CYRUS D. MEHTA & PARTNERS PLLC
US IMMIGRATION & NATIONALITY LAW

APRIL 2018 IMMIGRATION UPDATE

Posted on April 4, 2018 by Cyrus Mehta

Headlines:

1. USCIS To Begin Accepting FY 2019 H-1B Cap-Subject Petitions April 2, Suspends Premium Processing – Starting April 2, 2018, USCIS will begin accepting H-1B petitions subject to the FY 2019 cap. USCIS said it will temporarily suspend premium processing for all FY 2019 cap-subject petitions, including petitions seeking an exemption for individuals with a U.S. master's degree or higher, until September 10, 2018. During this time, the agency will continue to accept premium processing requests for H-1B petitions that are not subject to the FY 2019 cap.
2. Firm Releases H-1B Tips for Employers – Firm recommends potential ways for employers to maximize their H-1B chances.
3. Omnibus Spending Bill Includes Immigration Provisions – A $1.3 trillion omnibus spending bill signed by President Donald Trump on March 23, 2018, increases overall funding for various aspects of federal immigration enforcement. Notably, the bill does not include any provisions for addressing the "Dreamers," beneficiaries of the Deferred Action for Childhood Arrivals program.
4. State Dept. Seeks to Add Social Media Questions to Visa Application Forms – The Department is seeking OMB approval to revise the immigrant and nonimmigrant visa applications to add several new questions. One question would require all visa applicants to list which social media platforms they used during the five years preceding the date of application.
5. USCIS Completes Random Selection for H-2B Cap for Second Half of FY 2018 – The agency recently received approximately 2,700 H-2B cap-subject petitions requesting approximately 47,000 workers. This was more than the number of H-2B visas available. As a result, USCIS conducted a

lottery to randomly select enough petitions to meet the cap.

6. USCIS and CBP to Implement Form I-129 Pilot Program for Canadian L-1 Nonimmigrants – The two agencies will start a pilot program from April 30, 2018, to October 31, 2018, at Blaine, Washington, for Canadian citizens seeking L-1 nonimmigrant status under the North American Free Trade Agreement.
7. USCIS To Begin Accepting CW-1 Petitions for FY 2019 – On April 2, 2018, USCIS will begin accepting petitions under the CNMI-Only Transitional Worker program subject to the FY 2019 cap.
8. USCIS Clarifies 'One-in-Three' Foreign Employment Requirement for Multinational Managers/Executives – *Matter of S-P-* clarifies that a beneficiary who worked abroad for a qualifying multinational organization for at least one year, but left its employ for a period of more than two years after being admitted to the United States as a nonimmigrant, does not satisfy the "one-in-three" foreign employment requirement for immigrant classification as a multinational manager or executive.
9. OIG Says USCIS Has Unclear Website Info and Unrealistic Time Goals for Adjudicating Green Card Applications – Information that USCIS posts on its website about the time it takes field offices to adjudicate green card applications (processing times) is confusing and "unclear and not helpful" because it does not reflect the actual amount of time it takes field offices, on average, to complete green card applications.
10. DOJ Files Complaint to Denaturalize Diversity Visa Recipient – DOJ recently filed a complaint in the Eastern District of Michigan to revoke the naturalized U.S. citizenship of a diversity visa recipient who allegedly obtained naturalized citizenship after failing to disclose two prior orders of removal.
11. **ICE Announces 'De-Thaw Initiative' to Begin on April 1** – ICE announced a new "De-Thaw Initiative" just in time for spring 2018, to implement the President's recent tweet.
12. ABIL Global: Canada – This article argues that the Global Skills Strategy is a "mini" step in the right direction for Canada.
13. **Firm In The News...**

Details:

USCIS To Begin Accepting FY 2019 H-1B Cap-Subject Petitions April 2, Suspends Premium Processing

Starting April 2, 2018, U.S. Citizenship and Immigration Services (USCIS) will begin accepting H-1B petitions subject to the fiscal year (FY) 2019 cap. USCIS said it will temporarily suspend premium processing for all FY 2019 cap-subject petitions, including petitions seeking an exemption for individuals with a U.S. master's degree or higher, until September 10, 2018. During this time, the agency will continue to accept premium processing requests for H-1B petitions that are not subject to the FY 2019 cap. USCIS said it will notify the public before resuming premium processing for cap-subject H-1B petitions or making any other premium processing updates.

