Siskind's Immigration Bulletin – February 9th, 2010

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Siskind Susser serves immigration clients throughout the world from its offices in the US and its affiliate offices across the world. To schedule a telephone or in-person consultation with the firm, go to http://www.visalaw.com/intake.html.

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1. Openers

Dear Readers:

While many on Capitol Hill have pronounced immigration reform dead for 2010, there are actually a number of hopeful signs that a deal may be closer than ever. The President gave a plug for comprehensive immigration reform in his State of the Union Address (though he didn't spend a lot of time on the subject). And then White House advisor David Axelrod warned that immigration reform will not happen unless it has real bipartisan support. Many interpreted these two remarks as meaning the Obama Administration was giving up on reform.

However, there are signs that real progress is being made in gaining supporters in both parties and that hardliners are starting to move from their engrained positions. Consider the following:

1. Congressman Jason Chaffetz (R-UT), an immigration hardliner leader who made the issue the centerpiece of his campaign to defeat his predecessor Republican Congressman introduced a resolution calling for no "amnesty", but then gave an interview with a local Salt Lake City newspaper indicating that he might consider paying a fine as an acceptable compromise to allow legalization.
2. Senator Patrick Leahy indicated that Democrats should consider accepting piecemeal immigration legislation if they can't get everything they want in a comprehensive package.
3. Journalist Jeffrey Kaye reported that a plan will be unveiled in late February and bill language would come in March. In the same article in Huffington Post, he quoted AFL-CIO legislative representative Sonia Ramirez as saying that labor is ready to back off the commission proposal that has caused many in the business community and many Republicans to balk at supporting immigration reform.

Stay tuned.

There was also an important development in the courts regarding state immigration laws. The harsh Oklahoma immigration enforcement bill was thrown out in part by the 10th Circuit Court of Appeals. The court ruled that Congress preempted much of what can be legislated when it comes to employer immigration compliance. The state's creation of a private right of action for workers to sue employers over hiring illegally present immigrants and a requirement for companies to screen the immigration compliance of contractors were thrown out. The court allowed a provision mandating the use of E-Verify by contractors to government agencies to remain. The upshot now is that there is a split between the 9th Circuit which upheld Arizona's law and the 10th Circuit regarding how far states can go in regulating immigration and the odds now increase that the Supreme Court will step in.

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Finally, we would invite readers interested in becoming Siskind Susser clients to contact us. My email is gsiskind@visalaw.com and my phone number is 901-682-6455. Our firm assists clients locating anywhere in the US and we have attorneys

with expertise in most areas of immigration law. You can also request an appointment by filling out a request form at http://www.visalaw.com/intake.html.

Regards,

Greg Siskind

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2. The ABC's of Immigration, Compliance Series: Immigration Consequences of Mergers, Acquisitions and Other Corporate Changes

By Greg Siskind

1. **Generally speaking, how does immigration law factor into a merger, acquisition or other major corporate transaction?**
2. **What are the major immigration risks associated with a merger, acquisition or other major corporate transaction?**
3. **What immigration law concepts come in to play when discussing mergers and acquisitions?**
4. **How are H-1B visas affected by mergers and acquisitions?**
5. **What impact do mergers, acquisitions and other major corporate transactions have on TN Visas?**
6. **How are L-1 Intracompany Transfers affected by mergers, acquisitions and other major corporate transactions?**
7. **How are E Visas affected by mergers, acquisitions or other major corporate transactions?**
8. **How are permanent residency applications affected by mergers, acquisitions and other major corporate transactions?**
9. **How are Forms I-9 affected by a merger, acquisition or other major corporate transaction?**
10. **What are some general tips from employers going through a merger, acquisition or other major corporate transaction?**

1. Generally speaking, how does immigration law factor into a merger, acquisition or other major corporate transaction?

While US immigration laws have been a factor in corporate transactions for decades, a massive increase in the enforcement of immigration laws and the proliferation of new rules should certainly have raised the profile of this subject amongst lawyers handling major corporate transactions. But survey transactional lawyers regarding how many address immigration issues in their due diligence inquiries, including

adding immigration provisions in their agreements and dealing with immigration in their due diligence and pre-closing activities and you're likely to get a very scant response.

Perhaps the lack of attention to immigration issues is the result of so many large law firms and in house legal departments lacking immigration lawyers in their offices to educate them on the immigration issues. It may also be due to the fact that most immigration lawyers, even those at large law firms, focus their practice on filing visa petitions and simply lack a background in corporate law.

In any case, the community of lawyers working on these deals will need to quickly get up to speed and address these issues if they are to avoid an immigration "train wreck." Inheriting immigration problems is no longer a mere inconvenience for a company. Consider these developments:

- At the federal level, employers are suddenly being aggressively targeted by the Department of Homeland Security for work site raids as well as compliance audits. Both can result in significant fines and even jail time.
- At the state level, new laws allow authorities to revoke business licenses and access to state contracts if employers are found to have immigration law violations.
- Employees on work visas are now suing companies for negligence in handling their immigration matters when actions of the company result in the employees falling out of legal status, having problems pursuing permanent residency and potentially facing bars on coming back to the US.
- Major companies like Wal-Mart are now including strong immigration compliance provisions in their vendor contracts and having a history of immigration law violations can jeopardize doing business with such firms.
- Immigration is a major topic being covered by the media and any companies with immigration law violations risk facing front page coverage.

In some cases, companies pick up immigration problems that occurred prior to closing. In other instances, the actual closing of the deal triggers the immigration violations that create exposure. In other words, at the moment the transactional documents are signed, employees may find themselves converted in to an illegal status and subject to deportation. And, unfortunately, these consequences are ticking time bombs that are frequently not discovered until long after the celebration of the closing has occurred and it is too late to reverse the damage.

If these concerns are not enough to convince the corporate attorney of the need to routinely deal with immigration in corporate transactions and warn clients of the immigration consequences perhaps the threat of being found liable for legal malpractice will.

2. What are the major immigration risks associated with a merger, acquisition or other major corporate transaction?

There are three major immigration risks associated with the closing of a transaction. First, the visas or pending applications of the employees could potentially be affected by the deal. Do petitions need to be transferred prior to closing? Are amendments required? Are any employees no longer eligible in the category under which they were petitioning?

Second, all employers in the US are, of course, barred from hiring unauthorized employees and are required to maintain documentation (the I-9 form and supporting paperwork) demonstrating that each of their employees are legally permitted to work in the US. Companies may also be required to file new paperwork regarding the status of all employees and this paperwork may need to be completed on the actual day of closing or before.

3. What immigration law concepts come in to play when discussing mergers and acquisitions?

Before assessing the immigration law implications of a transaction, a review of a few basic immigration and corporate law concepts is necessary.

