



FROM THE EDITOR'S DESK

Last month I had informed you about the intention of the House Republicans to hold a two-month series of hearings on immigration reform, rather than directly constituting a Conference Committee to reconcile the differences on the immigration reform bills passed by the House and the Senate. The latest news is that, in response, the Senate Judiciary Committee is also likely to hold similar hearings to promote the temporary worker program and other provisions of its bill on comprehensive immigration reform. We are keeping a close watch on the response to these hearings and their likely consequences and will keep updating you with the latest in the coming issues of your **Immigration Monitor**.

On the H-1B front, there was some bad news for a few H-1B applicants earlier this month when USCIS informed that three cap-subject H-1B cases that were not selected in the 'H-1B Lottery' conducted on May 26, 2006, were erroneously approved. The USCIS informed that they would reopen the cases on service motion to revoke them and notify the parties accordingly. The numbers for Advanced Degree exemption category are dwindling fast and less than 10% of the numbers remain as of July 23, 2006. With H-1B numbers dwindling, employers are looking for alternative visa categories, such as, B-1, L-1, E-1 and E-2 etc. to transfer eligible employees to the U.S. For those who advocate immigration reform and the expansion of H-1B cap, it is time to contact your Senators and insist on them to push for immigration reform, when the Senate-House Conference Committee is constituted.

Continuing with our series of articles on visa processing at embassies and consulates across the world, this time we move to the far-east and visit South Korea. This month's **Immigration Article** covers E-2 visa processing at U.S. Embassy in Seoul. This issue of your **Immigration Monitor** also covers family visa processing in the U.K., with the **In Focus** article explaining eligibility and procedure of direct filing of I-130 petitions at the U.S. Embassy in London.

Natalie Bykova is the winner of the **Immigration Quiz** published in last month's newsletter. It seems everyone is doing a lot of research before sending in their responses. I was impressed by the number of correct responses we received this time and would like to make a special mention of Rommel Ravanera, Sabrina, and Jenny, who gave well-researched responses. Natalie was finally selected as the winner by our team of immigration experts.

Over 30% of the participants of last month's Opinion Poll are of the view that the Senate-House Conference committee may agree to increase the H-1B cap, when they meet for discussion on immigration reform. About 25% of the participants believe that increasing immigrant visa numbers would be top priority, while the

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YOUR OPINION

Which of the following do you think are most likely to be discarded when the Senate-House Conference Committee meets for discussion on immigration reform?

- a. Increase the H-1B cap to 115,000
- b. Increase the annual immigrant visa numbers
- c. Guest Worker Program
- d. Legalize undocumented individuals

[Cast Your Vote](#)

[View Results](#)

IMMIGRATION QUIZ

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Submit your answer to the query below. The best

rest of the votes were equally divided between Guest Worker program and legalization of undocumented individuals. This time we have reversed the question and would like to have your opinion on the provision that is most likely to be dropped by the Conference Committee. Don't forget to share **Your Opinion**.

The House is expected to begin their series of hearings on immigration reform shortly, and the Senate Judiciary Committee will also follow suit. I will wait to see you next month with more updates on the hearings, and other news from the immigration world.

Christine

LATEST NEWS

[H-1B TRACKER: Advanced Degree cap count as of July 23, 2006](#)

As of July 23, 2006 USCIS has approved 6,604 petitions under the Advanced Degree Exemption category and 12,254 petitions are pending.

[DV-2007 lottery winners notified by DOS](#)

The Kentucky Consular Center has registered and notified the winners of the DV-2007 diversity lottery. Since DOS has notified over 82,000 applicants and the law allows issuance of only 50,000 annually through DV lottery, it is better to consult an immigration attorney and move forward with your application quickly.

[August Visa Bulletin: EB-2 category unavailable for Indians](#)

The U.S. Department of State (DOS) released the Visa Bulletin for August, 2006 that makes Second Preference category of Employment Based Green Cards (EB-2) unavailable for Indians.

[USCIS Service Centers celebrate 25 years](#)

USCIS Service Centers celebrate 25 years of fundamentally transforming and improving the delivery of immigration and citizenship services.

[Read More News](#)

IN FOCUS



Direct consular processing of I-130 petitions in the U.K.

The spouse, widow(er) and unmarried children under 21 of a U.S. citizen, and the parent of a U.S. citizen who is 21 or older are eligible to receive a Green Card under the "Immediate Relative" category. In this article we outline the procedure of filing I-130 petition for alien relative with the DHS in London (direct consular processing) and its further processing by the U.S. Embassy, London.

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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 August 2006.

I have an H-1B visa and my wife has an H-4 dependent visa. She recently gave birth to a son, who now becomes a U.S. citizen by birth. Does that mean that we are eligible to apply for a Green Card as the Immediate Relative of a U.S. Citizen and can we file for Adjustment of Status?

