



IMMIGRATION UPDATE - AUGUST 07, 2023

Posted on August 7, 2023 by Cyrus Mehta

Headlines:

[Second Random Selection Complete for FY 2024 H-1B Cap](#) – U.S. Citizenship and Immigration Services has completed the second random selection process from previously submitted registrations for the fiscal year 2024 H-1B cap.

[Justice Dept. Settles With Miami Manufacturing Group on Immigration-Related Discrimination Claims](#) – Under the terms of the settlement, Mr. Glass Group will pay \$120,000 in civil penalties.

[Labor Dept. Publishes Round 6 FAQs on Labor Contractors Under 2022 H-2A Final Rule](#) – The topic for the Round 6 FAQs is "H-2A Labor Contractors."

[USCIS Changes Receipt Process for L-1 Nonimmigrant Intracompany Transferees Under Previously Approved Blanket L Petition](#) – U.S. Citizenship and Immigration Services announced changes to how the agency issues receipts for L-1 nonimmigrant intracompany transferees (executives, managers, or specialized knowledge professionals) under a previously approved blanket L petition.

[USCIS Issues New Guidance for Stateless Noncitizens](#) – The Department of Homeland Security, through U.S. Citizenship and Immigration Services (USCIS), has issued new guidance to assist stateless noncitizens in the United States who wish to obtain immigration benefits or have submitted other requests to USCIS.

[ABIL Global: Hong Kong](#) – New schemes have been announced for capital investment entrants and top talent.

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Second Random Selection Complete for FY 2024 H-1B Cap

U.S. Citizenship and Immigration Services (USCIS) has completed the second random selection process from previously submitted registrations for the fiscal year (FY) 2024 H-1B cap.

In March 2023, USCIS [conducted](#) an initial random selection. The initial filing period for those with selected registrations for FY 2024 was April 1, 2023, through June 30, 2023. Only petitioners with selected registrations for FY 2024 are eligible to file H-1B cap-subject petitions.

USCIS noted that the period for filing the H-1B cap-subject petition will be at least 90 days and will be indicated on the registration selection notice. Online filing is not available for H-1B petitions, so petitioners filing H-1B petitions must do so by paper, USCIS said. Petitioners must include a printed copy of the applicable registration selection notice with the FY 2024 H-1B cap-subject petition.

Details:

- USCIS alert (July 31, 2023).
<https://www.uscis.gov/newsroom/alerts/second-random-selection-from-previously-submitted-registrations-complete-for-fy-2024-h-1b-cap>
- USCIS alert (July 27, 2023).
<https://www.uscis.gov/newsroom/alerts/uscis-will-conduct-second-random-selection-from-previously-submitted-fy-2024-h-1b-cap-registrations>

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Justice Dept. Settles With Miami Manufacturer on Immigration-Related Discrimination Claims

On August 2, 2023, the Department of Justice (DOJ) announced a settlement agreement with three corporate entities, Mr. Glass Doors and Windows Inc., Mr. Glass Doors and Windows Manufacturing LLC, and Powder Coating Technologies LLC (collectively Mr. Glass Group). The settlement resolves DOJ's determination that Mr. Glass Group violated the Immigration and Nationality Act (INA) by discriminating against non-U.S. citizens when checking their permission to work in the United States.

The DOJ investigation determined that from at least March 1, 2018, to Sept. 16, 2020, Mr. Glass Group routinely required lawful permanent residents to present a specific immigration document when checking their permission to work, based on the employees' citizenship or immigration status. Federal law allows all workers to choose which valid, legally acceptable documents to present to demonstrate their identity and permission to work, regardless of citizenship, immigration status, or national origin. The INA's anti-discrimination provision prohibits employers from asking for specific or unnecessary documents for this purpose, DOJ said.

Under the terms of the settlement, Mr. Glass Group will pay \$120,000 in civil penalties. The agreement also requires Mr. Glass Group to train its personnel on the INA's requirements, revise its employment policies, and be subject to departmental monitoring and reporting requirements.

