



News & Types: Client Advisories

Top 3 Immigration Issues to Consider for 2022

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Practices: Immigration

MID-YEAR ELECTIONS – PROGRESS OR A STALEMATE?

November 8, 2022, brings the mid-term elections when Americans will vote on all 435 seats in the House of Representatives and 34 of the 100 seats in the Senate. Currently Democrats hold 10 more seats than Republicans in the House. The Senate is comprised of 50 Republicans, 48 Democrats and 2 Independents, who commonly caucus with the Democrats.

In this election cycle, retaining control of the House of Representatives and securing control of the Senate is essential to the Biden-Harris Administration's plans for immigration reform. During any election season, immigration is a "hot" issue on many fronts – Dreamers and the undocumented population, the U.S. Border Crisis, the H-1B program, and throw an ongoing global pandemic into the mix – the election will be interesting.

NON-LEGISLATIVE IMMIGRATION ACTIONS – CREATING ENHANCEMENTS OR FACING LITIGATION?

While legislative immigration reform may not occur before the mid-year election, the Biden-Harris Administration has quietly taken action on regulatory and procedural matters to benefit employers and non-citizens, and has other changes in the works.

- The ongoing COVID-19 pandemic and limited immigrant visa services by U.S. Consulates created an overflow of additional employment-based Green Cards. Unfortunately, Green Cards for the EB5 Investor and EB-5 Regional Center Programs are presently not available for issuance, as the immigrant investor pilot program expired on June 30, 2021, and requires legislative action to extend.
- The U.S. government announced it is extending, until April 30, 2022, the flexibilities for Form I-9 completion, which started approximately twenty-one months ago. As remote working increased, so did the U.S. government's realization that it can achieve the goal of verifying an employee's identity and work authorization by allowing employers to view the Form I-9 documents over video link, via fax or email, or other remote viewing - effectively bringing the 35-year old Form I-9 inspection process into the 21st century.
- Perhaps a less desirable side effect of the pandemic and inflation is the realization that even immigration processing may face increased costs. U.S. Citizenship & Immigration Services (USCIS) is looking to increase filing fees, the Department of State has also proposed substantial fee increases to process visas

at U.S. Consular Posts and the Department of Labor has increased the civil money penalties for willful LCA violations.

COVID-19 – A TEMPORARY MALAISE OR NEW REALITY?

As the world approaches the second anniversary of this global pandemic, international travel will likely continue to face restrictions and challenges. U.S. Consular Posts continue to be overwhelmed and visa applicants are seeing delays in interview appointment availability, as well as lengthy processing of interview-waiver applications. Efforts by USCIS to reduce processing delays are moving slow, even with the aforementioned innovative solutions. We will continue provide additional information on travel and other COVID-19 related matters as protocols evolve.

Please reach out to your Masuda Funai relationship attorney or one of the attorneys in the Firm's Immigration Department for more information on any of these topics.