



IMMIGRATION INSIDER

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Headlines:

ABIL Commentary: Threats, Opportunities for Employers in 2018 – After a tumultuous, difficult year in 2017 with respect to immigration and border issues, attorneys from the Alliance of Business Immigration Lawyers (ABIL) shared their thoughts on what employers can expect in 2018.

REAL ID Act: New Security Measures Start January 22 – Starting January 22, 2018, passengers who have driver's licenses issued by a state that does not yet comply with the REAL ID Act and that has not received an extension will need to show an alternative form of acceptable identification for domestic air travel. Passengers who have licenses issued by a state that is complying or that has an extension to become compliant with REAL ID requirements may continue to use their licenses as usual.

DHS Implements New VWP Security Measures – The new measures include requiring VWP countries "to use counterterrorism information to better screen travelers," assessing VWP countries "to ensure they implement safeguards against the aviation sector," and requiring certain VWP countries "to initiate public information campaigns to reduce overstays."

USCIS Announces Restrictions on TN Economist Status – New policy guidance states that financial analysts, marketing analysts, and market research analysts are not eligible for classification as a TN economist.

Judge Lifts Trump Ban on Certain Following-to-Join Refugees – A federal judge in Seattle preliminarily enjoined federal agencies from enforcing a Trump administration-imposed ban on certain following-to-join refugees from entering the United States. The court said that it did so at an early stage in the proceedings because the plaintiffs showed that they were likely to succeed on their claims that the agencies exceeded their statutory authority.

EB-5, Special Immigrant Religious Worker Categories Extended to January 19 – The Department of State's Visa Bulletin for January 2018 discusses the scheduled expiration of two employment-based visa categories. Both have been extended at least until January 19, 2018, with passage of a short-term continuing resolution in Congress.

TPS Extended for Honduras Until July 2018, Terminated for Nicaragua in January 2019 – The Department of Homeland Security recently announced that the temporary protected status designation has been extended for Honduras until July 5, 2018, and will be terminated for Nicaragua as of January 5, 2019.

USCIS Reaches H-2B Cap for First Half of FY 2018 – December 15, 2017, was the final receipt date for new H-2B worker petitions requesting an employment start date before April 1, 2018. USCIS will reject new cap-subject H-2B petitions received after December 15 that request an employment start date before April 1, 2018.

Cuba News: USCIS Rescinds *Matter of Vazquez* as Adopted Decision; U.S. Embassy in Havana Temporarily Suspends Operations – USCIS has made several announcements recently with respect to Cuba, including issuing a new policy memorandum that rescinds *Matter of Vazquez* as an Adopted Decision, and temporarily suspending operations at its field office in Havana.

USCIS Is Accepting Applications Under International Entrepreneur Rule (IER) But Plans Proposed Rule to Eliminate IER – USCIS is taking steps to implement the International Entrepreneur Rule (IER) in accordance with a recent court decision. USCIS noted that while the agency implements the IER, DHS will also "proceed with issuing a notice of proposed rulemaking (NPRM) seeking to remove the Jan. 17, 2017, IER. DHS is in the final stages of drafting the NPRM."

Supreme Court Allows Trump Travel Ban to Proceed; State Dept. Issues Guidance – On December 4, 2017, the U.S. Supreme Court granted the Trump administration's motions for emergency stays of preliminary injunctions issued by U.S. District Courts in Hawaii and Maryland. The Supreme Court's orders allow the government to fully implement the Trump administration's entry restrictions on certain countries.

USCIS Issues FAQ on Rejected DACA Requests, Resubmissions – U.S. Citizenship and Immigration Services recently released a FAQ on rejected Deferred Action for Childhood Arrivals requests, and resubmissions.

Attorney General Issues Memo to EOIR on Reducing Backlogs – The memo and accompanying documents set forth principles and plans to reduce the backlog of cases pending before the EOIR. Some of the proposals are controversial.

OFLC Releases Tips on H-2A Labor Certification Process for Employers – The Department of Labor's Office of Foreign Labor Certification released a presentation including tips on the H-2A labor certification process for employers.

U.S. Mission in Canada Implements New Appointment Scheduling System for E Visas – On December 5, 2017, the U.S. Mission in Canada sent an alert announcing a new appointment scheduling system for E visa applications.

ABIL Global: France – The French government, in its continual effort to facilitate international professional mobility, is rolling out several digital tools to simplify entry and work procedures in France for foreign employees. The latest important innovation is the online portal "France Visas," which allows applying for visas online. This portal is in addition to a number of other applications already in place for electronic registration and declarations relating to the international mobility of foreign employees.

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ABIL Commentary: Threats, Opportunities for Employers in 2018

After a tumultuous, difficult year in 2017 with respect to immigration and border issues, attorneys from the Alliance of Business Immigration Lawyers (ABIL) shared their thoughts on what employers can expect in 2018. Below is a summary of their responses and reports from the field.

Where Things Stand Now

The Trump administration appears to be attempting to keep various campaign promises on immigration and border enforcement that mesh with the President's (and his supporters') overall dim view of foreign people entering the United States. Before he was elected, President Trump made a wide range of anti-immigration promises couched in national security terms. Those promises included, among other things, building a massive wall along the southern border and making Mexico pay for it; immediately deporting undocumented migrants; barring Muslims from entering the United States; "extreme vetting" of immigrants; and creating a "deportation force." The President has waffled on Deferred Action for Childhood Arrivals (DACA) "Dreamers," verbally expressing his support and understanding of their plight and then canceling the DACA program with an exhortation for Congress to handle it.

Executive orders issued since his inauguration have included various entry/travel bans, limits on refugees, and threats to sanctuary cities to pull their federal funding. The first travel ban on people entering from several predominantly Muslim countries was announced seven days after his inauguration with no apparent advance process, discussion, preparation, warning, or guidance to the Department of Homeland Security. The result was chaos and protests at airports. Various court challenges and subsequent travel bans ensued.

Arrests for "noncriminal immigration violators" are up, with 31,888 noncriminal arrests during the first eight months of the Trump administration, according to U.S. Customs and Immigration Enforcement. On the other hand, deportations have actually decreased by about 14,000 this year, reports say, but Attorney General Jeff Sessions has called for a "concerted effort" by immigration courts to speed up processing of pending immigration cases.

Concerns for 2018

Current concerns for 2018 include:

- Animosity of the administration toward immigrants: "This is leaching into all areas of USCIS adjudications and the attitude of [U.S. Customs and Border Patrol agents toward] travelers with a bona fide legal basis for entry," one attorney reported. "They will do as they please right now until challenged," said another.
- Creeping arbitrariness and unpredictability: Attorneys report clients being held up at the border or turned away in some cases due to considerations that do not seem to be based in law or regulation. Denials are being issued in some cases filed by employers on behalf of professionals that previously would have been considered routine. Some agents of the federal government appear to believe it is now open season on cracking down, and to be acting accordingly. Officers are no longer required to defer to previous decisions when extensions are requested. An attorney reported an example of such decision-making: a "perfectly clean" request for a three-year L-1 worker was approved without an RFE for one year because "she is an employee at will, so only one year is allowed." Another attorney reported similar treatment for Trade NAFTA clients at certain ports of entry. A third attorney said, "To me the top threat is something that affects everything we do—it is the sense (which is not universal but permeates the ranks) inside [the Departments of Homeland Security and State] that they have impunity and are not bound by the rule of law. Unless and until employers adopt a long-term view and sue—as opposed to the short-term approach of just refiling and hoping for a better result—the

agencies are right."