Employees coming to the United States for employment normally hold either non-immigrant or immigrant status. Non-immigrant employees at corporations normally are in the H-1B, L, E and TN visa categories as well as on training tied to J-1 and F-1 visas. Immigrant visas are held by those who have obtained lawful permanent residency. In the corporate transaction context, only non-immigrant visa holders are considered since the transaction will not affect the status of green card holders. However, those in various stages of green card processing short of completion of the process could be impacted.

Employers are also federally mandated to verify the employment eligibility of all of their employees via the I-9 Employment Eligibility Verification Form. The Form I-9 must be completed on the day of hire and employees are required to present documents from a specific official list of documents deemed to demonstrate one's identity and employment authorization. Some employers also participate in the e-Verify system where an employee's work authorization is verified electronically by the Department of Homeland Security. Finally, some employers receive "no match" letters from the Social Security Administration when the social security number and employee name to not match. Under a rule set to take effect soon, employers may be deemed to have knowledge that an employer is in the US illegally when they receive such a letter and the name and number do not match.

The most common employment visa, the H-1B, is used for an "alien who is coming to perform services in a specialty occupation" in the United States. L visas are used for intracompany transferees that enter the US to render services "in a capacity that is managerial, executive, or involves specialized knowledge", while E-1 and E-2 visas are used for "treaty traders and investors" and E-3s are used by Australians working in specialty occupations. The TN category includes "Canadian and Mexican citizens seeking temporary entry to engage in business activities at a professional level" as listed in the North American Free Trade Agreement. F-1 visas are held by students many of whom are entitled to employment authorization for periods up to a year during and after completion of their studies. J-1 visas are held by exchange visitors in many categories including one that permits internship and training opportunities of twelve and eighteen months.

Corporate changes that typically have immigration consequences are stock or asset acquisitions, mergers, consolidations, initial public offerings, spin-offs, corporate name changes, changes in payroll source, and the relocation of an employer or its employees.

Acquisitions involve the purchase of assets or stock. In an asset acquisition, the purchaser may not accept the liabilities of the seller. In a merger, two or more legal entities combine all their assets in what is called the “surviving entity”. Other entities, which are called the “merged entities”, cease to exist. The surviving entity assumes all of their liabilities. In a consolidation, however, two or more legal entities combine all their assets to form a new entity. The new entity assumes their liabilities, and they seize to exist. An initial public offering (IPO) changes the ownership structure of a corporation, similar to an acquisition. A spin-off involves the creation of a new company from a divestiture of shares or assets of an existing company.

There is no “one size fits all” approach to advising clients regarding the effect of a transaction on the immigration consequence of a merger or acquisition. Rather, there are a number of important questions to ask as the due diligence process begins. They include

1. How is the deal to be structured? Is t a merger or spin-off where employees will have a new employer with a different taxpayer identification number? Is it s stock purchase? Is it an asset acquisition where no liabilities are being assumed (or where just immigration liabilities are assumed)? Or a successor in interest where liabilities are to be assumed?

2. What are the timing issues in the case? Is there enough time to file new petitions? Are employees going to suffer adverse consequences as a result of the timing? Is it possible to lease employees to the successor entity until the necessary transfer paperwork can be filed? Can filings be deferred until after the closing without a penalty or risk?

3. For I-9 forms and e-Verify filings, will the documentation of the post-transaction entities survive. And, if so, does the convenience of not being required to have employees prepare new I-9s or have to re-file in e-Verify outweigh the risk of assuming liabilities associated with the old employer’s prior filings?

Those questions should initially be addressed in the due diligence request and in early discussions between the lawyers involved in the transaction. In most cases, immigration is not addressed in due diligence and many lawyers may not know where to begin in requesting documentation. A sample immigration due diligence checklist is included at the end of this article.

The impact of a corporate change will vary from employee to employee depending on the type of visa or status they have and what stage they are in their immigration process.

One goal of the due diligence process will be to determine whether the company that is the subject of the due diligence has complied with immigration laws and the scope of any potential liability. Another will be to identify what pre-closing and post-closing activities are required to ensure a smooth transition.

To meet those objectives, the due diligence review will cover the visa history of employees potentially affected by the transaction. The review will also test the I-9 compliance of the company that is the subject of the due diligence. This may take

the form of a full review of the I-9s or a sample audit if a full review is not practical. If a sampling determines that there are many problems, a full audit may be warranted.

4. How are H-1B visas affected by mergers and acquisitions?

In an H-1B visa case, the questions to analyze are whether a corporate change results in a new employer and, if so, to what extent are the interests of the target corporation being assumed.

An H-1B visa requires separate applications to the DOL and the U.S. Citizenship and Naturalization Services ("USCIS"). A petitioner should first obtain an approved Labor Condition Application from the DOL, and then should get its I-129 Petition for a Nonimmigrant Worker approved by the USCIS.

Prior to December 2000, the DOL considered a change in an employer's Federal Employer Identification Number enough to trigger a need to file a new LCA. Under the rules adopted December 22, 2000, a new LCA will not be required merely because a corporate reorganization results in a change of corporate identity, regardless of whether there is a change in EIN, provided that the successor entity, prior to the continued employment of the H-1B employee, agrees to assume the predecessor's obligations and liabilities under the LCA with a memorandum to the "public access file" kept for LCA purposes.

Material changes in the employee's duties and job requirements and the relocation of the employee may also require a new LCA. Therefore, if employees are relocated due to a merger or sale, new LCAs will be required for H-1B employees (DOL uses the Standard Metropolitan Statistical Area, SMSA, as criteria in determining the need for a new LCA or Labor Certification. If the employee is relocated outside the SMSA, then new filing is required). However, a simple name change will not trigger the need for a new LCA.

The rules governing when a new I-129 petition must be filed are similar to the LCA, but not identical. The need to file a new I-129 can be a fairly expensive requirement. For each new employment petition, the employer must pay the American Competitiveness and Workforce Improvement Act fee, which was recently increased to $1500 dollars for companies with more than 25 employees (though it was dropped to $750 from $1000 for smaller companies). Couple this with a new $500 fraud fee, a $320 base filing fee and a $1000 premium processing fee for fast adjudication and you are looking at over $3300 per employee.

The Immigration and Nationality Act contains an exemption from filing a new I-129 in cases of corporate structuring where the new employer is a successor in interest that assumes the interests and the obligations of the prior employer. This is a restatement of the existing USCIS policy stating that if an employer, for H-1B purposes, "assumes the previous owner's liabilities which include the assertions the prior owner made on the labor condition application" then there is no need for a new or amended petition. If a new or amended petition is not needed, then the employer may wait until filing an extension petition for the employee to notify the USCIS.

