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U.S. CHAMBER OF COMMERCE SUES TO ENJOIN IMPLEMENTATION OF $100K H-1B FEE

On September 19, 2025, a Presidential Proclamation was issued restricting the entry of certain H-1B nonimmigrants into the United States unless a fee of $100,000 is paid. An initial review of the Proclamation was provided in the September 22nd Masuda Funai Client Alert titled “Presidential Proclamation Issued Restricting Entry of Certain H-1B Workers”.

On Thursday, October 16th, the U.S. Chamber of Commerce filed a lawsuit to enjoin the Administration from proceeding with the Proclamation and the $100,000 H-1B fee. This is the second lawsuit filed to block the implementation of the Proclamation. In its lawsuit, the Chamber stated that the proposed $100,000 fee would have a "devastating effect" on American businesses, particularly those in the tech, healthcare, higher education and manufacturing sectors. It also indicated that "[Congress] has struck an intricate, thoughtful balance by specifying how fees for the program should be calculated, how many visas may be issued annually, and what requirements the executive branch should enforce to ensure that H-1B workers do not displace American workers or undercut wages" [and that] "the presidential proclamation … upends that carefully crafted congressional balance."

This is the first lawsuit that the Chamber has filed challenging any of the numerous Presidential Proclamations that have been issued since January 20, 2025.

Subsequent to the filing of the Chamber’s lawsuit, U.S. Citizenship and Immigration Services (USCIS) post implementing guidance on its website on Monday, October 20, 2025. A detailed analysis of this guidance was provided in a October 21st Masuda Funai Client Alert titled “Implementation of Presidential Proclamation Restricting Entry of Certain H-1B Workers”.

Additional information about the implementation of the H-1B Presidential Proclamation and the lawsuits challenging the Proclamation will be contained in future Masuda Funai Client Alerts when it becomes available.

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EFFECTS OF THE GOVERNMENT SHUTDOWN ON BUSINESS IMMIGRATION

On October 1, 2025, the federal government began Fiscal Year 2026 (FY-2026). Because required appropriation bills were not enacted before October 1st and Congress has not agreed to at least temporarily extend current funding levels while it continues to work on the required appropriation bills, the federal government has partially closed. The shutdown unevenly affects business immigration processes as some agencies are funded solely by appropriations, while other agencies are self-funded through filing fees.

USCIS: U.S. Citizenship & Immigration Services (USCIS) relies mostly on filing fees from applications/petitions. Because USCIS does not rely on congressional appropriations, it continues processing applications, petitions, and biometrics during the government shutdown.

E-Verify: E-Verify was temporarily suspended during the initial days of the government shutdown from October 1st to 9th. Employers who were unable to complete an E-Verify process during this timeframe have to now enter the data into E-Verify for employees hired when E-Verify was off-line.

DOL: For immigration processing, the Department of Labor (DOL) is funded by appropriations and all immigration-related work is halted during the government shutdown. Business immigration filings most affected include those for H-1B, H-1B1 and E-3 petitions which require a Labor Condition Application (LCA) as a prerequisite to the immigration filing with USCIS. LCAs are not being certified by DOL, nor may an LCA be filed. Additionally, prevailing wage requests are not being processed and cannot be filed. Finally, PERM applications are not being processed.

DOS: The Department of State (DOS) which provides consular services at U.S. Embassies and Consulates around the world continue to operate, but staffing may be diminished, causing slowdowns in visa issuance.

CBP: U.S. Customs and Border Protection (CBP) continues to operate, providing an essential function for the inspection of persons and goods entering the United States.

ICE: Likewise, Immigration and Customs Enforcement (ICE) is not impacted by the government shutdown. Please see the article on ICE investigations below.

While the U.S. government shutdown continues, applicants, beneficiaries, petitioners, and attorneys should expect case backlogs, slower adjudications, and scheduling disruptions until funding is restored. Funding will be restored when both the House and Senate pass a continuing resolution or full appropriations bills, and the President signs them into law.

FY-2026 AND FY-2027 DIVERSITY VISA LOTTERY UPDATES

Each fiscal year, the DOS runs a Diversity Immigrant Visa Program (“Diversity Lottery” or “DV”)) which allocates up to 55,000 immigrant visas (aka Green Cards) for permanent residency to people from countries with historically low rates of U.S. immigration.