Details:

- DOJ press release (Aug. 2, 2023).
<https://www.justice.gov/opa/pr/justice-department-secures-agreement-mi-ami-based-manufacturer-resolve-immigration-related>

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Labor Dept. Publishes Round 6 FAQs on Labor Contractors Under 2022 H-2A Final Rule

The Department of Labor's Office of Foreign Labor Certification (OFLC) has issued Round 6 in a series of frequently asked questions (FAQs) on the 2022 H-2A Final Rule (*Temporary Agricultural Employment of H-2A Nonimmigrants in the United States*).

The topic for the Round 6 FAQs is "H-2A Labor Contractors." It provides answers to questions on filing, work contracts with fixed-site agricultural business clients, housing and/or transportation provided by fixed-site agricultural business clients, Farm Labor Contractor—Farm Labor Contractor Employee Certificate(s) of Registration, and surety bonds.

Details:

- OFLC announcement (Aug. 3, 2023).
<https://www.dol.gov/agencies/eta/foreign-labor>

- Round 6: H-2A Labor Contractors, 2022 H-2A Final Rule FAQ (Aug. 3, 2023).
<https://tinyurl.com/czuw8eap>

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USCIS Changes Receipt Process for L-1 Nonimmigrant Intracompany Transferees Under Previously Approved Blanket L Petition

U.S. Citizenship and Immigration Services (USCIS) announced changes to how the agency issues receipts for L-1 nonimmigrant intracompany transferees (executives, managers, or specialized knowledge professionals) under a previously approved blanket L petition.

USCIS said that when filing Form I-129S, Nonimmigrant Petition Based on Blanket L Petition, together with Form I-129, Petition for a Nonimmigrant Worker, the petitioner will now receive two notices: the receipt notice and the approval notice (if approved). Petitioners will no longer receive a stamped and signed Form I-129S in conjunction with the Form I-129 approval. Instead, the petitioner will receive a separate approval notice for the Form I-129S, which serves as the endorsement.

Details:

- USCIS alert (Aug. 3, 2023).
<https://www.uscis.gov/newsroom/alerts/uscis-updates-receipts-process-form-i-129s>

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USCIS Issues New Guidance for Stateless Noncitizens

The Department of Homeland Security (DHS), through U.S. Citizenship and Immigration Services (USCIS), has issued new guidance to assist stateless noncitizens in the United States who wish to obtain immigration benefits or have submitted other requests to USCIS. USCIS defines stateless individuals as "those who are not legally considered a citizen of any country, and therefore may be denied legal identity, and struggle to access education, healthcare, marriage, and job opportunities. Individuals can be born stateless or become stateless because of discrimination, war and conflict, or changing borders and laws." The new guidance "clarifies when and how USCIS may consider a noncitizen stateless for the purpose of adjudicating immigration benefits or

other requests."

USCIS said it will create and implement new procedures to assist USCIS officers when assessing statelessness, to include updating training documents on statelessness, developing more robust training procedures for officers, and setting up standard operating procedures for officers to request an internal assessment of statelessness where it may be relevant to an individual's application or benefit request. The new guidance will include "examples of documentation or evidence that may help USCIS officers determine whether noncitizens may be considered stateless for USCIS purposes," the agency said.

In addition, USCIS said, implementing this update will "enable USCIS to gather more comprehensive and accurate data on this vulnerable group of people. The United Nations High Commissioner for Refugees (UNHCR) estimates there are approximately 218,000 people residing in the United States who are potentially at risk of statelessness."

Details:

- USCIS news release (Aug. 1, 2023).
<https://www.uscis.gov/newsroom/news-releases/dhs-issues-guidance-for-stateless-noncitizens-in-the-united-states>

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ABIL Global: Hong Kong

New schemes have been announced for capital investment entrants and top talent.

Capital Investment Entrant Scheme

The Capital Investment Entrant Scheme (CIES), which had permitted investors to acquire Hong Kong residency by making a passive investment, was suspended by the Hong Kong Special Administrative Region (HKSAR) government in 2015. Before the suspension, the latest version of the CIES in 2010 had removed investing in real estate as a qualifying investment but permitted an applicant who invested HKD 10 million (about USD 1.25M) in authorized financial products in Hong Kong to qualify for residency. This version of the CIES was then suspended on January 15, 2015, but the Immigration Department continued to process applications received on or before the suspension date. As of December 31, 2021, formal approval had

been granted to 35,000 applicants to reside in Hong Kong, bringing a total investment amounting to HKD 316.9 billion.

