



IMMIGRATION INSIDER

Vol. 10, No. 7A • July 1, 2014

Headlines:

White House Announces Response to Increase in Unaccompanied Children, Families – On June 20, 2014, President Obama announced that he will take administrative action to correct parts of our broken immigration system. In the meantime the President directed the start of a government-wide response to an increase in unaccompanied children entering the United States from Central America.

News Highlights: AILA Conference – This article includes selected news highlights from the recent American Immigration Lawyers Association's annual conference held in Boston, Massachusetts, on June 18-21, 2014.

State Dept. Announces End to Afghan Special Immigrant Visa Program, Seeks Extension – Over 6,000 Afghans, mainly interpreters serving the U.S. military and their family members, have received special immigrant visas since October 1, 2013.

SEVP Announces New Exchange Visitor Program I-901 Mobile Fee Processing Website – The I-901 Mobile Fee site provides automated fee payment for F-1, F-3, M-1, M-3, and J-1 nonimmigrants and allows users to check the status of their I-901 (fee remittance form) payments. The site includes access to recent I-901 news and updates and information on frequently asked questions.

ABIL Global: Italy – Various developments have been announced.

Also in this issue:

[New Publications and Items of Interest](#)
[Member News](#)
[Government Agency Links](#)

[Back to Top](#)

White House Announces Immigration Reform Efforts, Response to Increase in Unaccompanied Children, Families

President Barack Obama announced on June 30, 2014, that because House Speaker John Boehner has told him that Republicans in the House of Representatives will not pursue immigration reform legislation this year, he has directed Secretary of Homeland Security Jeh Charles Johnson and Attorney General Eric Holder to identify administrative actions that can be taken "to try to fix as much of the immigration system as possible." He said he does not "prefer taking administrative action," and that he takes executive action "only when we have a serious problem...and Congress chooses to do nothing."

Noting that "there are enough Republicans and Democrats in the House to pass an immigration bill today," President Obama said he had "held off on pressuring them for a long time to give [House Speaker John] Boehner the space he needed to get his fellow Republicans on board" with immigration reform legislation.

President Obama also sent a letter on June 30 to congressional leaders asking that they "work with me to address the urgent humanitarian challenge on the border, and support the immigration and Border Patrol agents who already apprehend and deport hundreds of thousands of undocumented immigrants every year." The letter notes, among other things, that the Departments of Justice and Homeland Security are deploying additional enforcement resources, including immigration judges, U.S. Immigration and Customs Enforcement attorneys, and asylum officers, "to focus on individuals and adults traveling with children from Central America and entering without authorization." Shelters have been opened at three military bases, according to reports. The letter states that the Obama administration will submit a related "formal detailed request when the Congress returns from recess."

Also, on June 20, President Obama directed DHS and the Federal Emergency Management Agency to coordinate a government-wide response to the increase in unaccompanied children entering the United States from Central America. A White House fact sheet said the first priority "is to manage the urgent humanitarian situation by making sure these children are housed, fed, and receive any necessary medical treatment." The fact sheet notes that the United States will also increase enforcement and partner with "our Central American counterparts in three key areas: combating gang violence and strengthening citizen security, spurring economic development, and improving capacity to receive and reintegrate returned families and children."

White House Press Secretary Josh Earnest said, "We're going to open up some additional detention facilities that can accommodate adults that show up on the border with their children. And we're going to deploy some additional resources to work through their immigration cases more quickly, so they're not held in that detention facility for a long time, and hopefully [will] be quickly returned to their home countr[ies]." He blamed much of the influx on misinformation intentionally "propagated by criminal syndicates in Central America."

In Guatemala, Vice President Joe Biden recently met with regional leaders to address the increase in unaccompanied children and adults coming with their children to the United States and to discuss efforts "to address the underlying security and economic issues that cause migration."

The Obama administration announced the following related efforts:

- The U.S. government will provide \$9.6 million in additional support to Central American governments for receiving and reintegrating their repatriated citizens. "This funding will enable El Salvador, Guatemala, and Honduras to make substantial investments in their existing repatriation centers, provide training to immigration officials on migrant care, and increase the capacity of these governments and non-governmental organizations to provide expanded services to returned migrants."