- More and more demands for additional documents, interviews, and requests for evidence (RFEs): Among other things, U.S. Citizenship and Immigration Services (USCIS) is reportedly considering mandatory interviews for all applications to renew or replace green cards (Forms I-90). Interviews for petitions to remove conditions on residence for certain married couples (I-751) are already a "nightmare." USCIS is phasing in interviews for adjustment of status applications based on employment, including for some who have already filed their applications. Executive orders are requiring visa applications and adjudications to be reviewed for compliance with "extreme vetting" and "Buy American/Hire American" policies, for both initial petitions and extensions. There has been a sharp uptick (45% compared to last year, according to USCIS) in RFEs on H-1B visa petitions for skilled workers.
- Massive backlogs and delays in applications and petitions increasing as a result of the greater scrutiny, in some cases leading to disruptions in travel, work, and study plans.
- Attorneys' fees increasing as a result of the additional work.
- An overall "brain drain" and reduction in quality employees as immigration decreases, deportations increase, and more and more people leave the United States for Canada or other countries perceived to be friendlier to immigration, or never apply to enter the United States in the first place.
- Arbitrary caps on H-2B workers and lack of a returning worker exemption.
- A lack of visa categories for unskilled workers who are not temporary (which constitutes about 75% of the entire workforce).
- Denials of advance parole renewal requests filed by green card applicants if they leave the country.
- Stress on employers as they find it harder to fill important positions in a timely manner or are accused of not wanting to hire U.S. workers when in some cases there are simply not enough U.S. workers qualified and available to take the jobs.
- Stress on clients, including would-be immigrants and their families; family separation; stress on attorneys.
- Travel restrictions on people from certain countries based on a new ban issued in September that the Supreme Court allowed to be put into effect while appeals run their course.
- Ending temporary protected status for some (e.g., Nicaraguans and Haitians), and making it harder to designate or extend such status in the future.
- A planned removal of the regulation allowing certain H-4 spouses of H-1B nonimmigrants to obtain employment authorization documents (EADs), with a notice of proposed rulemaking scheduled for February 2018. This is expected to result in lost filing fees and labor turnover costs for employers with workers on H-4 EADs.
- A proposed electronic registration program for H-1B petitions subject to numerical restrictions, with a notice of proposed rulemaking considered for February 2018, along with possible further restrictions on H-1B visas.
- A proposal to make it more difficult to obtain a J-1 waiver.
- Privacy issues: As of the middle of fiscal year 2017, approximately 30,000 travelers had their electronic devices searched at the border or at ports of entry. This was three times the number searched in 2015.

Future Concerns

In addition to those noted above, future concerns include:

- A planned revision (not yet described) of the definition of Specialty Occupation for H-1B workers and additional requirements for H-1B wages, with a notice of proposed rulemaking scheduled for October 2018.
- Proposed new requirements for F and M students with respect to the practical training period, to include increased oversight of schools and participating students, with a notice of proposed rulemaking scheduled for October 2018.

Hopeful Signs

Although no one has a crystal ball and things look bleak overall for the foreseeable future on the immigration front, there are a few positive indications on the horizon. For example, according to reports, after conferring with President Trump, leaders in Congress are seriously considering introducing a measure in January 2018 to allow DACA "Dreamers" to stay in the United States. As of September 4, 2017, there were 689,821 people with valid DACA status in the country. Sen. Lindsey Graham (R-SC) was quoted in late December following a meeting with President Trump: "He wants to make a deal. He wants to fix the entire system."

Also reportedly under serious consideration is meaningful EB-5 reform legislation, such as the Fairness for High-Skilled Immigrants Act, which would allow some EB-5 investors to obtain immigrant visas more quickly because their place in the waiting line would no longer depend on the nation of chargeability. And USCIS began accepting applications again under the International Entrepreneur Rule in December, albeit temporarily while the agency drafts a notice of proposed rulemaking to quash it permanently.

Otherwise, some court challenges are either already working their way through the system (e.g., on the latest travel ban) or may be filed in the future.

Recommendations

In general, ABIL recommends that employers and employees consider:

- Allowing much more time than before for the application/petition process. Posted processing times are not reliable. Several additional months may be required if there is an RFE or an unanticipated additional security check or other problem.
- Filing a mandamus action in federal court to compel the agency to act if a case experiences extreme processing delays.
- Not leaving the United States in the short term if status is in any way uncertain.
- Contacting your ABIL attorney for advice and help in specific situations.

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REAL ID Act: New Security Measures Start January 22

Starting January 22, 2018, passengers who have driver's licenses issued by a state that does not yet comply with the REAL ID Act and that has not received an extension will need to show an alternative form of acceptable identification for domestic air travel. Passengers who have licenses issued by a state that is complying or that has an extension to become compliant with REAL ID requirements may continue to use their licenses as usual.

Starting October 1, 2020, every air traveler must present a REAL ID-compliant license or another acceptable form of identification for domestic air travel. A REAL ID compliant license is

one that meets, and is issued by a state that complies with, the REAL ID Act's security standards.

The Department of Homeland Security (DHS) noted that REAL ID allows compliant states to issue driver's licenses and identification cards where the identity of the applicant cannot be assured or for whom lawful presence is not determined. Some states currently issue such noncompliant cards to undocumented individuals. These cards must clearly state on their face (and in the machine-readable zone) that they are not acceptable for official purposes and must use a unique design or color to differentiate them from compliant cards, DHS said. DHS cautioned against assuming that possession of a noncompliant card indicates the holder is an undocumented individual, given that several states issue noncompliant licenses for reasons unrelated to lawful presence.

Many states are already REAL ID compliant. DHS reportedly has granted the following states and territories an extension until October 2018 to meet federal standards and make their state-issued IDs compliant: Alaska, American Samoa, California, Guam, Idaho, Illinois, Kentucky, Maine, Massachusetts, Minnesota, Missouri, Montana, Northern Mariana Islands, New Hampshire, New Jersey, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Texas, U.S. Virgin Islands, Virginia, and Washington.

States under review for a renewed extension include New York, Michigan, and Louisiana.

Travelers can check DHS's website for additional information and can check with a state's driver's license-issuing agency about how to acquire a compliant license. DHS's REAL ID webpage is at <https://www.dhs.gov/real-id>. DHS's Transportation Security Administration's list of acceptable forms of identification for airport checkpoints is at <https://www.tsa.gov/travel/security-screening/identification>.

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DHS Implements New VWP Security Measures

Secretary of Homeland Security Kirstjen M. Nielsen announced on December 15, 2017, that the Department of Homeland Security (DHS), in consultation with the Department of State and other federal agencies, is implementing new security requirements for the Visa Waiver Program (VWP). VWP allows citizens of 38 countries to travel to the United States for business or tourism for stays of up to 90 days without a visa. Each year, the United States allows more than 20 million visitors to travel to the United States under the VWP.

The new measures include requiring VWP countries "to use counterterrorism information to better screen travelers," assessing VWP countries "to ensure they implement safeguards against the aviation sector," and requiring certain VWP countries "to initiate public information campaigns to reduce overstays."

Specifically, DHS is introducing the following measures applicable to all countries in the VWP:

- Requiring VWP countries to fully implement existing information-sharing arrangements by systematically screening travelers crossing their borders against U.S. counterterrorism information;
- Assessing VWP countries on the effectiveness of safeguards against insider threats in the aviation security environment; and
- Requiring VWP countries having a two percent or greater rate of business or tourism nonimmigrant visitors overstaying the terms of their admission into the United States to initiate a public information campaign to reduce overstay violations by educating their nationals on the conditions for admission into the United States.

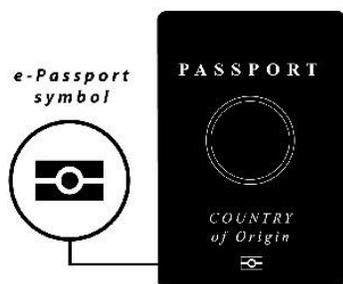
DHS reportedly said that Hungary, Greece, Portugal, and San Marino will launch public campaigns to inform their citizens because two percent of travelers from those countries overstayed their terms of admission.

