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## Ground-Breaking Proposed H-1B Electronic Registration System for H-1B Visa Cap Petitions

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Ground-Breaking Proposed H-1B Electronic Registration System for H-1B Visa Cap Petitions

**The ground-breaking H-1B Electronic Registration System is finally being proposed for implementation for H-1B petitions that are subject to the statutory annual visa cap, after lengthy discussions.**

An H-1B petition is a temporary work visa for specialty occupation foreign nationals to live and work in the U.S. Many H-1B foreign nationals have successfully gone on to apply for and obtaining green card status. Annually, there are 65,000 H-1B visa numbers; and an additional 20,000 H-1B cap-exempt petitions under the advanced degree exemption which applies to an H-1B beneficiary who has successfully obtained a U.S. Master's degree or higher. Not all H-1B petitions are subject to the annual visa cap, depending on the types of H-1B petition being filed, and the types of entity-sponsor. For examples, foreign nationals who already have approved H-1B petitions or H-1B status, or H-1B petitions filed by certain types of employers, are exempt from the annual visa cap.

The H-1B Electronic Registration System serves to reduce costs and increase efficiency, to the U.S. Citizenship and Immigration Services (USCIS) and potential H-1B employers, in the pre-and initial filing stages of H-1B cap petitions (including the online stage of labor condition applications to the U.S. Department of Labor).

Once implemented, the H-1B Electronic Registration System would allow employers interested in filing H-1B petitions subject to the statutory visa cap to register electronically with the USCIS. The estimated time to complete the registration of an H-1B in this System is 30 minutes. Using this H-1B Electronic Registration System, the USCIS would select the number of registrations predicted to exhaust all available visas before the petition filing period begins (filing period for H-1B cap petitions starts on April 1 each year, until the H-1B visa numbers are exhausted – the requested employment start-date for the H-1B cap petition would be no earlier than October 1 in

the same year). The employers would then file their petitions only for the registered H-1B cap petitions that have been selected for visa numbers.

Under the proposed H-1B Electronic Registration System, petitioners would have 60 or more days from the date of notification of selection ("selection notice") to properly file (i.e. send the H-1B package to the USCIS) a completed H-1B petition for the named beneficiary. USCIS would state the applicable filing deadline in each selection notice. The USCIS would reject a selected H-1B petition (and return the associated filing fees) that is filed outside the stipulated filing deadline on the selection notice.

Potential H-1B cap candidates who are not selected in a given annual visa cap have the options to have their H-1B cap petitions submitted to the USCIS in the next fiscal year. The H-1B visa cap fiscal year starts on October 1 each year, and the H-1B cap petitions filing period begins on April 1 each year. In addition, non-selected H-1B cap candidates can consider other immigration options such as eligibility for self-petition green cards.

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We represent employers, and individuals and their families in green card, work visa and waiver matters in U.S. immigration law.

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