



This Immigration Update[®] from FosterQuan, LLP contains important information regarding the following:

1. U.S. CONSULATES IN JAPAN WARN OF DELAYS; ASSISTANCE FOR JAPANESE CITIZENS IN THE U.S.
2. U.S. DEPARTMENT OF HOMELAND SECURITY INTRODUCES E-VERIFY SELF CHECK
3. U.S. EMBASSY & CONSULATE CLOSURES IN PAKISTAN
4. INTRODUCTION TO VIBE - THE VALIDATION INSTRUMENT FOR BUSINESS ENTERPRISES
5. USCIS CONTINUES POST-APPROVAL AUDITS OF H-1B PETITIONS
6. CIS TO ACCEPT H-1B PETITIONS FOR FY 2012 ON APRIL 1ST
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1. U.S. CONSULATES IN JAPAN WARN OF DELAYS; ASSISTANCE FOR JAPANESE CITIZENS IN THE U.S.

The continuing devastation resulting from the tsunami in Japan has resulted in unusually high volume and delays at U.S. Consulates, as applicants require make-up interviews for missed visa appointments.

Applicants who missed appointments in March at the U.S. Embassy in Tokyo can bring their appointment letters to the Embassy for interviews on any day without rescheduling. Applicants already issued emergency appointments may attend the appointment on the date and time provided in the emergency appointment letter. Applicants no longer in possession of their appointment letters should make a new appointment through the Embassy [website](#).

The U.S. Consulates in Osaka and Naha are currently only processing emergency visa cases. Most applicants are being asked to reschedule their appointments for a later date.

Available Immigration Benefits to Japanese Nationals in the U.S.

In light of the natural disaster in Japan, the U.S. Citizenship and Immigration Services (USCIS) has released guidance as to temporary relief measures available to eligible nationals of

Japan. The range of options USCIS has provided to allow Japanese nationals to remain in the U.S. include:

1. The grant of an application for change or extension of nonimmigrant status for an individual currently in the United States, even when the request is filed after the authorized period of admission has expired;
2. Re-parole of individuals granted parole by USCIS;
3. Extension of certain grants of advance parole, and expedited processing of advance parole requests;
4. Expedited adjudication and approval, where possible, of requests for off-campus employment authorization for F-1 students experiencing severe economic hardship;
5. Expedited processing of immigrant petitions for immediate relatives of U.S. citizens and Lawful Permanent Residents (LPRs);
6. Expedited employment authorization where appropriate; and
7. Assistance to Lawful Permanent Residents stranded overseas without immigration documents such as their I-551 Permanent Resident Alien Cards.

U.S. CIS and the Department of State will coordinate to assist U.S. Lawful Permanent Residents in locations that have no local U.S. CIS office. Visitors traveling under the Visa Waiver Program may visit a U.S. CIS local office for assistance in the event that they are no longer able to depart the United States as scheduled.

In addition to the above, U.S. CIS has stated that Japanese nationals who have exceeded or are about to exceed their authorized stay in the U.S. may be permitted up to an additional 30 days to depart, and U.S. Immigration and Customs enforcement (ICE) has suspended the removal of Japanese nationals from the United States.

Please contact FosterQuan to obtain assistance with any of the above issues, and as always, FosterQuan will continue to monitor these and other USCIS humanitarian programs and provide further updates via future Immigration Updates© and on our firm's [website](#).

2. U.S. DEPARTMENT OF HOMELAND SECURITY (DHS) INTRODUCES E-VERIFY SELF CHECK

On March 21, 2011, the Department of Homeland Security (DHS) and U.S. Citizenship and Immigration Services (CIS) announced the launch of E-Verify Self Check as part of an effort to improve the accuracy of data employers use to confirm an individual's U.S. work authorization. Until now, E-Verify, which provides confirmation of an individual's valid U.S. work authorization, has only been available to employers. The E-Verify Self Check is the first

online program offered directly to individuals seeking to self-verify their current employment eligibility.

