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H-1B Cap May Hit Within Weeks

Reliable sources within the United States Citizenship and Immigration Services (U.S. CIS) have just confirmed that 40,000 cap-subject H-1B petitions have been filed as of August 4. The overall H-1B cap is 65,000, although 6,800 of these numbers have been set aside under special treaty provisions for nationals of Chile and Singapore.

The reported filing data indicates that average cap-subject H-1B filings have reached at least 12,000 per month, which is far greater than the approximate 8,000 per month estimate based on filings made through the end of May. Given the new projections, the cap could be reached within the next few weeks, particularly since the number of H-1B filings may escalate dramatically when this information is fully publicized.

In light of the imminent approach of the cap, employers are advised to file H-1B petitions immediately. As explained in prior alerts, the H-1B cap only applies to new petitions and not to H-1B extensions or requests for changes in employment.

Legislative proposals under discussion on Capitol Hill would carve out certain exceptions to the cap, such as exceptions for persons who hold a Master's degree or higher from a U.S. school. The Global Personnel Alliance (GPA) and Paul Hastings are actively involved in efforts to advance these proposals.

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