



UPDATE Immigration

MARCH 2013

USCIS Expects H-1B Cap to Be Reached Quickly

The U.S. Citizenship and Immigration Services (USCIS) will begin accepting H-1B petitions subject to the Fiscal Year (FY) 2014 cap on Monday, April 1, 2013. The cap is an annual numerical limitation on H-1B petitions. For FY 2014, the H-1B cap is 65,000; however, the first 20,000 H-1B petitions filed on behalf of individuals with a U.S. master's degree or higher are not counted toward this 65,000 cap.

Based on information from stakeholders, the USCIS anticipates that the H-1B cap will be reached very quickly this year. In fact, it expects to reach the cap within 5 days (by April 5, 2013). Once it begins receiving H-1B petitions, the USCIS will monitor the number received and notify the public of the date on which the numerical limit of the H-1B cap has been met, which is known as the final receipt date. If the USCIS receives more petitions than it can accept on the final receipt date, it will use a lottery system to randomly select the number of petitions required to reach the numerical limit. The USCIS will then reject petitions that are subject to the cap and that are not selected in the lottery, as well as petitions received after the final receipt date. This lottery approach for the H-1B cap was last used in April 2008.

The USCIS has also announced that the 15-day time frame for premium processing of cap-subject H-1B petitions will begin on April 15, 2013 (rather than the date of actual receipt). Premium processing allows employers to pay a fee of \$1,225 to have their case adjudicated within 15 business days.

As we anticipate the FY 2014 H-1B cap being reached extremely quickly, employers may wish to send cap-subject H-1B petitions to the USCIS on March 29, 2013 (for receipt on April 1, 2013), or as quickly thereafter as possible.

CONTACT US

If you have any questions about the content in this legal update, contact one of the members of our Immigration Practice Group below. [Robinson & Cole's Immigration Practice Group](#) has

experienced attorneys who have assisted clients with a wide range of immigration issues.

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