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News & Types: Immigration Monthly Updates

Business Immigration Monthly - February 2025

2/20/2025

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Practices: Immigration

FY2026 H-1B QUOTA REGISTRATION OPENS ON MARCH 7

The U.S. Citizenship and Immigration Services (USCIS) announced that the FY2026 H-1B quota registration process will open at **Noon (Eastern) on March 7, 2025** and remain available to **Noon (Eastern) on March 24, 2025**. An employer will use a USCIS online account to register each beneficiary and pay the associated registration fee. Like past years, the FY2026 H-1B quota is limited to 65,000 with an additional 20,000 for beneficiaries who have earned a U.S. master's or higher degree.

As with the H-1B "lottery" last year, USCIS is permitting a beneficiary to be registered by multiple employers; however, this does not increase the chance of selection. USCIS will identify the registered individual by name, date of birth and passport/travel document information. Following the "beneficiary-centric" selection process the random-selection will be of an individual and all employers who filed a FY2026 H-1B quota registration for the individual will be notified of the selection. This creates an opportunity for a beneficiary for whom multiple registrations were filed, to have more than one employer file the H-1B petition for them during the applicable filing period. If each of the H-1B quota petitions is then approved, the beneficiary will then be able to select which employment opportunity to pursue.

Last year, USCIS received 479,953 registrations and selected a total of 127,624 beneficiaries during the first and second round selections.

New this year is a substantial increase in the FY2026 quota registration fee from $10.00 to $215.00 per registration.

USCIS anticipates notifying employers of the registration selections by March 31st. The window to file the H-1B quota petition for a selected registration is from April 1st through June 30th. Once the H-1B is approved, the employment can commence on or after October 1, 2025 (which is the first day of the government's FY2026).

Because the FY2026 quota registration opens on March 7th, we encourage employers to contact their Masuda Funai attorneys about the registration process as soon as possible to allow sufficient time to gather the necessary information and documents.

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DOS CHANGES AND RESTRICTS NONIMMIGRANT VISA IN-PERSON INTERVIEW WAIVER CRITERIA

On February 18, 2025, the U.S. Department of State (DOS) announced that it was modifying and restricting the criteria for an applicant to be eligible for a waiver of an in-person interview in the nonimmigrant visa process. The new, more restrictive criteria is being implemented by the U.S. consulates around the world immediately.

Previously, an applicant would be eligible for an in-person interview waiver if the applicant's previous nonimmigrant visa in any nonimmigrant category (other than B-1/B-2 visitor category) expired within the past 48 months.

Under the new, more restrictive criteria, in order to be eligible for an in-person interview waiver, the applicant's nonimmigrant visa has to have expired within the past 12 months AND must have been in the same nonimmigrant category that the applicant is currently applying for a new visa.

DOS also reiterated that consular officers may still require an in-person interview on a case-by-case basis or because of local conditions, even if an applicant meets the new, more restrictive interview waiver criteria.

Applicants who applied for visas prior to the interview waiver change and who have appointments to drop off their documentation for interview waiver processing may no longer qualify for an interview waiver. If the applicants no longer qualify for an interview waiver, they should contact the consulate to change their nonimmigrant visa process to an interview required process. Because many consulates have limited interview appointment availability, applicants may be extremely delayed in being able to enter (or return to) the United States while they wait to be scheduled for their in-person interview.

THE END OF TPS FOR VENEZUELA

In last month's Masuda Funai Business Immigration Monthly, it was reported that one of the Biden Administration's last actions was to extend Temporary Protected Status (TPS) for a number of countries, including Venezuela. However, on February 1, 2025, the new Trump administration announced it was terminating the authorization for first-time Venezuelan TPS grantees under the October 2023 designation for Venezuela and cancelling their ability to extend their TPS authorization to October 2, 2026.

March 2, 2021 Designation of TPS for Venezuela ("original TPS for Venezuela")

As some background, nationals of Venezuela (and individuals having no nationality who last habitually resided in Venezuela) who were in the United States on March 9, 2021 and the Department of Homeland Security (DHS) determined were unable to return to Venezuela safely due an armed conflict, an environment disaster or other extraordinary temporary conditions, became eligible for TPS. TPS allows people to obtain legal work authorization. Individuals convicted of any felony, or two or more misdemeanors committed in the United States or who persecuted another individual or engaged in or incited terrorist activity are not eligible for TPS.

The March 9, 2021 TPS designation was extended for 18 months on September 8, 2022 with validity to March 10, 2024. On October 3, 2023, the March 9, 2021 designation was extended for another 18 months with validity to September 10, 2025 if Venezuelans who were previously approved for TPS registered for the benefits. Venezuelans previously approved for TPS under the March 9, 2021 designation and subsequent

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redesignations continue to be authorized until September 10, 2025. An extension beyond September 10, 2025 is not likely and more information should be available before July 12, 2025.

October 3, 2023 Designation of TPS for Venezuela ("new TPS for Venezuela")

On October 3, 2023, DHS again designated Venezuela for TPS which allowed nationals of Venezuela (and individuals having no nationality who last habitually resided in Venezuela) who were in the United States since July 31, 2023 to now apply for TPS, and this authorization expires on April 2, 2025. On January 17, 2025 DHS extended the October 2023 TPS designation allowing the individuals to apply to renew their TPS authorization for 18 months from April 3, 2025 to October 2, 2026. When extending this TPS authorization, DHS noted "Venezuela is experiencing 'a complex, serious and multidimensional humanitarian crisis'" which negatively impacts their access to basic needs (electricity, water, fuel and food), unstable healthcare and education systems, an ongoing economic crisis and continued violation of human rights.