Diversity Lottery applicants must meet the basic eligibility requirements of (1) being from an eligible country and (2) having at least a high school education or equivalent, or qualifying work experience. Diversity Lottery

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applicants submit their entries online during a limited registration period (typically in October–November) and winners are randomly selected. Notably, the DOS over-selects for the Diversity Lottery, so not all selectees will be able to move forward with applying for their Green Cards. If an applicant is selected and when a visa number is available to them, they must complete further steps to apply for their Green Card and the Green Card application must be approved by September 30th.

Registration for the FY-2026 Diversity Lottery occurred between October 2, 2024 and November 7, 2024; with selected applicants notified in May 2025. The selected applicants have until September 30, 2026 to complete the Green Card application process.

For FY-2027 (DV-2027), however, the Diversity Lottery registration period has been delayed, with DOS failing to announce the eligible countries, the formal registration period, or the current instructions for the Diversity Immigrant Visa Program. One change contributing to the delay is the implementation of a $1.00 electronic registration fee, which a registrant will be required to pay when submitting their Diversity Lottery entry. This fee, which aims to share the cost of administering the lottery more fairly and deter speculative or duplicate entries, was established by a final rule published in the Federal Register on September 16, 2025.

Additional information about the FY-2027 DV Lottery will be contained in future Masuda Funai Business Immigration Monthly Updates when it becomes available.

FY-2026 DIVERSITY LOTTERY REGISTRATION RESULTS

In its November 2025 Visa Bulletin, the DOS released results on how many individuals from each country registered for the FY-2026 DV Lottery. The results for those who have been registered for the FY-2026 DV Lottery are as follows:

AFRICA		
ALGERIA 5,457	ESWATINI 3	MOZAMBIQUE 4
ANGOLA 763	ETHIOPIA 3,287	NAMIBIA 3
BENIN 1,064	GABON 62	NIGER 109
BOTSWANA 7	GAMBIA, THE 198	RWANDA 1,252
BURKINA FASO 252	GHANA 1,642	SENEGAL 478
BURUNDI 1,616	GUINEA 1,051	SIERRA LEONE 639
CABO VERDE 35	GUINEA-BISSAU 10	SOMALIA 1,554
CAMEROON 3,533	KENYA 3,949	SOUTH AFRICA 187
CENTRAL AFRICAN REPUBLIC 19	LESOTHO 6	SOUTH SUDAN 72

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CHAD 482	LIBERIA 1,593	SUDAN 5,226
COMOROS 12	LIBYA 276	TANZANIA 404
CONGO, DEMOCRATIC REPUBLIC OF THE 2,210	MADAGASCAR 48	TOGO 2,473
CONGO, REPUBLIC OF THE 448	MALAWI 159	TUNISIA 202
COTE D'IVOIRE 926	MALI 268	UGANDA 1,513
DJIBOUTI 204	MAURITANIA 261	ZAMBIA 236
EGYPT 5,527	MAURITIUS 2	ZIMBABWE 327
EQUATORIAL GUINEA 12	MOROCCO 3,670	
ERITREA 206	WESTERN SAHARA 2	
ASIA		
AFGHANISTAN 4,200	JORDAN 1,092	SINGAPORE 6
BAHRAIN 18	KUWAIT 101	SRI LANKA 1,028
BHUTAN 278	LAOS 68	SYRIA 624
BURMA 1,540	LEBANON 141	TAIWAN 247
CAMBODIA 811	MALAYSIA 17	THAILAND 360
INDONESIA 385	MONGOLIA 227	TIMOR-LESTE 1
IRAN 4,137	NEPAL 3,933	UNITED ARAB EMIRATES 154
IRAQ 616	OMAN 11	YEMEN 2,449
ISRAEL 153	QATAR 66	
JAPAN 141	SAUDI ARABIA 577	
EUROPE		
ALBANIA 1,590	GERMANY 420	POLAND 343
ARMENIA 2,639	GREECE 58	PORTUGAL 40