During this temporary suspension, USCIS will reject any Form I-907, Request for Premium Processing Service, filed with an FY 2019 cap-subject H-1B petition. If a petitioner submits one combined check for the fees for Form I-907 and Form I-129, Petition for a Nonimmigrant Worker, USCIS will reject both forms. When the agency resumes premium processing, petitioners may file a Form I-907 for FY 2019 cap-subject H-1B petitions that remain pending.

While premium processing is suspended, a petitioner may submit a request to expedite an FY 2019 cap-subject H-1B petition if it meets certain "expedite criteria":

- Severe financial loss to company or person
- Emergency situation
- Humanitarian reasons
- Nonprofit organization whose request furthers U.S. cultural and social interests
- Department of Defense or national interest situation (such expedite requests must come from an official U.S. government entity and state that delay will be detrimental to the government)
- USCIS error
- Compelling interest of USCIS

USCIS encourages petitioners to submit documentary evidence to support their expedite requests. "We review all expedite requests on a case-by-case basis and will grant requests at the discretion of USCIS office leadership," the agency said.

USCIS said the temporary suspension will help it reduce overall H-1B processing times. By temporarily suspending premium processing, USCIS will be able to process long-pending petitions, "which we have currently been unable to process due to the high volume of incoming petitions and the significant surge in premium processing requests over the past few years," and to prioritize adjudication of H-1B extension-of-status cases that are nearing the 240-day mark.

The announcement is at https://bit.ly/2HS69c5. The expedite criteria are at https://www.uscis.gov/forms/expedite-criteria. Additional information on the latter is in the USCIS Policy Manual at https://www.uscis.gov/policymanual/HTML/PolicyManual-Volume1-PartA-Chapter12.html.

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Firm Releases H-1B Tips for Employers

The Firm has issued a press release recommending the following ways for employers to maximize their H-1B chances:

- Apply based on a master's degree from a U.S. nonprofit university as long as all degree requirements were completed before April 1
- Ensure a close match between the course of study and job duties
- Apply concurrently for optional practical training (OPT) or STEM OPT and H-1B
- Apply for "consular notification," not change of status, to preserve OPT if OPT lasts beyond October 1
- Apply for "change of status" if OPT expires before October 1 to preserve work eligibility under "cap gap" policy, but avoid travel
- Choose O*NET code and wage level carefully
- If more than one field of study could qualify a person for the position, explain task by task how the position requires the education
- Be careful of Level 1 wages. Instead, obtain an acceptable prevailing wage from a legitimate source other than the Department of Labor, offer to pay a higher wage from the outset, or explain why this particular job is both entry level and qualifies as a "specialty occupation"
- Consider other visa options if your employee is not selected in the H-1B lottery

- Check USCIS website for changes to form, fee, and filing location

The press release is at
http://cyrusmehta.com/perseus/blog/2018/03/30/h-1b-tips-for-employers/

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Omnibus Spending Bill Includes Immigration Provisions

A $1.3 trillion omnibus spending bill signed by President Donald Trump on March 23, 2018, keeps the federal government in operation through September 30, 2018, and increases overall funding for various aspects of federal immigration enforcement, among other things. Notably, the bill does not include any provisions for addressing the "Dreamers," beneficiaries of the Deferred Action for Childhood Arrivals program that President Trump discontinued.

