



## URGENT IMMIGRATION UPDATES

### ADVANCED DEGREE H-1B CAP REACHED ON 1/17/06

CIS announced on 1/18/06 that the 2006 H-1B quota for US Masters degree holders was reached on 1/17/06. **This means that CIS will not be accepting any more H-1B petitions for initial employment until April 1, 2006, when employers may apply under the 2007 H-1B quotas.** For strategies on how to handle the H-1B blackout, please skip to the last article in this newsletter.

[Visit www.KatonaMir.com/news.html for more details.](http://www.KatonaMir.com/news.html)

### DOL AMENDS POLICY ON MULTIPLE FILINGS

The Dept. of Labor has amended its policy on multiple labor certification applications filed by the same employer for the same alien and job position. Employers must withdraw all unwanted multiple labor certification applications filed post March 28, 2005 by January 19, 2006 or DOL will process the application filed last in time. For those labor certification applications filed after January 19, 2006, DOL has determined that the first filing will be processed—all subsequent filings for the same alien/job position will be denied. If an employer filed a labor certification application pre March 28, 2005 and the same employer subsequently filed a multiple application for the same alien/job position under the PERM program, DOL will issue a notice requesting the employer to withdraw one of the applications.

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### NEWS IN THE SPOTLIGHT

On 12/16/05 the U.S. House of Representatives passed H.R. 4437, an immigration reform bill that criminalizes illegal presence and may affect approximately 11 million illegal aliens in the U.S.

The U.S. Senate is expected to begin debates on its versions of immigration reform at the end of Feb. or the beginning of March '06.

### ARE YOUR COMPLIANCE FILES IN ORDER?



Corporate compliance deserves serious attention.

In today's environment of heightened immigration enforcement, the Department of Labor's Wage and Hour Division and the employer sanctions unit of Immigration and Customs Enforcement are increasing their focus on employer-related immigration violations. In Dec. 2004, as part of the 2005 Appropriations Act, Congress reinstated and made permanent DOL's authority to initiate investigations of employer violations of H-1B prevailing wage regulations. Additionally, this legislation mandated the collection of statistics related to the filing of petitions for L1 visas in an effort to combat perceived fraud in this visa category. Enforcement in the L-1 arena is a new endeavor by DOL that is likely to

related to the filing of petitions for E-1 visas in an effort to combat perceived fraud in this visa category. Enforcement in the L-1 arena is a new endeavor by DOL that is likely to receive significant attention in the future. I-9 compliance is also an area that is expected to be the focus of heightened enforcement. Make sure that your compliance files are in order.

[Contact Katona & Mir LLP for additional info on compliance](#)

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#### THINGS TO KEEP IN MIND WHILE PLANNING DURING THE H-1B BLACKOUT

As you begin planning on how to handle the current H-1B blackout, consider the following:

- USCIS will only begin accepting H-1B petitions for the 2007 fiscal year on and after April 1, 2006. Although employers may submit H-1B petitions any time on or after this date, H-1B workers will only be eligible to begin employment on October 1, 2006, the beginning of CIS' 2007 fiscal year.
- If you are planning on applying for a 2007 H-1B visa and are currently in the United States on a temporary visa that expires before October 1, 2006, you should plan on leaving the U.S. prior to expiration of your current visa and applying for your H-1B visa at the U.S. Embassy or Consulate in your home country in September 2006 (after CIS has approved your employer's H-1B petition). Alternatively, in certain cases, USCIS will approve a request for change of status from your current visa to a visitor's visa until October 1, 2006 so that you need not leave the U.S. in order to begin working on an H-1B visa after October 1, 2006. You should consult an attorney prior to deciding on this latter option.
- If you are planning on applying for a 2007 H-1B visa and are currently in the United States on a student (F, M or J) visa, please keep in mind that your student visa status expires 60 days (in the case of F visa holders), or 30 days (in the case of M and J visa holders), after the expiration of your program or of your work authorization. This 60 or 30-day period is your grace period. If your grace period expires before October 1, 2006, you should plan on leaving the U.S. prior to end of your grace period and applying for your H-1B visa at the U.S. Embassy or Consulate in your home country in September 2006 (after CIS has approved your employer's H-1B petition). Alternatively, in certain cases, USCIS will approve a request for change of status from student visa status to visitor visa status until October 1, 2006 so that you need not leave the U.S. in order to begin working on an H-1B visa after October 1, 2006. You should consult an attorney prior to deciding on this latter option.
- We recommend that employers planning to apply for H-1B visas during the 2007 fiscal year do so as soon as possible after April 1, 2006, as it takes on average 2-3 months for CIS to adjudicate an H-1B petition and as the H-1B cap has been reached within a matter of months in the last 2 years - note that the 2006 H-1B quota was reached on August 10, 2005, a little over 4 months after CIS began accepting H-1B petitions on April 1, 2005; and the 2005 H-1B quote was reached on October 1, 2004, six months after CIS began accepting H-1B petitions on April 1, 2004.

If you have any questions regarding the above, please contact us by email at

[Inquiry@KatonaMir.com](mailto:Inquiry@KatonaMir.com) or call us for free information at (212)944-1529.

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