



# IMMIGRATION INSIDER

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## Headlines:

**Trump Administration Plans to Close USCIS International Operations** – USCIS Director L. Francis Cissna told senior staff that the agency's International Operations Division, which operates in more than 20 countries, will be closed down. The duties of those offices will be transferred to U.S. embassies and consulates and to domestic U.S. offices.

**USCIS Resumes Premium Processing for All H-1B Petitions** – USCIS has resumed premium processing for all H-1B petitions as of March 12, 2019. All H-1B petitions may be upgraded to premium processing or filed originally with a request for premium processing.

**USCIS Releases Notes on H-1B Filing Tips and RFEs** – USCIS discussed five common reasons for RFEs on H-1B petitions, among other things, at a March teleconference.

**Europe to Require Authorization of U.S. Travelers, Not Visas, for Short-Term Travel** – Recent news reports erroneously stated that starting in 2021, visas would be required of U.S. travelers entering Europe. In fact, pre-travel automated screening and authorization, but not visas, will be required to check for "security and migration risks" for those benefiting from visa-free access to Schengen area countries, according to the European Commission.

**SSA Announces New Travel and Border Crossing Records System** – The Social Security Administration has announced a new "Travel and Border Crossing Records" system. The new system will collect information about applicants, beneficiaries, and recipients under Titles II, XVI, and XVIII who have had absences from the United States.

**TPS Designation Extended for South Sudan** – The 18-month extension permits current beneficiaries under South Sudan's TPS designation to re-register for TPS and remain in the United States with work authorization through November 2, 2020.

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## **Trump Administration Plans to Close USCIS International Operations**

According to reports, the Trump administration plans to close international U.S. Citizenship and Immigration Services (USCIS) offices by the end of 2019. USCIS Director L. Francis Cissna told senior staff that the agency's International Operations Division, which operates in more than 20 countries, will be closed down. The duties of those offices will be transferred to U.S. embassies and consulates and to domestic U.S. offices and the Department of State (DOS), if DOS agrees. USCIS personnel staffing those offices will return to the United States.

DOS said if it reaches such an interagency agreement, "we anticipate a smooth transition and continued efficient processing of USCIS-related work at all of our missions overseas." DOS has more than 200 posts worldwide.

Director Cissna said in an email to staff that the closures will "better leverage our funds to address backlogs in the United States while also leveraging existing [DOS] resources at post." He noted that change "can be difficult and can cause consternation. I want to assure you we will work to make this as smooth a transition as possible for each of our USCIS staff while also ensuring that those utilizing our services may continue to do so and our agency operations continue uninterrupted.

In addition to helping people apply for immigration benefits, these offices provide assistance in such tasks as helping U.S. citizens and lawful permanent residents, including military personnel abroad, bring family members to the United States or help them apply for U.S. citizenship; international adoptions; refugee resettlement; and immigration fraud investigations.

According to the International Operations (IO) Division's website, the division's work includes reuniting families, enabling adoptive children to come to join permanent families in the United States, considering parole requests from individuals outside the United States for urgent humanitarian reasons or significant public benefit, and providing information services and travel documents to people around the world, including those with unique needs and circumstances. "Operating in a dynamic global environment with constantly changing political, cultural, environmental, and socio-economic contexts, IO has approximately 240 employees located in the U.S. and in three international districts composed of 24 field offices in 21 countries. Our employees are highly diverse and include foreign nationals in addition to U.S. citizens; foreign nationals make up more than half of the IO staff working abroad and approximately one-third of all IO employees."

Immigration advocates expressed concerns about further discouraging immigrants and disengaging the United States from the rest of the world. Barbara Strack, former chief of USCIS' Refugee Affairs Division, said the closures would "throw [the legal immigration system] into chaos around the world." She warned that the move would "smack all government employees abroad, including folks in the military, who have a foreign spouse or kids they are trying to bring to the U.S. legally."

More information about IO is at <https://www.uscis.gov/about-us/directorates-and-program-offices/refugee-asylum-and-international-operations-directorate/international-operations/international-operations>.

