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FROM THE EDITOR'S DESK

As has been the case for the recent past, this month was another enthralling period in the world of immigration. It has brought about many interesting and important changes in the immigration landscape. We will begin with the most enchanting event of the month: this month the Department of Homeland Security (DHS) marks the launch of 3 initiatives to strengthen customer Service at all US ports of Entry. As you can imagine, this news brought smiles to many peoples faces, but the major change took place when the USCIS decided to permanently close its Hong Kong Field Office and Tijuana Field Office on August 29, 2008 and July 3, 2008 respectively. Well, things do happen, and change is definitely a part of the immigration law.

We are starting a new series of articles this month. We will be bringing you a number of articles that explore alternatives to the H-1B visa. With the lack of visa numbers, and the US Congress continued aversion to addressing the issue, we decided that our readers need to be given some options. This newsletter also covers some more interesting stuff and events of this month. Read on to find out the updates in the world of immigration.

Survey on Global Employee Mobility

Complete our Survey and we will provide you a FREE copy of our Survey Report.

Please click on the link below to provide your inputs:
<http://www.visapro.com/Survey/GEMS-Global.asp>

VisaPro is conducting a survey to understand the latest

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trends in recruitment, global employee mobility programs, policies and future trends. The primary goal of this survey is to understand the current status of the industry and how leading organizations are managing their global employee mobility and recruitment.

Other Developments in Immigration Law

USCIS to Issue Two-Year Employment Authorization Documents

The U.S. Citizenship and Immigration Services (USCIS) announced that on Monday, June 30, 2008, it will begin issuing [Employment Authorization Documents \(EADs\)](#) which will be valid for two years, instead of the current one year. The new two-year EAD will only be available to individuals who have filed to become a lawful permanent resident, i.e., [adjustment of status](#) using Form [I-485](#), Application to Register Permanent Residence or Adjust Status, and have filed for employment authorization but are unable to complete the permanent residence process because an immigrant visa number is not currently available. We can only hope that the USCIS will take the next step soon and extend the time on EADs for those adjustment applicants whose petitions seem to be caught in the dark morass that seems to swallow up many applications.

DHS Announces Pre-Travel Authorization Program for U.S.-Bound Travelers from Visa Waiver Countries

The DHS announced on June 3, 2008, an Interim Final Rule for the Electronic System for Travel Authorization (ESTA), a new online system that is part of the Visa Waiver Program (VWP). ESTA will determine, almost immediately in many cases, if an individual is eligible for VWP travel, and if such travel poses an law enforcement or security risks for the US. ESTA applications may be submitted at any time prior to travel, and once approved, will be valid for up to two years or until the applicant's passport expires, whichever comes first. The new ESTA program is required by the Implementing Recommendations of the 9/11 Commission Act of 2007. Once ESTA is mandatory (expected to be January 12, 2009), all nationals or citizens of VWP countries who plan to travel to the United States for temporary business or pleasure under the VWP will need to receive an electronic travel authorization prior to boarding a U.S.-bound airplane or cruise ship. The requirement does not affect U.S. citizens traveling overseas.

USCIS Centralizes Initial Naturalization Application Processing

In another move to gain efficiency in processing of applications the USCIS announced today it has centralized

YOUR OPINION

Should an H-1B professional need to remain outside the U. S. for at least one year to become eligible for another H-1B visa?

- 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 June 2008.

I have been fired recently by my employer while on H-1B status. Can I still remain legally in the U.S. by changing status to another nonimmigrant visa category?

[Submit Your Answer](#)

initial processing of all applications for [naturalization](#) (Form [N-400](#)) at its National Benefits Center in Missouri. This change is part of the USCIS initiative to increase the efficiency of case management and improve customer service. Time will tell if the move is the right one.

DHS To Upgrade Homeland Security Information Network

On June 6, 2008, the DHS announced that it is taking steps to enhance its Homeland Security Information Network (HSIN). Known as HSIN Next Generation (NextGen), the enhancement will provide a secure and trusted national platform for Sensitive But Unclassified (SBU) information sharing and collaboration between federal, state, local, tribal, territorial, private sector, and international partners.

