



IMMIGRATION NEWS

UPDATE!

Information you need to know, when you need to know it

USCIS STILL ACCEPTING H-1B PETITIONS FOR FOREIGN NATIONALS WITH U.S. MASTERS (OR HIGHER) DEGREES

H-1B Cap for U.S. Master's (or higher): On April 10, 2007, U.S. Citizenship and Immigration Services (USCIS) announced that it will continue to accept H-1B applications for beneficiaries who hold **U.S. Masters (or higher) Degrees**. As of this date, USCIS had received only 12,989 petitions for foreign nationals with U.S.-earned masters (or higher degrees), thereby qualifying for an exemption from the normal FY08 H-1B cap. Because the H-1B cap for beneficiaries in this category is 20,000, USCIS will continue to accept such applications and will make an additional announcement when a sufficient number of approvable petitions to meet this cap have been received.

Regular H-1B Cap: The counting of regular H-1B cap subject petitions received on April 2 and April 3 continues, although USCIS has so far determined that approximately 119,193 of the petitions received are subject to the FY 2008 congressionally mandated cap (set at 65,000). USCIS announced that it would conduct a computer-generated random selection of cap-subject petitions on April 12 to determine which cases would be accepted for processing. It will reject and return along with filing fees all petitions received on these days that are not randomly selected. The H-1B random number generator was run on April 12, 2007 and receipt notices for applications accepted for processing are now being generated and mailed. (*Note that receipt notices dated on or before April 12, 2007, are not*

to be considered evidence that the case was selected in the random selection process; these receipt notices have been voided and will be replaced only for those petitions selected for processing) Adjudication of these regular cap subject H-1B petitions will not begin prior to April 13, 2007. USCIS has advised that if you receive an approval notice for a non-U.S. Master's degree cap case prior to April 13, 2007, you should verify the approval through the Premium Processing unit which issued the notice or through the National Customer Service Center.

Premium Processing for H-1B Cap: On April 9, USCIS announced that the 15-day premium processing period for petitions subject to the FY 2008 cap will not begin until *after* the computer-generated random lottery has selected the petitions for processing. USCIS determined that it has the authority to place conditions on the timing of the 15 calendar day adjudication period for premium processing pursuant to the regulations and in light of the extraordinarily large number of H-1B filings on April 2 and April 3.

For more information regarding this alert, or if you require assistance with your company's immigration issues, please contact either Alka Bahal, Esq., Partner & Co-Chair, Corporate Immigration Practice at Fox Rothschild, LLP at 973-992-4800 or via email at immigration@foxrothschild.com, or another member of the Immigration Practice Group.