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## **USCIS Resumes Premium Processing for All H-1B Petitions**

U.S. Citizenship and Immigration Services (USCIS) has resumed premium processing for all H-1B petitions as of March 12, 2019. All H-1B petitions may be upgraded to premium processing or filed originally with a request for premium processing.

In recent years, USCIS has discontinued premium processing for H-1B cap cases in April to allow sufficient time for application of the lottery and receipting-in of selected petitions. Last year, the agency extended the suspension of premium processing well beyond the cap filing season and expanded the suspension to include most H-1B petitions.

In January 2019, premium processing was restored for FY 2019 cap-subject petitions that were filed in April 2018 and remained pending. In February, USCIS resumed premium processing for non-cap H-1B petitions filed before December 21, 2018. Now USCIS has restored premium processing for all H-1B petitions.

It is not clear whether the agency will continue premium processing for all H-1B petitions once H-1B cap petitions are filed in the first week of April. It is possible that USCIS could discontinue premium processing again for H-1B cap petitions or even other types of petitions.

To request an upgrade to premium processing for pending petitions that have received a Request for Evidence (RFE), petitioners should include their request for premium processing, along with the required fee, when submitting the response to the RFE. The USCIS filing fee for premium processing is \$1,410, which guarantees action on the petition within 15 calendar days of USCIS's receiving the request. If USCIS does not take adjudicative action within the 15-day window, the agency refunds the petitioner's premium processing fee and continues with expedited processing of the petition.

Those who received a transfer notice for a pending H-1B petition and are requesting premium processing service must submit the premium processing request to the service center now handling the petition. They should also include a copy of the transfer notice with the premium processing request to avoid possible delays. If the petition was transferred and the petitioner sends the premium processing request to the wrong center, USCIS will forward it to the petition's current location. However, the premium processing "clock" will not start until the premium processing request has been received at the correct center.

The USCIS notice, which includes additional details about where to send premium processing requests in the event of a transfer, is at <https://www.uscis.gov/news/alerts/uscis-resumes-premium-processing-all-h-1b-petitions>.

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## **USCIS Releases Notes on H-1B Filing Tips and RFEs**

U.S. Citizenship and Immigration Services (USCIS) has released the official minutes from its teleconference on "H-1B Filing Tips and Requests for Evidence (RFEs)," held March 7, 2019.

Among other things, USCIS discussed five common reasons for RFEs on H-1B petitions:

1. Evidence demonstrating that the offered position qualifies as a specialty occupation;
2. Whether the labor condition application properly corresponds to the proffered position in the petition;
3. Evidence of the employer-employee relationship and qualifying work;
4. Evidence of the beneficiary's qualifications; and
5. Itineraries.

The minutes are at [https://www.uscis.gov/sites/default/files/files/nativedocuments/H-1B\\_Filing\\_Tips\\_and\\_Understanding\\_Requests\\_for\\_Evidence\\_RFEs.pdf](https://www.uscis.gov/sites/default/files/files/nativedocuments/H-1B_Filing_Tips_and_Understanding_Requests_for_Evidence_RFEs.pdf).

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## **Europe to Require Authorization of U.S. Travelers, Not Visas, for Short-Term Travel**

Recent news reports erroneously stated that starting in 2021, U.S. citizens traveling to Europe will need visas. In fact, pre-travel automated screening and authorization, but not visas, will be required to check for "security and migration risks" for those benefiting from visa-free access to Schengen area countries, according to the European Commission (EC). The "European Travel Information and Authorisation System" (ETIAS) will cross-check visa-exempt travelers, including those from the United States, against European information systems for borders, security, and migration. The automated check is expected to take "minutes" in most cases. The application fee is expected to be about \$8.

An EC fact sheet states that an ETIAS travel authorization does not reintroduce visa-like obligations. There is no need to go to a consulate to make an application, no biometric data are collected, and significantly less information is gathered than during a visa application procedure. As a general rule, a Schengen visa procedure can take up to 15 days, and can in some cases be extended up to 30 or 60 days, but the online ETIAS application "only takes a few minutes to fill in. The validity will be for a period of three years, significantly longer than the validity of a Schengen visa. An ETIAS authorisation will be valid for an unlimited number of entries," the EC states. U.S. travelers staying in Europe for more than 90 days must have a visa.

