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EB-5 Adjudications Expected to Move to DC; Guidance Memo Not Yet Released – Within four to six months, EB-5 responsibilities will be moved to Washington, DC, under a new EB-5 Program Office.

DHS Adds Taiwan to Visa Waiver Program – In FY 2011, 243,186 visitors from Taiwan traveled to the United States.

USCIS Offers Guidance on E-Verify Best Practices for Foreign Names – Other than letters, the only characters allowed in E-Verify are spaces, single quotation marks, and hyphens.

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DOL Releases FAQ on H-2A, H-2B iCERT Implementation – When filing electronically through iCERT, the preparer must upload all required supporting documentation before submitting the application.

Twenty-One Puerto Rican Companies Become 'IMAGE' Certified – As part of the IMAGE program, ICE provides private companies with education and training on proper hiring procedures, including use of employment screening tools such as E-Verify.

DHS Announces CNMI-Only Transitional Worker Limit –DHS announced that the FY 2013 limit for Commonwealth of the Northern Mariana Islands-Only Transitional Workers (CW-1) is 15,000.

Employment-Based Priority Dates Advance in Some Categories for January 2013 –Among other things, for EB-3, China moved ahead by 2.75 months, to September 22, 2006, and India advanced by one week, to November 8, 2002.

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EB-5 Adjudications Expected to Move to DC; Guidance Memo Not Yet Released

On December 3, 2012, U.S. Citizenship and Immigration Services (USCIS) Director Alejandro Mayorkas noted on a stakeholder conference call that within four to six months, EB-5 responsibilities will be moved to Washington, DC, under a new EB-5 Program Office. The chief of the new office will report to the USCIS Deputy Director. According to unofficial reports on the call, Director Mayorkas said a goal is to move toward a more dynamic, direct e-mail relationship between adjudicators and the public, and to move away from the current "request for evidence" model. The new EB-5 Program Office will handle adjudications, legislative affairs, and policy, in addition to having full-time staff devoted to identifying fraud.

Director Mayorkas also noted that USCIS is working on profound policy issues, and on training officers in the realities of the business world. In response to a query, Director Mayorkas said the agency is still working on the long-awaited overarching EB-5 guidance memorandum.

In response to questions, USCIS noted that entrepreneurs need to be able to tell their story when pitching to investors, so the agency would also like to see something similar. The more the entrepreneur can clearly articulate his or her situation, the easier it is for USCIS officers to see that the entrepreneur is an expert. Important pieces of information should be well-defined, USCIS said, also noting that fraud indicators are being revised.

USCIS has not yet released a summary or transcript of the call.

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DHS Adds Taiwan to Visa Waiver Program

As of November 1, 2012, the Department of Homeland Security (DHS) designated Taiwan for the Visa Waiver Program (VWP). Secretary of Homeland Security Janet Napolitano said the move was "a major step forward in our long-standing economic partnership with Taiwan."

Taiwan joins 36 participants in the VWP, which permits visa-free travel for eligible travelers visiting the United States for 90 days or fewer for business or tourism. In fiscal year (FY) 2011, the VWP accounted for 18.3 million visits to the United States, or more than 60 percent of tourists and business travelers entering the United States by air. In FY 2011, 243,186 visitors from Taiwan traveled to the United States.

In accordance with the VWP designation process, DHS determined that Taiwan complies with key security and information-sharing requirements, such as enhanced law enforcement and security-related data-sharing with the United States; timely reporting of lost and stolen passports; and maintaining high counterterrorism, law enforcement, border control, aviation, and document security standards.

As with other VWP travelers, eligible Taiwan passport holders who wish to participate in the program must apply for advance authorization through the Electronic System for Travel Authorization (ESTA), a DHS Web-based system. Eligible Taiwan passport-holders with an approved ESTA may visit the United States without visas.

The announcement is available at <http://www.dhs.gov/news/2012/10/02/dhs-announces-taiwan%E2%80%99s-designation-visa-waiver-program>.

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USCIS Offers Guidance on E-Verify Best Practices for Foreign Names

U.S. Citizenship and Immigration Services (USCIS) recently answered a query about potential discrepancies related to special characters in foreign names when using the E-Verify system. For example, the biographic page of a passport does not recognize the German umlauted "ü" and will translate it to the machine-readable "ue," whereas a DS-2019 or I-20 may translate it as "u," which can lead to spelling discrepancies in records.

USCIS explained that other than letters, the only characters allowed in E-Verify are spaces, single quotation marks, and hyphens. As a best practice, USCIS said employers should enter their employees' names into E-Verify as they appear in Section 1 of the I-9 employment authorization verification form, without any special characters E-Verify does not accept. USCIS and partner agency systems have means of reconciling variations based on known variations in spelling due to language and culture, USCIS said. E-Verify relies on algorithms to cross-reference employee information, but USCIS said it cannot provide specific information regarding these algorithms.