Highlights of the bill's immigration provisions include:

- Appropriations for U.S. Customs and Border Protection ($14 billion, which represents an approximately 13 percent increase over the previous fiscal year)
- Appropriations for U.S. Immigration and Customs Enforcement ($7.1 billion, which represents an approximately 10 percent increase over the previous fiscal year)
- Appropriations for U.S. Citizenship and Immigration Services ($132 million, which represents an approximately 8 percent increase over the previous fiscal year)
- A requirement for the Department of Homeland Security (DHS) to report to Congress on visa overstay rates by country for fiscal year 2017
- A requirement for the DHS to publish metrics to measure the effectiveness of security between ports of entry, including methodology and data supporting the resulting measures
- A prohibition on DHS's establishing any new border fee for individuals crossing the southern or northern U.S. border at a land port of entry
- Funding for border wall construction and improvements ($1.5 billion, with restrictions; the Trump administration had asked for $25 billion)
- "Flexibility" for employers bringing into the United States H-2B nonimmigrants in the seafood industry (an employer may bring in nonimmigrants described in the petition into the United States at any time

during the 120-day period beginning on the start date for which the employer is seeking the services of the nonimmigrants, without filing another petition)
- A provision defining the H-2B prevailing wage as the greater of (1) the actual wage level paid by the employer to other employees with similar experience and qualifications for the same position in the same location or (2) the prevailing wage level for the occupational classification of the position in the geographic area in which the H-2B nonimmigrant will be employed, based on the best information available at the time of filing the petition
- Inadmissibility for corrupt foreign officials
- Lautenberg Amendment extension, through September 30, 2018
- Visa restrictions for certain Cambodian government officials
- Four programs—EB-5, Conrad 30, religious workers, and E-Verify—extended until September 30, 2018
- H-2B returning workers provision

The full text of the bill (Pub. L. No. 115–141, Mar. 23, 2018, 132 Stat. 348) is at http://docs.house.gov/billsthisweek/20180319/BILLS-115SAHR1625-RCP115-66.pdf.

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State Dept. Seeks to Add Social Media Questions to Visa Application Forms

The Department of State is seeking Office of Management and Budget approval to revise the immigrant and nonimmigrant visa applications to add several new questions. One question would require all visa applicants to list which social media platforms they used during the five years preceding the date of application. The Department said it will collect this information from visa applicants for "identity resolution and vetting purposes based on statutory visa eligibility standards."

Other questions seek five years of previously used telephone numbers, email addresses, and international travel; and whether specified family members have been involved in terrorist activities. Additionally, some E-nonimmigrant visa applicants will be asked whether the principal treaty trader was issued a visa. The immigrant visa application will ask for a list of all prior immigration

violations. The nonimmigrant visa application will ask whether the applicant has been deported or removed from any country.

The revised visa application form will include additional information regarding the visa medical examination that some applicants may be required to undergo.

The Department is accepting comments from the public until May 29, 2018. The immigrant OMB submission is at https://bit.ly/2E9Ycg4. The nonimmigrant OMB submission is at https://bit.ly/2E9SIBV.

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USCIS Completes Random Selection for H-2B Cap for Second Half of FY 2018

During the first five business days after February 21, 2018, when U.S. Citizenship and Immigration Services (USCIS) began receiving H-2B cap-subject petitions for the second half of fiscal year 2018, the agency received approximately 2,700 H-2B cap-subject petitions requesting approximately 47,000 workers. This was more than the number of H-2B visas available. As a result, USCIS conducted a lottery to randomly select enough petitions to meet the cap. USCIS said it will reject and return petitions and associated filing fees to petitioners that were not selected, as well as any cap-subject petitions received after February 27.

USCIS noted that in January, the Department of Labor announced a change to its process of issuing labor certifications. As a result, on February 7 USCIS advised of the likely need to conduct an H-2B visa lottery for the second half of FY 2018. As was noted in February, USCIS said it would maintain a flexible approach to this issue by ensuring that H-2B visas were allocated fairly and would not exceed the cap.

USCIS said it continues to accept H-2B petitions that are exempt from, or not counted toward, the congressionally mandated cap. This includes petitions for:

- Current H-2B workers in the United States seeking 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, until December 31, 2019.

USCIS said H-2B petitioners may continue to request premium processing with their H-2B petitions. However, because the final receipt date was one of the first five business days of the filing season, petitions accepted in the lottery will be given a receipt date of March 1, 2018. Premium processing service for these petitions began on that receipt date, USCIS said.

