



# GMS Flash Alert

## Immigration Edition

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# United States - Expansion of Premium Processing, Extension of Certain Immigration Programs

Legislation signed by U.S. President Donald Trump on September 30, 2020, imposes certain fee increases and expands premium processing to address the budgetary shortfall of U.S. Citizenship and Immigration Services (USCIS).<sup>1</sup> The legislation also extends E-Verify, the EB-5 Regional Center program, and other expiring programs through to December 11, 2020. Although the new law took effect immediately, it could take several weeks or even months for USCIS to apply the changes.

By bolstering USCIS' funding, the new legislation alleviates the need for the agency to furlough 70 percent of its workforce. USCIS previously stated that a mass furlough was inevitable unless additional funding was secured. (For more information about USCIS' planned furlough, see GMS [Flash Alert 2020-376](#), August 28, 2020.)

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## WHY THIS MATTERS

Historically, premium processing has been limited to certain employment-based petitions, specifically Forms I-129 and I-140. The legislation signed on September 30, 2020, requires USCIS to permanently expand premium processing service to include many immigration applications and petitions previously ineligible for expedited adjudication, including applications for employment authorization, dependent applications, and applications to change or extend status.

Given that many applicants and beneficiaries must wait several months to receive immigration benefits through standard processing, the expansion of the premium processing program will have a tremendous positive impact. More specifically, individuals will be better able to maintain continuous status in the U.S. and avoid gaps in work authorization.

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## More Details

The new legislation, known as H.R. 8337: *Continuing Appropriations Act, 2021 and Other Extensions Act*, temporarily funds the U.S. government until December 11, 2020, thus granting Congress more time to establish the budget for FY2021.

The law requires the Department of Homeland Security (DHS) to report to Congress on a semi-annual basis on a 5-year plan which will include electronic filing procedures for all applications and petitions, electronic fee payment, electronic issuance of all correspondence and notices, and decreased processing times for all immigration and naturalization benefit requests.

The legislation also provides that USCIS must not allow an “increase in processing times for immigration benefit requests not designated for premium processing.”

## Summary of the Historical and New Premium Processing Programs

### Prior to New Legislation<sup>2</sup>

Application Types Eligible for Premium Processing: (1) Nonimmigrant petitions in the E-1, E-2, H-1B, H-2B, H-3, L-1A, L-1B, LZ (company blanket), O-1, O-2, P-1, P-2, P-3, Q-1, R-1, TN-1, and TN-2 categories; and (2) Immigrant petitions in the EB-1(A), EB-1(C), EB-2 non-national interest waiver, and EB-3 preference categories.

Processing Times and Fees: Prior to H.R. 8337, USCIS guaranteed action on a case filed for premium processing within 15 calendar days of receipt. The premium processing fee applied to all eligible petitions was \$1,440.

### New Legislation

Application Types Eligible for Premium Processing: Under the new legislation, premium processing will be available for more employment-based nonimmigrant petitions, as well as dependent, change of status, extension of status, and employment authorization applications. Premium processing will also be extended to multinational managers and executives in the EB-1(C) preference category and those seeking EB-2 classification pursuant to a national interest waiver.

### Processing Times and Fees

EB-1(A), EB-1(B), EB-2 non-national interest waiver, and EB-3 Petitions	15 calendar days	\$2,500
EB-1(C) Petitions	45 days	not greater than \$2,500
EB-2 National Interest Waiver Petitions	45 days	not greater than \$2,500
Form I-129 Petitions	15 calendar days	\$2,500
Form I-539: Applications to change or extend status to/in the E, H, L, O, P, or R category	30 days	not greater than \$1,750
Form I-539: Applications to change or extend nonimmigrant status to/in the F, J, or M category	30 days	not greater than \$1,750
H-2B and R Petitions	15 calendar days	\$1,500
Application for Employment Authorization	30 days	not greater than \$1,500

Source: KPMG Law LLP, Canada

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## KPMG NOTE

KPMG Law LLP in Canada will continue to keep readers updated of *GMS Flash Alert* posted on any important developments as and when they occur.

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## FOOTNOTES:

- 1 For the text and status of the legislation, click [here](#).
- 2 For information on USCIS' current premium processing program, [click here](#).

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## Contact us

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