If E-Verify is unable to initially confirm that a variation in spelling relates to the same person, the case is sent to status verifiers for additional verification under the "name check review process." Through this process, verifiers may be able to reconcile a name variation without a need to contact the individual. If the variation cannot be reconciled, the employee may need to be contacted, USCIS noted.

The query and USCIS's response are available at <http://www.aila.org/content/default.aspx?docid=42371>.

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Outage Disrupts DOL's PERM Online System

The Department of Labor's PERM online system had outage issues from November 21-27, 2012. The Department issued the following alert:

The PERM online filing and processing system was disrupted late Wednesday, November 21, 2012. This disruption was caused in the performance of necessary maintenance, which temporarily disabled certain parts of the system but not the entire system. This occurrence made diagnosing and fixing the problem more difficult. While the system was fully back online late Tuesday, we are assessing the extent of the damage to cases that may have been filed during the period from Thursday to Tuesday afternoon. If you have any questions or concerns about cases you filed during this time period, please send an e-mail to PERM.Issues@dol.gov.

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DOL Releases FAQ on H-2A, H-2B iCERT Implementation

The Department of Labor's Office of Foreign Labor Certification (OFLC) released a FAQ in December 2012 on H-2A and H-2B iCERT implementation. The iCERT visa portal system is a Web-based filing and case management platform that provides access to program services across the foreign labor certification programs that OFLC administers.

Among other things, the FAQ notes that employers or their authorized representatives filing in the H-2A program may now file their applications electronically through iCERT. H-2B applications have been accepted through iCERT since October 15, 2012.

The FAQ also states that when filing electronically through iCERT, the preparer must upload all

required supporting documentation before submitting the application. Additional documentation cannot be uploaded in connection with the application after submission. Where an employer receives a Request for Further Information (RFI) (H-2B program) or a Notice of Deficiency (NOD) (H-2A program), the employer must respond to the RFI or NOD by providing the additional required documents and information to the Chicago National Processing Center by e-mail or mail, outside of the iCERT System.

The FAQ advises preparers to "remember to upload a scanned copy of the signed and dated program-specific appendix (Appendix B.1 for the H-2B program, or Appendix A.2 for the H-2A program) and all required supporting documentation before submitting an application." For job contractors filing under the H-2B program as joint employers with their employer-clients, a separate attachment containing the employer-client's business and contact information (i.e., Sections C and D of the ETA Form 9142) and a signed and dated Appendix B.1 for the employer-client is still required and must be scanned and uploaded, along with a description of the relationship between the job contractor and the employer-client, before electronically filing the application.

When the Certifying Officer has made a determination to grant temporary labor certification, the employer will receive an original certified ETA Form 9142 and, depending on the program, Appendix B.1 (for H-2B) or A.2 (for H-2A) issued on blue security paper, the FAQ notes. Upon receipt of the original certified ETA Form 9142, the employer and, if applicable, the employer's attorney or agent must promptly sign and date the appendix containing the requisite program assurances and obligations. A job contractor filing in the H-2B program will also receive its employer-client's ETA Form 9142 Sections C and D page and Appendix B.1, issued on blue security paper, which the employer-client and, if applicable, the employer-client's attorney or agent must promptly sign and date.

The FAQ, which provides additional details, is available at http://www.foreignlaborcert.doleta.gov/pdf/icert_implement_round1.pdf.

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Twenty-One Puerto Rican Companies Become 'IMAGE' Certified

Twenty-one businesses in Puerto Rico representing the automotive, marketing, healthcare, restaurant, security, agriculture, food, and telecommunications industries became the latest employers to partner with U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI) to strengthen their hiring practices, reduce fraud, and ensure they employ a legal workforce.

The 21 companies officially became members of ICE's Mutual Agreement between Government and Employers (IMAGE) on December 6, 2012. IMAGE, which began in 2006, is a voluntary program that allows private sector businesses to partner with ICE to reduce unauthorized employment and the use of fraudulent identity documents. As a result, ICE says, participating employers are able to maintain more secure, stable workforces.

As part of the IMAGE program, ICE provides private companies with education and training on proper hiring procedures, including use of employment screening tools such as E-Verify. IMAGE-certified companies also undergo an audit of their I-9 forms to ensure that current employees are eligible to work in the United States.

The announcement, which includes details on the 21 companies, is available at <http://www.ice.gov/news/releases/1212/121206sanjuan.htm>. Puerto Rico employers interested in learning more about IMAGE membership may call the ICE IMAGE coordinator in San Juan at 787-729-5151. For more information, see <http://www.ICE.gov/image>.