Trump Administration Cancellation of new TPS for Venezuela

On February 1, 2025, the Trump Administration's DHS decided to terminate the authorization for first-time TPS grantees under the October 2023 designation for Venezuela and cancel their ability to extend their TPS authorization to October 2, 2026. DHS determined that "Venezuela no longer continues to meet the conditions". This means that Venezuelan TPS beneficiaries originally granted TPS under the October 3, 2023 designation will automatically have their TPS end on April 7, 2025 (or April 2, 2025 if their renewal application was not filed). Individuals who filed to renew their TPS based upon the January 17, 2025 authorization will have their application cancelled and filing fee payment refunded. Venezuelans already approved for TPS to October 2, 2026 will have their documentation and employment authorization (EAD) revoked and should also receive a refund of the filing fee paid.

Of the approximately 607,000 current Venezuelan TPS beneficiaries, it is estimated that more than half, 348,202 are impacted by the cancellation of the new TPS for Venezuela.

Upon termination of TPS, individuals either return to the same immigration status they had before TPS, if unexpired; or any other lawfully obtained immigration status received while registered for TPS, if still valid. Venezuelans without a legal immigration status upon termination of the designation are subject to enforcement actions or removal from the United States.

VISA BONDS

On his inauguration day, President Trump issued a plethora of Executive Orders covering most of his campaign issues. His Executive Order "*Protecting The American People Against Invasion*," addresses the "unprecedented flood of illegal immigration into the United States" and orders the "Federal Government [to] protect the American people by faithfully executing the immigration laws of the United States." This Executive Order is the basis for the Trump Administration to identify, detain and ultimately remove undocumented individuals in the United States.

Section 14 of this Executive Order orders the Secretary of the Treasury to coordinate with the Secretary of State and Secretary of Homeland Security the establishment of a system of visa bonds. Authority to require

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visa applicants to place a monetary bond attached to their departure from the United States as a condition to visa issuance exists in the immigration law – a section that historically has not been enforced. Additionally, the DOS has existing policies to require the payment of a bond by visa applicants – it is the logistics of collecting payment that has yet to be established. Here is where the Secretary of the Treasury can facilitate the collection payment for a visa bond.

Previously Consular Posts discouraged the imposition of a bond as part of visa issuance since they are not viewed as effective guarantees of departure. However, under the DOS policy, if a visa bond is imposed, the visa issued would be valid for a 6-month period and a single entry to the United States. The DOS notes that a bond can be imposed to individual applying for a B (visitor) or F (student) visa – these visa classifications require the applicant to demonstrate they intend to depart the United States. The amount of the visa bond may range from a minimum of $1,000 up to $5,000 in increments of $500. The bond is valid for one year. The DHS District Director's office that has jurisdiction over the location where the visa applicant will be in the United States is responsible for accepting the bond.

The bond can be forfeited if the individual fails to maintain their immigration status in the United States.

While the requirement of posting a bond by B or F visa applicants is not yet in place, we anticipate that this could occur during the current administration.

INTERNATIONAL TRAVEL REMINDERS FOR U.S. CITIZENS

As we approach the mid-winter or Spring Break travel season, U.S. citizens are reminded that they must depart and enter the United States (including the continental United States, Alaska, Hawaii, Puerto Rico, Guam, the Virgin Islands of the United States, and all other United States territories and possessions) using their U.S. passport.

When going on a sea vacation, for certain cruises that begin and end at the same U.S. port, U.S. citizens may use a government-issued birth certificate, a Consular Report of Birth Abroad issued by the DOS, or a Certificate of Naturalization accompanied by a government-issued photo ID, in lieu of a U.S passport. Travelers are encouraged to verify the acceptable travel documents with the cruise line before departure.

U.S. citizens using the NEXUS, FAST or SENTRI trusted traveler programs, are encouraged to also have their passport with them and are required to follow the rules of the specific trusted traveler program.

Active-duty members of the U.S. Armed Forces have an exception to the passport requirement and may use their military documentation.

Dual citizens are reminded to not use their non-U.S. passport when departing the United States. We have reports that U.S. citizens who departed the United Status using their non-U.S. passport and applied to enter the United States using their U.S. passport are asked by a Customs and Border Protection (CBP) official to visit the CBP Deferred Inspection office for an assessment of their citizenship status.

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MARCH 2025 VISA BULLETIN UPDATE

The DOS recently issued the March 2025 Visa Bulletin. During March, noncitizens in the employment-based classifications as noted below become eligible to concurrently file for an *employment-based* immigrant classification or, if approved for an *employment-based* immigrant classification can apply for permanent resident status through adjustment of status ("AOS"). During March, noncitizens in the employment-based classifications as noted below who have their AOS application pending or who will complete the Immigrant Visa processing at a U.S. Consular Post become eligible to have their AOS application approved or their interview scheduled in March 2025. USCIS advised that is using the "Final Action" date chart to determine eligibility for filing applications for adjustment of status in March.

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 recognized for their Extraordinary Ability) whose priority date is before **November 8, 2022**, no change since October 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 **February 1, 2022**, no change since October 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 **May 15, 2023**. This is an advancement of 45 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 **May 8, 2020**. This is an advancement of 16 days.
- **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 **December 1, 2012**, an advancement of 47 days.

Third Preference

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- 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 **December 1, 2022**, no change since January 2025.
- **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 **August 1, 2020**. This is an advancement of advancement of 31 days.
- **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 **February 1, 2013**. This is an advancement of 48 days.

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 (INA).

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

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