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## Immigration Newsletters

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### FROM THE EDITOR'S DESK

*Hello and welcome to the October Immigration newsletter.*

The world has changed so much since our last newsletter. It is now one without Steve Jobs. His death, which came a day after Apple launched the much anticipated iPhone 4S, generated a spontaneous and understandable outpouring of grief from people around the world and the business and technology sector in particular. Heartfelt condolences and tributes came pouring in from people from all walks of life – state heads, industry leaders, competitors, customers, and common men. We at VisaPro join the rest of the world in offering our homage to the departed visionary, who, as President Obama fittingly mentioned in his tribute, transformed our lives and changed the way each of us sees the world.

Meanwhile, the state of economy continues to dominate the headlines and not in a positive way. All indications are aligned with the opinions of many economists that the economy could be facing some tough times ahead. With the rising uncertainty and apprehension surrounding the stalled recovery in the U.S. and Eurozone debt crisis persisting, the protests against global financial system continue to gain momentum. The 'Occupy Wall Street' movement, which debuted in New York City, has spread to over 100 cities in the the U.S. as well as to scores of cities around the world, including in South America, Asia and Europe.

In immigration news, the registration period for the Diversity Visa -2013 (Green Card Lottery) Program began on Tuesday, October 4, 2011. Registration concludes on Saturday, November 5, 2011.

### IN THIS ISSUE

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### YOUR OPINION

Do you welcome USCIS' decision to start sending original I-797 receipt and approval notices directly to applicants and petitioners?

- a. Yes

On the H-1B front, the [H-1B](#) cap count is beginning to see some major movement. The total cap count has gone significantly beyond the half-way mark, with master's cap cases almost reaching the 20,000 cap. As of October 7, 2011, USCIS has received 41,000 regular cap eligible cases out of 65,000, and 19,100 master's cap cases out of 20,000. While the regular cap number is on pace with last year, this year's master's cap is significantly ahead of the count from the same time last year. As the number of H-1B applications being filed continues to accelerate towards the cap limit, employers intending to employ foreign workers are advised not to leave things to the last moment. Make sure to [contact VisaPro](#) to discuss all options as soon as a position is offered.

Significantly, the November 2011 Visa Bulletin brought some long awaited good news for [EB-2](#) Green Card applicants from India and China. In the recently published U.S. Department of State Visa Bulletin, the EB-2 priority dates for India and China have moved to November 1, 2007 from 15 July, 2007 - the most significant progression in EB-2 numbers for India and China since August, 2007. The DOS has indicated, however, that retrogression is very likely in this category in the coming months to make up for the expected immigrant visa demand.

In the area of immigration enforcement, the federal court in Alabama heard the challenges against Alabama's controversial immigration law, HB 56. Unfortunately, it ruled not to block some of the most controversial provisions of the law. While the ruling prevented the enforcement of part of the statute that makes it a crime to knowingly transport or harbor an illegal immigrant, other controversial provisions were allowed to stand, including the requirement that public schools determine the immigration status of children upon enrollment and a provision giving police the power to detain people suspected of being in the US illegally without bail. The Justice Department, however, immediately filed an appeal to the 11th Circuit Court of Appeals in Atlanta against the ruling. The 11th Circuit Court further stayed several additional provisions of the law including the provision regarding public school children. While the further injunctions against enforcement of the law do not affect the final decision the Appellate Court will make, it seems to be a step in the right direction. The DOJ has also set up a hotline and email for the public to report potential civil rights concerns related to the impact of Alabama's Immigration Law.

In Some other immigration news:

1. Without warning or advance notice, USCIS began sending original I-797 receipt and approval notices directly to applicants and petitioners and only courtesy copies of the notices to attorneys or accredited representatives on September 12, 2011. Previously, the original notice was customarily sent to the attorney or accredited representative while a courtesy copy was sent to the applicant or petitioner. While USCIS has informed that its objective is to make sure that original receipts, decisions, and documents produced as a result of approved applications or petitions are sent to the address specified by the party making the request, immigration law practitioners have pointed out that the courtesy copy being mailed to them do not contain all crucial documents that they might need to advise clients suitably. Furthermore, attorneys and many

- 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 November 2011.