One potential pitfall involving H-1B employees relates to the "dependency" provisions in the H-1B statute. Employers with over a certain number or a certain percentage of

H-1B employees are considered “H-1B dependent” and such companies face tight restrictions in terms of documenting recruiting efforts and hiring H-1Bs before and after layoffs. The numbers will need to be recalculated for a company after a transaction and this could dramatically affect a company’s bottom line. Companies that are H-1B dependent should also be a signal for further scrutiny since it may be the result of being found to have had prior H-1B violations and this could mean a company may be inheriting a company with a poor history of compliance.

An issue likely to affect only a small number of employers (particularly in the health care sector) involves loss of eligibility for cap-exempt status. If an employer’s status as exempt from the quota limitations on H-1B visas was the basis for an employee’s H-1B status, the corporate practitioner will want to examine whether cap exempt status is lost after the closing. This may happen, for example, when a non-profit entity is replaced by a for-profit entity as a sponsoring employer. A loss of H-1B cap exempt status could make it impossible for an employee to continue being employed by the succeeding entity as an H-1B status holder.

5. What impact do mergers, acquisitions and other major corporate transactions have on TN Visas?

Since LCAs are not required for obtaining a TN visa or status for a citizen of Canada or Mexico, a basic successor in interest analysis is required to determine how to proceed here. If the new company succeeds to the interests of the prior company, new petitions are not required. The fact that a company may change nationality won’t matter in these cases because the TN visa is tied to the employee’s nationality, not the company.

6. How are L-1 Intracompany Transfers affected by mergers, acquisitions and other major corporate transactions?

For an L-1 visa, the law requires a qualifying relationship between the US entity and the foreign entity from which the employee will be transferring. This relationship must be within the definitions of a “parent, branch, affiliate or subsidiary” as defined by the USCIS. Obviously, changes in the ownership structure of either one of the entities, through a corporate change may terminate the qualifying relationship and, consequently, invalidate the underlying L visas. However, if the petitioner, after a corporate change, can document that the qualifying relationship survives, then, only an amended petition will be necessary.

For affiliated companies, if the ownership breakdown of the overseas entity and the US entities changes, the qualifying relationship may no longer be there. Also, if the US company is sold to another international company, the L-1 may survive even if the original foreign entity is no longer part of the corporate family. The key will be whether the company still maintains an overseas office.

Finally, companies will want to look at issues pertaining to the “blanket L”. Blanket L-1s are available to companies who pre-qualify with USCIS and can show they are large multinational operations with a large volume of L-1 filings. A transaction may render a company too small or suddenly large enough to qualify for a blanket L filing. From a strategic point of view, if a company can qualify for a blanket L under a

merged entity's qualification after a transaction, it may be possible to add the new entity and then employees can be covered under the blanket.

7. How are E Visas affected by mergers, acquisitions or other major corporate transactions?

Under the E-1 and E-2 visas, certain investors and traders may be admitted to the United States and be employed therein, if a "treaty-qualifying" company petitions and obtains status for them. A company is qualified based on its nationality. A corporate change may change a corporation's nationality, and, therefore, result in the termination of the qualification. USCIS regulations specifically state that prior USCIS approval must be obtained when there has been a "fundamental change" in a company's characteristics including in the case of a merger, acquisition, or sale.

The new E-3 visas for nationals of Australia is similar in many respects to the H-1B including in the requirement for the filing of a Labor Condition Application. The same considerations applicable to the H-1B apply here. Note that E-3 status is tied to the nationality of the employee, not the company. In that respect, it is similar to the TN visa in not being affected per se by a change of a company's nationality.

8. How are permanent residency applications affected by mergers, acquisitions and other major corporate transactions?

A lawful permanent residency ("LPR") application normally consists of three steps. First, the employer usually must prove that despite reasonable recruitment efforts, it has not been able to find a domestic employee to fill the alien's position. This is called the labor certification, and is handled through the DOL. Second, it files a Form I-140, Immigrant Petition for Alien Worker, with the USCIS. After the I-140 petition is approved, the employee files a petition for the adjustment of her immigration status to the status of a lawful permanent resident with the USCIS.

The Department of Labor takes a liberal view of when a new labor certification petition must be re-filed. If after an acquisition, a new owner remains the employee's employer, and has assumed all of the past owner's obligations, the new owner should qualify as a "successor-in-interest" and a labor certification will survive.

In LPR cases, USCIS traditionally used a stricter version of the successor in interest theory, and permitted an employer to continue with the prior employer's petition, only if the new employer assumed "all" of the prior employer's liabilities. Without successorship, a new I-140 petition may be necessary even when an adjustment of status application is already pending.

The LPR process may take several years, and until recently, unless the case did fit under certain exceptions, beneficiaries of immigrant petitions were not able to change employers until the completion of the entire process. Therefore, corporate changes that created a new employer were potentially causing further delays. Legislation now makes it possible in many instances to change employers while an adjustment application is pending. An adjustment application pending six months or more will survive if an employee finds new employment in the same or a very similar occupation. The sponsoring employers may, in some cases, want to consider leasing

an employee to the new entity for a period of time in order to ensure that the "portability" rule is available.

Unfortunately, because of long green card backlogs, many applicants are not in a position to file an I-485 adjustment of status application. Hence, the applicant may find that a petition becomes worthless if the original job offer disappears.

Aside from labor certification cases, some employees pursue permanent residency through an intracompany transfer-based I-140 petition. In these cases, a labor certification is not required. In these cases, many of the same issues regarding maintaining a qualifying relationship as apply in an L-1 case will arise. However, if a case has advanced far enough, the "portability" rule noted above may apply as well.

Some permanent residency petitions are based on self-sponsorship by an applicant. These include national interest petitions and EB-1 extraordinary ability cases. These matters are normally not affected by a major transaction except that in some cases, an employment relationship is how an applicant demonstrates that he or she will work in the field upon approval of permanent residency. If the transaction will result in an employee losing the position, this could, in theory, affect qualifying for EB-1 or EB-2 status.

9. How are Forms I-9 affected by a merger, acquisition or other major corporate transaction?

Finally, a successor also assumes the I-9 liabilities of a corporation. Failure to comply with I-9 requirements may result in serious sanctions running in to the thousands of dollars per employee. Therefore, before a corporate re-structuring, the transition team should examine the I-9 compliance of the entity by either a sample I-9 audit or a review of the alien employees' I-9s.

If a company does not assume the liabilities of the acquired corporation, I-9s are generally required of all of the employees and in the case of a merged entity which is completely new, I-9s may be needed for all employees of both entities.

The good news here may be that a successor in interest can assume the I-9s in place at the time of closing. But many companies will want to consider as a matter of course requiring all employees of an acquired or merged entity complete new I-9s on the date of closing in order to ensure that past violations are not continued and also to ensure that they have a handle on which employees have a temporary employment authorization document that will require re-verification at a later time. Of course, the employer needs to be careful to require ALL employees to fill out a new I-9 as opposed to singling out some.