USCIS to Offer Premium Processing for Certain Form I-140 Petitions: Service Begins June 16, 2008

Without much fanfare the USCIS announced on June 11, 2008, that it would begin offering Premium Processing for certain applicants for adjustment of status on June 16, 2008. On that date it will begin accepting Premium Processing Service requests for Forms [I-140](#) (Immigrant Petition for Alien Worker) filed on behalf of certain alien workers who are nearing the end of their sixth year in [H-1B](#) nonimmigrant status.

USCIS is limiting Premium Processing Service for Form I-140 petitions that are filed on behalf of aliens:

- Whose sixth year will end within 60 days;
- Who are only eligible for a further extension of H-1B nonimmigrant status under section 104(c) of the American Competitiveness in the Twenty-first Century Act of 2000 (AC21); and
- Who are ineligible to extend their H-1B status under section 106(a) of AC21.

Section 104(c) of AC21 permits applicants to extend their stay in H-1B nonimmigrant status in increments of up to three years, provided they are the beneficiary of an approved Form I-140 and an immigrant visa is not immediately available. Section 106(a) of AC21 permits applicants to extend their stay in H-1B nonimmigrant status in increments of up to one year, provided the Form I-140 petition or underlying labor certification has been pending for at least 365 days.

This is a great advantage for those individuals who will qualify and will save many a headache for employers.

One a final note, on June 2, 2008, the US District Court for

Immigration
Question?

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Experienced
Attorneys



Winner of the Immigration Quiz - May 2008:

Srilatha

The Question:

I am currently on an L-1 Blanket and have been approached by more than one other employer for prospective employment in the USA. Can I continue on the same L-1 Blanket visa and change my employer?

The Winning Response:

L-1 means Intra company transfer and it is company specific. L-1 visas are not transferable and you cannot be employed by another employer on the same L-1 Visa. You can only work for the U.S. employer who acted as your L-1 visa sponsor. (ed. note: You may change employers only in the case where the new employer is part of the same group of controlled companies, and is included in the L-1 blanket approval notice.)

the Western District of Washington signed an "Order of Preliminary Approval of Class Action Settlement" in the Northwest Immigrant Rights Project legalization class action. NWIRP has been fighting for the rights of individuals that qualified for legalization since the program started in the early 1980's. It appears that this litigation, which in one form or another, has spanned over 20 years, will finally come to a close.

Immigration Articles and Other Fun Stuff

Now for the regulars -- this month's **Immigration Article**, as we noted above, is the first in a series of articles that will explore alternatives to the H-1B visa. This month we feature the [E-3](#) visa. After reading the article you should have good blend of knowledge and understanding about the visa, which by legislation is limited to Australians and gives them the privilege of seeking employment in the US as a person in a Specialty Occupation. Check out our **In Focus** section which will give you a detailed view of the securing Green Card through Marriage to a U.S. Citizen.

We new and interesting question for our opinion poll. We ask all our readers to cast their vote and we appreciate that people are taking interest in giving their opinion. Keep it up! Last month's poll results indicate that 84% of the respondents believe that TN professional workers from Canada or Mexico can remain in the United States before seeking readmission or obtaining an extension of stay. Cast your vote to express **Your Opinion**.



We congratulate **Srilatha** for winning last month's Immigration Quiz. Again, we have received a significant number of responses from our readers who talked about various solutions to support their responses but

Ms. Srilatha gave the correct answer and won a free online consultation to discuss her Immigration issues. So it's time to get ready again 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 next month with a lot more noise from the Immigration World!

Christine

Srilatha receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of June 2008.

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[USCIS Revises Instructions on Where to Submit Applications Previously Processed by Its Tijuana Field Office](#)

U. S. Citizenship and Immigration Services (USCIS) today revised its instructions on where to submit applications previously processed by its Tijuana Field Office. The Tijuana Field Office is closing on July 3, 2008 and to prepare, the agency stopped accepting the following applications and transferred responsibilities as reflected below.

