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## PLAN NOW FOR YOUR HIRING NEEDS...H-1B

By Robert S. Whitehill and Catherine V. Wadhvani

For those in the immigration world, spring is H-1B season. This alert is for employers that want to legally employ foreign nationals.

H-1B status is for a professional whose job usually requires a college or university degree at the bachelor's level or above, who has a bachelor's level education or the equivalent in a related field, and is otherwise qualified for the position. The employer must offer and have the ability to pay compensation of at least the higher of the "prevailing wage" as determined by the U.S. Department of Labor or the actual wage paid to other workers in the same job category.

Students working with an Employment Card (EAD) in Optional Practical Training, J-1 exchange visitors or talented candidates from overseas who are needed by U.S. employers typically require H-1B status. In fact, employer demand for H-1B workers far exceeds the number of available visas. Congress set an annual limit on these valuable visas and, for the last several years, the number of petitions filed has greatly exceeded the supply. Last year, 170,000 applications vied for 85,000 visas. There was a lottery and, by all accounts, there will be one again this year.

Not all H-1B filings become a part of the lottery because some petitions are exempted, but for those that do, the employers must file the H-1B petitions in the beginning of April 2015 (presuming that USCIS follows the same procedure as last year). After that, unless there is a change in the law, the H-1B visas selected by lottery will all be gone until this time next year.

The moral is simple. Employers, now is the time to identify the workers who might qualify for H-1B status. Let us know as soon as you can to maximize the likelihood that your applications can timely reach USCIS and the workers have a chance of continuing to legally work for you.

If you have any questions regarding this alert, please contact Robert S. Whitehill at 412.394.5595 or [rwhitehill@foxrothschild.com](mailto:rwhitehill@foxrothschild.com), Catherine V. Wadhvani at 412.394.5540 or [cwadhvani@foxrothschild.com](mailto:cwadhvani@foxrothschild.com) or any member of Fox's Immigration Practice.

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