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AUSTRIA 35	HUNGARY 121	MACAU 5
AZERBAIJAN 1,817	IRELAND 30	ROMANIA 161
BELARUS 1,545	ITALY 267	RUSSIA 5,510
BELGIUM 26	KAZAKHSTAN 2,723	SERBIA 324
BOSNIA AND HERZEGOVINA 51	KOSOVO 172	SLOVAKIA 26
BULGARIA 142	KYRGYZSTAN 3,324	SLOVENIA 6
CROATIA 14	LATVIA 53	SPAIN 84
CYPRUS 8	LITHUANIA 79	SWEDEN 34
CZECH REPUBLIC 44	MOLDOVA 1,208	SWITZERLAND 22
DENMARK 8	MONTENEGRO 57	TAJIKISTAN 3,708
ESTONIA 17	NETHERLANDS 24	TURKEY 3,191
FINLAND 20	Aruba 4	TURKMENISTAN 2,542
FRANCE 309	NORTH MACEDONIA 165	UKRAINE 5,283
French Polynesia 1	NORTHERN IRELAND 10	UNITED KINGDOM 1,303
New Caledonia 4	NORWAY 6	UZBEKISTAN 3,754
GEORGIA 1,406		
NORTH AMERICA		
BAHAMAS, THE 23		
OCEANIA		
AUSTRALIA 599	MICRONESIA 1	SAMOA 14
Christmas Island 1	NAURU 8	SOLOMON ISLANDS 4
Cocos (Keeling) Islands 55	NEW ZEALAND 229	TONGA 100
COOK ISLANDS 24	Tokelau 4	VANUATU 13
FIJI 2,094	PAPUA NEW GUINEA 14	

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KIRIBATI 15	REPUBLIC OF PALAU 3	
SOUTH AMERICA		
ANTIGUA AND BARBUDA 2	ECUADOR 1,270	PERU 1,596
ARGENTINA 124	GRENADA 5	SAINT KITTS AND NEVIS 11
BARBADOS 3	GUATEMALA 367	SAINT LUCIA 9
BELIZE 2	GUYANA 24	SAINT VINCENT AND THE GRENADINES 8
BOLIVIA 269	NICARAGUA 167	SURINAME 8
CHILE 83	PANAMA 36	TRINIDAD AND TOBAGO 139
COSTA RICA 99	PARAGUAY 19	URUGUAY 13
DOMINICA 8		

USCIS SHIFTS TO ELECTRONIC ONLY PAYMENT FOR FILING FEES

Beginning October 28, 2025, USCIS will no longer accept paper checks or money orders for the payment of filing fees. Instead, USCIS petitions must be filed along with Form G-1650 to authorize an ACH debit directly from a U.S. bank account or Form G-1450 to pay by credit card.

Under the new system, all payments must originate from a U.S.-based account. Each petition or application will require its own payment authorization form, even if using the same ACH or Credit account. USCIS will attempt each ACH transaction up to twice before rejecting a filing, though an application may still be revoked if a debit later fails. USCIS states it will destroy the payment authorization form whether the filing is accepted or rejected. This means that a new G-1650 or G-1450 must accompany any refiling.

The American Immigration Lawyers Association (AILA) has expressed concern about the speed and scope of this transition and has encouraged USCIS to delay full implementation to address logistical and accessibility challenges for petitioners and practitioners alike. AILA has also highlighted the need for clearer guidance on payment failures, data security, and institutional workflows. However, USCIS has not yet responded to AILA's concerns and has not indicated that it will delay the implementation of electronic payments.

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VISA BOND PILOT PROGRAM UPDATE

The August 2025 and February 2025 issues of the Masuda Funai Business Immigration Monthly reported that the government will collect a visa bond payment from certain visa applicants who are nationals from countries designated as "high overstay"; countries with deficient screening and vetting processes; or countries offering citizenship without a residency requirement, also known as Citizenship by Investment ("CBI Program").

Nationals from the following countries are subject to the visa bond payment when applying for visa to travel to the United States for business or pleasure (B-1/B-2 visa).

- Mali – effective October 23, 2025
- Mauritania – effective October 23, 2025
- Sao Tome and Principe – effective October 23, 2025
- Tanzania – effective October 23, 2025
- The Gambia – effective October 11, 2025
- Malawi – effective August 20, 2025
- Zambia – effective August 20, 2025

The bond amount to be collected is $5,000, $10,000 or $15,000 per applicant.

