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Immigration

USCIS Announces Temporary Suspension of Premium Processing for FY 2021 Cap-Subject H-1B Petitions

Legal Update

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By Immigration Group

This article was prepared with the assistance of ABIL, the Alliance of Business Immigration Lawyers, of which Loan Huynh, Fredrikson Immigration Department Chair, is a member.

On March 16, 2020, U.S. Citizenship and Immigration Services (USCIS) announced the temporary suspension of premium processing service for fiscal year (FY) 2021 cap-subject H-1B petitions due to the pandemic and provided the following information:

- Petitioners filing FY 2021 cap-subject H-1B petitions will not be able to request premium processing when USCIS begins accepting cap-subject petitions on April 1, 2020. Until premium processing resumes for FY 2021 cap-subject H-1B petitions, USCIS will reject any Form I-907 concurrently filed with a cap-subject H-1B Form I-129.
- Premium processing will resume in a two-phased approach during the FY 2021 cap season. The first phase will include FY 2021 cap-subject H-1B petitions, including those eligible for the advanced-degree exemption, requesting a change of status from F-1 nonimmigrant status. The second phase will include all other FY 2021 cap-subject petitions.
- USCIS said it will resume premium processing for FY 2021 cap-subject H-1B petitions requesting a change of status from F-1 nonimmigrant status by May 27, 2020, and will notify the public before premium processing resumes for these petitions. Petitioners must appropriately select response “b” for Item 4 in Part 2 of Form I-129, and indicate “F-1” for Item 5 and “Current Nonimmigrant Status” in Part 3 of Form I-129, to be eligible to file a Form I-907 as part of this first group.
- The earliest date that USCIS will resume premium processing for all other FY 2021 cap-subject H-1B petitions is June 29, 2020.
- Petitioners filing FY 2021 H-1B cap-subject petitions will be eligible to upgrade to premium processing by filing Form I-907 once premium processing resumes, as applicable. USCIS said it will notify the public with a confirmed date for resuming

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premium processing for FY 2021 H-1B cap-subject petitions.

- Premium processing remains available for H-1B petitions that are exempt from the cap, such as extension-of-stay requests.