*I am currently in the US on an H-1B visa. I will be completing my 6th year on H-1B in January 2012. I plan on returning back to India, my home country, upon the expiration of y H-1B. I am confused about the 1 year restriction on coming to the US after being in the US on H-1B for 6 years. Can I come to the US on a visitor visa next year, or will I be barred from entering the US on any visa for 1 year?*

[Submit Your Answer](#)



### Winner of the Immigration Quiz - September 2011:

Melany Tellez

### The Question:

I am a citizen of Romania and my husband is a U.S. citizen. I came to the U.S. on a K-1 visa last month and we got married in the U.S. last week. Does my K-

employers, especially large corporate entities with multiple offices and mailing sorting departments are worried that notices, most especially approval notices with I-94s attached, will become sorted incorrectly or severely delayed. While it does not appear that USCIS will recall the change and restore the earlier process, USCIS did send a letter to stakeholders indicating that the attorney's or accredited representative's address can be listed as the mailing address. USCIS has warned, however, that using the attorney's address may trigger VIBE mismatches. It is too early too early to tell if USCIS will allow this method indefinitely.

2. The Department of Homeland Security has extended the Temporary Protected Status ([TPS](#)) designation for Sudan for 18 months, while at the same time designating the newly formed Republic of South Sudan for TPS for 18 months. Both the extension and the new designation are effective Nov. 3, 2011, and will continue through May 2, 2013. DHS is also automatically extending the validity of employment authorization documents ([EADs](#)) issued under the last extension of Sudan TPS for an additional six months, through May 2, 2012. All affected individuals seeking to obtain or maintain their TPS must file their application package no later than April 10, 2012.
3. The Office of the Administrative Law Judges (ALJ) of the U.S. Department of Labor, Washington, DC, has approved a Settlement Agreement between the Administrator of the Wage and Hour Division and the Board of Education of Prince George's County in the matter of violations related to teachers in H-1B nonimmigrant status. The terms of the approved settlement include payment of over \$4.2 million in back wages and an agreement to a two-year debarment period for the school district.

### Other Developments in Immigration Law

#### [DOL postpones the effective date for final rule concerning H-2B wage methodology](#)

Pending two challenges to the new H-2B Wage Rule, the Department of Labor has announced a 60-day postponement of the effective date for the final rule concerning the wage methodology for the Temporary Non-Agricultural Employment H-2B program from September 30, 2011 to November 30, 2011. The Wage Rule revises the methodology for calculating the prevailing wages to be paid to H-2B workers and U.S. workers recruited in connection with a temporary labor certification for use in petitioning the DHS to employ a nonimmigrant worker in the H-2B status.

#### [USCIS Seeks Public Comments on Proposed Rule Impacting Certain Pending EB-5 Immigrant Investor Applications](#)

USCIS has sought public comments on a proposed rule that would enable the Service to process certain applications approved between 1995 and 1998 by immigrant investors under the EB-5 program. The provisions of the proposed rule would specifically enable USCIS to process the cases of approximately 580 principal immigrant investors and their dependents, whose Forms I-526 were approved during the period between January 1, 1995, and August 31, 1998, and who, prior to November 2, 2002, had either, sought to

1 status automatically change to permanent resident status after my marriage, or do I have to file any additional paperwork? Also, can I start working in the U.S. now?

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

You and your U.S. Citizens spouse must now file your [Adjustment of Status Petition](#) along to [Employment Authorization Document](#). You are the spouse of a USC are entitled to an immediate visa [*Ed. Note- an immigrant visa or green card is a privilege granted by USCIS or DOS after the appropriate interview and all conditions are met*], meaning that are not binded to the availability of a visa number for you. You will be scheduled for a biometrics appointment and your work permit must be expected to be approved in about 90 days upon receipt of the petition by USCIS. You will not long after than be scheduled for an adjustment of status interview at USCIS. You will be issued a conditional green card. [sic]

**Melany Tellez** receives a **FREE Online Consultation** from an Experienced VisaPro Immigration Attorney during the month of October 2011.

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#### **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.

register for permanent residence or adjust their status using Form I-485, or, sought to the remove the conditions on permanent residence obtained as an alien entrepreneur using Form I-829. This rule would not impact any other applications or petitions filed under the EB-5 program. Comments on the proposed rule could be submitted until November 28, 2011.

### Immigration Articles and Other Fun Stuff

We are very happy to announce the launch of VisaPro's very own [YouTube channel](#). Here, we will regularly post informative videos on various immigration topics and procedures. Also, our monthly newsletters will highlight one informative video from our collection for our readers in the new 'Featured Video' section. The 'Featured Video' for this month is '[Setting Up a New Company in the US - Choosing Between L1 Visa or E Visa](#)'. It features a few practical aspects on the challenges faced by foreign nationals in setting up a business in the US, specifically focusing on the dilemma of choosing between an L-1 visa and another appropriate visa. We urge you to 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 titled '[US Visa for Artist and Entertainer: O1 Visa, P1 Visa, P3 Visa, B-1, and More...](#)' which presents a snapshot of the various nonimmigrant visa options available to foreign national artists and entertainers who want to come and perform in the U.S.