The Schengen area includes 26 of the 28 European Union (EU) countries, and a few non-EU countries. A list of countries in the Schengen area is at [https://europa.eu/european-union/about-eu/countries\\_en?country=BE#members-of-the-schengen-border-free-area](https://europa.eu/european-union/about-eu/countries_en?country=BE#members-of-the-schengen-border-free-area). The European Commission's statement is at [http://europa.eu/rapid/press-release\\_STATEMENT-18-3527\\_en.htm](http://europa.eu/rapid/press-release_STATEMENT-18-3527_en.htm). Additional details are at [http://europa.eu/rapid/press-release\\_MEMO-18-4362\\_en.htm](http://europa.eu/rapid/press-release_MEMO-18-4362_en.htm).

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## **SSA Announces New Travel and Border Crossing Records System**

The Social Security Administration (SSA) has announced a new "Travel and Border Crossing Records" system. The new system will collect information about applicants, beneficiaries, and recipients under Titles II, XVI, and XVIII who have had absences from the United States.

The SSA noted that currently, the agency relies on individuals to self-report their foreign travel. Often, the SSA said, it does not receive these reports or receives them untimely, which results in improper payments. For example, the SSA noted, in general, it suspends Title II benefits to aliens who remain outside of the United States for more than six consecutive calendar months. It generally suspends Title II benefits to both U.S. citizens and non-U.S. citizens who travel to a country where payment is restricted by the United States. Additionally, the SSA suspends Title XVI payments to both citizen and noncitizen recipients who are outside of the United States for a full calendar month or 30 consecutive days or longer. With regard to Title XVIII, the SSA plans to collect this information to make decisions on Medicare entitlement claims and to make determinations on physical presence in the United States.

The SSA notice is at <https://www.govinfo.gov/content/pkg/FR-2019-03-13/pdf/2019-04583.pdf>.

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## **TPS Designation Extended for South Sudan**

Secretary of Homeland Security Kirstjen M. Nielsen announced on March 8, 2019, the extension of the temporary protected status (TPS) designation for South Sudan for an additional 18 months due to the ongoing armed conflict and "extraordinary and temporary conditions" that support the extension.

There are 84 South Sudan TPS beneficiaries, according to Secretary Nielsen. This 18-month extension of South Sudan's designation for TPS permits current beneficiaries under South Sudan's TPS designation to re-register for TPS and remain in the United States with work authorization through November 2, 2020. (The last day of the most recent previous extension is May 2, 2019.) To be eligible for TPS under South Sudan's current designation, along with meeting the other eligibility requirements, individuals must have continuously resided in the United States since January 25, 2016, and have been continuously physically present in the United States since May 3, 2016.

Secretary Nielsen's statement is at <https://www.dhs.gov/news/2019/03/08/secretary-homeland-security-kirstjen-m-nielsen-announcement-temporary-protected>. Additional details and official re-registration information will be posted at <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-south-sudan>.

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## New Publications and Items of Interest

[New research shows no impact of foreign students in OPT and STEM OPT on job opportunities for U.S. workers.](#) New research by Madeline Zavodny, a former Federal Reserve Bank economist, finds no evidence that foreign students participating in Optional Practical Training (OPT) reduce job opportunities for U.S. workers, according to a new report released by the National Foundation for American Policy (NFAP). Instead, the evidence suggests that U.S. employers are more likely to turn to foreign student workers when U.S. workers are scarcer. The study used nine years of data on foreign students with science, technology, engineering and math (STEM) majors. The analysis shows that unemployment rates are lower in areas with larger numbers of foreign students doing OPT as a share of workers in STEM occupations. The report is at <https://nfap.com/wp-content/uploads/2019/03/International-Students-STEM-OPT-And-The-US-STEM-Workforce.NFAP-Policy-Brief.March-2019.pdf>.

