

## FROM THE EDITOR'S DESK

*Hello and welcome to the July 2012 Immigration Newsletter!*

After an action-packed June, July appeared to be more sedate in the field of U.S. Immigration. However, in a U.S. Presidential election year, discussions on immigration-related matters and policy can hardly stay away from headlines, can they?

In a notable development this month, Senator Chuck Grassley announced that he was finally lifting his 'hold' on "The Fairness to High-Skilled Immigrants Act", a bill that would eliminate the employment-based per-country cap and change the family-based per-country cap. The bill was already passed by the House of Representatives in 2011 but was placed on hold by Senator Grassley who had raised concerns about the impact of the bill on future immigration flows. Senator Grassley announced on July 11, 2012 that he was lifting the hold because he had reached an agreement with Senator Schumer on *additional* [H-1B](#) enforcement provisions. With Senator Grassley now lifting his hold on the enactment, it now remains to be seen whether the bill will be passed by the U.S. Senate, or if there will be any objections from any other Senators to any provisions of the bill.

In another notable development, the Department of Labor has proposed important changes to the Labor Condition Application (LCA). Some of the more significant changes proposed by the DOL include requiring the employer to identify the prospective employees by name; and, in case of third-party placement, the, name of the end-client, not just the location. Feedback, if any, on the proposals are required to be sent to the DOL before September 7, 2012. We, along with other employment-based immigration law practitioners are studying the proposals in detail to fully appreciate the impacts of the proposals to recommend

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changes and to advise clients accordingly. Stay tuned for more on this subject!

In a significant and welcome announcement, USCIS Director Alejandro Mayorkas announced that USCIS will be creating a [new office to oversee its administration of the EB-5 Immigrant Investor program](#). The new office will be led by a new Chief of Immigrant Investor Programs who will have significant experience in the business world and will assume responsibility for ensuring that the program is administered efficiently. He also announced that by the end of July, a special Review Board will review every pending application for Regional Center designation for which a denial has been recommended and the applicants will receive an opportunity to discuss their cases in-person before any final adverse decision is rendered. It is hoped that the new office will effectively assist EB-5 applicants and aid in smooth processing of the EB-5 applications.

As expected and announced by the Department of State, [EB-2](#) priority dates remained at 01 January 2009 in respect of all countries other than India and mainland China in the DOS Visa Bulletin for August 2012. EB-2 priority dates for India and China are currently unavailable. [Priority dates for EB-2 will remain unchanged for the remainder of FY-2012](#). Meanwhile, [EB-1](#), [EB-4](#) and [EB-5](#) numbers continue to remain current for all countries. In the [EB-3](#) category the priority dates advanced marginally in all but the EB-3 Other Workers category for China and Philippines, which remained at 06/15/03 and 06/08/06 respectively.

### Other Developments in Immigration Law:

#### [Company pays nearly \\$258,000 in back wages to 21 IT workers on H-1B](#)

In a recent press release, the US Department of Labor (DOL) announced that following an investigation by its Wage and Hour Division (WHD), a software development and IT staffing company in Montgomery has paid \$257,635 in back wages to 21 nonimmigrant employees from India hired under the [H-1B](#) visa program for information technology jobs.

#### [H-2A Shepherders: USCIS reminds Employers and Stakeholders that the One-Time Accommodation ends in August 2012](#)

USCIS has reminded workers in the shepherding industry that the one-time accommodation giving them additional

### YOUR OPINION

**Do you welcome USCIS's decision to create a new office dedicated solely to the administration of the [EB-5](#) Immigrant Investor program?**

- 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 August 2012.

*I have recently been granted a [P-3](#) visa and I will be coming to the U.S. soon. Can I bring along my wife and 8 year old child to the U.S.? Will my wife be able work in the US? Will my son be able to attend school in the US? Or, will we be required to obtain any additional permission for that?*

[Submit Your Answer](#)

time to fully transition to the 3-year limitation of stay requirements for the H-2A classification is scheduled to expire. Shepherders in H-2A status who have reached their maximum 3-year period of stay on or before August 16, 2012 must depart the U.S. no later than August 16, 2012. These workers must then remain outside the U.S. for at least 3 months and may not return in H-2A classification until a new H-2A petition has been approved on their behalf.

## Immigration Articles and Other Fun Stuff

Our 'Featured Video' for this month titled, "[H1B Cap Exempt - Are You Eligible?](#)", showcases the various exemptions that allow employers to hire foreign nationals even after the H-1B cap has been reached. This is a must-view for all those employers who missed the bus for H-1B FY2013 filings. Please check out and subscribe to our YouTube channel to take advantage of another great service provided to you by VisaPro.

Also check out our **In Focus** article for this month titled "[K-1 Fiance\(e\) Visa: An Overview](#)" in which we present an overview of the [K-1](#) visa requirements and the K-1 visa process, along with a few important concepts that are related to the K-1 visa.

Every month we introduce a new and interesting question for our opinion poll. Last month's poll results indicate that a majority of respondents (**75%**) welcome the USCIS' Electronic Immigration System (ELIS) and think that it will offer more advantages for applicants over the current paper-based filings. We continue to 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 also congratulate [\*\*Zina\*\*](#) for winning last month's Immigration Quiz. [\*\*Zina\*\*](#) 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!**

Immigration  
Question?

Consult Our  
Experienced  
Attorneys



### Winner of the Immigration Quiz - June 2012:

Zina

#### The Question:

I am a Citizen of New Zealand and U.S. Legal Permanent Resident (Green Card holder) residing in the U.S. for more than 7 years now on the Green Card. I am interesting in seeking U.S. Citizenship. Will I be required to surrender my New Zealand Citizenship before I can apply for U.S. Citizenship?