[Cap Count for H-1B and H-2B Workers for Fiscal Year 2009](#)

The word "Cap" used in this Update refers to annual numerical limitations set by Congress on certain nonimmigrant visa classifications, e.g., H-1B and H-2B. Caps control the number of workers that can be issued a visa in a given fiscal year to enter the United States pursuant to a particular nonimmigrant classification. Caps also control the number of aliens already in the United States that may be authorized to change status to a cap-subject classification.

[USCIS Releases New Edition of Form I-9](#)

U.S. Citizenship and Immigration Services (USCIS) released an updated version of Form I-9, the employment eligibility verification form. The June 5, 2007 edition of the form is set to expire on June 30, 2008 and is replaced by the new form dated June 16, 2008. The new version contains no substantive changes from the previous edition.

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IN FOCUS

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Green Card through Marriage to U.S. Citizen: The Procedures

Securing permanent residence through Marriage to a U.S. Citizen is a multi-step process. Some of these steps are required to be completed before your fiancé or spouse enters the US and some after entering the US. In the article U.S. citizen marrying a foreign national: Issues

involved which was published in November 2005 issue of Immigration Monitor, our monthly newsletter, we covered the requirements, benefits, and application process of the K-1, fiancé visa, and K-3, spouse visa. In this article we shall cover the steps involved in getting permanent residency after entering the U.S.

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

IMMIGRATION ARTICLE XML

Alternatives to H-1B: E-3 Visa -- Australians in Specialty Occupations

In May 2005, the United States created a new non-immigrant visa category available only to Australian citizens (as well as their spouses and children). Known as E-3, it allows Australian Nationals to accept employment in "specialty occupations" in the US.

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DISCUSSION CORNER

[What are my options to move from an E visa?](#)

By RedBull22

[Need answers on removal of conditional resident](#)

By colleentasha

[Can I visit my Fiance on B2visa while I'm waiting to get approved my K1visa?](#)

By cutiepie

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QUESTIONS AND ANSWERS

- 1. My current visa status in US is L-1. I applied for H-1B and fortunately I got selected and received approval notice also. I am planning to go back to home country this year end and want to come back on H-1B status. Do I need to apply for Change of Status before coming to US on H-1B status? Please suggest the right way.**

Since only the [H-1B](#) petition, and not the change of status to H-1B, was approved, you continue to be in [L-1](#) status, and you can stay in the US on L-1 status until you leave the country to get your H-1B stamp. If you have no travel plans to go to your home country, you can apply for Change of Status in the US itself. You can start the Change of Status at any time up to six months before your H-1B start date. If necessary, you can take advantage of premium processing by paying a \$1000 fee to USCIS with your application. However, to use premium processing with the Change of Status, your H-1B employer has to file a new Form [I-129](#) and attach the prior H-1B approval copy. After approval of the Change of Status, you can start working for your H-1B employer.

You can also apply for a visa stamp at an American Consulate or Embassy overseas. However if you get a Change of Status in U.S., the next time you travel outside the U.S., you will need to get your H-1B stamp at a consulate or Embassy before you can come back to U.S. in H-1B status.

- 2. I am a US citizen and my fiancée is in US on H-1B visa which is valid for one more year. We want to get married and reside in the US. What are the possibilities of applying for Green Card without leaving US?**

If you and your fiancée get married she will be considered an "immediate relative" and can apply for her permanent residence without having to wait. If you are in the US when you marry you can submit the Petition for Alien Relative and she can file for [adjustment of status](#) concurrently.

Once she has filed for adjustment of status she is considered to be maintaining a legal status in the US until the USCIS makes a decision on her application. Therefore, she will be in status even if she is no longer working for the H-1B employer. Moreover, as part of the adjustment package she can get work authorization that would allow her to work for any employer she wishes.

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

"Trust this finds you and your team at your best. I wanted to write to you to thank you for the very successful and smooth processing of my [L-1](#) Visa. The preparation you had us do ensured that the papers zipped through USCIS and we were pleasantly surprised to receive an approval very quickly. We hope to continue our association with you for the long run.

I thank you and your colleagues for your professionalism, service and care. I'm highly impressed by your expertise and focus and would be most happy to refer your services to other organizations interested in navigating through the immigration process requirements in the US.

Thanks again and wish you the very best."

Venkatesh Krishnamoorthy, CEO
[Maarga Systems Inc.](#)

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