DHS is also asking Congress to codify existing VWP requirements to bolster efforts in the following areas:

- Reporting of foreign terrorist fighter information to multilateral organizations, such as INTERPOL and EUROPOL;
- Systematically collecting and analyzing passenger travel data (Advance Passenger Information/Passenger Name Records); and
- Concluding arrangements to permit U.S. Federal Air Marshals to operate onboard U.S. air carriers for last point of departure flights to the United States.

As part of its regular cooperation with VWP countries, DHS said it "will develop targeted engagement plans to support implementation of these measures." DHS has assessed that these security enhancements will not hinder lawful trade and travel. Qualified nationals will continue to be able to travel to the United States under the VWP, DHS noted.

DHS also said that travelers in the following categories are no longer eligible to travel or be admitted to the United States under the VWP:



- Nationals of VWP countries who have traveled to or been present in Iran, Iraq, Sudan, Syria, Libya, Somalia, or Yemen on or after March 1, 2011 (with limited exceptions for travel for diplomatic or military purposes in the service of a VWP country); and
- Nationals of VWP countries who are also nationals of Iran, Iraq, Sudan, or Syria.

In addition, travelers must have an e-passport to use the VWP. An e-passport is an enhanced secure passport with an embedded electronic chip. An e-passport is readily identified by a unique international symbol on the cover.

DHS Secretary Nielsen's statement is at <https://www.dhs.gov/news/2017/12/15/secretary-kirstjen-nielsen-announces-targeted-security-enhancements-visa-waiver>. Additional information on the VWP, including a list of participating countries, is at <https://www.dhs.gov/visa-waiver-program-requirements>.

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USCIS Announces Restrictions on TN Economist Status

U.S. Citizenship and Immigration Services (USCIS) recently published policy guidance on the specific work activities its officers should consider when determining whether an individual qualifies for Trade NAFTA (TN) nonimmigrant status as an economist. The policy guidance states that financial analysts, marketing analysts, and market research analysts are not eligible for classification as a TN economist.

North American Free Trade Agreement (NAFTA) TN nonimmigrant status allows qualified Canadian and Mexican citizens to temporarily enter the United States to engage in specific professional activities, including the occupation of economist. The agreement, however, does not define the term economist, which USCIS said has resulted in inconsistent decisions about whether certain analysts and financial professionals qualify for TN status as economists.

USCIS said the new policy is consistent with the Department of Labor's (DOL's) Standard Occupational Classification (SOC) system. DOL defines economists as people who conduct research, prepare reports, or formulate plans to address economic problems related to the production and distribution of goods and services or monetary and fiscal policy. Economists may collect and process economic and statistical data using sampling techniques and econometric methods. The definition specifically excludes market research and marketing analyst occupations, USCIS said.

With respect to the occupation of financial analyst, USCIS said it recognizes that economists and financial analysts are related occupations and that there may occasionally be some similarity in the activities of these two occupational categories. As differentiated from economists, however, financial analysts "primarily conduct quantitative analyses of information affecting investment programs of public or private institutions," USCIS said. Recognizing that these types of positions are not the same, the SOC separates these occupations into two categories. Therefore, to be consistent with the SOC, USCIS said it is clarifying that economists and financial analysts are two separate occupations for the purposes of qualifying for TN nonimmigrant status pursuant to NAFTA.

Some attorneys warn that TN Economists—even those who were previously approved—could experience increased scrutiny when returning to the United States. Strategies may include arguing that a position meets the definition of an economist, amending the position description, avoiding international travel, or considering nonimmigrant alternatives. Contact your Alliance of Business Immigration Lawyers attorney for advice in specific situations.

The USCIS policy memo is at

https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2017/2017-1120-PM-602-0153_-TN-Economists.pdf.

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Judge Lifts Trump Ban on Certain Following-to-Join Refugees

On December 23, 2017, a federal judge in Seattle preliminarily enjoined federal agencies from enforcing a Trump administration-imposed ban on certain following-to-join refugees from entering the United States. The court said that it did so at an early stage in the proceedings because the plaintiffs showed that they were likely to succeed on their claims that the agencies exceeded their statutory authority and also that the plaintiffs meet other qualifying factors necessary for preliminary injunctive relief.

The court noted that the plaintiffs in the two motions at issue are refugees "in dire circumstances," whose family members "yearn to be reunited with them," and humanitarian organizations whose fundamental mission is "to help these vulnerable refugees resettle in the United States." Among the plaintiffs are a Somali immigrant, admitted to the United States in 2014 as a refugee, who became a lawful permanent resident in 2016. He filed a petition to bring his wife and children to the United States as following-to-join refugees. His wife and children completed their final interviews and security and medical clearances, received a formal assurance from a refugee resettlement agency, and were on the brink of travel but have not yet received permission from the Department of Homeland Security to travel. His wife and oldest stepson are both Kenyan citizens, so the U.S. Embassy in Somalia said they could travel to the United States, but said that his four- and five-year-old sons could not do so because they are considered Somali citizens due to their father's nationality.

Another plaintiff is an Iraqi national who served as an interpreter for the U.S. military, which put him in extreme danger in Iraq. He fled Iraq for Cairo, Egypt, without his family in 2014 and applied for refugee status in the United States. He was conditionally approved for U.S. resettlement in December 2015 and received an assurance of sponsorship from a resettlement

agency. He was told to get ready to travel to the United States and was updating his passport when the restrictions on refugee admissions went into effect.

Also among the plaintiffs is a transgender woman who faces extreme harassment and persecution in Egypt because of her gender identity. Her refugee application was being processed on an expedited basis until the restrictions took effect.

The organizational plaintiffs, which include Jewish Family Services and the American Civil Liberties Union, are also suffering "irreparable harm," the court said. They have dedicated significant resources to helping refugees from the countries in question. Due to the government's actions, the organizations claim they will need to lay off employees, reduce services, cancel established programs, lose institutional knowledge, and ultimately lose goodwill with volunteers and community partners. Evidence of these threatened losses supported a finding of the possibility of irreparable harm, the court said, adding that the indefinite duration of the "delay" in admitting the refugees "leaves the organizations unable to operate or plan effectively, further deteriorating goodwill and adding to their harms." Further, the court noted, the organizations cannot simply shift resources to "unaffected" refugees as the government suggested. Rather, they have built programs specifically to serve Muslim and Arabic-speaking refugees.

Among other things, the government asserted that the "doctrine of consular nonreviewability" applied to the claims in this case. However, the court observed that courts have traditionally applied that doctrine to bar challenges to decisions by consular officials adjudicating individual visa applications. In this case, the court noted, defendants relied on out-of-circuit authority to argue for a significant expansion of the doctrine and stated that the principle underlying that doctrine applies regardless of the manner in which the executive branch denies entry to an alien abroad, including a refugee applicant. The court noted that the individual plaintiffs did not seek review of an individual consular officer's decision to grant or deny a visa pursuant to valid regulations, but rather the government's promulgation of sweeping immigration policy. Courts can and do review constitutional and statutory challenges to the substance and implementation of immigration policy, the court said.

The court also noted that while the Secretary of Homeland Security has discretion in deciding the outcome of a refugee application, the law does not specify that the Secretary has discretion to suspend adjudication such applications. The court said, "In other words, the Secretary may have discretion over what the decision will be, but not over whether a decision will be made."

The court also observed that the government offered no evidence that the suspension of admissions of refugees from certain countries was in response to a national security or foreign affairs crisis. The justification offered seemed to be that the government continued to have unspecified concerns regarding the admission of refugees from certain countries. The court agreed that the government has a "compelling" interest in national security, but noted that the government did not point to any specific national security threat that the restrictions curtail.