On April 19, 2023, the HKSAR government announced in its 2023/2024 Budget Report that a new CIES will be introduced. The new scheme is expected to generate high demand for financial and related professional services, and to create more employment opportunities in wealth and asset management to facilitate Hong Kong's position as an international wealth and asset management hub. In the new scheme, it is anticipated that new asset categories benefiting the long-term development of Hong Kong in innovation and technology sectors will be included, apart from the traditional financial asset types.

The government is formulating details of the new scheme, which will generally adopt the framework and application criteria of the original CIES, with possible adjustments to the investible areas in Hong Kong, and the new CIES investment threshold will be increased to a multiple of the previous requirement. Apart from financial assets, an applicant will be able to invest in new asset categories benefitting the long-term development of Hong Kong (including the innovation and technology sector), with a view to attracting new capital and talent to Hong Kong, bringing new impetus to the economy and fostering the development of industries in Hong Kong at the same time.

Top Talent Pass Scheme

The Top Talent Pass Scheme (TTPS) was launched on December 28, 2022, to attract highly skilled global talent to enter Hong Kong without employment conditions. Successful applicants can enter Hong Kong for two years without a sponsoring employer and will be permitted to work, change employers, or establish a business in Hong Kong. To extend their stay after the initial two years, the applicant must present documentary evidence that they have secured a professional job and remuneration package at the prevailing market level or joined a business.

To qualify for entry under TTPS, the applicant must meet one of three categories:

Category A: Persons with an annual income of HKD 2.5 million or more or its equivalent in foreign currency in the year preceding the date of application.

Category B: Persons who have obtained a bachelor's degree from one of the

world's top 100 universities and who have at least three years of work experience over the past five years immediately preceding the date of application.

Category C: Persons who have obtained a bachelor's degree from one of the world's top 100 universities within the past five years immediately preceding the date of application but have less than three years of work experience, subject to an annual quota of 10,000 to be allotted on a first-come, first-served basis.

This program was launched to attract talent to Hong Kong and is a key priority for Hong Kong to remain competitive as an international financial center because of the wave of emigration on the heels of the Hong Kong government's COVID-19-related restrictions, which have now been lifted, as well as enactment of the National Security Law.

According to Chief Executive John Lee, more than 100,000 applications have been received so far, with 61,000 approved and 10,000 arrivals, with the latest official figure for the first half of the year to be released soon. The scheme was intended to counteract a "brain drain," which saw a net outflow of 60,000 residents in 2022.

In response to a lawmaker's query, Director of Immigration Au Ka-wang said that nearly 95 percent of applicants for the Top Talent Pass Scheme were from mainland China, with only three percent coming from Canada, Australia, the United States, and Singapore.

Whether the persons with approvals will actually come to Hong Kong and whether these arrivals will be able to meet the needs of companies in Hong Kong to attract global talent who have left or are planning to leave remains to be seen.

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Firm in the News

Cyrus Mehta was quoted by *Bloomberg Law* in "Lawmakers Push Biden to Allow Earlier Green Card Applications." He said that it's unclear whether all employment-based immigrants have been deemed eligible for green cards at the start of the fiscal year but noted that the Department of Homeland Security (DHS) "has adopted a flexible interpretation of visa availability before." Filing a

green card application would protect visa holders' dependent children from aging out of legal status when they turn 21, Mr. Mehta said. The article notes that in February, the Biden administration "said it would 'freeze' a dependent child's age based on the date a parent applied for permanent residency; previously DHS used the date a visa was deemed officially available." Mr. Mehta said, "This relief can be provided by a stroke of a pen advancing the filing dates and allowing many more people to apply for adjustment of status."

<https://news.bloomberglaw.com/daily-labor-report/lawmakers-push-biden-to-let-immigrants-seek-green-cards-earlier>

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