[Submit Your Answer](#)

Immigration Issue?

Consult Our Experienced Attorneys



Winner of the Immigration Quiz - June 2006:

Natalie Bykova

The Question:

I am a green card holder working in the U.S. since the past 4 years, earning over \$80,000 annually. My fiancée is in England and we plan to get married later this year. Can she apply for K-1 fiancée visa to enter the U.S. so that we can marry here?

The Winning Response:

No, a foreign wife of a Green Card holder cannot come to USA on a fiancée visa (K-visa). The petition for a fiancée can be submitted only by a USA citizen. But get married and file I-130 as a green card holder (I-130 Petition, category Family 2) and Time passes quickly. By the time you become a USA citizen, category will change to Immediate relative, and you wife will come with a regular Green card (no conditional one).

IMMIGRATION ARTICLE XML

E-2 Treaty Investor visa processing in the Republic of Korea

In this article we cover the basic steps involved in applying for an E-2 Treaty Investor visa at the U.S. embassy at Seoul in The Republic of Korea, which is a treaty country.

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PROCESSING TIMES XML

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

Natalie Bykova receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of July 2006.

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DISCUSSION CORNER XML

[Applying for H1B under Masters Quota of 20K](#)

By friendlyguy

[How to apply Green Card for E2 visa holder?](#)

By exar khun

[Please advise. No tax form last 3 years - how can we prove income?? I-864 from UK](#)

By Rachelbump

[More Discussions](#)

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QUESTIONS AND ANSWERS

- 1. I need advice on visas for a start-up venture. It is a new US venture for a UK Company. Will this have an adverse effect on the application? Do we have to create a U.S. Company or can it be a branch of a UK company? Can our employees' spouses accompany them to the U.S.?**

When starting operations in the U.S. you can open the office either as a branch office of the UK Company or as subsidiary using a corporate or LLC structure for the US affiliate. For immigration purposes it is generally easier for the USCIS to understand the parent-subsiary model.

When transferring personnel to the U.S. to open a new office, you have two choices. You can bring them over in [L-1](#) status as multinational executives, managers, or persons with specialized knowledge. If you use the L-1 route you can only get a visa valid initially for one year. At the end of the first year of operation you can get an extension by showing that the company is up and running and needs a full time manager or executive.

The second option is an [E-2 visa](#) for nonimmigrant investors. To qualify for the E-2 visa you have to show that you have invested, or are in the process of investing, a "substantial" amount of capital in a "non-marginal" company. What is a substantial

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](#)

investment depends on the type of business being started in the U.S. To be considered non-marginal you must show that the business will provide a living for more than just the investor, i.e., the company will have U.S. employees. One of the advantages of the E-2 visa is that you generally get 2 years to get a company up and running instead of the 1 year you get with the L-1.

One other option would be an [H-1B visa](#) for ""specialty occupations,"" generally a position that requires a bachelor's degree as the minimum requirement for entry into the position. The drawback to the H-1B (with a new company) would be showing that the company has the ability to pay the offered wage.

Once the company is up and running, you can use a combination of visas, bringing one person in [B-1](#) status and one in L-1 status. There would be no problem in the dependant spouses and children getting visas to accompany their husbands to the US. Each of the above described work visa categories (not B-1) have provisions for dependants. Additionally, if the spouses enter in E or L status they can obtain work authorization and work while in the US.

We at VisaPro have helped various clients in establishing their companies in the U.S. and transferring employees to manage the business or work with the U.S. entity. [Click here](#) to read an article for more information on using L and E visas for starting up a company. We advise you to [consult](#) a VisaPro attorney to discuss your specific issues and determine the best strategy.

2. I recently got married to a Green Card holder and wish to apply for a derivative Green Card. I don't have my birth certificate. Is there any other document that I can submit along with the petition?

The USCIS usually requires a birth certificate if one is available. If the birth was not registered (as is the case with many Indians) you can submit secondary evidence. The FAM lists school matriculation records (because they have the family information on them) and affidavits (they require 2) from persons who were present or around at the time of the birth. Best to have someone other than the parents (grandparents, aunts, uncles, cousins, close family friends, etc.) submit the affidavit. They need to state their names, relationship to the child and parents, and the circumstances of how they know of the birth.

[More Q&A](#)

SUCCESS STORIES

It's a pleasure to provide our full recommendation of VisaPro. From day one we realized that we were being represented by a capable, caring, and extremely professional and experienced team. VisaPro realized that this was our first attempt to obtain H-2B working visas and they were always extremely prompt in answering our many questions. We are thrilled with the addition of our two Canadian summer employees and we will definitely return to VisaPro for our immigration needs in the future.

Thank you again for all of your diligent work!

Daniel Dorr, General Manager
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