The court said that the preliminary injunction applies to all following-to-join refugees because, by definition, they have a bona fide relationship with a person in the United States, which is required based on a recent Supreme Court decision. The same, however, is not true for all refugees from the banned countries. "These refugees are not necessarily in a relationship with a United States person or organization," the court noted.

The court noted that this is an area of "rapidly developing law with related cases presently on appeal and decisions anticipated shortly." Stay tuned.

The decision is at <https://www.politico.com/f/?id=00000160-8609-dcd4-a96b-b7290b5b0001>.

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EB-5, Special Immigrant Religious Worker Categories Extended to January 19

The Department of State's Visa Bulletin for January 2018 states the following with respect to scheduled expiration of two employment-based visa categories. Both have been extended at least until January 19, 2018, with passage of a short-term continuing resolution in Congress:

Employment Fourth Preference [EB-4] Certain Religious Workers (SR):

Pursuant to the continuing resolution, signed on December 7, 2017, the non-minister special immigrant program expires on December 22, 2017. No SR visas may be issued overseas, or final action taken on adjustment of status cases, after midnight December 21, 2017. Visas issued prior to this date will only be issued with a validity date of December 21, 2017, and all individuals seeking admission as a non-minister special immigrant must be admitted (repeat, admitted) into the U.S. no later than midnight December 21, 2017.

The final action date for this category has been listed as "Unavailable" for January. If there is legislative action extending this category for FY 2018, the final action date would immediately become "Current" for January for all countries except El Salvador, Guatemala, and Honduras which would be subject to a December 1, 2015 final action date, and for Mexico which would be subject to a June 1, 2016 date.

Employment Fifth Preference [EB-5] Categories (I5 and R5):

The continuing resolution signed on December 7, 2017 extended this immigrant investor pilot program until December 22, 2017. The I5 and R5 visas may be issued until close of business on December 22, 2017, and may be issued for the full validity period. No I5 or R5 visas may be issued overseas, or final action taken on adjustment of status cases, after December 22, 2017.

The final action dates for the I5 and R5 categories have been listed as "Unavailable" for January. If there is legislative action extending them for FY 2018, the final action dates would immediately become "Current" for January for all countries except China-mainland born I5 and R5 which would be subject to a July 22, 2014 final action date.

The January 2018 Visa Bulletin is at <https://travel.state.gov/content/travel/en/legal/visa-law0/visa-bulletin/2018/visa-bulletin-for-january-2018.html>.

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TPS Extended for Honduras Until July 2018, Terminated for Nicaragua in January 2019

The Department of Homeland Security recently announced that the temporary protected status (TPS) designation has been extended for Honduras until July 5, 2018, and will be terminated for Nicaragua as of January 5, 2019. Details are below.

Honduras

The designation of Honduras for TPS was set to expire on January 5, 2018. The Secretary of Homeland Security did not make a determination on Honduras's designation by November 6, 2017, the statutory deadline. Accordingly, the TPS designation of Honduras is automatically extended for 6 months, from January 6, 2018, through July 5, 2018. The 60-day re-registration period began December 15, 2017, and runs through February 13, 2018.

In the notice announcing the extension on December 15, 2017, the Department of Homeland Security said that before July 5, 2018, the Secretary will review the conditions in Honduras and decide whether extension, redesignation, or termination is warranted in accordance with the

TPS statute. During this period, "beneficiaries are encouraged to prepare for their return to Honduras in the event Honduras's designation is not extended again and if they have no other lawful basis for remaining in the United States, including requesting updated travel documents from the Government of Honduras," DHS said.

Nicaragua

The TPS designation of Nicaragua is also set to expire on January 5, 2018. The Secretary of Homeland Security announced on December 15, 2017, that the TPS designation of Nicaragua will be terminated effective January 5, 2019. The 60-day re-registration period began December 15, 2017, and runs through February 13, 2018. DHS said that "[i]t is important for re-registrants to timely re-register during this 60-day period and not to wait until their EADs expire."

Nationals of Nicaragua (and those having no nationality who last habitually resided in Nicaragua) who have been granted TPS and wish to maintain their TPS and receive TPS-based employment authorization documents (EADs) valid through January 5, 2019, must re-register for TPS in accordance with the procedures set forth in the notice.

The TPS notice for Honduras is at <https://www.gpo.gov/fdsys/pkg/FR-2017-12-15/html/2017-27140.htm>. The TPS notice for Nicaragua is at <https://www.gpo.gov/fdsys/pkg/FR-2017-12-15/html/2017-27141.htm>.

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USCIS Reaches H-2B Cap for First Half of FY 2018

U.S. Citizenship and Immigration Services (USCIS) recently announced that it has reached the congressionally mandated H-2B cap for the first half of fiscal year 2018.

December 15, 2017, was the final receipt date for new H-2B worker petitions requesting an employment start date before April 1, 2018. USCIS will reject new cap-subject H-2B petitions received after December 15 that request an employment start date before April 1, 2018.

USCIS continues to accept H-2B petitions that are exempt from the congressionally mandated cap. This includes the following types of petitions:

- Current H-2B workers in the United States petitioning to extend their stay and, if applicable, change the terms of their employment or change their employers;
- Fish roe processors, fish roe technicians, and/or supervisors of fish roe processing; and
- Workers performing labor or services in the Commonwealth of the Northern Mariana Islands and/or Guam from November 28, 2009, until December 31, 2019.

USCIS is currently accepting cap-subject petitions for the second half of FY 2018 for employment start dates on or after April 1, 2018.

U.S. businesses use the H-2B program to employ foreign workers for temporary nonagricultural jobs. Congress has set the H-2B cap at 66,000 per fiscal year, with 33,000 for workers who begin employment in the first half of the fiscal year (October 1 through March 31) and 33,000 for workers who begin employment in the second half of the fiscal year (April 1 through September 30).

USCIS encourages H-2B petitioners to visit the H-2B fiscal year 2018 cap season webpage at <https://www.uscis.gov/working-united-states/temporary-workers/h-2b-non-agricultural-workers/cap-count-h-2b-nonimmigrants>.

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Cuba News: USCIS Rescinds *Matter of Vazquez* as Adopted Decision; U.S. Embassy in Havana Temporarily Suspends Operations

U.S. Citizenship and Immigration Services (USCIS) has made several announcements recently with respect to Cuba, including issuing a new policy memorandum that rescinds *Matter of Vazquez* as an Adopted Decision, and temporarily suspending operations at its field office in Havana.

Rescission of *Matter of Vazquez* as an Adopted Decision

A new policy memorandum rescinds *Matter of Vazquez* as an Adopted Decision. The new memorandum supersedes all prior guidance regarding the determination of Cuban citizenship for purposes of adjustment under the Cuban Adjustment Act. The memo is at <https://www.uscis.gov/sites/default/files/USCIS/Laws/Memoranda/2017/2017-12-21-PM-602-0154-Matter-of-Vazquez-Rescission.pdf>.

Temporary Suspension of Operations in Havana

U.S. Citizenship and Immigration Services (USCIS) announced that due to staff reductions at the U.S. Embassy in Havana, Cuba, USCIS will temporarily suspend operations at its field office in Havana, effective immediately. During this time, the USCIS field office in Mexico City, Mexico, will assume Havana's jurisdiction.

USCIS says that individuals who live in Cuba must follow the filing instructions in the announcement at <https://www.uscis.gov/news/alerts/updated-uscis-procedures-cuba>. The U.S. Embassy website for Cuba is at <https://cu.usembassy.gov/visas/>.