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 and 33,000 for workers who begin employment in the second half of the fiscal year.

The USCIS announcement is at https://bit.ly/2t88QUc. The Department of Labor's notice about a change in the labor certification process is at https://bit.ly/2DTB0SY. USCIS's February 7 announcement is at https://bit.ly/2GYeQ4Z.

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USCIS and CBP to Implement Form I-129 Pilot Program for Canadian L-1 Nonimmigrants

U.S. Citizenship and Immigration Services' (USCIS) California Service Center (CSC) and the U.S. Customs and Border Protection (CBP) port of entry (POE) at Blaine, Washington, will implement a joint agency pilot program from April 30, 2018, to October 31, 2018, for Canadian citizens seeking L-1 nonimmigrant status under the North American Free Trade Agreement (NAFTA). USCIS said the pilot is designed to facilitate the adjudication and admission process for Canadians traveling to the United States as L-1 nonimmigrants.

Department of Homeland Security regulations permit an employer to file an L petition on behalf of a Canadian citizen in conjunction with the Canadian citizen's application for admission to the United States. USCIS said that petitioners choosing to participate in the joint agency pilot program will be asked to:

- Submit Form I-129, Petition for a Nonimmigrant Worker, and supporting evidence to the CSC before the Canadian citizen seeks nonimmigrant L-1 admission to the United States through the Blaine POE; and

- Use a cover sheet annotated with "Canadian L" to ensure quick identification of the I-129 and for any correspondence thereafter, such as a response to a request for evidence (RFE).

A petitioner who chooses not to participate in the pilot program may continue to file its L-1 petition on behalf of a Canadian citizen with CBP at the Blaine POE. In such a case, CBP will accept the petition but will adjudicate it at the next Class A POE.

For those who choose to participate in the pilot program, USCIS will receive fees, issue a Form I-797C receipt notice, and adjudicate the I-129. If USCIS needs additional evidence, the agency will send a request for evidence (RFE) to the petitioner.

CBP will continue to make the final determination on whether a Canadian L-1 applicant is admissible to the United States. Applicants participating in the pilot and seeking an immediate determination of admissibility must bring a copy of the petition approval notice for the I-129 when seeking admission to the United States at the Blaine POE, USCIS said.

If the petitioner chooses to send the applicant to the Blaine POE **before** USCIS makes a decision on the I-129, there may be delays while USCIS remotely adjudicates the form. USCIS said that in such a case, the applicant must bring a copy of the petition receipt notice for the I-129 and await adjudication of the I-129.

If a petitioner chooses not to file the I-129 in advance with USCIS, the filing may continue to be made with CBP at the Blaine POE, but CBP will adjudicate it during the pilot at the nearest Class A POE. The beneficiary may apply for admission at any designated Class A CBP POE optimized for processing L-1 petitions for Canadian citizen beneficiaries. Accordingly, petitioners can still choose to have CBP adjudicate their petitions at the time an applicant appears at any CBP-designated Class A POE or pre-clearance airport (PC). The three optimized stations nearest to Blaine are Class A POEs Point Roberts, Washington, and Sumas, Washington, and the Vancouver, Washington, PC.

CBP and USCIS "strongly encourage petitioners participating in the L-1 pilot program to file L-1 nonimmigrant petitions with USCIS as far in advance of travel as possible." USCIS said the L-1 nonimmigrant pilot program for Canadian citizens will allow both agencies to determine the efficiency of the

program's procedures, identify shortcomings, and develop operational improvements. During the six-month pilot, stakeholders may communicate and provide feedback to USCIS through USCIS-IGAOutreach@uscis.dhs.gov. Once the pilot is complete, USCIS will seek feedback from stakeholders before considering extending the program concept to other POEs, the agency said.

