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## **1. DHS PROPOSES IMMIGRATION REFORMS TO ATTRACT AND RETAIN HIGHLY SKILLED IMMIGRANTS**

**ON JANUARY 31, 2012 THE DEPARTMENT OF HOMELAND SECURITY (DHS) ANNOUNCED SEVERAL PROPOSED REFORMS RECOMMENDED BY PRESIDENT OBAMA TO ASSIST IN THE RETENTION OF HIGHLY EDUCATED FOREIGN NATIONALS. WHILE THE FEDERAL REGULATORY PROCESS COULD TAKE SEVERAL MONTHS, ULTIMATELY THESE PROPOSALS COULD PROVE BENEFICIAL TO THE NATION'S HIGHLY-SKILLED FOREIGN NATIONALS.**

### **Expansion of Eligibility for 17-month STEM OPT Extension for F-1 International Students**

The DHS has proposed to expand eligibility for extension of F-1 optional practical training (OPT) employment authorization by including students that have obtained a degree in a program eligible on the DHS list of eligible Science, Technology, Engineering and Mathematics (STEM) degree programs, even though the STEM degree is not the foreign national's most recent degree. Currently, only students that have obtained their most recent degree in a STEM field may apply for a 17-month extension of their OPT employment authorization. F-1 students who have not completed a degree program in one of the STEM fields may only engage in optional practical training for 12 months. To be eligible for the 17-month extension, STEM graduates must be employed with an E-Verify participating employer.

### **Work Authorization for H-4 Spouses of Certain H-1B Holders**

The DHS has proposed to allow certain H-4 spouses of H-1B visa holders to apply for work authorization while their H-1B spouses proceed through the permanent residence process. Employment may be authorized for H-4 dependent spouses of principal H-1B visa holders who have begun the process of seeking lawful permanent resident status through employment after meeting a minimum period of H-1B status in the U.S.

The DHS has not yet provided confirmation as to which stage of the permanent residence process the H-1B spouse must have advanced in order for the dependent H-4 spouse to obtain work authorization; however eligibility may occur as early as the labor certification process or the filing of an I-140 Immigrant Visa Petition on behalf of the H-1B spouse.

## **Qualification Under the Outstanding Professors and Researchers EB-1B Immigrant Visa Category**

The DHS further proposes to allow for increased flexibility in the type and manner of evidence that employers may submit to demonstrate that a professor or researcher qualifies as “outstanding” in his or her field of expertise. At present, individuals seeking qualification under the "outstanding professors and researchers" category, are limited to submission of only those types of evidence specifically listed by regulations.

Under the proposed change, additional "comparable evidence," beyond the specifically articulated regulatory list, would be accepted.

## **Extension of Work Authorization for E-3 and H-1B1 Visa Holders While Extension Petitions Remain Pending with U.S. CIS**

Currently, E-3 (citizens of Australia) and H-1B1 (citizens of Chile and Singapore) nonimmigrants are not afforded an automatic extension of work authorization based on a timely filed petition to extend their E-3 or H-1B1 status. H-1B, L-1, E-1, E-2 and TN nonimmigrants are afforded the extension. The DHS proposes to afford similar benefits to E-3 and H-1B1 visa holders. This change will allow them to continue employment with their current employer for up to 240 days from the expiration of their authorized period of stay, so long as an extension petition is filed prior to the expiration of their current status.

## **New Initiative to Attract Foreign Entrepreneurial Talent and Investment**

This month the U. S. Citizenship and Immigration Services (USCIS) will begin the implementation of a new initiative to attract foreign entrepreneurial talent to the U.S. The “Entrepreneurs in Residence” program seeks to bring together high-level representatives from the entrepreneurial community, academia, and federal government agencies with the goal of implementing all available mechanisms to maximize current immigration ability to attract foreign entrepreneurial talent.

The initiative builds upon DHS's recent efforts to promote startup enterprises and spur job creation. The initiative will focus on providing clear and consistent immigration pathways for foreign entrepreneurs that better reflect business realities.

## **2. L-1 VISAS TO BE ISSUED WITH VALIDITY BASED ON VISA RECIPROCITY SCHEDULE**

The Department of State (DOS) has recently announced a change in their L-1 visa issuance policies which will allow certain nationalities to obtain increased validity periods for L-1 visa stamps in their passports. This new rule would permit the issuance of L visas with validity periods based on the visa [Reciprocity Schedule](#). [Visa validity would](#) no longer be limited to the petition validity period as determined by the Department of Homeland Security (DHS). The Department of State (DOS) will change regulations to unlink L-1 visa and petition validity periods.

This proposed change would benefit certain nationalities of L-1 visa holders. Eligible applicants would receive visa validity for a longer period of time than the initial validity indicated in the petition approved by DHS. When their L-1 status is extended in the United States, these beneficiaries generally would not be required to apply for a new L visa stamp at a U.S. Embassy or Consulate abroad.

### **3. VISA PILOT PROGRAM SET TO STREAMLINE VISA PROCESSING FOR LOW-RISK APPLICANTS**

President Obama has recently announced that the Departments of State and Homeland Security are working together to improve and speed up the visa process for certain categories of travelers. Under a new initiative, in select circumstances, qualified foreign visitors who were interviewed and thoroughly screened in conjunction with a prior visa application may be able to renew their visas without undergoing another interview. The pilot program hopes to streamline the visa processing for certain low-risk applicants, such as individuals renewing expired visas, or some categories of younger or older first-time applicants.

A stated goal of the pilot program initiative is to encourage travel to the U.S. in order to provide an economic boost to the U.S. tourism industry. An anticipated by-product of the program is that it may serve to free governmental resources to interview and process more first-time visa applicants. The distribution of resources as envisioned by the program may make it easier for many individuals applying for visas for the first time to enter the U.S. for tourism purposes.

As always FosterQuan will continue to monitor global immigration regulations and procedures and will provide additional information in future Immigration Updates©, and on our firm's website at [www.fosterquan.com](http://www.fosterquan.com).