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USCIS Is Accepting Applications Under International Entrepreneur Rule (IER) But Plans Proposed Rule to Eliminate IER

U.S. Citizenship and Immigration Services (USCIS) announced on December 14, 2017, that it is taking steps to implement the International Entrepreneur Rule (IER) in accordance with a recent court decision. USCIS noted that while the agency implements the IER, the Department of Homeland Security (DHS) will also "proceed with issuing a notice of proposed rulemaking (NPRM) seeking to remove the Jan. 17, 2017, IER. DHS is in the final stages of drafting the NPRM."

USCIS explained that although the IER was published during the previous administration with an effective date of July 17, 2017, it did not take effect because DHS issued a final rule on July 11, 2017, delaying the IER's effective date until March 14, 2018. USCIS said this "delay rule" was meant to give USCIS time to review the IER and, if necessary, to issue a rule proposing to remove the IER program regulations. However, a December 1, 2017, ruling from the U.S. District Court for the District of Columbia in *National Venture Capital Association v. Duke* vacated USCIS's final rule to delay the effective date.

The IER was intended to provide international entrepreneurs a new avenue to apply for parole, enter the United States, and invest in establishing and growing start-up businesses, USCIS noted. The rule established new criteria to guide the adjudication of parole applications from certain foreign entrepreneurs, providing them with temporary admission. The rule did not afford a path to citizenship.

The instructions and form are at <https://www.uscis.gov/I-941>. The IER is at <https://www.federalregister.gov/documents/2017/01/17/2017-00481/international-entrepreneur-rule>. The vacated final rule is at <https://www.federalregister.gov/documents/2017/07/11/2017-14619/international-entrepreneur-rule-delay-of-effective-date>.

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Supreme Court Allows Trump Travel Ban to Proceed; State Dept. Issues Guidance

On December 4, 2017, the U.S. Supreme Court granted the Trump administration's motions for emergency stays of preliminary injunctions issued by U.S. District Courts in Hawaii and Maryland. The preliminary injunctions had prohibited the government from fully enforcing or implementing the entry restrictions of Presidential Proclamation 9645, "Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry into the United States by Terrorists or other Public-Safety Threats" to nationals of six countries: Chad, Iran, Libya, Syria, Yemen, and Somalia. The Supreme Court's orders allowed the government to implement those restrictions fully beginning December 8, 2017, until related litigation is resolved. The District Court injunctions did not affect implementation of entry restrictions against nationals from North Korea and Venezuela. Those individuals remain subject to the restrictions and limitations listed in the Presidential Proclamation. The Proclamation does not restrict the travel of dual nationals as long as they are traveling on the passport of a non-designated country.

The Department of State (DOS) issued a statement on December 4 providing guidance on several details related to the travel ban. Among other things, the statement said:

We will not cancel previously scheduled visa application appointments. In accordance with the Presidential Proclamation, for nationals of the eight designated countries, a consular officer will make a determination whether an applicant otherwise eligible for a visa is exempt from the Proclamation or, if not, may be eligible for a waiver under the Proclamation and therefore issued a visa.

No visas will be revoked pursuant to the Proclamation. Individuals subject to the Proclamation who possess a valid visa or valid travel document generally will be permitted to travel to the United States, irrespective of when the visa was issued.

We will keep those traveling to the United States and our partners in the travel industry informed as we implement the order in a professional, organized, and timely way.

The DOS provided the following details on the travel restrictions by country:

Nationals of the eight countries are subject to various travel restrictions contained in the Proclamation, as outlined in the following table, subject to exceptions and waivers set forth in the Proclamation.

Country	Nonimmigrant Visas	Immigrant and Diversity Visas
Chad	No B-1, B-2, and B-1/B-2 visas	No immigrant or diversity visas
Iran	No nonimmigrant visas except F, M, and J visas	No immigrant or diversity visas
Libya	No B-1, B-2, and B-1/B-2 visas	No immigrant or diversity visas
North Korea	No nonimmigrant visas	No immigrant or diversity visas
Somalia		No immigrant or diversity visas
Syria	No nonimmigrant visas	No immigrant or diversity visas

Country	Nonimmigrant Visas	Immigrant and Diversity Visas
Venezuela	No B-1, B-2 or B-1/B-2 visas of any kind for officials of the following government agencies[:] Ministry of Interior, Justice, and Peace; the Administrative Service of Identification, Migration, and Immigration; the Corps of Scientific Investigations, Judicial and Criminal; the Bolivarian Intelligence Service; and the People's Power Ministry of Foreign Affairs, and their immediate family members.	
Yemen	No B-1, B-2, and B-1/B-2 visas	No immigrant or diversity visas

The DOS statement provides the following list of exceptions:

The following exceptions apply to nationals from all eight countries and will not be subject to any travel restrictions listed in the Proclamation:

- a) Any national who was in the United States on the applicable effective date described in Section 7 of the Proclamation for that national, regardless of immigration status;
- b) Any national who had a valid visa on the applicable effective date in Section 7 of the Proclamation for that national;
- c) Any national who qualifies for a visa or other valid travel document under section 6(d) of the Proclamation;
- d) Any lawful permanent resident (LPR) of the United States;
- e) Any national who is admitted to or paroled into the United States on or after the applicable effective date in Section 7 of the Proclamation for that national;
- f) Any applicant who has a document other than a visa, valid on the applicable effective date in Section 7 of the Proclamation for that applicant or issued on any date thereafter, that permits him or her to travel to the United States and seek entry or admission, such as advance parole;
- g) Any dual national of a country designated under the Proclamation when traveling on a passport issued by a non-designated country;
- h) Any applicant traveling on a diplomatic (A-1 or A-2) or diplomatic-type visa (of any classification), NATO-1 -6 visas, C-2 visa for travel to the United Nations, or G-1, G-2, G-3, or G-4 visa; except certain Venezuelan government officials and their family members traveling on a diplomatic-type B-1, B-2, or B1/B2 visas[;]
- i) Any applicant who has been granted asylum; admitted to the United States as a refugee; or has been granted withholding of removal, advance parole, or protection under the Convention Against Torture.

Exceptions and waivers listed in the Proclamation are applicable for qualified applicants. In all visa adjudications, consular officers may seek additional information, as warranted, to determine whether an exception or a waiver is available.

Meanwhile, the 9th and 4th Circuits held arguments on the travel ban on December 6 and 8, 2017, respectively. Both courts are likely to issue rulings relatively quickly. The cases are then likely to go to the Supreme Court.

The Supreme Court's brief orders are at https://www.supremecourt.gov/orders/courtorders/120417zr_4gd5.pdf and https://www.supremecourt.gov/orders/courtorders/120417zr1_j4ek.pdf. The DOS statement, which provides additional details about qualifications and procedures, along with frequently asked questions (FAQs), is at <http://bit.ly/2jnCf95>. The related Presidential Proclamation is at <https://www.whitehouse.gov/the-press-office/2017/09/24/enhancing-vetting-capabilities-and-processes-detecting-attempted-entry>. The DOS statement provided a link to a related Department of Homeland Security FAQ released in September 2017 at <https://www.dhs.gov/news/2017/09/24/fact-sheet-president-s-proclamation-enhancing-vetting-capabilities-and-processes>.

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USCIS Issues FAQ on Rejected DACA Requests, Resubmissions

U.S. Citizenship and Immigration Services (USCIS) recently released frequently asked questions (FAQ) on rejected Deferred Action for Childhood Arrivals (DACA) requests, and resubmissions.

The FAQ notes that the due date for new, initial DACA requests was September 5, 2017. The due date for DACA renewal requests was September 5, 2017, for recipients whose DACA status expired before that date and was October 5, 2017, for recipients whose DACA expired or will expire between September 5, 2017, and March 5, 2018.