Once the bond has been posted and the B-1/B-2 visa issued, the traveler may only arrive and depart the United States at a designated airport. The current designated airports are:

- Boston Logan International Airport (BOS)
- John F. Kennedy International Airport (JFK)
- Washington Dulles International Airport (IAD)

Additionally, the B-1/B-2 visa will be limited to a single-entry and have a 3-month validity. Admission to the United States by Customs and Border Protection (CBP) will be only for a maximum period of 30 days.

The opportunity to have the bond payment returned is forfeited when:

- The visa holder departs the United States after the date of their authorized stay in the United States.
- The visa holder remains in the United States beyond the date of their authorized stay in the United States. This can occur if USCIS denies the visa holder's request for an extension of stay or change of their immigration status.
- The visa holder applies to adjust out of nonimmigrant status, including claiming asylum or applying for Permanent Resident status.

ICE INVESTIGATES EMPLOYERS OF F-1 STUDENTS

In addition to identifying, detaining and removing noncitizens who are illegally present in the United States, ICE manages the Student and Exchange Visitor program (SEVP) which monitors F, J and M nonimmigrants' compliance with their programs.

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On October 15, 2025, ICE conducted site visits of IT services companies employing F-1 students in Northern Virginia. The F-1 students were employed by the companies pursuant to their school's Optional Practical Training (OPT) programs. These ICE investigations discovered nonfunctional or staged worksites, including an employer of dozens of F-1 students working under OPT from a home-office, and instances of noncompliance and potential fraud.

Acting ICE Director Todd M. Lyons advised that ICE "will intensify investigations to mitigate fraud and address security risks associated with the Optional Practical Training programs." Prior to this October 15th enforcement action, ICE has previously rarely (if ever) conducted site visits to ensure employer and student compliance with OPT requirements.

TRUMP GOLD CARD

On September 19, 2025 President Trump signed Executive Order titled The Gold Card and launched the associated website. To promote the entry of noncitizens who "will affirmatively benefit the Nation," including successful entrepreneurs, investors and businesspeople, the Gold Card program will be overseen by the Secretary of Commerce.

Individuals who are eligible for permanent resident status in either the employment-based first preference as individuals having extraordinary ability (EB-1A), or individuals who qualify for the employment-based second preference (as professionals having an advanced degree or having demonstrated exceptional ability who will substantially benefit prospectively the U.S. economy, cultural or educational interests, or welfare EB-2), or those approved for a national interest waiver (EB-2 NIW) who are admissible to the United Stated and have an immigrant visa available to them in the U.S. Immigrant Visa Quota System could pay a non-refundable processing fee (amount not provided at this time) and make a future "gift" of one million dollar to the United States to reportedly receive U.S. residency "in record time". The award of the Trump Gold Card is contingent on the Department of Homeland Security (DHS) conducting an in-depth background check and vetting the potential Trump Gold Card holder. Individuals receiving a Trump Gold Card would be subject to U.S. taxation similar to other U.S. permanent residents/Green Card holders and U.S. citizens. As with any visa, the government may revoke the Gold Card.

The Corporate Gold Card was also announced. This card would be issued to a corporate sponsor of one or more employees. In addition to paying the non-refundable application fee, the corporation would make a gift of two million dollars per employee with the opportunity to swap out the employee sponsored by paying a transfer fee. The Corporate Gold Card is subject to annual maintenance fee.

While signing the Executive Order, President Trump opined that the Trump Gold Card will raise $100 billion for U.S. Treasury, which will be used to reduce debt. However, it is unclear if the Administration has the statutory authority to implement the Gold Card or Corporate Gold Card without congressional approval.

The Administration indicated that details on the process to apply for the Gold Card or Corporate Gold Card may be released by the end of December 2025.

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NOVEMBER 2025 VISA BULLETIN UPDATE

The DOS recently issued the Visa Bulletin for November 2025.

Who becomes eligible to be **approved** for Permanent Resident status (a "Green Card") or have their Immigrant Visa interview scheduled at a U.S. Consular Post?

For *employment-based immigration* the following foreign nationals who have applied for AOS and have submitted all the required documentation including the Medical Examination (Form I-693), become eligible to have USCIS complete the processing of their application in November 2025. Also, the following foreign nationals who will complete the Immigrant Visa processing at a U.S. Consular Post and who have submitted all the required documentation become eligible to have their interview scheduled in November 2025.