- In Guatemala, the United States is launching a new \$40 million U.S. Agency for International Development (USAID) program over five years to improve citizen security. "This program will work in some of the most violent communities to reduce the risk factors for youth involvement in gangs and address factors driving migration to the United States."
- In El Salvador, the United States is initiating a new \$25 million Crime and Violence Prevention USAID program over five years that will establish 77 youth outreach centers in addition to the 30 already in existence. "These will continue to offer services to at-risk youth who are susceptible to gang recruitment and potential migration."
- In Honduras, under the Central American Regional Security Initiative (CARSI), the United States will provide \$18.5 million to support community policing and law enforcement efforts to confront gangs and other sources of crime. In addition, USAID will build on an existing initiative to support 40 youth outreach centers by soon announcing a substantial new Crime and Violence Prevention program.
- USAID is calling for proposals to support new public-private partnerships through the Global Development Alliance to increase economic and educational opportunities for at-risk youth in El Salvador, Guatemala, and Honduras.
- The United States also plans to provide \$161.5 million this year for CARSI programs "that are critical to enabling Central American countries to respond to the region's most pressing security and governance challenges. On an ongoing basis, the United States is providing almost \$130 million in ongoing bilateral assistance to El Salvador, Honduras, and Guatemala for a variety of programs related to health, education, climate change, economic growth, military cooperation, and democracy assistance.
- The United States is collaborating on campaigns to help potential migrants understand the significant danger of relying on human smuggling networks and to reinforce that recently arriving children and individuals are not eligible for programs like Deferred Action for Childhood Arrivals (DACA) and earned citizenship provisions in comprehensive immigration reform currently under consideration in the U.S. Congress.
- The Department of Justice and DHS are taking additional steps to enhance enforcement and removal proceedings. This includes increasing detention of individuals and adults who bring their children with them and handling immigration court hearings "as quickly and efficiently as possible while also protecting those who are seeking asylum." The fact sheet says this will allow U.S. Immigration and Customs Enforcement (ICE) to return unlawful migrants from Central America to their home countries more quickly.
- The fact sheet notes that in FY 2013, ICE removed 47,769 undocumented individuals who came to the United States from Guatemala, 37,049 from Honduras, and 21,602 from El Salvador. This represents approximately 29% of all ICE removals.

The White House fact sheet is available at <http://www.whitehouse.gov/the-press-office/2014/06/20/fact-sheet-unaccompanied-children-central-america>. A June 30, 2014, press release is available at <http://www.whitehouse.gov/blog/2014/06/30/president-obama-speaks-immigration-reform>. A transcript of President Obama's June 30 remarks is available at <http://www.whitehouse.gov/the-press-office/2014/06/30/remarks-president-border-security-and-immigration-reform>. President Obama's letter to Speaker Boehner is available at <http://www.whitehouse.gov/the-press-office/2014/06/30/letter-president-efforts-address-humanitarian-situation-rio-grande-valle>. A transcript of White House Press Secretary Earnest's June 20 remarks is available at <http://www.whitehouse.gov/the-press-office/2014/06/20/press-briefing-principal-deputy-press-secretary-josh-earnest-62014>.

[Back to Top](#)

News Highlights: AILA Conference

The following are selected news highlights concerning labor certification applications and the Student and Exchange Visitor Program (SEVP) from the recent American Immigration Lawyers Association's (AILA) annual conference, held June 18-21, 2014, in Boston, Massachusetts:

Department of Labor

AILA reminded the audience that the Department of Labor (DOL) is not a fee-based operation and is funded only by Congress. The increase in labor certification cases only puts more pressure on the agency to do more with less. AILA panelists reminded the audience to understand that pressure and to appreciate DOL's efforts.

Federal Register Notice

- DOL is accepting comments on continued use of the current Form 9089. Comments are due July 7, 2014. The Federal Register notice is available at <https://www.federalregister.gov/articles/2014/05/05/2014-10185/comment-request-for-information-collection-for-form-eta-9089-application-for-permanent-employment>.

