

**WKG&J****WORMSER KIELY GALEF & JACOBS LLP**

## IMMIGRATION HIGHLIGHTS - APRIL 2011



### Table of Contents:

[Click on topics below to be taken to item's content]

[H-1B Cap Update](#)

[USCIS Verifying Employer Data on Dun & Bradstreet](#)

[The OSC Website- A Useful Resource for Employers](#)

[Possible Availability of Increased Visa Numbers for "Green Card" Applicants](#)

### Spotlight On...

[WKGJ's Corporate and Commercial Law Practice Group](#)

### H-1B Cap Update

Applications for new H-1B visas began to be received by USCIS on April 1st (for a start date of October 1, 2011, the first day of USCIS' new fiscal year). As of this date, usage of H-1B visas has been very slow and it is anticipated that H-1B visa numbers will continue to be available during the upcoming months. USCIS maintains a [chart of current H-1B usage](#) which may be accessed online.

As a reminder, the annual quota of H-1B visa numbers available does not apply to individuals currently working in H-1B status in the U.S., who are seeking to extend their current employment or seeking to change employers. In addition, individuals seeking employment with institutions of higher education, nonprofit research organizations, government research organizations and certain related entities are also exempt from the annual H-1B "Cap".

### USCIS Verifying Employer Data on Dun & Bradstreet

USCIS has begun implementing a new web-based program called VIBE (Validation Instrument for Business Enterprises), to review the accuracy of company information provided by petitioning employers. The program accesses online information contained on Dun & Bradstreet's database.

Among the employer data that may be verified are:

- Business activities
- Financial standing, including sales volume and credit standing
- Number of employees, including onsite and globally
- Relationships with other entities, including foreign affiliates
- Status, for example whether it is a single entity, branch, subsidiary or headquarters
- Ownership and legal status, such as LLC, partnership or corporation
- Company executives
- Date of establishment as a business entity
- Current physical address

USCIS will not deny a petition based upon information from Dun & Bradstreet without first giving a petitioner the opportunity to respond to USCIS' concerns. Any inconsistencies, however, may delay obtaining an approval of a visa petition. Because of the implementation of this new program, we strongly urge employers to check the information about their business operations at Dun & Bradstreet ([www.dnb.com](http://www.dnb.com)) to make

sure that the listings are current and complete.

### **The OSC Website - A Useful Resource for Employers**

The Office of Special Counsel for Immigration-related Unfair Employment Practices (OSC) has an excellent website with useful information for employers regarding their rights and responsibilities under the Immigration and National Act's antidiscrimination provisions. It also contains information on the E-Verify Program, I-9 processing, and best practices to avoid charges of national origin and citizenship status discrimination in recruitment, hiring, and firing of company personnel. The OSC also produces a newsletter, published quarterly, with valuable updates on employment-related issues. Worth noting is [the OSC's current newsletter](#), which contains a link to the most recent version of USCIS' Handbook for Employers, outlining in detail the instructions for completing the employment verification form (Form I-9). We suggest that you at spend at least a few minutes examining [the OSC's website](#), and consider bookmarking the site or saving it as a "favorite" on your web browser.

### **Possible Availability of Increased Visa Numbers for Beneficiaries of Employment Based Immigrant Petitions**

According to the Department of State, usage of green cards for employment-based petitions has been slower than in past years. Therefore, we may see movement in upcoming months on green card petitions that have been pending due to priority date backlogs. You will be notified by your WKGJ attorney as soon as the priority date becomes current for any pending petition. Additional detail regarding current priority dates may be viewed by accessing the Department of State's [Visa Bulletin for May 2011](#).

## **Spotlight On...**

### **WKGJ's Corporate and Commercial Law Practice Group**

The goal of the attorneys in our Corporate and Commercial Law Practice Group is to provide practical business advice and efficient problem resolution for our clients. Our clients include a variety of domestic and international businesses, and are representative of many segments of the economy, including the service sector, engineering and construction, renewable energy, information technology, banking and finance, manufacturing, and many traditional industries. The attorneys in our Corporate and Commercial Law Practice Group provide legal advice on structuring domestic and transactional business transactions including consideration of tax issues, implementation and negotiation of business mergers and acquisitions, reorganizations and recapitalization, loans and other financings and investments, negotiation of commercial contracts, general and limited partnerships, corporations and limited liability companies. They are also consulted on shareholders' and employment agreements, corporate organizations, and officers' and directors' liability, in addition to representing clients in business negotiations and structuring of business transactions.

### **Charles G. Banino, WKGJ's Managing Partner**

Charles Banino is Managing Partner of the Firm and leads the Corporate and Commercial Law Practice Group. He has extensive experience in many types of corporate, commercial, construction, and real estate transactions, including technology transfer agreements, intellectual property licensing, project development agreements and representation of clients in large commercial transactions and financing projects. He also represents domestic and international buyers and sellers of business organizations, advises clients on corporate governance matters, facilitates sales of stock and assets and other business

transactions, and serves as a fiduciary for various trusts and estates.

Mr. Banino can be contacted through the firm's general line at (212) 687-4900 or [cbanino@wkgj.com](mailto:cbanino@wkgj.com)

©2011 Wormser, Kiely, Galef & Jacobs LLP

**WKGJ's Immigration Practice Group**

In addition to the email addresses below, we can be reached at (212) 687-4900.

Donald J. Wolfson:	<a href="mailto:djw@wkgj.com">djw@wkgj.com</a>
Annie J. Wang:	<a href="mailto:awang@wkgj.com">awang@wkgj.com</a>
Stephanie Marks:	<a href="mailto:smarks@wkgj.com">smarks@wkgj.com</a>
Patricia Gannon:	<a href="mailto:pgannon@wkgj.com">pgannon@wkgj.com</a>
John Quinn:	<a href="mailto:jquinn@wkgj.com">jquinn@wkgj.com</a>
Appen Menon:	<a href="mailto:amenon@wkgj.com">amenon@wkgj.com</a>
Andrew R. Lerner:	<a href="mailto:alerner@wkgj.com">alerner@wkgj.com</a>
Gayle Oshrin:	<a href="mailto:goshrin@wkgj.com">goshrin@wkgj.com</a>
Joseph Yoo:	<a href="mailto:yooj@wkgj.com">yooj@wkgj.com</a>
Nina Manchanda:	<a href="mailto:nmanchanda@wkgj.com">nmanchanda@wkgj.com</a>
Marcela Bermudez:	<a href="mailto:mbermudez@wkgj.com">mbermudez@wkgj.com</a>
Michael Mandel:	<a href="mailto:mmandel@wkgj.com">mmandel@wkgj.com</a>
Najia Sheikh Khalid:	<a href="mailto:nsheikh@wkgj.com">nsheikh@wkgj.com</a>

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with Treasury Department regulations, we inform you that any U.S. federal tax advice contained in this correspondence (including any attachments) is not intended or written to be used, and cannot be used for the purpose of (i) avoiding penalties that may be imposed under the U.S. Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

This e-mail is sent by an attorney or his/her agent and is intended only for the addressee's use and may contain confidential and privileged information. If you are not the intended recipient, you are hereby notified that any retention, dissemination, reproduction, or use of the information contained in this e-mail is strictly prohibited. If you have received this e-mail by error, please delete it and immediately notify the sender. Thank you for your cooperation.