#### The Winning Response:

No you don't have to surrender your New Zealand citizenship in order to obtain US citizenship, you can have dual citizenship. [The U.S. recognizes dual nationality and hence you would not be required to surrender your New Zealand Citizenship to obtain U.S. Citizenship. However, with regard to what implications your naturalization may have on your New Zealand Citizenship upon acquiring U.S. Citizenship is something that you may want to consult with

Christine

an immigration professional in New Zealand. – Ed.]

Zina receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of July 2012.

## RECENT IMMIGRATION EVENTS



VisaPro Attorney  
Mr. Thomas Joy at  
NOVA SHRM Seminar



VisaPro Team at  
NOVA SHRM Seminar



NOVA SHRM  
Seminar Attendees

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## JOB @ VisaPro

- Full-Time
- Part-Time
- Semi-Retired

**Job Type:** W-2 or 1099

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

- ▶ [Immigration Attorney](#)
- ▶ [Immigration Paralegal](#)

## 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 find out more.

## FEATURED VIDEO

### H1B Cap Exempt - Are You Eligible?



The H1B cap, currently set by statute at 65,000, is the biggest concern both for prospective employers and would-be employees. However, there are several exemptions that raise the actual number of new H1Bs each year. Learn about the various exemptions which allow the employers hire foreign nationals even after the H-1B cap has reached.

[More Videos...](#)

## LATEST NEWS XML

### [H2B Cap Count Update](#)

USCIS has updated the count of [H2B](#) visa petitions received and counted towards the H2B cap for the 2nd half of FY2012 and the 1st half of FY2013 employment. As of July 13, 2012, USCIS has approved approximately, 26,679 H2B beneficiaries for the 2nd half of FY 2012 and 308 H2B beneficiaries for the 1st half of FY 2013.

### [USCIS announces that it is unable to resume processing adoptions from Montenegro](#)

USCIS has announced that it cannot approve a Form I-800, Petition to Classify Convention Adoptee as an Immediate Relative, filed on behalf of a child to be adopted from Montenegro. USCIS has urged U.S. prospective adoptive parents not to file any Form I-800 on behalf of a

child to be adopted from Montenegro and not to file Form I-800A, Application for Determination of Suitability to Adopt a Child from a Convention Country identifying Montenegro as the country from which they seek to adopt.

IN FOCUS

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## K-1 Fiance(e) Visa: An Overview

The K-1 visa, popularly known as the Fiancé(e) visa, permits a foreign-Citizen fiancé(e) of a U.S. Citizen to travel to the United States and marry the U.S. Citizen fiancé(e) within 90 days of arrival and then apply for permanent residency through Adjustment of Status. The K-1 visa is specifically intended for situations where the foreign-Citizen fiancé(e) is overseas, wants to marry the U.S. Citizen in the U.S. and then wants to remain in the U.S. to apply for legal permanent residency. While technically the K-1 visa classification is a nonimmigrant visa classification, the foreign-Citizen fiancé(e) is required to meet some of the requirements of an immigrant visa before a K-1 visa can be issued to him or her. We present in this article an introduction to the K-1 fiance(e) visa and an overview of the fiance(e) visa requirements and process along with a few important concepts that are related to the K-1 visa.

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## QUESTIONS AND ANSWERS

**Q1. I have a waiting immigrant visa under F2B case, our petition was approved last Oct 6, 2009, when is the possibility date for our visa be available...?**

**Ans.** We notice that you have not indicated to which country you are chargeable, or in other words, in which country were your born, which is a relevant parameter to consider in your situation. As per the latest State Department August 2012 Visa Bulletin, the priority dates in the Family Based Preference Category for unmarried sons and daughters of Permanent Residents who are 21 years of age or older, (F2B) are 08/22/92 in respect to Mexico, 01/01/02 in respect to the Philippines, and 06/22/04 in respect to all other countries. As the availability of visa numbers depend on various factors, one cannot predict with any certainty as to when your priority date will become current. However, if your petition was approved in October 2009, it would appear from the current numbers that it will take several years before your priority date in the F2B category becomes current. Please continue to monitor the DOS Visa Bulletin every month to be stay informed about the movement of visa numbers in your category against the country to which you are chargeable.

**Q2. I am Green Card holder living in the U.S. since 2004, and I am married to a U.S. Citizen. My mother, who lives in Australia, has fallen sick. I am making frequent trips outside the U.S. to visit her, as there is no one there to look after her. It looks like on my next visit outside the U.S., I may have to be there for a longer duration - about a year. Will it cause any problems if I stay that long outside the U.S.?**

**Ans.** Generally, unless you have obtained a [Reentry Permit](#) and have it in your possession when you come back in, a trip outside the US of one year or longer continuously will be deemed an abandonment your permanent residency, or in other words, your Green Card. A Reentry Permit, which is a passport-style book that is valid for 2 years is issued to legal permanent residents or conditional residents and it will generally protect your Green Card, in theory, if you have been out of the U.S. even more than a year continuously-- as long as the Reentry Permit is still valid on the day you come back to the US. You must be physically present in the U.S. when the application for the Reentry Permit is filed and received by USCIS. Please consult an Immigration Attorney and review your situation to be clear about what steps you can take to ensure that your Permanent Resident status is not affected due to any long trips outside the U.S.

### **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

*"When we contacted VisaPro we were in need of a very good visa agency who could process our first [L1](#) for us in a very aggressive time frame. We contacted VisaPro and from that day I felt that I was in "safe hands". The guidance we got from them was extremely helpful in preparing our case and their turnaround was perfect. The professionalism showed to us and the knowledge and guidance is something that I'm most impressed with.*

*We will continue to use VisaPro for all our future visa needs."*

*Regards,*

**Faisal Husain, CEO**  
[Synechron, Inc.](#)

[More Success Stories](#)

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