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DHS Announces CNMI-Only Transitional Worker Limit

The Department of Homeland Security (DHS) announced that the fiscal year (FY) 2013 limit for Commonwealth of the Northern Mariana Islands (CNMI)-Only Transitional Workers (CW-1) is 15,000. The Consolidated Natural Resources Act of 2008 (CNRA) requires an annual reduction of the number of CW-1s, the nonimmigrant category for these transitional workers.

USCIS noted in a related announcement that under the CNRA, the CNMI became part of the United States for purposes of immigration law on November 28, 2009. The CNRA included a transition period to eventually phase out the CNMI's nonresident worker program and transition to the U.S. federal immigration system. The CW-1 transitional worker program allows foreign nationals who are ineligible for any existing employment-based nonimmigrant category under the Immigration and Nationality Act to work in the CNMI during the transition period. An annual reduction in the total number of CW-1s granted each year will lead to the elimination of the CW nonimmigrant classification by the end of the transition period, USCIS noted. The CW program will end on December 31, 2014, unless it is extended by the Secretary of Labor.

For FY 2012, the numerical limitation for CW-1s was set at 22,416, during which employers in the CNMI filed Form I-129CW petitions for more than 12,000 transitional workers. DHS said it has set the CW-1 limit for FY 2013 at 15,000 "to meet the CNMI's existing labor market needs and provide opportunity for potential growth, while reducing the numerical limitation as required by the CNRA." Petitions requesting a work start date in FY 2013 (between October 1, 2012, and September 30, 2013) will be counted toward the 15,000 limit.

This does not affect the status of current CW-1 workers unless their employer files for an extension of their current authorized period of stay or they seek to change CW-1 employers. The numerical limitation only applies to CW-1 principals and does not directly affect the status of a person currently holding CW-2 status as the spouse or minor child of a CW-1 nonimmigrant. However, CW-2 nonimmigrants may be indirectly affected because their status depends upon that of the principal CW-1.

The announcement is available at

<http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=f30e9a409115b310VgnVCM10000082ca60aRCRD&vgnnextchannel=68439c7755cb9010VgnVCM10000045f3d6a1RCRD>. A related Federal Register notice is available at <http://www.gpo.gov/fdsys/pkg/FR-2012-11-30/pdf/2012-29025.pdf>. For more information and announcements about immigration benefits in the CNMI, see the CNMI Web page at <http://www.uscis.gov/cnmi>.

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Employment-Based Priority Dates Advance in Some Categories for January 2013

The latest Visa Bulletin from the Department of State's Visa Office notes that there has been no change in EB-1 priority dates, which are Current. In the EB-2 category, China progressed 1.5 months, to December 8, 2007. There was no change in India, which remains at September 1, 2004, or in Mexico or the Philippines, which remain Current. In the EB-3 category, Mexico advanced 1.5 months, to February 1, 2007. There was no change in the Philippines in EB-3, which remains at August 15, 2006. However, for EB-3, China moved ahead by 2.75 months, to September 22, 2006, and India advanced by one week, to November 8, 2002.

The latest Visa Bulletin is available at http://www.travel.state.gov/visa/bulletin/bulletin_5834.html.

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New Publications and Items of Interest

Several ABIL members co-authored and edited the *Global Business Immigration Practice Guide*, recently released by LexisNexis. The *Practice Guide* is a one-stop resource for dealing with questions related to business immigration issues in immigration hotspots around the world.

This comprehensive guide is designed to be used by:

- Human resources professionals and in-house attorneys who need to instruct, understand, and liaise with immigration lawyers licensed in other countries;
- Business immigration attorneys who regularly work with multinational corporations and their employees and HR professionals; and
- Attorneys interested in expanding their practice to include global business immigration services.

This publication provides:

- An overview of the immigration law requirements and procedures for over 20 countries;
- Practical information and tips for obtaining visas, work permits, resident status, naturalization, and other nonimmigrant and immigrant pathways to conducting business, investing, and working in those countries;
- A general overview of the appropriate options for a particular employee; and
- Information on how an employee can obtain and maintain authorization to work in a target country.

Each chapter follows a similar format, making it easy to compare practices and procedures from country to country. Useful links to additional resources and forms are included. Collected in this Practice Guide, the expertise of ABIL's attorney members across the globe will serve as an ideal starting point in your research into global business immigration issues.

Order at:

<http://www.lexisnexis.com/store/catalog/booktemplate/productdetail.jsp?pageName=relatedProducts&core=&parent=&catId=31&prodId=70836>. International customers who do not want to order through the bookstore can order through Nicole Hahn at (518) 487-3004 or Nicole.hahn@lexisnexis.com.