For those whose DACA requests were delivered by the deadline but were not officially "received" by USCIS until the following day and were rejected and returned to applicants for that reason, the FAQ states that USCIS "will identify you and send you a letter inviting you to resubmit your DACA request. You will have 33 days from the date of the letter to resubmit your request. You may wish to keep a copy of all materials included in your resubmission. USCIS expects to be able to identify and send letters to all persons in this situation."

Those in the situation noted above who have not yet been contacted by USCIS may contact Lockbox Support before resubmitting their DACA packages for reconsideration. Lockbox Support can be emailed at lockboxsupport@uscis.dhs.gov.

The USCIS FAQ, which includes additional details about who may resubmit and why, is at <https://www.uscis.gov/daca2017/mail-faqs>.

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Attorney General Issues Memo to EOIR on Reducing Backlogs

On December 5, 2017, Attorney General Jeff Sessions issued a memorandum to the Department of Justice's Executive Office for Immigration Review (EOIR), "Renewing Our Commitment to the Timely and Efficient Adjudication of Immigration Cases to Serve the National Interest." The memo and accompanying documents set forth principles and plans to reduce the backlog of cases pending before the EOIR, some of which have proved controversial.

Mr. Sessions noted that 50 new immigration judges have begun work since January 20, 2017, and that 60 more are expected to be added in the next 6 months. He said that the current backlog of approximately 650,000 cases pending before immigration courts is a challenge but "not insurmountable." In addition to hiring more immigration judges and support personnel, he said:

[W]e must all work to identify and adopt—consistent with the law—additional procedures and techniques that will increase productivity, enhance efficiencies, and ensure the timely and proper administration of justice. Whether you are an immigration judge who

has a unique way to better handle dockets, or an administrative assistant who has a better process for handling the distribution of files in the office, we can all contribute something to improve the system. I, too, anticipate clarifying certain legal matters in the near future that will remove recurring impediments to judicial economy and the timely administration of justice.

Toward this end, Mr. Sessions listed a set of principles to be followed:

- The immigration courts, the Board of Immigration Appeals, and the Office of the Chief Administrative Hearing Officer within EOIR are responsible for adjudicating cases and administering the immigration laws. We serve the national interest by applying those laws as enacted, irrespective of our personal policy preferences.
- The timely and efficient conclusion of cases serves the national interest. Unwarranted delays and delayed decision making do not. The ultimate disposition for each case in which an alien's removability has been established must be either a removal order or a grant of relief or protection from removal provided for under our immigration laws, as appropriate and consistent with applicable law.
- Meritless cases or motions pending before the immigration courts or the Board of Immigration Appeals should be promptly resolved consistent with applicable law.
- The efficient and timely completion of cases and motions before EOIR is aided by the use of performance measures to ensure that EOIR adjudicates cases fairly, expeditiously, and uniformly in accordance with its mission.
- The attempted perpetration of fraud upon the United States government in our immigration court system can lead to delays, inefficiencies, and the improper provision of immigration benefits. Therefore, any and all suspected instances of fraud should be promptly documented and reported to EOIR management, and any other agency with an interest in the identification of and response to such fraud (including the appropriate state bar(s) in cases of attorney misconduct), consistent with applicable law.

A "backgrounder" asserts, among other things, that the Deferred Action for Childhood Arrivals (DACA) program, prosecutorial discretion, and provisional waivers have "slowed down the adjudication of existing cases and incentivized further illegal immigration that led to new cases." The backgrounder also charges that "[r]epresentatives of illegal aliens have purposely used tactics designed to delay the adjudication of their clients' cases."

The backgrounder states that EOIR plans to pilot video conferencing, where immigration judges will adjudicate cases from around the country. Also planned is a review of "existing EOIR regulations and policies to determine changes that could streamline current immigration proceedings (e.g. the [EOIR memo] on continuances issued on July 31, 2017; regulatory changes that will allow immigration judges to deny unmeritorious cases regardless if the annual limit for relief has been met)."

In reaction to the memo and accompanying documents, the American Immigration Lawyers Association (AILA) condemned "attacks by AG Sessions on the immigration courts and the due process rights of immigrants," stating that "[f]or the AG to blame immigration lawyers for imagined trespasses is both malicious and wrong. We will not let that misinformation pass without setting the record straight." Benjamin Johnson, AILA Executive Director, said, "Once again, the Attorney General cites flawed facts to castigate the immigration bar for the significant case backlog and inefficiencies in our immigration court system. He blames immigration attorneys for seeking case continuances, disregarding the fact that continuances are also routinely requested by counsel for the government, or are issued unilaterally by the court for administrative reasons." Mr. Johnson noted, "The number one reason a continuance is requested by a respondent is to find counsel. Other reasons include securing and authenticating

documentary evidence from foreign countries, or...locating critical witnesses. And when the government refuses to share information from a client's immigration file and instead makes them go through the lengthy process of a Freedom of Information/Privacy Act request, a continuance is often a client's only lifeline to justice." AILA recommends removing EOIR from the Department of Justice.

The memorandum is at <https://www.justice.gov/opa/press-release/file/1015996/download>. The backgrounder is at <https://www.justice.gov/opa/press-release/file/1016066/download>. A related press release from the Department of Justice (DOJ) is at <https://www.justice.gov/opa/pr/attorney-general-sessions-issues-memo-outlining-principles-ensure-adjudication-immigration>. A DOJ statement is at <https://www.justice.gov/opa/pr/attorney-general-sessions-issues-memo-outlining-principles-ensure-adjudication-immigration>. AILA's statement is at <http://www.aila.org/advo-media/press-releases/2017/ag-sessions-cites-flawed-facts-imm-court-system>.

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OFLC Releases Tips on H-2A Labor Certification Process for Employers

The Department of Labor's (DOL) Office of Foreign Labor Certification (OFLC) released a presentation including tips on the H-2A labor certification process for employers. Among other things, the presentation notes that the DOL issues a final determination 30 days before the start date of work if all program requirements are met. Reasons for delaying an H-2A final determination include the employer or authorized representative not providing:

- Proof of valid workers' compensation coverage
- Housing documentation for farmworkers
- Valid farm labor contractor licenses
- Valid surety bond for labor contractors
- Recruitment report

The presentation notes that an employer's post-recruitment obligations include, among other things:

- Employers must continue to cooperate with the State Workforce Agency in recruiting for the job opportunity and provide employment to any qualified U.S. worker who applies for the job opportunity
- Employer must continue to update the initial recruitment report submitted to the CO for certification throughout the entire recruitment period
- Employer must sign and date the final written recruitment report and be prepared to submit it when requested by the Certifying Officer in the event of an audit examination or other request from the Department

The OFLC presentation is at https://www.foreignlaborcert.doleta.gov/pdf/H-2A_Webinar-October-2017.pdf. A "Quick Start Guide for H-2A Mandatory Documents Upload" is at https://www.foreignlaborcert.doleta.gov/pdf/H-2A_Quick_Start_Guide.pdf.

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U.S. Mission in Canada Implements New Appointment Scheduling System for E Visas

On December 5, 2017, the U.S. Mission in Canada (E Visa Unit, American Consulate General, Toronto) sent an alert announcing a new appointment scheduling system for E visa applications. The Mission said this is "strictly a processing change that will allow us to receive and review E-visa applications before the applicant schedules an in-person interview (as opposed to the old system, which permitted applicants to schedule an appointment before submitting an application or supporting documentation)."

Under the new system, the U.S. Mission explained, E visa applications will be sorted into two processing streams based on the time needed to review the required documentation:

- **New Cases and Renewals**—First-time applicants and those wishing to renew the registration status of their E visa company will be offered a "deferred interview" appointment. While applicants will still need to first create an appointment profile and pay the required visa application fee online at <https://ais.usvisa-info.com>, the interview will be deferred until applicants have electronically submitted their application and supporting documents to the U.S. Consulate in Toronto via evisacanada@state.gov. Once their application has been reviewed, which requires at least 10 business days, the U.S. Mission will send applicants instructions on how to make an appointment for an in-person interview. Applicants will be unable to schedule an appointment until then. Only applications in the queue for "New Cases and Renewals" will be considered for company registration or re-registration.
- **Employees of Registered Companies and Dependents**—Employees of currently registered E visa companies, and qualifying family members of current E visa holders, may schedule the next available appointment in Calgary, Montreal, Ottawa, Vancouver, or Toronto.