10. What are some general tips from employers going through a merger, acquisition or other major corporate transaction?

1. Ensure visas are transferred to a new employer prior to closing when a closing will affect their validity;
2. File amendments before or shortly after closing (unless regulations specifically require filing before closing);

3. Move employees to new visa categories before the closing when they will no longer be eligible in a particular category post-closing;
4. In cases where a closing will void a visa status, employ an employee in an employee leasing arrangement in order to continue the employer-employee relationship;
5. Start green card processing early in order to minimize the number of non-immigrant visas requiring attention.

Immigration queries should be incorporated in to the due diligence inquiry and representations and warranties addressing immigration issues should be incorporated in to the transaction documents.

Immigration Due Diligence and Boilerplate Language

Below is a sample due diligence query that can be included with a request in a merger, acquisition or other major corporate transaction.

1. Provide a list of all employees who are not US lawful permanent residents or citizens. The list should break down employees by visa category, work authorization expiration date, number of years in a particular visa category, the employee's work site and whether any non-immigrant visa applications or extension petitions or permanent residency petitions are pending or promised. Also note any changes in job duties, location or salary that will occur as a result of the transaction.

2. For all employees listed above, please provide a copy of all documents relating to such employees' immigration status including, but not limited to:

a. Non-immigrant visa applications and extension petitions
b. Employment authorization documents
c. I-9 forms
d. Labor certification and immigrant visa applications and supporting documentation
e. Approval notices and correspondence with any government agencies
f. I-94 forms and passport visa stamps
g. Visa documentation for the employees' spouses and minor children
h. H-1B public access files

3. Provide copies of all correspondence with the Social Security Administration relating to the "mismatch" of social security numbers for any employees.

4. Provide copies of any correspondence with agencies of the Department of Homeland Security, Labor Department, Justice Department or State Department regarding compliance with the country's immigration laws.

5. I-9s – [Provide a copy of all I-9s required to be kept by the employer][Provide a list of all employees of the company employed since 1986. Counsel will select ____ employees from the list and request their I-9s be provided]

Contract Representation and Warranty

Below is sample language that can be adapted for inclusion in agreement language associated with a merger, acquisition or other major corporate transaction.

Immigration. All necessary visa or work authorization petitions have been timely and properly filed on behalf of any employees requiring a visa stamp, I-94 status document, employment authorization document, or any other immigration document to legally work in the US. All paperwork retention requirements with respect to such applications and petitions have been met. No employees have ever worked without employment authorization from the Department of Homeland Security or any other government agency that must authorize such employment and any employment of foreign nationals has complied with applicable immigration laws. I-9 Forms have been timely and properly completed for all employees hired since the establishment of the company or the effective date of the Immigration Reform and Control Act of 1986, whichever is earlier. I-9 Forms have been lawfully retained and re-verified. There are no claims, lawsuits, actions, arbitrations, administrative or other proceedings, governmental investigations or inquiries pending or threatened against the Company relating to the Company's compliance with local, state or federal immigration regulations, including, but not limited to, compliance with any immigration laws except for employees named in schedule __.

There have been no letters received from the Social Security Administration (SSA) regarding the failure of an employee's Social Security number to match their name in the SSA database. There have been no letters or other correspondence received from the Department of Homeland Security or other agencies regarding the employment authorization of any employees. If the Company operates in a state or has contracts with a state of Federal agency that requires or provides a safe harbor if an employer participates in the Department of Homeland Security's e-Verify electronic employment verification system, the Company has been participating in e-Verify for the entire period such participation has been required or available as a safe harbor or as long as the company has been operating in such state or contracting with such agency.

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3. Ask Visalaw.com

In our Ask Visalaw.com section of the SIB attorney Ari Sauer answers immigration law questions sent in by our readers. If you enjoy reading this section, we encourage you to visit Ari's blog, The Immigration Answer Man, where he provides more answers to your immigration questions. You can also follow The Immigration Answer Man on Facebook and Twitter.

If you have a question on immigration matters, write *Ask-visalaw@visalaw.com*. We can't answer every question, but if you ask a short question that can be answered concisely, we'll consider it for publication. Remember, these questions are only intended to provide general information. You should consult with your own attorney before acting on information you see here.

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This week we received two similar questions that were so similar, we thought I would answer them together.

Question 1: I am a US Permanent Resident and I am considering applying for my citizenship. Years ago, shortly after I received my green card I got a voters

registration card through the mail. I thought I received this as a result of becoming a permanent resident and that I was supposed to register to vote, so I did. I later learned that voting is only for citizens. Is this going to cause a problem with my naturalization application?

Question 2: I am 32 years old and I am planning on applying for naturalization. I have been a permanent resident since the age of 22. I never registered with Selective Services because I did not know that I had to. Will this cause a problem with my application for U.S. citizenship?

Answer: In order to be eligible to become a U.S. citizen through naturalization, the permanent resident applicant must show that they are a person of good moral character. One reason why someone would be considered to be lacking good moral character is if they claimed to be a U.S. citizen. Claiming to be a U.S. citizen, whether verbally or in writing, for any reason, can create a bar to becoming a permanent resident. This includes registering to vote and voting.

However, USCIS has discretion to forgive this bar where it is clear that the applicant did not intend to make a claim of U.S. citizenship. A permanent resident who accidently registers to vote should contact the voter's registration authority and cancel their registration as soon as they learn of their error. When applying for naturalization, they should consult with an experienced immigration law attorney in their area who is familiar with the local USCIS office's views on such errors. For example, some local offices will forgive registering to vote, but will not forgive the person if they actually voted. Other offices will forgive registering to vote or even voting, but only if the registration or vote was outside the 3 or 5 year period where an applicant is required to show good moral character. If you decide to apply, you will want to include with your application a statement explaining your error.

Another reason for USCIS to find that an applicant is lacking good moral character is if the applicant failed to register with the Selective Services Administration. Male residents and citizens who are between the ages of 18 and 26 must register with Selective Services. However, it is common for permanent residents to be unaware of this requirement. If the permanent resident is between 18 and 26 years old when they learn about the requirement, they should register. If they do not learn about the requirement until after their 26th birthday, they can no longer register. Any time where the permanent resident was between 18 and 26 and they didn't register cannot be counted toward the required 3 or 5 years of good moral character.

Therefore, if you never registered with Selective Services, then your obligation to register ended on your 26th birthday. You will therefore not have 5 years of good moral character until your 31st birthday. At that point you can apply for naturalization. It is recommended that you hire an experienced immigration law attorney to put together the application for you, so that this issue can be addressed correctly. With your application you will need to include a statement explaining that you did not know about the requirement to register.

