



GMS Flash Alert

Immigration Edition

2022-073 | April 1, 2022



United States – USCIS to Expand Premium Processing Program in Phases

On March 30, 2022, the Department of Homeland Security (DHS) published its final rule amending the current premium processing regulations to align with the Emergency Stopgap USCIS Stabilization Act, in an effort to reduce U.S. Citizenship and Immigration Services' (USCIS) visa processing backlogs.¹ The new rule expanded USCIS' premium processing program to additional nonimmigrant and immigrant case types, including additional categories of I-140 petitions, as well as certain I-539 applications to change or extend status, and I-765 employment authorization document (EAD) applications. (For related coverage, see [GMS Flash Alert 2021-68](#), February 26, 2021.)

The new rule is set to take effect on May 31, 2022 – 60 days after the publication in the *Federal Register*, but implementation is anticipated to take at least three years starting this fiscal year.

WHY THIS MATTERS

USCIS has been experiencing lengthy delays in processing various application types for immigration benefits throughout the last few years. The expansion of USCIS' premium processing program is welcome news for foreign nationals, as well as their employers, applying for immigration benefits under certain visa categories not currently eligible for premium processing service.

As the final rule will take effect on May 31, 2022, employers and foreign nationals are encouraged to work with immigration counsel to review pending cases eligible for premium processing under the new rule, to determine if filing a premium processing upgrade to such cases is merited once premium processing service becomes available for the particular case type. It is important to note that implementation of the expanded premium processing services will occur in phases over the course of at least three years, and the exact dates on which premium processing will be available for specific case types have not been announced. Until USCIS announces the new premium processing availability details, premium processing service will only be available for currently eligible I-129 and I-140 petitions.

Expanded USCIS Premium Processing Program

Under the DHS' final rule published on March 30, 2022, the following categories of application for immigration benefits will be eligible for premium processing in the coming months and years:

- Form I-140 for EB-1 multinational executive or manager;
- Form I-140 for EB-2 advanced degree or exceptional ability seeking national interest waiver (NIW);
- Form I-539 for change of status to F-1, F-2, J-1, J-2, M-1, and M-2 status;
- Form I-539 for change of status to or extension of stay in E-1, E-2, E-3, H-4, L-2, O-3, P-4, and R-2 status;
- Form I-765 for F-1 Optional Practical Training (OPT) and J exchange visitors Employment Authorization Document (EAD) applications, as well as additional groups of EAD application types not yet specified.

The final rule also stipulates that the following are the applicable premium processing fees and timeframes for each of the above categories:

- The premium processing fee for eligible I-140 categories will be USD 2,500, and the timeframe for adjudication will be 45 days.
- The premium processing fee for eligible I-539 categories will be USD 1,750, and the timeframe for adjudication will be 30 days.
- The premium processing fee for eligible I-765 categories will be USD 1,500, and the timeframe for adjudication will be 30 days.

While the DHS final rule comes into effect on May 31, 2022, USCIS implementation of the expanded premium processing program will occur in phases across at least three years.

KPMG NOTE

According to [USCIS' March 29, 2022 news release](#) announcing the expansion of its premium processing program, the agency has indicated that it intends to begin implementing premium processing services this fiscal year for Form I-140 filers requesting EB-1 immigrant classification as a multinational executive or manager, and EB-2 immigrant classification as a member of professions with advanced degrees or exceptional ability seeking a national interest waiver. The DHS final rule further indicates that I-539 applications for F, J, or M status and form I-765 applications for F-1 Optional Practical Training (OPT) and J exchange visitor employment authorization status will be included in this timeline.

In its [final rule](#), the DHS anticipates that the implementation of premium processing services for I-539 applications for E-1, E-2, E-3, H-4, L-2, O-3, P-4, and R-2 dependents, as well as for additional I-765 application categories will only come into effect in fiscal year 2025. This estimate is based on when the DHS anticipates premium processing revenues will be able to cover the costs that expedited adjudications will bear on USCIS.

KPMG Law LLP in Canada is tracking this matter closely. We will endeavor to keep readers of *GMS Flash Alert* posted on any important developments as and when they occur.

FOOTNOTE:

1 *Federal Register*, "[Implementation of the Emergency Stopgap USCIS Stabilization Act](#)" (March 30, 2022). See also, U.S. Citizenship and Immigration Services, "[USCIS Announces New Actions to Reduce Backlogs, Expand Premium Processing, and Provide Relief to Work Permit Holders](#)" (March 29, 2022).

* * * *

Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in Canada:



Laura Wong
Associate Attorney,
U.S. Immigration
Tel. + 1 416-468-7166
Laurawong1@kpmg.ca



Sylvia Yong
Associate Attorney
U.S. Immigration
Tel. +1-416-943-7894
sylviayong@kpmg.ca

** Please note the KPMG International member firm in the United States does not provide immigration or labor law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

The information contained in this newsletter was submitted by the KPMG International member firm Canada.

© 2022 KPMG LLP, an Ontario limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

www.kpmg.com

kpmg.com/socialmedia



© 2022 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are registered trademarks or trademarks of KPMG International. The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG LLP is the U.S. firm of the KPMG global organization of independent professional services firms providing Audit, Tax and Advisory services. The KPMG global organization operates in 147 countries and territories and has more than 219,000 people working in member firms around the world.

Each KPMG firm is a legally distinct and separate entity and describes itself as such. KPMG International Limited is a private English company limited by guarantee. KPMG International Limited and its related entities do not provide services to clients.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click here. To learn more about our GMS practice, please visit us on the Internet: click here or go to <http://www.kpmg.com>.