Green Card Stories. The immigration debate is boiling over. Americans are losing the ability to understand and talk to one another about immigration. We must find a way to connect on a human level. *Green Card Stories* does just that. The book depicts 50 recent immigrants with permanent residence or citizenship in dramatic narratives, accompanied by artistic photos. If the book's profilees share a common trait, it's a mixture of talent and steely determination. Each of them overcame great challenges to come and stay in America. *Green Card Stories* reminds Americans of who we are: a nation of immigrants, from all walks of life and all corners of the earth, who have fueled America's success. It tells the true story of our nation: *E pluribus unum*—out of many, one.

Green Card Stories has won six national awards. It was named a Nautilus book award silver medal winner, and won a silver medal in the Independent Book Publishers Association's Benjamin Franklin Award in the multicultural category. The book also won a Bronze Medal in the

Independent Publisher's "IPPY" Awards and an honorable mention for the 2012 Eric Hoffer Book Award. Ariana Lindquist, the photographer, won a first-place award in the National Press Photographers Association's Best of Photojournalism 2012 and was a finalist for the International Photography Awards. The writer, Saundra Amrhein, was nominated as a finalist on the short list for the 2011 Santa Fe Writers Project Literary Awards. *Green Card Stories* is also featured on National Public Radio's photo blog at <http://www.npr.org/blogs/pictureshow/2012/07/05/156303716/told-in-pictures-how-50-immigrants-got-green-cards>.

For more information, e-mail Lauren Anderson at lauren@greencardstories.com.

See also <http://www.greencardstories.com/>.

ABIL on Twitter. The Alliance of Business Immigration Lawyers is now available on Twitter: @ABILImmigration. Recent ABIL member blogs are available at <http://www.abilblog.com/>.

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Member News

Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) has co-authored a new blog entry. "The Sweet Smell of Success: H-1B Visas for Entrepreneurs" is available at <http://blog.cyrusmehta.com/2012/12/the-sweet-smell-of-success-h-1b-visas.html>.

Angelo Paparelli (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm?c=US>) has published several new blog entries. " 'Bibles, Badges and Business' Converge for Comprehensive Immigration Reform" is available at <http://www.nationofimmigrators.com/bibles-badges-and-business-converge-for-comprehensive-immigration-reform/>. "The Senate Must Modify Its Filibuster Rules to Pass Comprehensive Immigration Reform" is available at <http://www.nationofimmigrators.com/congress-on-immigration/the-senate-must-modify-its-filibuster-rules-to-pass-comprehensive-immigration-reform-1/index.html>.

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) moderated a webinar hosted by Invest In the USA (IIUSA) on December 7, 2012, on the impact of an expected backlog in EB-5 visa numbers for immigrant investors from China. The webinar featured a presentation by Charles Oppenheim, Chief of the Visa Controls and Reporting Division at the U.S. Department of State. Mr. Oppenheim provided some background information about EB-5 visa numbers and limits generally, and suggested that Chinese EB-5 visa numbers might regress sometime in 2013 or 2014. Steve and others discussed the implications of a possible regression on individual EB-5 investors, their family members, the projects they invest in, and securities law compliance.

Over 100 people listened to the live webinar. A recording will be available soon on the IIUSA website at <http://www.iiusa.org>.

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Government Agency Links

Follow these links to access current processing times of the USCIS Service Centers and the Department of Labor, or the Department of State's latest Visa Bulletin with the most recent cut-off dates for visa numbers:

USCIS Service Center processing times online:
<https://egov.uscis.gov/cris/processTimesDisplay.do>

Department of Labor processing times and information on backlogs:

<http://www.foreignlaborcert.doleta.gov/times.cfm>

Department of State Visa Bulletin: http://travel.state.gov/visa/bulletin/bulletin_1360.html

Visa application wait times for any post: http://travel.state.gov/visa/temp/wait/wait_4638.html

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About ABIL

The Alliance of Business Immigration Lawyers (ABIL) offers a single point of contact for customer needs, news alerts, staff training, and other programs that benefit clients through the collaboration of more than 400 member lawyers and their 1,000 staff. Corporate counsel, human resource professionals, in-house immigration managers, and other corporate decision-makers turn to ABIL lawyers for outstanding legal skills and services. ABIL's work also includes advocating for enlightened immigration reform, providing speakers and media sources, presenting conferences, publishing books and articles on cutting-edge immigration topics, and sharing best practices, all with the ultimate goal of offering value-added services to business immigration clients.

The Alliance of Business Immigration Lawyers' Web site is at <http://www.abil.com/>. ABIL is also available on Twitter: @ABILImmigration.

Disclaimer/Reminder

This e-mail does not constitute direct legal advice and is for informational purposes only. The information provided should never replace informed counsel when specific immigration-related guidance is needed.

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