The online E-Verify Self Check process consists of the following steps:

1. Entry of personal identifying information (i.e. name, date of birth, address);
2. Confirmation of identity by answering demographic and/or financial questions generated by a third-party identity assurance service (i.e. average age range of household, year of home purchase, years of residence at current address, number of individuals over the age of 18 at current address); and
3. Entry of employment eligibility information (i.e. social security number, alien registration number, U.S. passport number).

E-Verify Self Check then verifies the data entered against Social Security Administration (SSA) and DHS databases and confirms the individual's employment eligibility. If the program is unable to confirm employment authorization, individuals are provided with instructions as to how to resolve the potential data mismatch in their SSA or DHS records before applying for a job. According to CIS, when an individual's information is current, the program is 96% accurate. However, out-of-date information, such as a newly married person who hasn't updated a surname, could be incorrectly flagged as a person for whom employment eligibility cannot be confirmed.

Information entered into E-Verify Self Check and the results provided are never shared with the individual's employer or prospective employer. Furthermore, according to DHS, E-Verify Self Check will not affect a user's credit score.

Individuals cannot be required by their employer or prospective employer to use E-Verify Self Check to prove work authorization. Employers cannot accept the results of an E-Verify Self Check query to fulfill the requirements of Form I-9, Employment Eligibility Verification. The results of any self-check do not replace the obligations of employers to properly verify a new employee's employment eligibility.

Currently, E-Verify Self Check is available in Arizona, Idaho, Colorado, Mississippi and Virginia, and the District of Columbia is expected to be available nationwide within a year.

For more information on E-Verify or for advice and consultation in connection with workforce compliance, please contact your FosterQuan immigration attorney. As always, FosterQuan will continue to monitor developments in the area of E-Verify and workforce compliance and will provide additional information via our firm's [website](#) and future Immigration Updates[®].

3. U.S. EMBASSY & CONSULATE CLOSURES IN PAKISTAN

Violent protests and demonstrations in major cities of Pakistan have led to the closure of all U.S. Consulates General in the region until further notice, except for emergency American Citizen Services. All visa application and processing services for individuals seeking U.S. entry visa stamps have been suspended. Foreign nationals arriving in Pakistan without a valid U.S. visa stamp in their passport may face extended delays in their visa issuance even after the Consulates re-open, as there is expected to be a backlog in adjudications.

All foreign nationals with travel plans to Pakistan this spring and summer with plans to attend visa appointments should be advised to [monitor](#) the status of consular closings prior to their anticipated travel.

As always, FosterQuan will continue to monitor political changes across the region that have an effect on U.S. Consular operations abroad and will provide further updates via future Immigration Updates© and on our firm's [website](#).

4. INTRODUCTION TO VIBE - THE VALIDATION INSTRUMENT FOR BUSINESS ENTERPRISES

CIS has begun beta-testing a new web-based employer validation system, "VIBE." VIBE is intended to assist U.S. CIS in verifying the accuracy of company information and documentation submitted in support of non-immigrant and employment-based immigrant based petitions. The system will utilize commercially available data and will allow USCIS to electronically validate information about companies and organizations filing employment based petitions. Currently, the independent commercial information provider for the VIBE program is [Dun & Bradstreet](#).

The VIBE system will provide CIS officers with information regarding: (a) business activities, such as type of business (North American Industry Classification System Code); (b) financial standing, including sales volume and credit standing; (c) current employment history, including the number of employees currently employed; (d) relationship with other entities, including affiliates and subsidiaries; (e) ownership and legal status as a registered entity; (f) names and titles of company executives; (g) dates of incorporation; and (h) company addresses and phone numbers.

U.S. CIS will review documentation submitted by the petitioner and compare it to the information received through the VIBE system to determine eligibility for the particular nonimmigrant or immigrant classification. If there is an inconsistency or a discrepancy, CIS may issue a "Request for Evidence" or "Notice of Intention to Deny," giving the employer an opportunity to address the issues or concerns regarding the business. To avoid potential delays in adjudication and approval of petition filed with CIS, petitioning employers are encouraged to verify that company information on Dun & Bradstreet is up-to-date before filing a nonimmigrant or immigrant visa petition.

Please contact FosterQuan for further information regarding VIBE, and as always, FosterQuan will continue to provide further updates via future Immigration Updates© and on our firm's [website](#).

