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Cases selected in the lottery will receive receipt notices, while unsuccessful cases will be returned with their filing fees.

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Global Edition

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The U.S. Citizenship and Immigration Services Has Conducted the Computer-Generated H-1B Lottery

By Aimee Clark Todd and Chadwick M. Graham

On April 15, 2008, the U.S. Citizenship and Immigration Services (USCIS) conducted its lottery selection process for all cap-subject H-1B petitions received during the eligible filing period from April 1 – April 7. Cases that were selected will be routed to a USCIS officer for final adjudication. Cases that were not selected in the lottery will be returned along with filing fees.

As detailed in USCIS's interim rule published in March, the lottery for cases filed under the advanced U.S. degree set aside was conducted first. Cases not selected were then put into the general H-1B cap lottery. Based on USCIS's estimate of the number of cap-subject cases received, petitions filed under the advanced U.S. degree cap have about a 65% chance of being selected. Taking into consideration the extra cases not selected in the lottery for the advanced U.S. degree cap, petitions filed under the regular cap have less than a 50% chance of being selected.

USCIS estimates that the receipt notice process should be completed by June 2. A receipt notice will indicate that the case was selected in the lottery. The actual adjudication process should last 8-10 weeks, ending in June or early July. We expect to start receiving receipt notices within the next couple of weeks. For cases filed with premium processing, the 15-day processing time began yesterday, so these cases should be adjudicated by the end of April.

USCIS has also "wait-listed" a number of cases to serve as backups for petitions

selected in the lottery that ultimately will not claim an H-1B number, whether it is because the case is ultimately denied, withdrawn, or otherwise ineligible. USCIS will send notification to petitioners whose cases are wait-listed. The wait-listed cases will then fill up any unused H-1B numbers.

F-1 students whose cases are selected but whose OPT expires before October 1 will receive an automatic extension of OPT work authorization, terminating on October 1 when, presumably, his or her H-1B status will become active. For further information on this rule, please refer to Littler's April 2008 Global ASAP, *The U.S. Department of Homeland Security Announces New Optional Practical Training Interim Rule for F-1 Students*.

Aimee Clark Todd is Of Counsel in Littler Global's Atlanta office. Chadwick M. Graham is an Associate in Littler Global's Phoenix office. If you would like further information, please contact your Littler attorney at 1.888.Littler, info@littler.com, Ms. Todd at atodd@littler.com, or Mr. Graham at cgraham@littlerglobal.com..