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Immigration Update – December 30, 2005

Trow & Rahal, P.C. is pleased to provide this Immigration Update as a service to our clients and friends.

1. Immigrant Visa Backlogs Decline for China and India

Over the past three months immigrant visa backlogs for applicants born in China and India have declined substantially. From October 2005 to January 2006 the backlogs have declined by 11 to 24 months for employment-based applicants from these two countries. For China, the EB-1 backlog is 24 months shorter, EB-2 is 13 months shorter, and EB-3 is 11 months shorter. For India, the EB-1 backlog is 11 months shorter, EB-2 is 14 months shorter and EB-3 is 17 months shorter.

Despite this improvement, backlogs for China and India are still long, ranging from 30 months for India EB-1 to over six years for India EB-3. Also, the “worldwide” EB-3 backlog for countries other than China, India, Mexico and the Philippines has declined only one month over the past three months, and still stands at almost five years. The worldwide EB-1 and EB-2 categories continue to be “current” with no cut-off dates.

Details on the backlogs for each country and category can be found in the monthly Visa Bulletin published by the U.S. Department of State (DOS), which is available at http://travel.state.gov/visa/frvi_bulletin.html.

The December 2005 Visa Bulletin provides the following guidance on future changes in immigrant visa backlogs:

Applicant demand for numbers may be expected to increase following rapid advances in cut-off dates. This could cause cut-off date movement to be sporadic, and eventually slow or stop later in the fiscal year. At this time, it is not possible to predict the rate of movement in future months.

A detailed explanation of immigrant visa backlogs, cut-off dates, priority dates and related matters can be found in the September 2005 edition of Trow & Rahal’s Immigration Update, which is available on our website at <http://www.trowlaw.com>.

2. House Rejects Relief for Green Card and H-1B Visa Backlogs

On December 19 the U.S. House of Representatives adopted a conference report on the budget reconciliation bill that did not include the provisions approved by the Senate that would have recaptured unused H-1B and employment-based immigrant visa numbers. The House also dropped its proposal to impose a \$1,500 fee increase on L-1 visas. Both proposals are likely to be reconsidered by Congress after it returns in January.

3. Congress Will Attempt Comprehensive Immigration Reform in 2006

The Senate Judiciary Committee is expected to take up comprehensive immigration reform in late January. Senator Frist (the Majority Leader) has committed to schedule floor time in early 2006 for a full Senate debate on immigration reform. The debate likely will occur in late February or early March.

There are four major bills in Congress that address the three main elements of comprehensive immigration reform, which are:

Expanded visas – reform of the existing system to address the H-1B and immigrant visa backlogs and other problems, and a new “guest worker” program to provide temporary work authorization for the millions of undocumented foreign workers who are employed in agriculture, food processing, hotels, restaurants, construction, landscaping and other industries.

Earned legalization – a new program to allow undocumented workers who are already present in the United States to obtain permanent resident status over time.

Enforcement – enhanced enforcement of our immigration laws at the border (to prevent illegal entry), in the workplace (to deter and punish employment of undocumented workers) and in the courts (to make it easier to deport those illegally present).

In late November President Bush outlined his plan for comprehensive immigration reform, which emphasized enforcement and included a guest worker program. The President’s plan does not include earned legalization or relief from the H-1B and immigrant visa backlogs.

The House has recently passed an enforcement-only bill, while rejecting the Senate bill that would have provided relief from the H-1B and immigrant visa backlogs. The House action reflects sentiment that enforcement should come first, before any other reform.

Business groups and immigrants-rights advocates will be urging Congress to adopt comprehensive immigration reform in 2006, while restrictions will continue to push their enforcement-only approach.

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4. Happy New Year!

All of us at Trow & Rahal have enjoyed working with you in 2005. We wish you a happy and prosperous New Year and look forward to working with you in 2006.

If you have any questions about the information in this newsletter, please contact one of the Trow & Rahal attorneys listed below.

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