5. CIS CONTINUES POST-APPROVAL AUDITS OF H-1B PETITIONS

In lieu of on-site visits, CIS has begun directly contacting H-1B petitioners and beneficiaries by telephone to verify the bona fides of H-1B positions and the qualifications of the foreign national. Additionally, USCIS may conduct unannounced visits to the work place of U.S. employers that sponsor H-1B employees to verify that a legitimate H-1B employment opportunity exists, that information provided by the employer in the immigration petition is valid, and that the sponsored international employee is working in compliance with the terms of his/her status in the United States.

CIS officers may ask questions regarding the job title and responsibilities of the employee, the employee's education, previous employment, salary, residence, and status of family members in the United States. Furthermore, the officer may ask for the employer's corporate tax returns, the employee's Form W-2, and information regarding the company's gross annual income. CIS may make these inquiries as to immigration petitions that are pending or to those that have already been approved.

For more information on CIS audits please contact your FosterQuan immigration attorney. As always, FosterQuan will continue to monitor developments in the area of CIS audits and will provide additional information via our firm's [website](#) and future Immigration Updates[®].

6. CIS TO ACCEPT H-1B PETITIONS FOR FY 2012 ON APRIL 1ST

CIS will start accepting H-1B petitions subject to the fiscal year (FY) 2012 cap on April 1, 2011. Cases will be considered accepted on the date CIS receives a properly filed petition; not the date that the petition is postmarked. The start date for the H-1B petitions will be October 1, 2011.

The cap (the numerical limit on H-1B petitions) for FY 2012 is 65,000. Of the 65,000 yearly numbers, 6,800 are allocated for nationals of Singapore and Chile, leaving only approximately 58,200 numbers per fiscal year. The first 20,000 H-1B petitions filed on behalf of individuals with U.S. master's degrees or higher are exempt from the H-1B cap. If CIS receives more petitions than it can accept, CIS will randomly select the number of petitions received on the day the cap is reached for final inclusion within the cap. CIS will reject petitions that are subject to the cap and are not selected, as well as petitions received after it has the necessary number of petitions needed to meet the cap. If the H-1 B cap is reached on the first day, USCIS will continue to accept petition for five business days and will randomly select from all petitions received during that time.

Certain petitions are "cap-exempt" if the beneficiary will work at: 1) an institution of higher education or related or affiliated nonprofit entity; 2) a nonprofit research organization; or 3) a governmental research organization. Petitions for H-1B extension of status or change of employer are generally not subject to the H-1B cap.

Employers are advised to file H-1B petitions as early as possible for all known candidates even if they currently hold F-1 Optional Practical Training (OPT) employment authorization. Restrictions on employers who received funds via the Troubled Asset Relief Program (“TARP”) expired on February 16, 2011, and as a result it is expected that there will be an increase in H-1B filings on April 1, 2011.

For further advice on filing an H-1B petition, please contact your FosterQuan immigration attorney.

7. CIS PROPOSES RULE TO REQUIRE PRE-REGISTRATION OF PETITIONERS FILING H-1B PETITIONS SUBJECT TO NEXT YEAR’S H-1B CAP

CIS has published a notice of proposed rulemaking proposing a mandatory, online, registration process for employers seeking to file H-1B petitions on behalf of foreign nationals subject to the H-1B cap. The registration period would start for a minimum two-week period prior to April 1st of each H-1B filing season. If accepted, the new rule will likely become mandatory in 2012 for Fiscal Year 2013 H-1B filings.

Registration would occur via the CIS website prior to filing a Labor Condition Application with the Department of Labor. A lottery would be applied to the registrations, and the CIS would notify employers of their selected registration(s) so that an H-1B petition can be filed. The petition would then need to be filed within 60 days of the notification, and petitioners would submit their selection notice with the actual H-1B petition filing. Failure to file the petition within 60 days and/or submit the selection notice would result in rejection of the H-1B petition. The employer/beneficiary would be allowed to register only once for each individual beneficiary. Substitute beneficiaries would not be allowed.

As always, FosterQuan will continue to monitor this proposal and its possible implementation and will provide further information via future Immigration Updates© and on our [website](#).