
U.S. CITIZENSHIP & IMMIGRATION SERVICES (CIS) ANNOUNCES CONTINUED ACCEPTANCE OF FISCAL YEAR 2010 H-1B PETITIONS;

Neither the Regular H-1B Cap nor the U.S. Masters Cap Has Been Reached

On April 8, 2009, U.S. Citizenship & Immigration Services (CIS) announced that the CIS continues to receive and accept new H-1B petitions seeking H-1B numbers for Fiscal Year 2010 (October 1, 2009, through September 30, 2010) under both the Regular H-1B Cap and the U.S. Masters Cap. The announcement comes as some surprise after recent years in which the H-1B caps were reached on the very first day. Although somewhat surprising, the announcement is consistent with anecdotal evidence of fewer H-1B petition filings this year due to economic conditions and new legal restrictions on H-1B petitioners who have received Troubled Asset Relief Program (TARP) funds under federal government “bailout” legislation.

What this Means

The fact that the H-1B caps were not reached during the first five business days that FY-2010 filings were accepted is important. As a result, all properly-filed petitions received by the CIS during these first five business days (April 1-7) will be adjudicated, and if approved will receive an H-1B number for Fiscal Year 2010.

Additionally, because neither H-1B cap has been reached, it is still possible to prepare and file new H-1B petitions. Employers are encouraged to act immediately. Either or both H-1B caps could be reached any day.

The CIS will monitor daily receipts and will advise when the CIS has received enough new H-1B petitions to exhaust one or both H-1B caps. When enough have been received, the CIS will declare a “final receipt date.” Petitions received on that “final receipt date” may be subjected to a random numeric selection process in order to fairly allocate the remaining H-1B numbers among petitions received on the “final receipt date.”

Employers wishing to initiate a new H-1B petition under the FY-2010 cap should contact their Foster Quan immigration attorney now. While H-1B numbers appear to be available today, either or both H-1B caps could be reached on any day. As always, Foster Quan will monitor developments in connection with the FY-2010 H-1B Regular Cap and U.S. Masters Cap and will make future updates available via future Immigration Updates® and on [our firm's website](#).