

## CALL FOR AN APPOINTMENT

**(703) 837-8832**

717 King Street  
Suite 205  
Alexandria, VA 22314

*William J. Kovatch, Jr.*  
ATTORNEY AT LAW, PLLC

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William J. Kovatch, Jr., Attorney at Law, PLLC provides a wide array of legal services.

- Family Based Visas
  - Immediate Relatives
  - Spouse/Fiancé
  - Preference System
- Employment Visas
  - Immigrant Visas
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William J. Kovatch, Jr. is an experienced litigator, with eight years experience litigating cases for the Federal Government. He has litigated complex cases before U.S. courts, NAFTA panels, and the World Trade Organization.

William J. Kovatch, Jr. is a member of the American Immigration Lawyers Association.

This newsletter is meant for informational purposes only, and not meant to constitute legal advice. Quality legal advice requires a thorough look at the facts and circumstances surrounding your situation.

## IMMIGRATION LAW NEWSLETTER

### H-1B Filing Date Approaches

The U.S. Citizenship and Immigration Service (“USCIS”) will begin accepting petitions for H-1B specialty workers for the 2009-10 fiscal year on April 1, 2009.

H-1B visas are available for aliens who will work in a specialty occupation. A specialty occupation is one that requires the theoretical and practical application of a highly specialized body of knowledge, and a bachelor’s degree or its equivalent.

H-1Bs are temporary, non-immigrant visas, which can be approved initially for three years, and extended for up to a total of six years. With respect to most non-immigrant visas, the alien must have an intention of returning to his or her home country when the visa expires. H-1B visas, however, are considered dual-intent visas. This means that an alien who applies for an H-1B visa can have an intent to remain permanently in the United States.

An alien with an approved H-1B visa can begin working in the specialty occupation on October 1, which is the start of the fiscal year. USCIS can accept applications for H-1B visas up to six months before the start of the fiscal year, which is April 1. The number of H-1B visas are limited to 65,000. An additional 20,000 visas are set aside for H-1B petitions filed on behalf of aliens holding a master’s degree or higher. This is known as the H-1B cap. Once USCIS receives enough petitions to reach the H-1B cap, it no longer accepts any more petitions for that year. In the past few years, the number of petitions filed on April 1 have exceeded the number of H-1B visas available. USCIS regulations provide that if the H-1B cap is reached within the first five days of filing, then USCIS will include all petitions filed during that time in a lottery to determine who receives the limited visas available. If this happens in 2009, then all H-1B petitions filed by April 7 will be included in the lottery. ■



## Progress on FBI Name-Checks

USCIS announced that the backlog of FBI name-checks pending for more than six months has been eliminated. All applicants for immigrant visas must undergo a number of background security checks. One such security check is the FBI name-check. Essentially, the name of the intending immigrant is compared to the names in the FBI Central Records System to see if there is a match.

In 2008, some intending immigrants had been waiting for four years or more for their name to be compared to the FBI database. USCIS and the FBI took action to address this problem, by making it a priority to work on the cases where the name-checks had been pending the longest. Incrementally, the FBI worked on the cases where the name-checks had been pending for more than four years, then those which had been pending for more than three years, two years and one year. After addressing the cases where the name-checks had been pending for over a year, the FBI turned its attention to those cases where the name-checks had been pending for more than six months. Having reached that goal, the FBI will now attempt to address all of the name-checks that have been pending for 90 days or more. By the end of June of 2009, the FBI aims to complete 98% of all requests for name-checks within 30 days. ■

## CONGRESSIONAL UPDATE



### Religious Worker and Conrad-30 Programs Extended

On March 20, 2009, President Obama signed into law a bill which extends two immigration programs. Specifically, Public Law No. 111-9 extends the availability of visas for religious workers who are not ministers through September 30, 2009. The law also extends the Conrad-30 program until the same date.

The Conrad-30 program concerns foreign physicians who come to the United States through an exchange program to receive graduate medical training. Generally speaking, such physicians are required to return to their home country for two years after the program before they can apply for a new visa to the United State. The Conrad-30 program waives the two-year foreign-residency requirement for physicians who agree to practice in an area designated by the Department of Health and Human Services as having a shortage of health care professionals. ■