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April 5, 2022

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## Welcome to the T&R Newsletter

February 2022

This month's topics include: USCIS completing H-1B Cap Selection, extension of COVID flexibilities, premium processing expansion, new I-9 policy and updates, and T&R monthly webinars.

### **USCIS COMPLETES H-1B Cap Selection**

The USCIS completed the H-1B cap selection for the 2023 fiscal year H-1B lottery.

**For those selected** in the registration process, H-1B petitions must be filed between April 1, 2022, and June 30, 2022. Trow & Rahal has already notified its clients if selected and will be preparing and filing the H-1B petitions.

**For those not selected**, it is possible that there will be another selection in August as there has been for the past two years. This makes it possible to be selected later in the year. If you are running out of time in your current visa status, you should speak with your attorney or contact Trow & Rahal for a consultation regarding your options.

**CAUTION with travel abroad:** For anyone selected who will have an H-1B petition filed with a change of status requested, please do not travel abroad unless you notify the attorney with whom you are working. This is particularly true for anyone who now holds F-1 OPT status. Traveling abroad could affect your F-1 status, your ability to change your visa status to H-1B, and also your ability to reenter the United States before October 1, 2022. **If you have plans to travel abroad, please contact your attorney before departing the United States!**

### **USCIS EXTENDS COVID FLEXIBILITIES**

The USCIS has extended certain Covid-19 related flexibilities through July 25, 2022, allowing an extra 60 calendar days to respond to the following types of notices if issued before July 25, 2022:

- Requests for Evidence;
- Continuations to Request Evidence (N-14);
- Notices of Intent to Deny;
- Notices of Intent to Revoke;
- Notices of Intent to Rescind;
- Notices of Intent to Terminate regional centers; and

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These flexibilities had been extended until March 26, 2022, and now are extended again until July 25, 2022. The USCIS has announced that this is likely to be the last extension.

### USCIS EXPANDING PREMIUM PROCESSING

The USCIS announced on March 29<sup>th</sup> a final rule that will expand premium processing to additional categories of forms and types of cases. This rule was one of a trio of initiatives announced by the USCIS to reduce backlogs and processing times, which is indicated to be a top priority now of the USCIS. Premium processing allows employers and foreign nationals to file cases with an additional filing fee for expedited service.

The final rule will take effect 60 days after publication in the Federal Register (March 30, 2022), but implementation will be in phases over a period of at least three years and subject to the USCIS' ability to continue to process timely other types of cases. The first phase will include Form I-140 (immigrant petition) for (1) EB-1 petitions for persons of extraordinary ability and multinational managers and executives, and (2) EB-2 petitions for members of professions with advanced degrees or exceptional ability seeking a national interest waiver (NIW).

The USCIS plans to expand premium processing by September 30, 2022 (end of government fiscal year) to the following types of forms/cases:

- **Form I-140** (not already authorized to use premium processing): EB-1C and EB-2 NIW - as indicated above): The fee will be \$2,500 and adjudicated in 45 days.
- **Form I-539** (Application to Extend/Change Status) changing status to F, J, M, E, H, L, O, P, R status: The fee will be \$1750 and adjudication in 30 days.
- **Form I-765** (Application for Employment Authorization): The fee will be \$1500 and adjudication in 30 days.

The USCIS final rule will continue to allow premium processing for the types of petitions for which it is already authorized (Form I-140 other EB-2 and EB-3 petitions, and Form I-129 petitions) for the fee of \$2,500 and will continue to adjudicate them within 15 calendar days. T&R will continue to monitor the timing of the expansion of premium processing and provide updates when they become available.

### New I-9 Policy and Updates

**New I-9 policy for List C document for E and L Spouses:** The USCIS will now accept an unexpired Form I-94 reflecting the new spousal designation of L-2s, E-1s, E-2s, or E-3s, as a List C document for completing form I-9 and has updated its policy manual accordingly. The USCIS had announced that starting in April 2022, spouses of E and L visa holder will receive these spousal designations as evidence of work authorization incident to status. They will no longer need to apply for employment authorization (EAD) once they have this status designation.

**Temporary I-9 policy to accept expired documents for List B ends:** In another I-9 announcement, the Department of Homeland Security (DHS) announced that starting on May 1, 2022, employers will only be able to accept unexpired List B documents. During Covid-19, the DHS had a temporary policy to allow unexpired documents for List B documents. Employers will

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## Trow & Rahal Webinars - Third Friday of Every Month

Please join T&R's monthly webinar on the 3rd Friday of every month from 2-3 pm EST.

**April 2022:** Please join T&R for its April 2022 Webinar on the 15<sup>th</sup> @ 2 pm: ***Immigration Updates and H-1B Cap selection and ability to travel abroad.*** We will review the ability to travel if an H-1B petition is pending with a request of change of status, particularly for persons who hold F-1 OPT. Please bring your questions.

[Register Here](#)

**Contacting T&R during April and May:** T&R kindly requests that clients minimize calls to the office during the months of April and May as the office is busy preparing and filing H-1B cap cases as well as other ongoing matters. During this time, we ask that you take advantage of the free monthly webinars by joining and asking your questions there. Alternatively you can send an email or schedule a 10 minute call with the person you are seeking to speak with by calling the front desk (202-537-4830) and asking them to set up a brief meeting. If it is a matter that is truly not able to wait, T&R staff is here to speak with you at their availability. Please note that during this peak work load it may take longer to receive responses to emails and phone calls.



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