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 (**83.33%**) think USCIS' new initiative of direct email communication with Form I-924, [EB-5](#) Regional Center applicants will significantly aid in quick resolution of issues. We appreciate that people continue to 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 **Melany Tellez** for winning last month's Immigration Quiz. We received a significant number of responses from our readers who came up with some creative solutions to support their position, but **Melany Tellez** 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!**

*Christine*

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...](#)

## FEATURED VIDEO

**Setting Up a New Company in the US -  
Choosing Between L1 Visa or E Visa**

[More Videos...](#)

## LATEST NEWS

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

The United States Embassy and Consulates in India have adjusted the consular exchange rate from INR 47 to the dollar to INR 50 to the dollar. This new exchange rate, which became effective on September 19, 2011, 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. Receipts that were issued by the HDFC Bank prior to September 19, 2011 and which are still not more than one year old will be honored.

### [H1B Cap Count Reaches to 41,000](#)

USCIS has updated the count of H-1B petitions received and counted towards the H-1B cap for the fiscal year 2012. As of October 7, 2011, USCIS has received approximately 41,000 H-1B cap-subject petitions and 19,100 master's cap-subject petitions.

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## IN FOCUS

### [US Visa for Artist and Entertainer: O1 Visa, P1 Visa, P3 Visa, B-1, and More...](#)

Artists and entertainers who want to come to the US to perform or exhibit their talents in the US have a range of US visa options to choose from. Each nonimmigrant US artist visa option and entertainer visa option has its own applicability, advantages and limitations. The key, therefore, is to choose the best option that matches the artists or entertainers talents and purpose of the trip. Visit [www.VisaPro.com/Signup.asp](http://www.VisaPro.com/Signup.asp) and request a FREE Case Evaluation today in case you have any questions regarding any US artist visa or US entertainer visa, or need help in filing for a US visa for artists and entertainers with the USCIS or Consulates. Our experienced attorneys will be happy to assist you.

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## QUESTIONS AND ANSWERS

**Q1. I am a UK national currently in England. I have an L-1 visa with a U.S. based employer. I am based in the UK but make regular trips to the U.S. I am, however, leaving my employer soon to start my own business, which will likely require me to meet with customers in the U.S. Can I use my existing L-1 visa to come to the U.S., or do should I get a new L-1 visa for my company?**

**Ans.** The [L-1 visa](#) stamp currently in your passport is connected to your current employer. The moment you are not employed by your L-1 employer, it becomes invalid. Hence, you cannot use that to come to the U.S. after you have terminated your employment with your current L-1A employer. At this point, you cannot qualify for an L-1 visa for the new business that you are starting because to get an L-1 visa, you have to be able to prove that you have already completed at least one year of employment physically outside the U.S. for the foreign entity that has a U.S. related company. Further the L-1A requires that you are coming to the US to be an Executive, or Manager, or an individual with Specialized Knowledge. As you are just starting the business, you do not satisfy these conditions and hence would not be eligible to apply for an L-1 visa at this point. In the meantime, if you have to come to the US on behalf of the company you are employed by outside the US for brief meetings with people in the US, the 90-day Visa Waiver is probably adequate for your purposes. If you need more than 90 days, you could apply for a [B-1](#) temporary Business Visitor 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](#)

**Q2. I am an Australian national, permanently residing in US. I, my wife and our 16 year old daughter have Green Cards. However, the Green Cards are expiring in July 2012. What should we do to maintain our permanent resident status in the US?**

**Ans.** Your Green Card (I-551 card) is evidence of your legal permanent residence. All that the expiration date on the Green Card means is that the card itself expires on that date- not your permanent resident status. In order to evidence your permanent resident status, you must maintain a valid Green Card. Without a valid Green Card, you cannot prove permanent resident status and it will affect your ability to travel internationally. If you travel outside the US, you need to have a valid Green Card to get back into the US. If you were changing jobs and have to show work authorization, you have to show a valid Green Card. In your case, you should file for a new card to replace the expiring card. Form I-90 is the form to use to request a replacement card from USCIS. The form can be submitted no earlier than 6 months before the card expires. Once the application is submitted, you, your wife and your daughter, who is now 16, will be required to get your fingerprints taken. If there are no problems or issues, you will receive your new Green Cards with a 10 year validity date in the mail.

[More Q&A](#)

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## SUCCESS STORIES

*"It has been a pleasure working with you. We are very thankful for everything you have done for us, and happy to get [Green Card](#) so soon. We would recommend your service to any of our friends who will be at a need. Your care, professionalism and*

*experience has impressed us a lot, and we are very satisfied with both the process of our cooperation (always prompt email responses and phone calls) and the result Green Card !!! :) "*

*We wish you all the best.*

*sincerely,*  
**Tatiana and Mitch**

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