Question: I am a Permanent Resident. I travel a lot outside the U.S. I have been making sure to spend at least half the year in the U.S. Someone told me that there is a way to convert the green card to a visa that will allow me to stay outside the U.S. for a couple years without having to spend half the year in the U.S. Is this true?

Answer: Not exactly. What you heard about is a Reentry Permit. A Reentry Permit is a travel document that allows a Permanent Resident to stay outside the U.S. for more than a year and still allow them to keep their permanent residence.

Generally, trips outside the U.S. that last longer than a year create a presumption that the foreign national has abandoned their permanent residence. The Reentry Permit creates an exception to this rule. However, the foreign national must still maintain their permanent residence in the U.S. so if the foreign national is acting in a way that shows that their permanent residence is outside the U.S., the foreign national can still be found to have abandoned their U.S. Permanent Residence. Also having a Reentry Permit does not maintain a foreign national's "continuous residence", one of the requirements for naturalization.

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4. Border and Enforcement News:

Arizona Desert a Major Avenue for Smuggled Chinese

The *New York Times* reports that the number of undocumented Chinese migrants crossing the Sonora desert into the United States has dramatically increased in recent months. Compared to the 30 Chinese migrants caught crossing the Tucson sector of the U.S- Mexico border during the 2008 fiscal year, 332 Chinese immigrants were arrested in the same area during the 2009 fiscal year. In only the first quarter of the 2010 fiscal year, 281 Chinese immigrants have already been apprehended in the Border Patrol's Tucson sector.

Although the Sonora Desert is known for its scorching summers and frigid winters, the area has long been a route into the United States for undocumented immigrants from Mexico and other Latin American countries. The recent surge in unauthorized Chinese immigrants is due in part to the lucrative nature of the business.

In comparison to undocumented immigrants from Mexico who pay $1,500 to $3,000 on averaged to be smuggled to the United States, Chinese immigrants commonly pay smugglers around $40,000 each. These Chinese migrants pay a deposit of $5,000 to $10,000 before leaving China. If the immigrants make it to the United States they begin paying the smugglers the remainder of the cost. As drug trafficking and smuggling other nationalities of migrants has become less desirable due to the increased risk, smugglers have begun to focus on the more profitable smuggling of Chinese immigrants into the United States.

Border officials suspect that the smuggling of Chinese citizens through the Mexican-American border is a transcontinental operation because it is so intricate. On most occasions, Chinese immigrants fly from Beijing to Rome, board a plane to Caracas, Venezuela, fly to Mexico City and work their way up to the northern border and into the United States. Another common route takes these unauthorized migrants to Cuba, then flies them to the Yucatán Peninsula in Mexico and then takes them north into the United States. Although the Arizona border is a treacherous and deadly path, crossing into the Arizona desert area is the path of choice because the smuggling infrastructure is already in place.

Many of the Chinese immigrants apprehended at the border are from Fujian Province, in southeast China. These immigrants cite the lack of education and

employment opportunities as the reason they choose to travel around the globe to reach the United States.

http://www.nytimes.com/2010/01/23/us/23smuggle.html
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5. News from the Courts:

Federal court in Chicago will see biggest impact in deportation appeals

Heather Somerville, of Medill Reports, has written that, according to Gerald Neuman, a Harvard University expert, Chicago can expect the largest increase of deportation appeals in the country due to a recent U.S. Supreme Court ruling. “This is the area of the country that, as the result of this decision, there will be more opportunities for judicial review,” Neuman said.

The Supreme Court ruled that immigrants ordered to leave the country have the right to appeal their cases in the federal courts. Previously, immigrants could only appeal deportation orders with the Board of Immigration Appeals (BIA), a group that “often rubber stamps immigration court decisions,” according to Tara Tidwell Cullen of the National Immigrant Justice Center. The Court’s decision allows immigrants to have their cases reviewed by the federal courts, where judges can order the immigration court to reopen the case, if appropriate.

The U.S. 7th Circuit Court of Appeals, located in Chicago, has jurisdiction over Illinois, Indiana and Wisconsin. The Circuit historically has taken a hands-off approach to immigration cases, which in turn will lead to the increase in appeals. Chicago’s federal court can expect to see a substantial increase in immigration cases, Neuman said.

The Chicago Immigration Court is one of the busiest in the country. According to data of the Department of Justice, only four other immigration courts in the country saw more cases in 2008.

http://news.medill.northwestern.edu/chicago/news.aspx?id=154678
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Immigration judge misconduct gives asylee another day in court

Andrew Becker, from the Center for Investigative Reporting, has written that a Justice Department investigation of an immigration judge's misconduct in Florida will give a Bahamian asylum seeker another day in court.

The National Law Journal reports that the Justice Department's Office of Professional Responsibility found that Bruce Solow, an immigration judge in Miami, "engaged in professional misconduct when he acted in reckless disregard of his obligation to be fair and impartial."

In a 2005 asylum hearing Solow mocked Roscoe Campbell, who allegedly fled his home country of the Bahamas, after reporting to the US DEA about corrupt officials involved in drug trafficking. Solow later ordered Campbell and his family deported. There isn't a lot known about the greater issue of judicial misconduct and how the court leadership – and the Justice Department - handles complaints. The NLJ writes:

> The lack of transparency irritates attorneys and judges alike. The American Immigration Council's Wettstein and other immigration lawyers said complaints against immigration judges to the Executive Office seem to go into a "black hole," and, they added, getting notice of findings made by OPR also seems rare.

Immigration attorneys have sometimes been reluctant to file complaints against certain judges because they may have to argue before the judge again. The NLJ has shown that the Justice Department's process for investigating complaints against immigration judges is "neither swift nor transparent and because of that, it can be unfair -- to aliens, attorneys and immigration judges."

http://www.centerforinvestigativereporting.org/blogpost/20100126immigrationjudgemisconductgivesasyleeanotherdayincourt
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6. New Bytes:

U.S. vows to repatriate quake evacuees

The Naples Daily News in Florida reports that that U.S could see a mass influx of Haitian migrants as a result of the devastating earthquake that shook the country early in January.

Although many countries have sent aid to Haiti in the form of food, water, equipment and manpower, there have been many obstacles in delivering the aid. There are no reports of a mass exodus from Haiti as of yet. However, as the situation in Haiti continues to destabilize, U.S. officials want to prepare in case of a large migration from Haiti to the United States materializes.

The Department of Homeland Security has begun to relocate between 250 and 400 immigration detainees from South Florida's main detention center to accommodate any Haitian migrants who manage to reach U.S. shores. Under the mass migration plan known as Operation Vigilant Sentry, Haitian vessels found at sea will be intercepted by the U.S Navy and repatriated to Haiti. There are also talks that intercepted vessels carrying Haitian migrants will be temporarily sent to the U.S Naval Base at Guantanamo Bay in order to process the migrants' claims.

