

US Immigration: H-1B Visa Filings for FY 2014 Begin on April 1, 2013

On Monday, April 1, 2013 US Citizenship and Immigration Services (USCIS) will begin accepting filings of H-1B visa petitions for employment in the fiscal year 2014 (FY 2014). Employers should prepare to start filing H-1B petitions for new and existing employees who will be eligible for a first-time H-1B visa to begin employment in FY 2014 (that is, on or after October 1, 2013).

Congress has mandated an annual cap of 65,000 H-1B visas with an additional 20,000 visas available for beneficiaries with advanced degrees from US colleges or universities. It should be noted that H-1B visa petitions filed on behalf of current workers who have been counted previously against the H-1B visa cap will not be included toward the annual cap set by Congress. Furthermore, pursuant to the free trade agreements with Chile and Singapore, 6,800 H-1B visas are available exclusively to Chile and Singapore nationals. This effectively reduces the total allotment of available H-1B visas to 58,200.

As a reminder, an interim final rule issued in 2008 remains in effect and provides "cap-gap" relief for F-1 students with pending H-1B petitions. Specifically, F-1 student visa holders who have received work authorization pursuant to Optional Practical Training (OPT), may extend their authorized period of stay and work authorization as long as they are a beneficiary of a timely-filed H-1B petition that was granted by, or is pending with, USCIS, prior to the expiration of their OPT.

Due to a recovering economy, the FY 2013 year allotment depleted sooner than expected and lasted only nine weeks until June 11, 2012. The demand for H-1B visas will likely be greater than last year. Employers are encouraged to file on April 1, 2013 if they need to employ foreign workers in the H-1B category. If the number of applications received exceeds the numerical cap, USCIS will conduct a "lottery" and randomly select the number of petitions required to reach the numerical limit from the pool of petitions received on the final day of acceptance ("final receipt date"). USCIS will then reject cap-subject petitions that are not selected, as well as those received after the final receipt date.

For more information regarding H-1B petitions or immigration developments, please contact your principal Squire Sanders lawyer or one of the individuals listed in this publication.

Contact

Gregory A. Wald
T +1 415 393 9828
gregory.wald@squiresanders.com

Rebekah J. Poston
T +1 305 577 7022
rebekah.poston@squiresanders.com

Brian Schield
T +213 689 5109
brian.schild@squiresanders.com