[E-Verify webinars.](#) E-Verify recently made the following announcement: "E-Verify has resumed operations. Given that E-Verify was unavailable for over a month, we ask for your patience as we reinstate the service." Information is available at <https://www.e-verify.gov/about-e-verify/e-verify-webinars>. The March 2019 E-Verify webinar calendar is at [https://www.e-verify.gov/calendar-field\\_date\\_and\\_time/month/201903](https://www.e-verify.gov/calendar-field_date_and_time/month/201903). For more on E-Verify, see <https://www.e-verify.gov/>.

[Alliance of Business Immigration Lawyers:](#)

- The latest immigration news is at <http://www.abil.com/news.cfm>.
- The latest published media releases include:
  - ABIL Says Proposed Change to Public Charge Rule Would Exclude Immigrants from Government Programs:  
[https://www.prweb.com/releases/abil\\_says\\_proposed\\_change\\_to\\_public\\_charge\\_rule\\_would\\_exclude\\_immigrants\\_from\\_government\\_programs/prweb15737932.htm](https://www.prweb.com/releases/abil_says_proposed_change_to_public_charge_rule_would_exclude_immigrants_from_government_programs/prweb15737932.htm)
  - New Data Show Increase in H-1B Denials and RFEs:  
[https://www.prweb.com/releases/new\\_data\\_show\\_increase\\_in\\_h\\_1b\\_denials\\_and\\_rfes/prweb15673632.htm](https://www.prweb.com/releases/new_data_show_increase_in_h_1b_denials_and_rfes/prweb15673632.htm)
  - ABIL Urges Administration to Change "Buy American and Hire American" Executive Order: <http://www.prweb.com/releases/2018/05/prweb15485457.htm>
  - ABIL Member Kuck Baxter Immigration Commercial Nominated for an Emmy:  
<http://www.prweb.com/releases/2018/05/prweb15485460.htm>
  - ABIL Members Note Immigration Threats for Employers in 2018:  
<http://www.prweb.com/releases/2018/03/prweb15261255.htm>
- ABIL is available on Twitter: [@ABILImmigration](#).
- Recent ABIL member blogs are at <http://www.abilblog.com/>.

Organizations seeking non-lawyer and lawyer volunteers. Cornell Law School has compiled a list of organizations seeking non-lawyer and lawyer volunteers to help migrants in U.S. detention and deportation proceedings. The list, which is updated on an ongoing basis, is at <http://www.lawschool.cornell.edu/MigrationandHumanRightsProgram/Organizations-seeking-non-lawyer-and-lawyer-volunteers.cfm>.

Nation of immigrants. Podcasts on U.S. immigration history and what it means to be an immigrant in America:

- Statutes of Liberty: <http://bit.ly/2thMM9O> (new episodes: A Prescription for Success: EB-1 for Physicians, <https://bit.ly/2J7oSjV>; The Best, Brightest, and Backlogged, discusses the backlog, who it affects, how to read the Visa Bulletin, and strategies for EB-1 visas, <https://bit.ly/2E6vamz>)
- Code Switch Podcast: What Does It Mean To Be A 'Nation of Immigrants'? : <http://n.pr/2FeWWg4>
- Hidden Brain: The Huddled Masses and the Myth of America: <http://n.pr/2Fbo9kC>
- American Pendulum I: <http://bit.ly/2FbYKY3>

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](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>.

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## ABIL Member/Firm News

**Dagmar Butte** (bio: <http://www.abil.com/lawyers/lawyers-butte.cfm?c=US>) will be speaking at the following events:

- AILA Rome Chapter Conference in Berlin, Germany, on April 30, 2019, on the effect of marijuana legalization at the state level on federal immigration law
- Federal Bar Association National Conference in Austin, Texas, on May 17, 2019, on "Fundamentals of Business Immigration Law"
- American Immigration Lawyers Association Annual Conference in Orlando, Florida, on June 19, 2019, on "Changes to Immigration Law Via Trump Administration Memos"
- Chair of Business Track for AILA Annual Conference in Orlando (see above)

**Robert Loughran** (bio: <http://www.abil.com/lawyers/lawyers-loughran.cfm>), partner at **Foster LLP**, recently spoke on a panel in Austin, Texas, at the South by Southwest (SXSW) Conference. "How Foreign Entrepreneurs Thrive in Trump's America: It's (Not So) Complicated" focused on the immigration, corporate, and financial/tax implications foreign entrepreneurs face when setting up a business in Texas and the United States in light of the Trump administration's new immigration policies. For more information, see

<https://schedule.sxsw.com/2019/events/OE39188>.