First Preference

- Persons eligible for the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) who were born in any country other than India or China.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) whose priority date is before December 22, 2022.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or Workers recognized for their Extraordinary Ability) whose priority date is before February 15, 2022.

Second Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before December 1, 2023.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before April 1, 2021.
- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before April 1, 2013.

Third Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before April 1, 2023.
- **China-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before March 1, 2021.

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- **India-born** persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before August 22, 2013.

Who may apply for Adjustment of Status ("AOS") during November 2025?

On a positive note, USCIS has agreed to allow individuals eligible in the employment-based categories to apply for permanent resident status in the United States through a process call adjustment of status ("AOS") under the "Dates of Filing Chart" (instead of the Final Action Date chart). For *employment-based immigration* this allows the following foreign nationals to apply for AOS in November 2025:

First Preference

- Persons eligible for the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) who were born in any country other than India or China.
- China-born persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or workers recognized for their Extraordinary Ability) whose priority date is before May 15, 2023. *This is an advancement of 135 days since November 2024.*
- India-born persons having an approved Immigrant Petition (Form I-140) in the employment-based 1st preference category (Multinational Managers/Executives, Outstanding Researcher/Professors or Workers recognized for their Extraordinary Ability) whose priority date is before April 15, 2023. *This is an advancement of one year since November 2024.*

Second Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before July 15, 2024. *This is an advancement of 349 days since November 2024.*
- China-born persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before December 1, 2021. *This is an advancement of 426 days since November 2024.*
- India-born persons having an approved Immigrant Petition (Form I-140) in the employment-based 2nd preference category (Advanced Degree Professionals, workers recognized for their Exceptional Ability, or individuals qualifying for a National Interest Waiver) whose priority date is before December 13, 2013. This is an advancement of 347 days since November 2024.

Third Preference

- Persons born in any country other than India or China having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before July 1, 2023. *This is an advancement of 122 days since November 2024.*

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- China-born persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before January 1, 2022. *This is an advancement of 411 days since November 2024.*
- India-born persons having an approved Immigrant Petition (Form I-140) in the employment-based 3rd preference category (Professionals or Skilled Workers) whose priority date is before August 15, 2014. *This is an advancement of 433 days since November 2024.*

For additional information, please see our Client Advisory "Understanding When Your Priority Date is "Current" to File (and Be Approved) for a Green Card".

MFEM NEWS

Ms. Kathleen Gaber to Speak at AGA Global Conference on Navigating Cross-Border Corporate Assignments

Ms. Kathleen Gaber, Principal in the firm's Immigration Group, will be presenting at the 2025 Alliott Global Alliance (AGA) Annual Global Event in Toronto, Ontario, Canada, on Thursday, October 30, 2025.

Ms. Gaber will serve on a panel discussion of Corporate Assignments and Expatriates. Her session, titled "Moving Workers Across Borders: Helping Multinationals Manage Tax, Immigration, and Legal Risks," will explore key compliance challenges faced by global employers and strategies for aligning immigration, tax, and employment practices across jurisdictions.

The AGA is one of the world's leading international networks of independent law and accounting firms. With over 30 years of experience advising U.S. and multinational corporations on business immigration and related employment matters, Ms. Gaber is known for her practical, business-focused approach to cross-border workforce mobility.

Mr. Bob White to Provide Immigration Update at NAFSA Region V Conference

Mr. Bob White, co-Chair of the Masuda Funai Immigration Group, will speak at the 2025 National Association of Foreign Student Advisors (NAFSA): Association of International Educators' Region V Conference in Milwaukee, Wisconsin, later this month.

Mr. White will lead the session titled "Government Update – A Review of the Immigration Chaos." This panel will be reviewing immigration changes which have been proposed or have occurred since January 2025. It will also discuss anticipated changes which may occur in 2026.

Mr. White has served in the NAFSA Region V Leadership for more than 15 years. He is the immediate Past Chair of NAFSA Region V.

NAFSA serves the needs of more than 11,000 international educators worldwide and is the leading organization committed to international education and exchange.

Masuda Funai is a full-service law firm with offices in Chicago, Detroit, Los Angeles, and Schaumburg.

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