

# H-1B Visa Cap 2021 And New Updates

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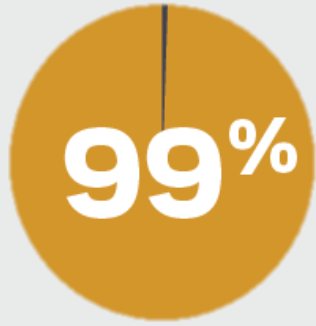


# Agenda

- What has happened/is happening
  - A mix of administrations...
- How does H-1B Cap Registration work



# Our Value Proposition



**Over 99% Success  
Rate**

Brown continues to succeed at over a 99% success rate every year



Maintain excellent relationship with

**USCIS/DOS**

Focus exclusively on **Immigration**

Serve all U.S. time zones in a  
**central location**



**10 Attorneys, 29 staff** – largest stand-alone boutique business immigration law firm in Midwest

Approach each case with a **bespoke strategy**



Provide a highly skilled legal team at a

**lower cost** by Midshoring



Utilize the **latest tech**  
available to support you



# A Lot Has Happened Since December

- New DOL and DHS final rules slated for March 9 and 15<sup>th</sup> - 1<sup>st</sup> changes cap registration selection; 2<sup>nd</sup> changes PW calculation and requires PW for H-1 filing
- Muslim Travel Ban to be voided
- Exec Action to reunite separated families
- Reauthorization of DACA
- Introduction of new immigration legislation to create pathway for DACA/Undocumented/TPS - limited scope approach
- USCIS confirms significant delay for Appts and Fingerprints
- Pay close attention to travel - both current restrictions and future



# What is the H-1B Cap Registration

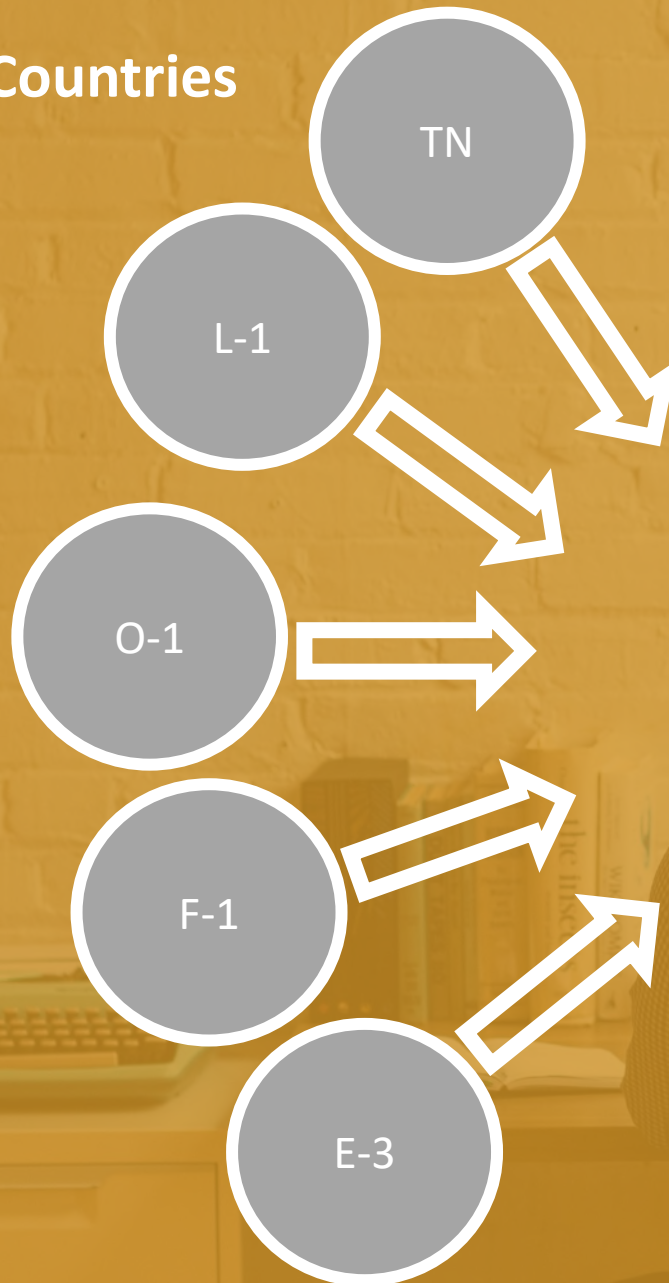
- It's the new lottery - year 2
- Employers register current or future employees for Cap consideration
- Important dates:
  - March 1 - March 20: Registration Open (may remain open 3/22)
  - Last 1/3<sup>rd</sup> of March: Registration results issued
  - April 1- June 29: 90 Day H-1B filing window

