

Mobility: immigration alert

July 2022

United States

USCIS to implement second phase of premium processing expansion for certain pending multinational manager/executive and national interest waiver petitions

Executive summary

On 15 July 2022, U.S. Citizenship and Immigration Services (USCIS) announced that it will implement the second phase of the premium processing expansion for certain previously filed I-140 petitions in the multinational manager and executive (EB-1C) as well as the EB-2 National Interest Waiver (NIW) categories.

Beginning 1 August 2022, EB-1C petitions pending since 1 July 2021 (or earlier) and NIW petitions pending since 1 August 2021 (or earlier) will be eligible for an upgrade to premium processing.

Background and analysis

On 29 March 2022, USCIS announced several initiatives to increase efficiencies in adjudications as well as reduce backlogs created by protracted case processing times. These initiatives included expanding the case types eligible for the premium processing service, including additional classifications of immigrant visa petitions filed via the Form I-140. The first phase of the premium processing expansion for EB-1C and NIW petitions was implemented on 1 June.

The filing fee to upgrade a pending EB-1C or NIW I-140 to premium processing is \$2,500, the same fee that applies to other classifications of I-140s that are already eligible for premium processing. USCIS will reject any premium processing requests submitted prior to 1 August 2022 in connection with the newly eligible subset of petitions.

USCIS will adjudicate (issue an approval, request for evidence, notice of intent to deny, or denial) EB-1C and NIW petitions within 45 days of receiving a request to upgrade the pending I-140 petition to premium processing. Newly (initial) filed EB-1C and NIW I-140 petitions continue to be ineligible for premium processing at this time.

What this means

The continued expansion of premium processing is welcome news for the beneficiaries of these I-140 petitions and their sponsoring employers given that many of these cases have been languishing for many months or even years, preventing thousands of foreign nationals from achieving permanent residence in the United States.

USCIS expects to continue expanding premium processing services for additional categories of Form I-140 petitions, as well as Form I-539, *Applications to Extend/Change Nonimmigrant Status*, and Form I-765, *Applications for Employment Authorization*, in Fiscal Year 2022 and Fiscal Year 2023.

However, USCIS has stated that the expansion of premium processing must not cause an increase in processing times for immigration benefit requests filed under regular processing. The timeline for continued expansion will therefore be contingent upon the agency's ability to properly allocate its resources and create efficiencies that will enable the timely management of its existing caseload as well as newly filed cases.



EY Law LLP

We will continue to monitor these areas for further developments and provide updates and analysis as they become available. Please reach out to your EY Law professional with any questions in the meantime.

EY | Building a better working world

EY exists to build a better working world, helping create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

For more information, please visit ey.com/ca.

Follow us on Twitter @EYCanada.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

About EY Law LLP

EY Law LLP is a Canadian law firm, affiliated with Ernst & Young LLP in Canada. Both EY Law LLP and Ernst & Young LLP are Ontario limited liability partnerships. EY Law LLP has no association or relationship with Ernst & Young LLP in the US, or any of its members. Ernst & Young LLP in the US does not practice law, nor does it provide immigration or legal services. For more information, please visit EYLaw.ca.

© 2022 EY Law LLP.

All Rights Reserved.

A member firm of Ernst & Young Global Limited.

EYG no. 006356-22Gbl

This publication contains information in summary form, current as of the date of publication, and is intended for general guidance only. It should not be regarded as comprehensive or a substitute for professional advice. Before taking any particular course of action, contact EY or another professional advisor to discuss these matters in the context of your particular circumstances. We accept no responsibility for any loss or damage occasioned by your reliance on information contained in this publication.

ey.com/en_ca

George Reis, Managing Partner
+1 416 943 2535
george.reis@ca.ey.com

Batia Stein, Partner
+1 416 943 3593
batia.j.stein@ca.ey.com

Roxanne Israel, Partner
+1 403 206 5086
roxanne.n.israel@ca.ey.com

Marwah Serag, Partner
+1 416 943 2944
marwah.serag@ca.ey.com

Authored by:
Hirra Amin, Senior Associate Attorney
+1 403 956 5798
hirra.amin@ca.ey.com

Alex Israel, Partner
+1 416 943 2698
alex.d.israel@ca.ey.com

Christopher Gordon, Partner
+1 416 943 2544
christopher.d.gordon@ca.ey.com

Jonathan Leebosh, Partner
+1 604 899 3560
jonathan.e.leebosh@ca.ey.com