

PUBLICATION

Immigration Update: Chinese EB-5 Applicants are Beginning to Form a Line; PERM Passwords; Changing Visa Fees

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Snapshots of both big picture and meaningful small-scale developments in the world of immigration.

This month: Chinese EB-5 applicants are beginning to form a line, PERM passwords, and changing visa fees.

A Line is Forming for EB-5 Investors from Mainland China

On Saturday, August 23, 2014, the Department of State dramatically announced that EB-5 visas (for immigrant investors) were no longer available for the remainder of the fiscal year for individuals from mainland China. This was something of a wake-up call for permanent resident applicants in this queue, since applicants in the EB-5 category and their families had never used up all of the 10,000 allotted visa numbers in any fiscal year. The good news is, a new fiscal year starts October 1 (about six weeks after the announcement was made) and the unavailability is due in large part to the greater number of approvals by USCIS of EB-5 petitions. The bad news is, if the current combination of increased EB-5 filings and greater number of approvals continues, EB-5 applicants from mainland China are likely to experience a cut-off date in the EB-5 visa category by the middle of the next fiscal year. This cut-off would slow the time between when the applicant's EB-5 Petition is approved by USCIS and when he or she could complete the immigrant visa process abroad or adjust status in the U.S. to lawful permanent resident. Depending on the length of this leg of the process, applicants may face issues with older children "aging out" and becoming ineligible to obtain derivative permanent resident status.

For a full discussion of the impact of this issue and guidance on the EB-5 Visa Number Availability and the Child Status Protection Act, please contact an immigration attorney.

Heightened Password Protection in PERM

The Office of Foreign Labor Certification (OFLC) announced on August 25 that all PERM Online Case Management System users (including employers, attorneys and agents) will be required to change their passwords on or before November 24 to comply with the system's enhanced security protections. The PERM system now requires stronger passwords and will require a password change every 90 days. Full instructions on password criteria and changing existing passwords are available in the OFLC's Quick Start Guide for Enhanced Account Management System [here](#).

Changing Visa Fees

On August 28, 2014, the Department of State published in the Federal Register an increase in many of its Fees for Consular Services. The new schedule of fees will go into effect on September 12, 2014, and are driven by a goal of aligning the fees for consular services with the actual costs to provide such services. All visa applicants must pay the fee amounts in effect on the day they pay, with the exception of Immigrant Visa processing fees, which will be effective as of the date of *billing*. No refunds are offered for fees that decrease after the date of payment. Fees paid at the pre-September 12 rates will be accepted for 90 days after the new fees are effective. [Example: If you paid your visa fee before September 12, 2014, and your visa interview is on or before December 11, 2014, you do not have to pay the difference between the new and old fee amounts.]