Alternate outcome - scrap registration - return to pure lottery and file complete application first five days of April  
Unlikely to know for 4-6 weeks - changing of the guard

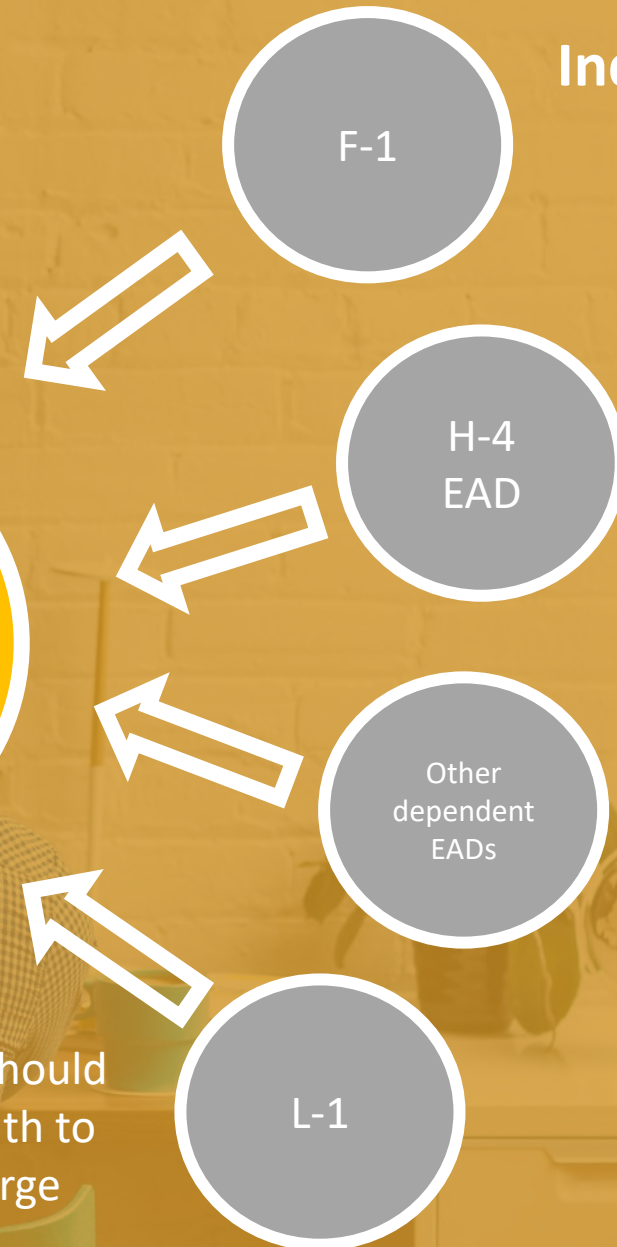


# Our Approach - 2021

Other Countries



India/China



All non-immigrant visas should seek H-1B unless clear path to GC- Fairness Act looms large



# What we Expect

- Decreased volume of registrations - COVID Impact
  - Certain employers have cut down # of FN hires
  - Foreign consulting companies can't get visas issued
  - Less F-1 OPT folks in system
  - Self selection - people choosing somewhere safer
- Contrary Indications
  - For tech companies - still seeing strong hiring
  - Fairness Act is a concern for possible lengthier GC adjudications
  - Still a concern about dependent status - esp. H-4 EAD

All things considered expect a smaller # than last year - my guess 220k



# What to pay attention to

- Only include registrations you anticipate hiring or have hired
- We vet applications - ensure they have path to H-1B
- Duplicate registrations void registration - don't have multiple people registering
- Find everyone - some employers don't always report dependent EADs or F-1s
- New hires for Spring/Summer
- Educating your own stakeholders on changes - reminder: non-acceptance in registration is not a denial
- Not being selected now may still be ok - waiting list



# Important Considerations

- Will they scrap it and return to filing in April?
- Cap Gap folks - important that they are filed early (FIFO)
- Filing late as a strategy - for Bachelor's or Master's
- Reminder on Master's requirement elements
- How to manage multiple accounts, and ensuring clients confirm G-28
- What is the likelihood of success
- Filing for related companies [bonafide job offer]
- Ensure no duplicates are included



# Our Process

1. Establish universe of possible H-1B registrations
2. Determine filing approach:
  - 1 Step -vs- 2 Step
  - May mix and match
3. Communicate approach to employees and request docs
4. 1 Step: Traditional prep with caveat - we don't file if not accepted
5. 2 Step:
  - Step 1- get all docs, determine case approach, draft LCA, file registration.
  - Step 2 - after acceptance: file LCA, draft petition and file
6. Anticipate registration in two waves - March 3/4 and March 18/19
7. 1 Step cases take priority in drafting - Plan March 31 filing
8. Contingency plan - what if registration scraped March 1st or March 15<sup>th</sup> ?



# Questions?

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