**Mr. Loughran** and **Matthew Myers** presented on U.S. immigration considerations specific to Japanese investors, companies, and employees, to representatives of 19 Japanese companies visiting San Antonio, Texas, as part of an economic development delegation at a dinner hosted by the San Antonio Economic Development Foundation. The event took place March 7, 2019.

**Cyrus Mehta** (bio: <http://www.abil.com/lawyers/lawyers-mehta.cfm>) has authored several new blog entries. "The Best Way for Trump to Offer 'Love and Sympathy' is to Repeal the Muslim Ban" is at <http://blog.cyrusmehta.com/2019/03/the-best-way-for-trump-to-offer-love-and-sympathy-is-to-repeal-the-muslim-ban.html>. "Advancing a 'Social Group Plus' Claim After Matter of A-B-" is at <http://blog.cyrusmehta.com/2019/03/advancing-a-social-group-plus-claim-after-matter-of-a-b.html>. "Trump Administration Imposes Another Unnecessary Obstacle: USCIS to Issue New Version of Form I-539 and New I-539A on March 8" is at <https://bit.ly/2EXM97Y>.

**Angelo Paparelli** (bio: <http://www.abil.com/lawyers/lawyers-paparelli.cfm>) has authored a new blog entry. "'Sue the miscreants!'—Challenging Unjust Work-Visa and Green-Card Denials with Flood-the-Zone and Head-Fake Immigration Strategies" is at <https://bit.ly/2O32gW3>.

**Stephen Yale-Loehr** (bio: <http://www.abil.com/lawyers/lawyers-loehr.cfm?c=US>) was quoted by the *New York Times* in "Ninth Circuit Appeals Court Grants More Protections for Asylum Seekers." In response to the court's decision that immigration authorities can no longer swiftly remove asylum seekers who fail an initial screening, Mr. Yale-Loehr said, "This is a historic decision. But the government will surely appeal this to the Supreme Court." The article is at <https://www.nytimes.com/2019/03/07/us/asylum-seekers-ninth-circuit.html>.

**Mr. Yale-Loehr** was quoted by *CNN* in "Meet the Immigrant Who Got a Second Chance from Justice Neil Gorsuch." The article notes that Justice Gorsuch sided with the Supreme Court's liberals in invalidating a provision of federal law that requires the mandatory removal of immigrants who have been convicted of some "crimes of violence," agreeing that the law was unconstitutionally vague. Mr. Yale-Loehr noted that Justice Gorsuch's vote did not necessarily make him pro-immigrant in every case, as evidenced by some of his other opinions. "But like his predecessor, Justice Scalia, he hates vague laws. This case shows that Congress needs to be more careful when it drafts immigration laws," Mr. Yale-Loehr said. The article is at <https://edition.cnn.com/2019/03/05/politics/james-dimaya-justice-neil-gorsuch/>.

**Mr. Yale-Loehr** was quoted by *Bisnow South Florida* in "EB-5 Fund USIF Sued for Racketeering by Representative of Chinese Investors." The U.S. Immigration Fund bundles foreign money to be loaned to developers for U.S. based projects. The Chicago-based Chinese-American researcher who filed the suit, Xuejun Makhsous, also known as Zoe Ma, alleges that Chinese investors were led to believe that they were backing a five-year loan with a real estate development as collateral, but they were actually purchasing limited partnership interests in a fund not secured by real estate. "It's an interesting but novel argument. It remains for the court to decide whether it has validity." The article is at <https://www.bisnow.com/south-florida/news/capital-markets/qiaowai-usif-zoe-ma-rico-97607>.

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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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## 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 370 member lawyers and their more than 800 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' website is at <http://www.abil.com/>. ABIL is also on Twitter: [@ABILImmigration](#).*

### **Disclaimer/Reminder**

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