Under existing law, a Canadian citizen may apply for admission as an L-1 nonimmigrant by presenting a petitioning employer's Form I-129 to an immigration officer at a Class A port of entry or pre-clearance airport. Alternatively, an L-1 petitioner may choose to file a Form I-129 for a Canadian citizen with USCIS, seeking to classify the individual as eligible for L-1 nonimmigrant status. If the petitioner chooses to file its petition with USCIS and USCIS approves the I-129, the qualifying Canadian citizen may then apply at a POE for admission to the United States in L-1 status.

The USCIS announcement is at https://bit.ly/2GZw2Hp.

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USCIS To Begin Accepting CW-1 Petitions for FY 2019

On April 2, 2018, U.S. Citizenship and Immigration Services (USCIS) will begin accepting petitions under the Commonwealth of the Northern Mariana Islands (CNMI)-Only Transitional Worker (CW-1) program subject to the fiscal year (FY) 2019 cap. Employers in the CNMI use the CW-1 program to employ foreign workers who are ineligible for other nonimmigrant worker categories. The cap for CW-1 visas for FY 2019 is 4,999.

For the FY 2019 cap, USCIS encourages employers to file a petition for a CW-1 nonimmigrant worker up to six months before the proposed start date of employment and as early as possible within that time frame. USCIS said it will reject a petition if it is filed more than six months in advance. An extension petition may request a start date of October 1, 2018, even if that worker's current status will not expire by that date.

Since USCIS expects to receive more petitions than the number of CW-1 visas available for FY 2019, the agency may conduct a lottery to randomly select petitions and associated beneficiaries so the cap is not exceeded. "The lottery would give employers the fairest opportunity to request workers, particularly with the possibility of mail delays from the CNMI," USCIS said.

USCIS will count the total number of beneficiaries in the petitions received after 10 business days to determine if a lottery is needed. If the cap is met after those initial 10 days, a lottery may still need to be conducted with only the petitions received on the last day before the cap was met. USCIS said it will announce when the cap is met and whether a lottery has been conducted.

Employers must submit the most recent version of Form I-129CW, Petition for a CNMI-Only Nonimmigrant Transitional Worker, along with a $200 mandatory CNMI education funding fee and a $460 filing fee for each CW-1 petition. USCIS said it will reject any petition that includes an incorrect or insufficient fee payment.

The USCIS announcement is at https://bit.ly/2FWhT0C.

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USCIS Clarifies 'One-in-Three' Foreign Employment Requirement for Multinational Managers/Executives

U.S. Citizenship and Immigration Services (USCIS) has designated *Matter of S-P, Inc.*, as an Adopted Decision. The adopted decision "establishes policy guidance that applies to and shall be used to guide determinations by all employees. USCIS personnel are directed to follow the reasoning in this decision in similar cases," the agency said.

Matter of S-P- clarifies that a beneficiary who worked abroad for a qualifying multinational organization for at least one year, but left its employ for a period of more than two years after being admitted to the United States as a nonimmigrant, does not satisfy the "one-in-three" foreign employment requirement for immigrant classification as a multinational manager or executive. "To cure the interruption in employment, such a beneficiary would need an additional year of qualifying employment abroad before he or she could once again qualify," USCIS said.

In *Matter of S-P-*, the Administrative Appeals Office (AAO) agreed with the petitioner that a period of employment with a different U.S. employer would not automatically disqualify a beneficiary. However, "a break in qualifying employment longer than two years will interrupt a beneficiary's continuity of employment with the petitioner's multinational organization. Such breaks may include, but are not limited to, intervening employment with a nonqualifying

U.S. employer or periods of stay in a nonimmigrant status without work authorization," the AAO said.

The memorandum, issued March 19, 2018, includes the decision and is at https://bit.ly/2uehMI4.

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OIG Says USCIS Has Unclear Website Info and Unrealistic Time Goals for Adjudicating Green Card Applications

U.S. Citizenship and Immigration Services' (USCIS) Office of Inspector General (OIG) recently found that information USCIS posts on its website about the time it takes field offices to adjudicate green card applications (processing times) is confusing and "unclear and not helpful" because it does not reflect the actual amount of time it takes field offices, on average, to complete green card applications.