Prevailing Wage Issues

- DOL recommends that practitioners take a two-fold approach to addressing a potentially incorrect prevailing wage determination: (1) file a redetermination request; and (2) follow up with the Center Director. Both options are reviewed at a fairly high level and take about the same amount of time, approximately 60 days. One can pursue both avenues because the actions are reviewed by a different team. If one is still unsuccessful after pursuing both avenues, the next step would be to appeal to the Board of Alien Labor Certification Appeals (BALCA).
- DOL confirmed that it looks at employer-conducted and commercial surveys, including Radford and Towers surveys. DOL is familiar with the various surveys that are available and is aware that although the job descriptions on the Form 9141 and the surveys may match, if a position carries management duties, there may be an even better match with job descriptions that include the management duties. Positions that carry supervisory duties are in different categories and at higher levels with higher wages. Where there is such a mismatch in levels, the current system does not allow DOL to suggest a different wage level from the surveys, but must default to the Occupational Employment Statistics (OES) wage levels, which renders a JobZone mismatch. This may change in the future, but for now, there is no option to provide more detailed information in rejecting a survey. Other reasons for rejecting surveys submitted include not matching enough of the job description or where the position is a combination of jobs and the survey only addresses one of the jobs. The ultimate goal for the DOL is to protect U.S. workers against "adverse wage impact" and also to determine whether there is a better fit between the job description on the Form 9141 and the available survey information.
- The Bureau of Labor Statistics created the Standard Occupational Code (SOC) to be used throughout the government. These codes are not created specifically for DOL's Office of Foreign Labor Certification (OFLC). They are updated every 8 years, and the Bureau of Labor Statistics (BLS) is updating them now. OFLC is spending time catching up with them and updated the PERM system with the SOC 2010 codes about 2 to 3 weeks ago. The codes are constantly changing, albeit in a slow and deliberate fashion. People can comment on the process and DOL encourages comments.
- American Competitiveness and Workforce Improvement Act and prevailing wages: U.S. Citizenship and Immigration Services (USCIS) and DOL base their determinations on slightly different regulatory language. Also, once DOL makes a determination for one

employer, it does not revisit the analysis each time. If an employer disagrees, it can use the redetermination process.

Form 9089 and Beneficiary Qualifications

- AILA recommends that denial of a PERM labor certification application solely because of not listing a license should be reported to the AILA-DOL liaison committee. A motion for reconsideration should be filed at the same time.
- AILA has been in discussions with the DOL concerning issuing guidance to practitioners on where best to include a beneficiary's qualifications. DOL reported that it is close to finalizing a plan of action for a new FAQ. It will still take some time because, in addition to licensure, there are analogous issues to be considered. DOL is reviewing the Form 9089 and instructions. DOL suggested that practitioners list all the experience and qualifications gained with a particular job under the particular job experience listed on the Form 9089. The bottom line is that practitioners should list all the credentials on the Form 9089. One can list a credential even without a job title and this will not cause a denial of the application.

Recruitment Efforts

Given the conflicting holdings in *Matter of Credit Suisse Securities* and *Matter of Symantec Corporation*, DOL is following *Matter of Credit Suisse Securities* (applying 20 CFR § 656.17(f) recruitment instructions to more than newspaper and professional journal ads) in the meantime. AILA submitted an amicus brief on this issue in May 2014.

Audit Tiers

DOL indicated that one of the goals in posting information concerning audit tiers is to bring applications more into compliance. These tiers, however, are not static and DOL continues to evaluate them in relation to agency-run statistics. For example, in 2009 when people were getting laid off in New York City, DOL was still receiving applications where the job opportunities were only requiring a bachelor's degree with no experience while the offered salary was \$100,000. This raised concerns, and DOL continues to examine the ongoing changes in the market to determine the tiers.

Case Consolidation

- There is no mechanism at the DOL level for consolidating similar cases.
- Practitioners may ask BALCA to do that.
- However, if DOL sees a trend, on its own, it may consolidate cases.

SEVP

According to reports, panelists at the AILA conference noted that changes are expected to the Student and Exchange Visitor Program (SEVP) related to F-1 students in optional practical training (OPT) programs performing in jobs related to their fields of study, and improvements in OPT reporting. These changes are in response to a U.S. Government Accountability Office (GAO) report issued in February 2014 on OPT oversight for F-1 and M-1 students.

[Back to Top](#)

[State Dept. Announces End to Afghan Special Immigrant Visa Program, Seeks Extension](#)

The Department of State has announced that it expects to finish issuing all 3,000 visas for fiscal year 2014 under a special program for Afghans by July 2014. The agency's authority to issue

special immigrant visas (SIVs) to Afghan nationals under the Afghan Allies Protection Act, as amended, is limited to 3,000 visas for Afghan principal applicants in fiscal year 2014.

The Department said, "We welcome action by Congress to extend this program. We are making arrangements to quickly resume issuances of SIVs to Afghan principal applicants if more visas are allocated." In an op-ed published in the *Los Angeles Times* on June 3, 2014, Secretary of State John Kerry pleaded for more visas "to help Afghans whose work for the U.S. Government put them in danger of retaliation." He said, "Keeping our word requires passing legislation this summer to authorize additional visas for the remainder of this fiscal year and for the next fiscal year. We don't want to lose the hard-won momentum or put lives at risk."

