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News & Types: Immigration Monthly Updates

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Practices: Immigration

USCIS CELEBRATES NOTABLE ACHIEVEMENTS LAST FISCAL YEAR

U.S. Citizenship and Immigration Services (USCIS) recently released numerical data on its achievements during Fiscal Year 2023 (October 1, 2022 to September 30, 2023) including:

- Completing more than 10 million cases – including those from prior years
- Receiving more than 10.9 million new filings
- Welcoming 878,500 individuals as citizens, and potential voters, after taking their Oath of Allegiance
- Issuing more than 192,000 employment-based immigrant visas (aka “Green Cards”)
- Admitting and resettling to the United States over 60,000 refugees
- Processing more than 52,000 requests for asylum for persons in the United States
- Accepting more than 150,000 Ukrainian nationals and their immediate families under the Uniting for Ukraine program
- Accepting more than 238,000 nationals of Cuba, Haiti, Nicaragua, and Venezuela and their immediate families under the CHNV process

MARCH 2024 VISA BULLETIN UPDATE AND OUTLOOK FOR FY2024

The U.S. Department of State (DOS) recently issued the March 2024 Visa Bulletin.

For employment-based immigration only the following foreign nationals may either apply for permanent resident status through adjustment of status (“AOS”) or have their AOS application approved if all qualifying and documentation requirements are met in March 2024. Also, the following foreign nationals who will complete the Immigrant Visa processing at a U.S. Consular Post and who have submitted all the required documentation become eligible to have their interview scheduled in March 2024.

First Preference

- Persons eligible for the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) who were born in any country other than India or China.
- China-born persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers

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recognized for their Extraordinary Ability) whose priority date is before July 15, 2022 – an advancement of 14 days from February 2024.
- India-born persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or Workers recognized for their Extraordinary Ability) whose priority date is before October 1, 2020 – a one month advancement from February 2024.

Second Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before November 22, 2022 – an advancement of 7 days.
- China-born persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before January 1, 2020 – no advancement from February 2024.
- India-born persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before March 1, 2012 – no advancement from February 2024.

Third Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before September 8, 2022 – an advancement of 7 days.
- China-born persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before September 1, 2020 – no advancement from February 2024.
- India-born persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before July 1, 2012 – no advancement from February 2024.

The DOS, which manages the Visa Bulletin, notes its intention to keep visa issuance within quarterly limits in accordance with the provisions of the Immigration and Nationality Act.

During Fiscal Year 2024 (October 1, 2023 through September 30, 2024), the government anticipates issuing 161,000 employment-based Green Cards, an increase of 21,000 from the statutory limit of 140,000. The 140,000 limit was established more than three decades ago and will require a change in the immigration law to update. These additional immigrant visa numbers have been carried over from those unused in the family-based quota. While the additional allocation of employment-based Green Cards is welcomed, they will have minimal impact for nationals of India. USCIS and the DOS note in the employment-based Second Preference (“EB2” or E21) and Third Preference (“EB3” or E31, E32, EW3) for nationals of India there are sufficient

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pending AOS applications or individuals who will complete the Immigrant Visa processing at a U.S. Consular Post that "all of the available visas for FY2024 and several fiscal years in the future" will be allocated, signaling priority advancement will be slow.

INCREASED DOL FINES TAKE EFFECT

The U.S. Department of Labor (DOL) published a final rule to adjust civil monetary penalties pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act), increasing the amount of fines to account for inflation.

Among other areas, the rule increases penalties in connection with violations of regulations by employers of H-1B workers. Some of the increased penalties include the following:

- Retaliation, intimidation or discrimination by employer against an H visa holder: $9,380
- Violation of the LCA requirements regarding strikes/lockouts, notifications, misrepresentations or imposing an early termination penalty: $2,304
- Violation of the LCA requirements regarding wages, working conditions: $9,380
- Displacement of a U.S. worker with an H-1B worker: $65,661

REMINDER - USCIS FEES TO INCREASE APRIL 1

As noted in our January 31, 2024 alert, USCIS plans to implement a new fee scheduled effective April 1, 2024 with significant changes, including a new Asylum Program Fee for all employment-based immigration processing. Funds from this fee will be allocated to recoup costs of the government's humanitarian immigration programs. These USCIS increased fees are in addition to the increase in the Premium Processing fees which became effective on February 26.

MFEM NEWS

MFEM 2024 ANNUAL COMPLIMENTARY IMMIGRATION SEMINAR

On February 29, 2024, Masuda Funai will host its annual complimentary in-person immigration seminar from 8:00am to Noon (Central) in Arlington Heights, Illinois. For details and registration please visit: 2024 Annual Complimentary Immigration Seminar | Masuda Funai

FOUR MASUDA FUNAI IMMIGRATION ATTORNEYS NOMINATED AS 2024 SUPER LAWYERS

Thomas Reuters recently released its list of 2024 Super Lawyers. Four attorneys from Masuda Funai's Immigration Group were nominated as Super Lawyers this year. Through independent research and peer evaluations, Thomas Reuters determines Super Lawyers each year. Less than 5% of the attorneys nominated are ultimately selected as Super Lawyers. Bryan Funai, Derek Strain, Fazila Vaid and Bob White from Masuda Funai's Immigration Group were selected this year as Super Lawyers in the field of Immigration Law.

Masuda Funai is a full-service law firm with offices in Chicago, Detroit, Los Angeles, and Schaumburg.

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