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ABIL Global: France

The French government, in its continual effort to facilitate international professional mobility, is rolling out several digital tools to simplify entry and work procedures in France for foreign employees. The latest important innovation is the online portal "France Visas," which allows applying for visas online. This portal is in addition to a number of other applications already in place for electronic registration and declarations relating to the international mobility of foreign employees.

A New Online Service: "France Visa"

The online portal "France Visas," the official website of visas for France, has been available since September 2017 but is gradually being developed to allow people to file online applications for tourism or professional visas. The portal at <https://france-visas.gouv.fr/> (English) is a "beta" version, which is not yet available for all countries and is expected to continue to evolve.

"France Visas" allows the automated processing of personal data when applying for entry visas to France for short or long stays. The French government is seeking to facilitate processing of visa applications, tracking of decisions and appeals, and prevention of fraud and misuse. The Internet platform will provide the information required for submitting a visa application and will allow a user to track an application.

The application process will include automatic consultation of several databases: the Schengen Information System (SIS II), the Visa Information System (VIS), the wanted persons list (RPF), and the Interpol travel document list.

All data may be collected by French consulates, agents at external border crossing points, prefectures, and outsourced service providers who guarantee data protection in accordance with French law.

The data retention period is set at five years, from either the expiration date of the visa or the date of creation of the file in case of refusal or interruption of the application. Rights of access and rectification of data are governed by the provisions of the French "Data Protection Act."

Online Declaration of Foreign Employees Posted to France—"SIPSI"

Any employer established outside France who sends employees to French territory must send a prior declaration of posting of the employees to the labor inspectorate of the place of performance of the service before the start of the service in France. The posting declaration, provided for in articles R. 1263-3 and R. 1263-4, is sent via the "SIPSI" online service (<https://www.sipsi.travail.gouv.fr/>) to the Foreign Labor Service (SMOE) of the place where the service is performed. When the service is performed in several locations, the posting declaration is sent to the SMOE where the service is first performed. The SIPSI online declaration, first implemented in July 2016, is now fully operational and allows foreign employers posting salaried staff in France to carry out this formality in a simplified manner.

A fee of €40 per application will be charged, starting January 2018, to defer the ongoing costs of SIPSI, per decree of May 3, 2017.

The absence of a posting declaration can lead to the suspension of the service, and a fine of €2000 per detached employee not declared.

Opening Rights to Social Security for Certain Workers—Online Service

Since November 2017, it is now possible to register foreign employees under the French social security system through the AMELI.fr online service. However, at this stage only employees who have entered France under "Passport Talent" status, foreign employees employed in Ile-de-France, models, and foreign language assistants can benefit from this service.

Requests for registration are processed directly by the International Relations Department of Social Security. An employer can open an account on the dedicated website <https://www.ameli.fr/> and proceed with the registration of foreign employees eligible for the online service. A temporary social security number is sent within two days and the certificate of rights in about 15 days.

In addition to the redesign of residence permits for professional reasons stemming from a March 2016 law, the implementation of online procedures simplifies the administrative requirements and improves the attractiveness of France in exchange for a reinforced control of foreign employers and employees working in France.

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New Publications and Items of Interest

A new SAVE newsletter, SAVE Verifier, is intended for benefit-granting agencies, stakeholders, and benefit applicants for the Systematic Alien Verification for Entitlements program. It is available at no charge by subscribing at https://public.govdelivery.com/accounts/USDHSCIS/subscriber/new?topic_id=USDHSCIS_14.

E-Verify free webinar listings are at <https://www.uscis.gov/e-verify/e-verify-webinars/take-free-webinar>.

Advisories and tips:

- Community Advisory: Social Media, Criminalization, and Immigration has been published by the National Lawyers Guild's National Immigration Project. This advisory summarizes ways in which immigration agents may use social media against those in removal proceedings or involved in criminal cases. The advisory is at https://www.nationalimmigrationproject.org/PDFs/community/2017_03Apr_comm-adv-social.pdf.
- How to safeguard your data from searches at the border is the topic of several recent articles and blogs. See, for example,

<https://www.nytimes.com/2017/03/21/technology/personaltech/crossing-the-border-heres-how-to-safeguard-your-data-from-searches.html> and <https://www.aclu.org/blog/free-future/can-border-agents-search-your-electronic-devices-its-complicated>.

- Listings and links to cases challenging executive orders, and related available pleadings, are available at <https://lawfareblog.com/litigation-documents-resources-related-trump-executive-order-immigration>.

The latest edition of the *Global Business Immigration Practice Guide* has been released by LexisNexis. Dozens of members of the Alliance of Business Immigration Lawyers (ABIL) co-authored and edited the guide, which is a one-stop resource for dealing with questions related to business immigration issues in 30 immigration hotspots around the world.

The latest edition adds chapters on Malta and Romania. Other chapters cover Australia, Belgium, Brazil, Canada, China, Costa Rica, the European Union, France, Germany, Ghana, Hong Kong, India, Ireland, Israel, Italy, Japan, Mexico, the Netherlands, Nigeria, Peru, Russia, Singapore, South Africa, Spain, Switzerland, Turkey, the United Kingdom, and the United States.

Latchi Delchev, a global mobility and immigration specialist for Boeing, called the guide "first-rate" and said the key strong point of the book is its "outstanding usability." She said she highly recommends the book and notes that it "is helpful even to seasoned professionals, as it provides a level of detail which is not easily gained from daily case management."

Mireya Serra-Janer, head of European immigration for a multinational IT company, says she particularly likes "the fact that the [guide] focuses not just on each country's immigration law itself but also addresses related matters such as tax and social security issues." She noted that the India chapter "is particularly good. The immigration regulations in India have always been hard to understand. Having a clear explanation of the rules there helps us sort out many mobility challenges."

Charles Gould, Director-General of the International Co-operative Alliance, said the guide is "an invaluable resource for both legal practitioners and business professionals. The country-specific chapters are comprehensive and answer the vast majority of questions that arise in immigration practice. Its clear and easy-to-follow structure and format make it the one volume to keep close at hand."

This comprehensive guide is for:

- 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.

An excerpt of the book is on the ABIL website at http://www.abil.com/global_practice_guide.cfm.

Contact your Lexis/Nexis sales representative; call 1-800-833-9844 (United States), 1-518-487-3385 (international); fax 1-518-487-3584.

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

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ABIL Member/Firm News

Vic Goel (bio: <http://www.abil.com/lawyers/lawyers-goel.cfm?c=US>) was quoted in several Bloomberg BNA articles recently:

- "Outlook 2018: More Scrutiny, Enforcement for Employment Visas," analyzes what to expect in U.S. immigration in 2018. The Labor Department has been "largely silent" on enforcement since an announcement in early 2017, Vic Goel of Goel & Anderson in Reston, Va., told Bloomberg Law. "It remains to be seen what happens with DOL," but increased enforcement of the visa programs' wage requirements is likely, he said. The article is at <https://www.bna.com/outlook-2018-scrutiny-n73014473330/>.
- "Outlook 2018: 'Dreamer' Bill Possible Amid Immigration Stalemate," assesses the likelihood of legislation to provide legal status or other protection to immigrants affected by DACA's sunset. "I think Congress will try to do something," Vic Goel of Goel & Anderson in Reston, Va., told Bloomberg Law. There are "realists" in both parties who recognize the political implications of inaction, he said. The article is at <https://www.bna.com/outlook-2018-dreamer-n73014473430/>.