Only those Haitians who were in the United States before January 12, 2010 will be granted Temporary Protected Status and not repatriated to the earthquake-torn nation.

http://www.naplesnews.com/news/2010/jan/18/mass-exodus-fears-haitians-seeking-refuge-us-will-/
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CA governor floats idea to jail illegal prisoners in Mexico

The San Francisco Chronicle is reporting that California Governor Arnold Schwarzenegger responded to questions about state spending by saying that the state could save 1 billion by building and operating prisons in Mexico. The Governor explained that the state's budget could be spared by building jails in Mexico to house

undocumented felons currently imprisoned in California. Schwarzenegger then went on to say that the money saved could be spent on higher education.

Yet the report states that although California spends more than $8 billion a year on the prison system, only about 19,000 of the state's 171,000 or 1.1% of the prisoners are unauthorized immigrants. Later a spokesman for the governor said that Schwarzenegger's comments did not represent a concrete proposal and the figure was an estimate.

The Governor's comments were made after a federal court mandated that the state reduce its inmate population by 40,000 over the next two years. However, critics of the Governor's comments state that there is no obligation for a country such as Mexico to incarcerate people who have not committed crimes within the country's border, nor would it be feasible to run a California state prison on the sovereign territory of another country.

http://www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2010/01/26/MNV11BND6M.DTL
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German Homeschoolers Granted Political Asylum

Travis Loller, of the *Associated Press*, has reported that a German family has been granted political asylum in The United States in order to home school their children. Uwe Romeike, his wife and five children have been living in Morristown, Tennessee for the past two years.

In Germany, school attendance is mandatory and home schooling in not an option. Mr. Romeike, however, chose to home school his children, stating, "During the last 10-20 years, the curriculum in public schools has been more and more against Christian values." After his children were forcibly escorted to school in 2006 by German police, and facing the possibility of having his children removed by the state after a 2007 German court ruling allowing social services workers to remove children from their families in severe cases, Mr. Romeike chose to leave the country.
On January 26th, Immigration Judge Lawrence Burman, of Memphis Tennessee, passed down the ruling allowing Mr. Romeike and his family to stay in the United States. The US Government can still appeal the decision.

http://www.washingtonpost.com/wp-dyn/content/article/2010/01/26/AR2010012603298.html
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IL county board demonstrates support for amnesty

WBBM News in Chicago reports that the Cook County Board overwhelmingly voted to urge the Illinois' Congressional delegation to support legislation for immigration reform that creates a pathway to citizenship for many of those here illegally.

This vote comes at a time when it is believed that the federal agenda will include immigration legislation in the near future. Thus, the Cook County Board in Illinois made it a point to officially report its support of the effort.

http://www.wbbm780.com/County-board-votes-to-support-immigration-reform/6218289

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Nationwide sweep rounds up 'gangsters'

The San Antonio Express News reports that U.S. Immigration and Customs Enforcement (ICE) officials have arrested hundreds of gang members in a weeklong operation called Project Big Freeze. The operation targeted transnational gangs and made 476 arrests in 83 United States cities.

Operation Big Freeze is an ongoing effort coordinated by federal, state, and local law enforcement in hopes to dismantle transnational crime and domestic violence associated with these gangs.

http://www.mysanantonio.com/news/local_news/ICE_reports_massive_gangster_round-up.html
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7. Washington Watch:

Secretary Napolitano Designates 11 New Countries as Eligible for H-2a and H-2b Nonimmigrant Visa Programs

Office of the Press Secretary announced that the Department of Homeland Security (DHS) Secretary Janet Napolitano has recently designated 11 new countries as eligible to participate in the H-2A and H-2B. These nonimmigrant visa programs allow U.S. employers to bring foreign nationals to the United States to fill temporary or seasonal jobs for which U.S. workers are not available.

After consulting with Secretary of State Hillary Clinton, Secretary Napolitano determined that the 11 newly designated countries—Croatia, Ecuador, Ethiopia, Ireland, Lithuania, The Netherlands, Nicaragua, Norway, Serbia, Slovakia and Uruguay— meet the standards required for participation in the programs. The 11 newly designated countries join 28 countries that are already part of the program.

A worker from a country that is not part of the H-2A or H-2B Program may be deemed eligible by the Department of Homeland Security on a case-by case review.

http://www.dhs.gov/ynews/releases/pr_1264197311110.shtm

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Government clears 200 Haitian children for humanitarian visas

The Miami Herald is reporting that due to the efforts of Miami Doctor Barth Green and Florida Senator Bill Nelson, 200 injured Haitian children will travel to Florida on humanitarian visas for life-saving medical treatment. Prior to these efforts, only Haitian children who were in the process of being adopted by American parents before the January 12 earthquake were granted visas.

Young earthquake victims are being granted humanitarian visas on the condition that a doctor in Haiti deems that the child will die if not given advanced medical care.

Many of the children being transported under this program have treatable injuries within the capacity of the United States to fix. However, these young earthquake victims would likely die with the lack of adequate equipment and specialized care in Haiti.

In the past, the United States has had a system in place for taking sick or injured children from other countries on a case-by-case basis. But that system required a time consuming process full of documentation that is now lost due to the earthquake. Thirteen children's hospitals in Florida will be treating the youngest victims of the deadly earthquake that hit Haiti in early January.

http://www.miamiherald.com/news/breaking-news/story/1438810.html

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White House to discuss immigration with Cuba

Reuters reports that Cuban Foreign Minister, Bruno Rodriguez, announced that Cuban and U.S. negotiators will meet in February for a second round of talks, to discuss migration issues. The discussions will cover agreements from the mid-1990s aimed at preventing an exodus of Cuban refugees. In the mid-1990s it was decided that the United States would repatriate Cuban migrants intercepted at sea, while Cuba would address unauthorized migration to the United States.

It is believed that during the talks in February, the United States will seek access to a deep-water port in order to safely repatriate those Cuban citizens intercepted at sea. On the other hand, Cuba will call for the U.S to abandon its immigration policy that gives protected status to Cubans who reach U.S. land.

http://www.nytimes.com/reuters/2010/01/27/us/politics/politics-us-cuba-usa-migration.html
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8. Notes from Visalaw.com Blogs

Greg Siskind's Blog on ILW.com

- PROUD RACIST
- TURNING BAD IN TO REASONABLE
- CONVERTED DOBBS COULD BE A KEY TO IMMIGRATION REFORM
- TWO PLUS TWO
- OPEN THREAD
- ICE ANNOUNCES OVERHAUL OF DETENTION SYSTEM
- COMPROMISES COMING ON IMMIGRATION REFORM?
- HAITIAN IMMIGRATION OPTIONS TELESEMINAR
- TPS FOR HAITIANS NOW OFFICIAL
- MAYORKAS PROMISING TO EXPEDITE HAITIAN TPS APPLICATIONS
- THE OPTIMISTS
- SUPREME COURT HANDS VICTORY TO DUE PROCESS FANS
- WHY IS DARPA UPSET?
- THOUSANDS PROTEST AGAINST SHERIFF JOE
- DOBBS WON'T RUN