More than 9,000 Afghans who have worked for the United States in Afghanistan (and their family members) have benefited from the SIV program. Of these, more than 70 percent served as translators, with the vast majority serving U.S. military forces in Afghanistan. Over 6,000 Afghans, mainly interpreters and their family members, have received SIVs since October 1, 2013. This includes just over 2,300 principal applicants and 3,700 of their family members.

The announcement is available at <http://travel.state.gov/content/visas/english/immigrate/types/afghans-work-for-us.html>. A related fact sheet is available at http://travel.state.gov/content/dam/visas/AFGHAN_SPECIAL_IMMIGRANT_VISA_FACT_Sheet_2014.pdf. A FAQ is available at http://travel.state.gov/content/dam/visas/Afghan_SIV_Applicant_FAQ_June_2014.pdf. Secretary Kerry's op-ed is available at <http://www.state.gov/secretary/remarks/2014/06/227060.htm>.

[Back to Top](#)

SEVP Announces New Exchange Visitor Program I-901 Mobile Fee Processing Website

The Student and Exchange Visitor Program (SEVP) has announced a new automated I-901 Mobile Fee website.

The I-901 Mobile Fee site provides automated fee payment for F-1, F-3, M-1, M-3, and J-1 nonimmigrants. It also allows users to check the status of their I-901 (fee remittance form) payments. The site includes access to recent I-901 news and updates and information on frequently asked questions.

The site also includes information about Western Union payment automation. The system allows applicants to post Western Union payments and print their I-901 payment confirmations.

For more information on the I-901 Mobile Fee site and Western Union payment automation, see <https://www.fmjfee.com/>.

[Back to Top](#)

ABIL Global: Italy

Various developments have been announced.

New Start-Up Visa

The Italian Ministry of Foreign Affairs has established a new type of visa (under measure 44 of the Plan "Destinazione Italia" and Law no. 221/2012) to attract and retain foreign entrepreneurs planning to establish a start-up company in Italy.

The visa issuance procedure is expected to be fast and streamlined. A technical committee established by the Ministry of Industry and Economic Development will evaluate the start-up companies. To obtain an entry visa for startups, a foreign entrepreneur must prove ownership of at least €50,000 in financial resources. This funding can be raised through venture capital, crowdsourcing, investors, or Italian/foreign governments and non-governmental organizations. Special facilitations are provided for foreign citizens who have the support of a certified incubator.

Two other types of visas may be useful, depending on the activities the investor is willing to carry out:

- Autonomous Work Visa—for individuals willing to work autonomously (e.g., freelancers, consultants) or to establish a company in Italy. The autonomous work visa is subject to numerical caps.

Appointed directors employed by a foreign company and temporarily assigned to an Italian-affiliated company may be granted an autonomous work visa without any quota limit.

- Elective Residence Visa—for individuals who are interested only in living in Italy without carrying out any work activities. The elective residence visa is limited to those who have a significant amount of money and savings and are able to live in Italy with no need of work-related income.

The requirements and conditions to apply for the start-up visa are listed on the Italian Ministry of Foreign Affairs website (Startup Visa Guidelines

[<http://www.esteri.it/MAE/Visti/Linee%20Guida%20Italia%20Startup%20Visa%20EN.pdf>]

and Italia Startup Procedures

[<http://www.esteri.it/MAE/Visti/PROCEDURA%20ITALIA%20STARTUP%20VISA%20Rev%203%20EN.pdf>]).

Expo 2015 Work Permits

Italy's Ministry of Foreign Affairs has issued guidelines for work permits for delegates, workers, and participants who will attend Expo 2015 in Milan. Official delegates (and their dependents) may obtain a mission visa. Non-accredited individuals (e.g., delegates of companies attending the Expo and workers to be employed at the site) may be granted a work visa following an electronic fast-track procedure established by the Ministry. The Ministry also has provided guidelines for the issuance of tourist visas to visitors.

The guidelines are available at

http://www.integrazionemigranti.gov.it/Attualita/IIpunto/approfondimento/Documents/LINEE%20GUIDA%20EXPO2015_en.pdf.

New Quotas for Seasonal Work and for Workers Participating in Expo 2015

Online applications may be submitted until December 31. 15,000 new quotas are available for seasonal workers of the following nationalities: Albania, Algeria, Bosnia-Herzegovina, Egypt, Republic of the Philippines, Gambia, Ghana, Japan, India, Kosovo, the former Yugoslav Republic of Macedonia, Morocco, Mauritius, Moldova, Montenegro, Niger, Nigeria, Pakistan, Senegal, Serbia, Sri Lanka, Ukraine, and Tunisia. 3,000 of these quotas are intended for those having entered Italy for seasonal work in the past two years.

