to complete them. What can I do? Is it permissible to seek an extension of the B-1?

[Submit Your Answer](#)

or VISIT-USA Act'. The bill called for the creation of a new 'Homeowner Visa' that would allow foreigners who spend at least \$500,000 on residential property in the US to obtain visas that would allow them to live temporarily in the US⁶. A 'Start Up Visa' Act was also introduced aiming to create a new sixth preference employment-based immigrant visa category (EB-6) for foreign entrepreneurs if they secure at least \$100,000 in financing from qualified investors. It would seem, however, that a lot of work needs to be done before we are anywhere near to seeing these two bills become law.

Meanwhile, the worrisome trend of states passing immigration-enforcement laws continued in to 2011. Following the example of Arizona, states like Alabama, Georgia, South Carolina and Utah passed new immigration related laws. In December, the US Supreme Court decided to hear the case of Arizona's Immigration Law. It is widely expected that a Supreme Court ruling in the matter would throw more light on the scope and constitutionality of state's rights in these matters.

In other important immigration developments for 2011:

1. USCIS announced that it will consider multiple [L-1B](#) petitions related to the same project "bundled" together, where the location and the specialized knowledge duties of the beneficiaries are the same. In order for the petitions to be considered together, the petitioners must bundle the L-1B petitions together for filing. USCIS will also consider petitions for L-1A managers included with the bundle if such persons will be managing the L-1B beneficiaries who will be working on the project. While petitions may be submitted as a bundle, however, each petition must be individually supported by the required evidence and filing fees.⁹
2. In conjunction with the entrepreneur initiative announced by the Administration, USCIS began implementing a series of proposed enhancements to the [EB-5](#) program (Immigrant Investor Program). In the first phase, Form I-924 (Application for Regional Center Under the Immigrant Investor Pilot Program) applicants will now be able to communicate directly with USCIS adjudicators through e-mail to resolve issues and questions that arise during the adjudication process. Under the new direct email communication process, Form I-924 applicants with pending applications will be sent an email with a unique identifier and a specific email address to use when corresponding with USCIS. Once assigned an

Immigration
Question?

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Winner of the Immigration Quiz - October 2011:

Muzafar Hussain

The Question:

I am an Australian Citizen, currently in the US on an [O-1 visa](#), which is valid till June 2012. I recently got married to a US citizen in the US, and I have filed for Adjustment of Status. I have not yet received my Advance Parole travel document. However, some sudden emergencies have crept up which require me to travel to Australia. If I travel out of US while the Adjustment of Status, and Advance Parole applications are pending, will it cause me any problems when I return?

The Winning Response:

email address, applicants may use this contact information to send and respond to emails to discuss—either informally or through the RFE or NOID process—issues raised regarding their regional center applications.¹⁰

3. On the Family Based Green Card front, USCIS took steps to centralize the filing of Form I-130, Petition for Alien Relative by announcing that petitioners residing in countries without USCIS offices must file their Form I-130 with the 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. It is expected that this improved process for petitioners abroad will make the filing process more efficient and give greater flexibility to USCIS in managing its workload¹¹. On the other hand, petitioners who do not live in countries that have a USCIS office fear that the I-130s filed with the lockbox will be subject to longer processing times.
4. The DREAM Act was again placed on the legislative agenda this year by Senator Harry Reid but the bill did not make it very far. Past Republican supporters like Sen. John McCain objected saying that there should be more enforcement measures in the bill (even though the Obama Administration has deported more individuals in the past year than any other president in history!). In reaction to the federal government's inability to pass the DREAM Act, states are starting to enact "DREAM Acts" of their own. These acts aim to allow certain foreign students, regardless of their immigration status, to be eligible for in-state tuition and some even propose that these students should receive state-funded financial aid.

Although we hoped that this year would bring the long-awaited and coveted Comprehensive Immigration Reform, 2011 was not a particularly bad year in immigration. We hope and expect that 2012 will bring us further good news and developments!!>

Recent Developments in Immigration Law:

[January 2012 Visa Bulletin: EB-2 Priority Dates for India and China reach 01/01/09](#)

In the recently published U.S. Department of State Visa Bulletin for January 2012, the EB-2 priority dates for India and China have moved significantly to January 01, 2009

I believe you cannot leave the country until you receive parole or you get adjustment of status which is still in process. Otherwise you have to file it again the adjustment of status.[Sic.]

[Ed. Note – The Adjustment of Status will be considered “abandoned” if you travel outside the US without obtaining an Advance Parole document while your Adjustment of Status case is pending. If you have a valid O-1 visa, you may be able to come back to the US on the valid O-1 visa, if otherwise qualified, but you will have to re-file your Adjustment of Status case and start the Green Card process from the beginning. In the alternative, you may try and obtain an “emergency” advance parole at your local USCIS field office].

Muzafar Hussain receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of December 2011.

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from March 15, 2008 in the December 2011 Visa Bulletin. Meanwhile, the EB-2 numbers for other countries remained current, along with EB-1, EB-4, and EB-5 numbers for all countries. In the EB-3 category, the priority dates for professionals and skilled workers advanced from 09/08/04 to 10/15/04 for China; from 08/01/02 to 08/08/02 for India; and from 01/15/06 to 02/01/06 for all other countries. In the EB-3 Other Workers category, the priority dates remained at 04/22/03 for China, and advanced from 07/22/02 to 08/01/02 for India; and it progressed from 01/01/06 to 02/01/06 in respect of all other countries.