- ANTIS HOPING FOR GOP WIN IN MASSACHUSETTS

The SSB I-9, E-Verify, & Employer Immigration Compliance Blog

- IDAHO LAWMAKER PUSHES FOR EMPLOYER COMPLIANCE LEGISLATION
- ARIZONA SENATE PANEL APPROVES BILL TOUGHENING E-VERIFY PENALTIES
- INDIANA STATE SENATOR PUSHING AGAIN FOR SANCTIONS BILL
- HERNANDO COUNTY, FLORIDA COMMISSIONER PUSHING FOR SANCTIONS LAW
- ARIZONA TO CUT FUNDS FOR EMPLOYER COMPLIANCE ENFORCEMENT
- HUTCHISON WOULD PUSH FOR STATE USE OF E-VERIFY
- AGRIPROCESSORS MANAGER ADMITS DOCUMENT FRAUD
- SOCIAL SECURITY ADMINISTRATION FAILS TO E-VERIFY 19% OF ITS OWN EMPLOYEES
- ICE TARGETS PITTSBURGH-AREA MASSAGE PARLOUR FOR HIRING ILLEGALLY PRESENT WORKERS
- DALLAS SUBURB CONSIDERING E-VERIFY MANDATE

Visalaw Healthcare Immigration Blog

- LAS VEGAS HOSPITAL FACES DILEMMA OVER EXPENSE OF ILLEGALLY PRESENT IMMIGRANTS
- RENEWAL OF MILITARY'S FOREIGN DOCTOR AND NURSE PROGRAM DELAYED
- RIGHTS GROUP SAYS GRADY HOSPITAL VIOLATED RIGHTS OF IMMIGRANT PATIENTS
- DIALYSIS CLINICS IN THE MIDDLE OF IMMIGRATION DEBATE
- NURSE SHORTAGE GROWING DIRE WHILE BLACKOUT ON VISAS CONTINUES

Visalaw Investor Immigration Blog

- ST. LOUIS SEEKING EB-5 REGIONAL CENTER DESIGNATION
- PALM BEACH REGIONAL CENTER LAUNCHES
- EB-5 APPLICATIONS TRIPLE OVER LAST YEAR
- EB-5 INVESTORS IN SD REGIONAL CENTER SUE DAIRY FARM

Visalaw Fashion, Sports, & Entertainment Blog

- USCIS BACKS DOWN ON VISA STANDOFF AFTER WALL STREET JOURNAL STORY RUNS
- REUTERS: HARSH IMMIGRATION POLICIES AFFECTING LATIN MUSIC SALES

Visalaw International Blog

- Publication EU Immigration Law
- Hijacker denied right to become a lawyer in Ontario - The Globe and Mail
- Now is not the time for Haitian adoptions, says agency - The Globe and Mail
- GOVERNMENT WARNING: HAITI IMMIGRATION SCAMS
- CANADA: SERGIO R. KARAS TO CO-CHAIR BAR ASSOCIATION SESSION

The Immigration Law Firm Management Blog

- LENOVO MORPHS NOTEBOOK AND TABLET

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9. State Department Visa Bulletin:

VISA BULLETIN FOR FEBRUARY 2010

A. STATUTORY NUMBERS

1. This bulletin summarizes the availability of immigrant numbers during **February**. Consular officers are required to report to the Department of State documentarily qualified applicants for numerically limited visas; the Bureau of Citizenship and Immigration Services in the Department of Homeland Security reports applicants for adjustment of status. Allocations were made, to the extent possible under the numerical limitations, for the demand received by January **8th** in the chronological order of the reported priority dates. If the demand could not be satisfied within the statutory or regulatory limits, the category or foreign state in which demand was excessive was deemed oversubscribed. The cut-off date for an oversubscribed category is the priority date of the first applicant who could not be reached within the numerical limits.

Only applicants who have a priority date **earlier than** the cut-off date may be allotted a number. Immediately that it becomes necessary during the monthly allocation process to retrogress a cut-off date, supplemental requests for numbers will be honored only if the priority date falls within the new cut-off date which has been announced in this bulletin.

2. Section 201 of the Immigration and Nationality Act (INA) sets an annual minimum family-sponsored preference limit of 226,000. The worldwide level for annual employment-based preference immigrants is at least 140,000. Section 202 prescribes that the per-country limit for preference immigrants is set at 7% of the total annual family-sponsored and employment-based preference limits, i.e., 25,620. The dependent area limit is set at 2%, or 7,320.

3. Section 203 of the INA prescribes preference classes for allotment of immigrant visas as follows:

FAMILY-SPONSORED PREFERENCES

First: Unmarried Sons and Daughters of Citizens: 23,400 plus any numbers not required for fourth preference.

Second: Spouses and Children, and Unmarried Sons and Daughters of Permanent Residents: 114,200, plus the number (if any) by which the worldwide family preference level exceeds 226,000, and any unused first preference numbers:

A. Spouses and Children: 77% of the overall second preference limitation, of which 75% are exempt from the per-country limit;

B. Unmarried Sons and Daughters (21 years of age or older): 23% of the overall second preference limitation.

Third: Married Sons and Daughters of Citizens: 23,400, plus any numbers not required by first and second preferences.

Fourth: Brothers and Sisters of Adult Citizens: 65,000, plus any numbers not required by first three preferences.

EMPLOYMENT-BASED PREFERENCES

First: Priority Workers: 28.6% of the worldwide employment-based preference level, plus any numbers not required for fourth and fifth preferences.

Second: Members of the Professions Holding Advanced Degrees or Persons of Exceptional Ability: 28.6% of the worldwide employment-based preference level, plus any numbers not required by first preference.

Third: Skilled Workers, Professionals, and Other Workers: 28.6% of the worldwide level, plus any numbers not required by first and second preferences, not more than 10,000 of which to "Other Workers".

Fourth: Certain Special Immigrants: 7.1% of the worldwide level.

Fifth: Employment Creation: 7.1% of the worldwide level, not less than 3,000 of which reserved for investors in a targeted rural or high-unemployment area, and 3,000 set aside for investors in regional centers by Sec. 610 of P.L. 102-395.

4. INA Section 203(e) provides that family-sponsored and employment-based preference visas be issued to eligible immigrants in the order in which a petition in behalf of each has been filed. Section 203(d) provides that spouses and children of preference immigrants are entitled to the same status, and the same order of consideration, if accompanying or following to join the principal. The visa prorating provisions of Section 202(e) apply to allocations for a foreign state or dependent area when visa demand exceeds the per-country limit. These provisions apply at present to the following oversubscribed chargeability areas: CHINA-mainland born, INDIA, MEXICO, and PHILIPPINES.