2,000 new quotas have also been allocated to individuals assigned to work at the Milan Expo 2015.

Registration of a Same-Sex Marriage Celebrated in the United States

An Italian lower court ordered City Hall to register in the Civil Records (*Stato Civile*) the marriage of an Italian same-sex couple married in New York in 2012.

Non-EU nationals married with a same-sex EU partner were recently granted the right to obtain a family residence permit but their marriage could not be officially recorded at City Hall.

The Public Prosecutor has announced that the decision will be challenged before the Court of Appeal. Therefore, it could be reversed. This is, however, a further step toward the full recognition of same-sex marriages in Italy.

New Requirement for Residency Registrations

As of May 20, 2014, individuals of all nationalities applying for residency registration must submit documents proving that they have a legal right to live at the address indicated in the application. Depending on the situation, applicants may be asked to submit a copy of a registered tenancy agreement, a self-declaration signed by the house owner, and/or a declaration of hospitality.

Court of Rome Confirms That Children Born to Unmarried Parents Are Entitled to Italian Citizenship

On March 21, 2014 (sentence no. 7472), the Rome Court confirmed that eligibility for Italian citizenship is extended to children born to unmarried parents, provided that some requirements are met. In particular, children younger than 18 years old born to Italian unmarried parents are automatically granted Italian citizenship, while children older than 18 must apply for citizenship within one year of spontaneous legitimation or recognition by the court.

[Back to Top](#)

New Publications and Items of Interest

The 2014 edition of the *Global Business Immigration Practice Guide* has been released by LexisNexis. Dozens of members of the Alliance of Business Immigration Lawyers co-authored and edited the guide, which is a one-stop resource for dealing with questions related to business immigration issues in immigration hotspots around the world.

The 2014 edition adds a chapter on Singapore. Other chapters cover Australia, Belgium, Brazil, Canada, China, Costa Rica, the European Union, France, Germany, Hong Kong, India, Ireland, Israel, Italy, Japan, Mexico, the Netherlands, Nigeria, Russia, 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."

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.

The list price is \$299, but discounts are available. Contact your Lexis/Nexis sales representative; call 1-800-833-9844 (United States), 1-518-487-3385 (international); fax 1-518-487-3584; or go to

<http://www.lexisnexis.com/store/promotions/promolanding.jsp?couponId=GLOBAL15>.

[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/>.

[Back to Top](#)

Member News

The following ABIL members were included in Lawdragon's list of the top 20 U.S. immigration lawyers:

- **H. Ronald Klasko** (bio: <http://www.abil.com/lawyers/lawyers-klasko.cfm>)
- **Cyrus Mehta** (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>)
- **Angelo Paparelli** (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm>)
- **Julie Pearl** (bio: <http://www.abil.com/lawyers/lawyers-pearl.cfm>)
- **Bernard Wolfsdorf** (bio: <http://www.abil.com/lawyers/lawyers-wolfsdorf.cfm>)

For more information and the full list, see <http://www.lawdragon.com/feature-articles/2014-top-20-lawyers-in-immigration-law/>.

Mr. Klasko recently presented "Due Diligence Training for EB-5 Projects" at the Invest in Texas Initiative Conference.

Mr. Klasko also recently addressed immigration lawyers in New York on the fundamentals of the EB-5 investor visa program. The New York chapter of the American Immigration Lawyers Association hosted the annual event.

Mr. Mehta has co-authored a new blog entry. "Two Aces Up President Obama's Sleeve To Achieve Immigration Reform Without Congress—Not Counting Family Members And Parole In

Place" is available at http://blog.cyrusmehta.com/2014/06/two-aces-up-president-obamas-sleeve-to_29.html.

Stephen Yale-Loehr (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was quoted in a CNN.com article, "Immigrant Children Tread Treacherous Political Landscape," on June 17, 2014. Mr. Yale-Loehr observed that the Deferred Action for Childhood Arrivals program may have caused "unintended consequences." He noted that President Obama was clear in 2012 about "what his executive action did and did not do. He did not intend to signal that other children should come to the U.S. But many times immigration law gets distorted and [the kids may have made the journey] based on those false rumors that children will be allowed to stay here." The article is available at <http://www.cnn.com/2014/06/18/politics/immigrant-children-politics/index.html>.

[Back to Top](#)

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

[Back to Top](#)

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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[Back to Top](#)