In addition, the OIG noted that the actual average time it takes USCIS to process green card applications has lengthened. USCIS's goal is to adjudicate applications within 120 days, but since fiscal year 2011, the OIG said, the overall average number of days has risen to twice the goal. The OIG said it believes the time goal is "unrealistic."

The OIG recommended that USCIS present information on the USCIS website that is more accurate, and reassess the current time goal of 120 days to determine whether it is reasonable and realistic, increasing the time frame if necessary. USCIS concurred with both recommendations.

The report is at https://www.oig.dhs.gov/sites/default/files/assets/2018-03/OIG-18-58-Mar18.pdf.

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DOJ Files Complaint to Denaturalize Diversity Visa Recipient

The Department of Justice (DOJ) recently filed a complaint in the Eastern District of Michigan to revoke the U.S. citizenship of a diversity visa (DV) recipient who allegedly obtained naturalized citizenship after failing to disclose two prior orders of removal. The case against Humayun Kabir Rahman was referred to

DOJ by U.S. Citizenship and Immigration Services (USCIS).

The complaint alleges that Mr. Rahman arrived in the United States in February 1992 at John F. Kennedy International Airport, claiming his true name was Ganu Miah while in possession of a passport that did not belong to him. He was paroled into the United States to seek asylum, and his application was referred to an immigration court, where an immigration judge ordered him removed in 1998. In 1994, while Ganu Miah's proceeding was underway, Mr. Rahman sought asylum under a different name, Shafi Uddin. That application was also referred to the immigration court, and he was ordered to be removed in 1997. Later in 1997, using a third identity, Humayun Kabir Talukder, Mr. Rahman applied for and received an immigrant visa through the diversity visa program, claiming he had entered the United States by car from Canada. In 2004, he was naturalized as a U.S. citizen. Throughout his immigration and naturalization proceedings, Mr. Rahman concealed that he had twice been ordered removed and lied about his identity and immigration history under oath. Mr. Rahman also was never lawfully admitted to the permanent resident status upon which he naturalized, USCIS said.

The case was investigated by USCIS and the Civil Division's Office of Immigration Litigation (OIL). The case is being prosecuted by OIL's National Security and Affirmative Litigation Unit, with support from USCIS Office of the Chief Counsel, Central Law Division.

The USCIS announcement about this case is at https://bit.ly/2IQoxDl. The announcement includes a link to a report by the Department of Homeland Security's Office of Inspector General (OIG) noting that potentially ineligible individuals have been granted U.S. citizenship because of incomplete fingerprint records. The OIG report is at https://bit.ly/2INqKzv. The complaint is at https://www.justice.gov/opa/press-release/file/1035226/download.

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ICE Announces 'De-Thaw Initiative' to Begin on April 1

U.S. Immigration and Customs Enforcement (ICE) announced a new "De-Thaw Initiative" just in time for spring 2018, to implement the President's recent tweet: "Contrary to what's been reported in the Fake News Media, I call for Doing Everything With Love! All of my previous tweets have been Misconstrued & taken out of Context. If people would pay attention, they would Learn. Sad!"

Under De-Thaw, ICE plans to:

- **D**e-deport those recently deported;
- **E**ncourage them to return;
- **T**ake in more refugees and asylees;
- **H**umanely treat family members;
- **A**lways treat people with courtesy and respect; and
- **W**ish the world could be a kinder place.

ICE spokesperson Gloomy Gus said the agency got the idea from all the snow falling along the East Coast as spring begins, when thawing would normally be expected. "Since our administration is unexpected in so many ways, we decided to celebrate spring by doing something that's not on the schedule, shaking things up a bit and surprising all the liberal snowflakes," he said. Mr. Gus added, "Happy April Fool's Day!"

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ABIL Global: Canada

This article argues that the Global Skills Strategy is a "mini" step in the right direction for Canada.

On June 12, 2017, Immigration, Refugees and Citizenship Canada (IRCC) announced details of the Global Skills Strategy (GSS). The GSS is intended to help promote global investment in Canada and support the Government of Canada's Innovation and Skills Plan, opening Canada's doors a little wider for the business community. The GSS includes several new options and avenues for bringing workers into Canada. This article focuses on the work permit exemptions for highly skilled, short-term workers and researchers—a much heralded "quick and easy" route for those who qualify.