Jeff Joseph, of the **Joseph Law Firm**, was quoted by the *New York Times* in "Without New Laws or Walls, Trump Presses the Brake on Legal Immigration." Mr. Joseph said that the government frequently denies H-2B visas for companies that seek them season after season. He noted that the government's argument is that such companies are trying to import temporary workers to fill otherwise permanent jobs that should go to U.S. workers. But he said his clients face a shortage of local labor year after year to fill jobs in construction, lodging, landscaping, and amusement parks. The article is at <http://nyti.ms/2C8q1s6>.

Michele Madera, of **Klasko Immigration Law Partners, LLP**, has published several client alerts. "TN Eligibility for Economists" is at <http://bit.ly/2BSEWat>. "The Latest Proposed Changes to U.S. Immigration" is at <http://www.klaskolaw.com/news/latest-proposed-changes-us-immigration/>.

William Stock, of **Klasko Immigration Law Partners, LLP**, has published a client alert, "Supreme Court Allows September 24 Entry Restrictions To Go Into Effect," at <http://www.klaskolaw.com/news/client-alert-supreme-court-allows-travel-ban-to-go-into-effect/>.

Andrew J. Zeltner, of **Klasko Immigration Law Partners, LLP**, has published a client alert, "New Hope for International Entrepreneurs and the 'Start-Up' Visa," at <http://bit.ly/2k06f7l>.

Robert Loughran (bio: <http://www.abil.com/lawyers/lawyers-loughran.cfm>) and **Angelo Paparelli** (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm>) presented an ILW tele-seminar, "Immigration Alternatives to EB-5—Because It's Too Damn Hard!". Among other issues, they discussed the means of obtaining third-country citizenship as a route to certain U.S. investment-based nonimmigrant visas.

Cyrus Mehta (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) has authored several new blog entries. "Calling Out President Trump's Hoax: The Green Card Lottery and Family Fourth Preference Have No Connection To Terrorism" is at <http://bit.ly/2C7oQqi>. "New York State Bar v. Avvo: Will the Uberization of Immigration Law Practice Overcome Outdated Advertising Rules Governing Lawyers?" is at <http://bit.ly/2j77aIV>. "Making Sense of the Acquittal in Kate Steinle's Case: Why Anti-Immigrant Rhetoric Equating Immigrants With Criminals Must Stop" is at <http://bit.ly/2kNwAsX>.

Wolfsdorf Rosenthal LLP has published several new blog entries. "Big Brother Is Watching – 4 Things to Know About Applying for U.S. Visas and Citizenship in the Digital Information Age" is at <http://bit.ly/2BHrRwF>. Update on the International Entrepreneur Rule: A New Hope...Until the Empire Strikes Back" is at <http://bit.ly/2BTducz>. "EB-5 Update: What To Expect in the Year of the Dog?" is at <http://bit.ly/2DhDM4E>. "Why Are the January Visa Numbers for the Regional Center Program Unavailable for January 2018? And What's In Store for the Year of the Dog?" is at <http://bit.ly/2BfASgU>. "The U.S. Supreme Court Allows President Trump's Most Recent Travel Ban To Take Effect" is at <http://bit.ly/2jGxsfH>. "How We Overturned a Denial and Acquired an Immigrant Visa for a 24-Year-Old Derivative Child" is at <http://bit.ly/2A99wb7>.

Greg Siskind, of **Siskind Susser PC**, was recently quoted in "The Trump Administration Is Waging Guerrilla War on Legal Immigration, Attorneys Say," published by *The Daily Beast*. In response to a query about the stress faced by immigration clients and their attorneys, Mr. Siskind said that several months ago, one of his partners started having a meditation coach come to the office every week. The coach focuses on helping the law firm's staffers manage stress. "They really care about these cases," Siskind said. The article is at <http://thebea.st/2DidDmd>.

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was interviewed by WRFI about his new immigration apps clinic at Cornell Law School. The audio is available at <https://www.wrfi.org/2017/12/05/theres-app-cornell-law-clinic-tackles-legal-resources-immigrants-technology-audio/>.

Mr. Yale-Loehr recently authored an op-ed published by the *New York Daily News*, "Trump's Dishonest Diversity Visa Lottery Attack: Debate the Merits of the Program All You Like But Don't Lie About It" is at <http://www.nydailynews.com/opinion/trump-dishonest-diversity-visa-lottery-attack-article-1.3707384>.

Mr. Yale-Loehr was quoted in the following publications:

- Times of India, in "H-1B Visa Regime Is Likely to Get Tougher as Department of Homeland Security Mulls Stricter Restrictions on Selection." Mr. Yale-Loehr said that USCIS did a lot in the past few months to make it harder to qualify for H-1B visas. "The percentage of H-1B cases receiving a request for evidence has doubled to 41%. The USCIS is questioning whether some computer positions require a bachelor's degree," he said. Mr. Yale-Loehr also noted that the USCIS is taking longer to approve H-1B petitions and that U.S. consulates are screening H-1B visa applications more carefully than before. "All in all, it is harder than ever to get an H-1B these days," he said. The article is at <http://bit.ly/2DfHjQP>.
- PolitiFact, in "Pick Them From a Bin? Donald Trump Mischaracterizes Diversity Visa Lottery." In an op-ed Mr. Yale-Loehr wrote for the *New York Daily News* that was quoted by PolitiFact, he said, "The diversity visa program is a true lottery. There is no way a

foreign government can game the lottery to offload the worst of their citizenry." The PolitiFact article is at <http://bit.ly/2z5Tihp>.

- FactCheck.org, in "Trump's Baseless Immigration Claim." President Trump recently suggested that the diversity visa (DV) lottery involves other countries "tak[ing] their worst and [putting] them in the bin." Mr. Yale-Loehr noted, "The diversity lottery is a true lottery. There is no way a foreign government can game the lottery to offload the worst of their citizenry. ... The bottom line: President Trump's statements about how the diversity visa program works are false." Mr. Yale-Loehr also noted the "complicated and lengthy process" a DV applicant must go through to be admitted. "Among other things, the consular officer must make sure the individual is not 'inadmissible.' This means that the person has not committed a crime, doesn't have a serious health problem, isn't a terrorist, hasn't committed fraud, and hasn't overstayed in the U.S. before." The article is at <http://www.factcheck.org/2017/12/trumps-baseless-immigration-claim/>.
- National Law Journal, in "With SCOTUS Cloud Overhead, Appeals Courts Take Up Travel Ban 3.0." Mr. Yale-Loehr said, "Given [Monday's] ruling, both the Fourth and the Ninth Circuit are going to try to be extra careful in justifying however they come out. I think [the] Supreme Court orders signal that the administration may well win at the Supreme Court and that may influence, to a certain extent, how the Fourth and the Ninth Circuit rule." He noted that the argument that the government has a justified reason for the ban is stronger than before. "For that reason, although an objective person may question how thorough the review is or whether it really matches up with what's going on, given the very low standard of review, the Supreme Court may well say, it isn't perfect but it's good enough." The article is available via subscription at <https://www.law.com/nationallawjournal/sites/nationallawjournal/2017/12/05/with-scotus-cloud-overhead-appeals-courts-take-up-travel-ban-3-0/?sreturn=20171110191742>.
- Forbes, in "A Guide for Future Immigrant Entrepreneurs," at <http://bit.ly/2B7Nyss>.

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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, and 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 State Visa Bulletin: <https://travel.state.gov/content/visas/en/law-and-policy/bulletin.html>

Visa application wait times for any post: <https://travel.state.gov/content/visas/en/general/wait-times.html/>

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