5. On the chart below, the listing of a date for any class indicates that the class is oversubscribed (see paragraph 1); "C" means current, i.e., numbers are available for all qualified applicants; and "U" means unavailable, i.e., no numbers are available. (NOTE: Numbers are available only for applicants whose priority date is **earlier** than the cut-off date listed below.)

Fam-ily	**All Charge-ability Areas Except Those Listed**	**CHINA-mainland born**	**INDIA**	**MEXICO**	**PHILIPP-INES**

1st	01JUN04	01JUN04	01JUN04	08SEP92	01JAN94
2A	01MAR06	01MAR06	01MAR06	01MAR04	01MAR06
2B	01JAN02	01JAN02	01JAN02	08JUN92	15JUL98
3rd	22MAY01	22MAY01	22MAY01	22SEP92	01JAN92
4th	15NOV99	15NOV99	15NOV99	01DEC95	01JUL87

*NOTE: For February, 2A numbers **EXEMPT from per-country limit** are available to applicants from all countries with priority dates **earlier** than 01MAR04. 2A numbers **SUBJECT to per-country limit** are available to applicants chargeable to all countries **EXCEPT MEXICO** with priority dates beginning 01MAR04 and earlier than 01MAR06. (All 2A numbers provided for MEXICO are exempt from the per-country limit; there are no 2A numbers for MEXICO subject to per-country limit.)

	All Charge-ability Areas Except Those Listed	**CHINA-mainland born**	**INDIA**	**MEXICO**	**PHILIP-PINES**
Employ-ment - Based					
1st	C	C	C	C	C
2nd	C	22MAY05	22JAN05	C	C
3rd	22SEP02	22SEP02	22JUN01	01JUL02	22SEP02
Other Workers	01JUN01	01JUN01	01JUN01	01JUN01	01JUN01
4th	C	C	C	C	C
Certain Religious Workers	C	C	C	C	C
5th	C	C	C	C	C
Targeted Employ-ment Areas/ Regional Centers	C	C	C	C	C
5th Pilot Programs	C	C	C	C	C

The Department of State has available a recorded message with visa availability information which can be heard at: (area code 202) 663-1541. This recording will be updated in the middle of each month with information on cut-off dates for the following month.

Employment Third Preference Other Workers Category: Section 203(e) of the NACARA, as amended by Section 1(e) of Pub. L. 105-139, provides that once the Employment Third Preference Other Worker (EW) cut-off date has reached the priority date of the latest EW petition approved prior to November 19, 1997, the 10,000 EW numbers available for a fiscal year are to be reduced by up to 5,000 annually beginning in the following fiscal year. This reduction is to be made for as long as necessary to offset adjustments under the NACARA program. Since the EW cut-off date reached November 19, 1997 during Fiscal Year 2001, the reduction in the EW annual limit to 5,000 began in Fiscal Year 2002.

B. DIVERSITY IMMIGRANT (DV) CATEGORY

Section 203(c) of the Immigration and Nationality Act provides a maximum of up to 55,000 immigrant visas each fiscal year to permit immigration opportunities for persons from countries other than the principal sources of current immigration to the United States. The Nicaraguan and Central American Relief Act (NACARA) passed by Congress in November 1997 stipulates that beginning with DV-99, and for as long as necessary, up to 5,000 of the 55,000 annually-allocated diversity visas will be made available for use under the NACARA program. **This reduction has resulted in the DV-2010 annual limit being reduced to 50,000**. DV visas are divided among six geographic regions. No one country can receive more than seven percent of the available diversity visas in any one year.

For **February**, immigrant numbers in the DV category are available to qualified DV-2010 applicants chargeable to all regions/eligible countries as follows. When an allocation cut-off number is shown, visas are available only for applicants with DV regional lottery rank numbers **BELOW** the specified allocation cut-off number:

Region	All DV Chargeability Areas Except Those Listed Separately	
AFRICA	27,500	Except: Egypt: 15,600 Ethiopia: 14,700 Nigeria: 14,000
ASIA	10,550	
EUROPE	22,400	
NORTH AMERICA (BAHAMAS)	4	
OCEANIA	870	
SOUTH AMERICA, and the CARIBBEAN	950	

Entitlement to immigrant status in the DV category lasts only through the end of the fiscal (visa) year for which the applicant is selected in the lottery. The year of entitlement for all applicants registered for the DV-2010 program ends as of September 30, 2010. DV visas may not be issued to DV-2010 applicants after that date. Similarly, spouses and children accompanying or following to join DV-2010principals are only entitled to derivative DV status until September 30, 2010. DV visa availability through the very end of FY-2010 cannot be taken for granted. Numbers could be exhausted prior to September 30.

C. ADVANCE NOTIFICATION OF THE DIVERSITY (DV) IMMIGRANT CATEGORY RANK CUT-OFFS WHICH WILL APPLY IN MARCH

For **March**, immigrant numbers in the DV category are available to qualified DV-2010 applicants chargeable to all regions/eligible countries as follows. When an allocation cut-off number is shown, visas are available only for applicants with DV regional lottery rank numbers **BELOW** the specified allocation cut-off number:

Region	All DV Chargeability Areas Except Those Listed Separately	
AFRICA	29,600	Except: Egypt: 18,000 Ethiopia: 16,950 Nigeria: 14,350
ASIA	12,000	
EUROPE	24,700	
NORTH AMERICA (BAHAMAS)	4	
OCEANIA	880	
SOUTH AMERICA, and the CARIBBEAN	985	

E. OBTAINING THE MONTHLY VISA BULLETIN

The Department of State's Bureau of Consular Affairs offers the monthly "Visa Bulletin" on the INTERNET'S WORLDWIDE WEB. The INTERNET Web address to access the Bulletin is:

http://travel.state.gov

From the home page, select the VISA section which contains the Visa Bulletin.

To be **placed on** the Department of State's E-mail subscription list for the "Visa Bulletin", please send an E-mail to the following E-mail address:

listserv@calist.state.gov

and in the message body type: **Subscribe Visa-Bulletin *First name/Last name (example: Subscribe Visa-Bulletin Sally Doe)***

To be **removed from** the Department of State's E-mail subscription list for the "Visa Bulletin", **send an e-mail message to the following E-mail address**:

listserv@calist.state.gov

and in the message body type: **Signoff Visa-Bulletin**

The Department of State also has available a recorded message with visa cut-off dates which can be heard at: (area code 202) 663-1541. The recording is normally updated by the middle of each month with information on cut-off dates for the following month.

Readers may submit questions regarding Visa Bulletin related items by E-mail at the following address:

VISABULLETIN@STATE.GOV