The GSS has provided exemptions from the need to obtain work permits under two new categories. An exemption was established for highly skilled (all NOC 0 and NOC A) workers. Those eligible will now be allowed one 15-day work permit-exempt stay in Canada every 6 months, or one 30-day work permit-exempt stay every 12 months. The exemption also applies to researchers coming to Canada; they are now allowed one 120-day stay every 12 months without requiring a work permit when they are working on a research project at a publicly funded degree-granting institution or affiliated research institution.

While these exemptions (particularly the short-term entry for highly skilled workers) have been welcomed by the Canadian business community and allow businesses to bring in consultants and other advisory and technical personnel much more easily, they are not free passes. First, the limits on how much time the workers can spend here are short, and there is no way to extend or break up the time differently. The exemption is limited to one 15-day visit every 6 months, or one 30-day visit per 12 months. Second, it's not clear that a Canadian business wishing to employ the worker would know if the exemption was applicable. A Canadian business may wish to bring in a worker under the exemption, but if the foreign worker has already used the exemption for another Canadian business, or doesn't know under which category he or she entered Canada on a previous visit, then the Canadian business could be out of luck or worse. The worker could be refused entry because the exemption has already been used. In addition, many of the workers Canadian businesses seek to bring in are classified under NOC B and do not qualify for the exemption. Some examples are all "technical" roles in science, engineering, and technology; athletes and coaches; and sales personnel in insurance, real estate, and financial markets. Bottom line: the exemption does not apply to many valuable workers.

One other limitation is that although workers can exit and re-enter within the prescribed time frame (15 or 30 consecutive days) of work under the exemption, the authorized work period begins on the date the exemption is granted and is counted consecutively regardless of whether the person is actually working in Canada.

So, while corporate Canada applauds the Canadian government for its efforts to get out of the way of businesses trying to bring in very temporary workers, many are still complaining that the exemption is not broad enough or that it is unwieldy for Canadian businesses to track prior usage of the exemption. Authorized stays are short and Canadian businesses do not have access to information about whether a proposed temporary worker has already "used up" the exemption. As a result, Canadian businesses may find that it's better to be safe than sorry and continue to apply for a work permit for any visiting worker.

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Firm In The News...

Cyrus Mehta was quoted by the *Times of India* in "U.S. Lawmaker Tries to Stop Offshoring to Call Centres." Mr. Mehta said, "Although the Bill promotes call centre jobs in the U.S., it will pass on the costs to the U.S. consumer ultimately and so Americans will not overall benefit. It also remains to be seen whether call centre operations in the U.S. can function as efficiently and on a 24x7 basis like they do in India. Are there enough American call centre workers in a nearly full employment economy?" The article is at https://bit.ly/2GnAvWv.

Mr. Mehta recently spoke at the following conferences:

- "The Secret of My Success: Current Trends in L Visa Processing," American Immigration Lawyers Association (AILA) South Florida 39th Annual Immigration Law Update; Miami, Florida; March 23, 2018·
- "Ethics—"Representing Multiple Parties and How to Say Goodbye," 2018 CLE Conference; AILA Philadelphia Chapter; Philadelphia, Pennsylvania; March 16, 2018

Mr. Mehta has co-authored a new blog entry with Eleyteria Diakopoulos. “Fearlessly Challenging H-1B Visa Denials Through Litigation” is at http://blog.cyrusmehta.com/2018/03/fearlessly-challenging-h-1b-visa-denials-through-litigation.html.

Mr. Mehta has co-authored a new blog entry with **Sophia Genovese**. "Making the Law Up As He Goes: Sessions Refers Another Case to Himself This Time on Motions for Continuance" is at https://bit.ly/2pVAD5m.

Ms. Genovese has authored a new blog entry. "Sessions Likely to End Asylum Eligibility for Victims of Domestic Violence: How Courts Can Resist" is at https://bit.ly/2I3tmrT.

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