[Bill could reduce waiting period for Employment Based Green Cards for those born in India and China](#)

The U.S. House of Representatives passed the 'Fairness for High-Skilled Workers Act' that proposes, among other provisions, a provision to end per-country quota for employment based Green Cards. The bill proposes the gradual elimination of per-country quotas in the employment based category (those born in a particular country can be issued no more than 7% of total employment-based Green Cards available annually). The bill would provide for issuance of employment based Green Cards on a first come first served basis, which would dramatically decrease wait times for those born in China and India, most especially in the EB-3 category. On the flip side, because the actual quota on employment based green cards is not be increased as urged by many practitioners, the wait times for individuals born in all other countries may actually increase. On the family based Green Cards front, the bill proposes to increase country-specific quotas from 7% to 15%.

Immigration Articles and Other Fun Stuff

Check out our '**Featured Video**' of the month '[Professors and Researchers: Employment Based Green Card Options - EB-1, EB-2, and EB-3](#)', which showcases the several Employment Based Green Card options that Professors and Researchers have. The video features helpful tips to help individuals decide which option they could use to successfully receive a Green Card. Please check out and subscribe to our YouTube channel to take advantage of another great service provided to you by VisaPro.

Also remember to check out our **In Focus** article for this month- '[US Visa for Foreign Dentist: TN Visa, H1B Visa and the Dentist Green Card](#)' which presents a snapshot of some of the more popular US Green Card and visa options available to foreign national dentists who want to come and work in the U.S.

NEW TO VisaPro?

Do you have questions regarding the [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.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that an overwhelming majority of our respondents (**87.50%**) predicted that, considering the acceleration of H1B filings in November, the cap would be reached before Christmas. And boy, didn't they get it spot-on?! We appreciate that people take interest in the opinion question and cast their votes to give us their feedback. Keep it up! And continue to cast your vote to express **Your Opinion**.



We congratulate **Muzafar Hussain** for winning last month's Immigration Quiz. We received a significant number of responses from our readers, but **Muzafar Hussain** 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 to your address book or safe list.

See you in the *New Year 2012* with a lot more noise from the Immigration World!

Christine

FEATURED VIDEO

Professors and Researchers: Employment Based Green Card Options - EB-1, EB-2, and EB-3

Professors and researchers seeking permanent residence in the US have several employment based Green Card options to choose from. Many professors and researchers often qualify for more than one category - which option do you use (such as EB1.1, EB1.2, EB-2, EB2 NIW) to successfully receive Green Card?

[More Videos...](#)

LATEST NEWS

[H2B Cap Count Update](#)

USCIS has updated the count of H2B visa petitions received and counted towards the H2B cap for the first half of fiscal year 2012 employment. As of December 16, 2011, USCIS has received filings on behalf of approximately 12,800 beneficiaries, and approved approximately, 9,467 H2B beneficiaries against the cap amount of 33,000.

[U.S. Embassy Consular Exchange Rate adjusted in India](#)

United States Embassy and Consulates in India have adjusted the consular exchange rate from INR 52 to the dollar to INR 54 to the dollar. This new exchange rate becomes effective on November 29, 2011, and is effective for all rupee-denominated costs of applying for visas and passports, including the nonimmigrant visa application fee paid at HDFC bank branches prior to the scheduling of visa appointments. However, receipts there were issued by HDFC Bank prior to November 29, 2011 and which are not more than one year old will be honored.

US Visa for Foreign Dentist: TN Visa, H1B Visa and the Dentist Green Card

Foreign national dentists desirous of working in the U.S. have a variety of nonimmigrant (temporary stay) and immigrant (permanent residence) visa options to choose from. While each visa option is designed to serve a particular need, and come with their own requirements, advantages and limitations, it often becomes difficult for foreign national dentists and their employers to identify the one that would be most suitable in their situation. In this article we present a snapshot of the most popular visa options that are available to foreign national dentists who want to come and work in the U.S., either as a permanent resident or as a temporary working professional.

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QUESTIONS AND ANSWERS

Q1. My younger brother is US Citizen. As I am his blood relation, can he sponsor me for US Visa? What are all the things I have to do from INDIA to get family 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](#)

Ans. US Citizens aged 21 and above, who maintain their principal residence in the US, can sponsor the Green Card applications for their brothers and sisters, along with their spouse and minor children, under the Family Based Green Card – [Family Fourth Preference](#) Category. As a first step in the process, your brother must file a [Form I-130](#), Petition for Alien Relative, with the USCIS. Please note, however, that there are numerical limitations on the number of Green Cards that can be issued under this category annually, and as per the January 2012 Visa Bulletin, the Family Four Preference Category is backed up to 08/15/2000 for natives of India. There are other requirements to be satisfied and you and your US Citizen Brother would be advised to get in touch with an Immigration Attorney who can analyze your situation and guide you on what suitable steps you can take in this regard.

Q2. Sir, In three attempts in July/August 2011 my visa was refused. What is my chance in 2012 fall which is fourth attempt?

Ans. We do not know which type of visa you were seeking, but we presume from your mentioning of '2012 fall' that you are trying to apply for an [F-1 visa](#). Each visa category has its own eligibility requirements, and unless we understand the reasons and grounds for earlier rejections, we would not be able to comment on your situation. You should get in touch with an Immigration Attorney to review your situation.

[More Q&A](#)

SUCCESS STORIES

"Thank you VisaPro team for successfully handling our [L1 case](#). Your team's expertise was invaluable and made the whole L1 process easy

Special thanks to [the VisaPro legal team] for her insights at interview counseling. Our candidate was shy and nervous about the interview. [VisaPro legal team] guided him and helped him build his confidence – thank you."

Naheed Quaisar, President
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