



Blaneys on Immigration

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This newsletter is designed to highlight new issues of importance in immigration related law. We hope you will find it interesting, and welcome your comments.

Feel free to contact any of the lawyers who wrote or are quoted in these articles for more information, or call the head of our Immigration Law Group, Ian Epstein at 416.593.3915 or iepstein@blaney.com.

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“... Citizenship and Immigration Canada ... established caps on the Federal Skilled Worker (‘FSW’) Class, Federal Skilled Trades (‘FST’) Class, and Canadian Experience Class (‘CEC’).”

CAPS ANNOUNCED FOR FEDERAL SKILLED WORKER, FEDERAL SKILLED TRADES AND CANADIAN EXPERIENCE CLASSES

Henry J. Chang

On April 29, 2014, Citizenship and Immigration Canada (“CIC”) published Operational Bulletin 572, which provided guidance on the implementation of the twelfth set of Ministerial Instructions. These Ministerial Instructions established caps on the Federal Skilled Worker (“FSW”) Class, Federal Skilled Trades (“FST”) Class, and Canadian Experience Class (“CEC”). Further details appear below.

Limit on the Number of FSW Applications to be Processed

A maximum of 25,000 new, complete FSW applications will be considered for processing under the occupation list stream between May 1, 2014, and April 30, 2015, unless otherwise indicated in a future Ministerial Instruction. There is no limit on the number of new applications with offers of arranged employment that will be considered for processing.

Within the overall cap of 25,000 applications, a maximum of 1,000 complete FSW applications for each eligible occupation in Skill Type 0, or Skill Level A or B as per the 2011 version of the *National Occupational Classification* (“NOC”) will be

considered for processing. The list of eligible occupations is as follows:

1. Senior managers – financial, communications and other business services (0013)
2. Senior managers – trade, broadcasting and other services, n.e.c. (0015)
3. Financial managers (0111)
4. Human resources managers (0112)
5. Purchasing managers (0113)
6. Insurance, real estate and financial brokerage managers (0121)
7. Managers in health care (0311)
8. Construction managers (0711)
9. Home building and renovation managers (0712)
10. Managers in natural resources production and fishing (0811)
11. Manufacturing managers (0911)
12. Financial auditors and accountants (1111)
13. Financial and investment analysts (1112)
14. Securities agents, investment dealers and brokers (1113)
15. Other financial officers (1114)
16. Professional occupations in advertising, marketing and public relations (1123)

“Within the overall 5,000 cap, a maximum of 100 complete FST applications for each eligible skilled trade occupation will be considered for processing.”



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17. Supervisors, finance and insurance office workers (1224)
18. Property administrators (1224)
19. Geoscientists and oceanographers (2113)
20. Civil engineers (2131)
21. Mechanical engineers (2132)
22. Electrical and electronics engineers (2133)
23. Petroleum engineers (2145)
24. Information systems analysts and consultants (2171)
25. Database analysts and data administrators (2172)
26. Software engineers and designers (2173)
27. Computer programmers and interactive media developers (2174)
28. Mechanical engineering technologists and technicians (2232)
29. Construction estimators (2234)
30. Electrical and electronics engineering technologists and technicians (2241)
31. Industrial instrument technicians and mechanics (2243)
32. Inspectors in public and environmental health and occupational health and safety (2263)
33. Computer network technicians (2281)
34. Nursing co-ordinators and supervisors (3011)
35. Registered nurses and registered psychiatric nurses (3012)
36. Specialist physicians (3111)
37. General practitioners and family physicians (3112)
38. Dietitians and nutritionists (3132)
39. Audiologists and speech-language pathologists (3141)
40. Physiotherapists (3142)
41. Occupational therapists (3143)
42. Respiratory therapists, clinical perfusionists and cardiopulmonary technologists (3214)
43. Medical radiation technologists (3215)
44. Medical sonographers (3216)
45. Licensed practical nurses (3233)
46. Paramedical occupations (3234)
47. University professors and lecturers (4011)
48. Psychologists (4151)
49. Early childhood educators and assistants (4214)
50. Translators, terminologists and interpreters (5125)

In addition, a maximum of 500 applications will be considered for processing under a PhD student/graduate stream during the above period.

Limit on the Number of FST Applications to be Processed

A maximum of 5,000 new, complete FST applications will be considered for processing for the period between May 1, 2014, until April 30, 2015, unless otherwise indicated in a future Ministerial Instruction.

Within the overall 5,000 cap, a maximum of 100 complete FST applications for each eligible skilled trade occupation will be considered for processing. Pursuant to Subsection 87.2(1) of the

BLANEYS ON IMMIGRATION

“... Employment and Social Development Canada (‘ESDC’) will no longer process any new or pending Labour Market Opinion (‘LMO’) applications related to the Food Services Sector.”

Immigration and Refugee Protection Regulations, eligible skilled trade occupations are restricted to occupations in the following categories listed in Skill Level B as per the 2011 version of the NOC:

1. Major Group 72, industrial, electrical and construction trades;
2. Major Group 73, maintenance and equipment operation trades;
3. Major Group 82, supervisors and technical occupations in natural resources, agriculture and related production;
4. Major Group 92, processing, manufacturing and utilities supervisors and central control operators;
5. Minor Group 632, chefs and cooks; and
6. Minor Group 633, butchers and bakers.

Caps apply irrespective of whether an application is made with a qualifying offer of employment or a certificate of qualification from a provincial or territorial apprenticeship authority.

Limit on the Number of CEC Applications to be Processed

A maximum of 8,000 new, complete CEC applications will be considered for processing for the period between May 1, 2014, until April 30, 2015, unless otherwise indicated in a future Ministerial Instruction. Within the overall 8,000 cap, a maximum of 200 complete CEC applications for each eligible occupation in Skill Level B as per the 2011 version of the NOC will be considered for processing. Work experience in the following six ineligible occupations cannot be used to qualify for processing:

1. Unit Group 1221, administrative officers;

2. Unit Group 1241, administrative assistants;
3. Unit Group 1311, accounting technicians and bookkeepers;
4. Unit Group 6211, retail sales supervisors;
5. Unit Group 6311, food service supervisors; and
6. Unit Group 6322, cooks.

There is no sub-cap on CEC applications for occupations in NOC Skill Type 0 or Skill Level A, but these occupations are subject to the overall cap of 8,000 new, complete applications.

Processing of Existing Applications

The Ministerial Instructions do not apply to FSW, FST and CEC applications received before May 1, 2014. All FSW, FST and CEC applications received by the Centralized Intake Office before this date will continue to be considered for processing subject to the program requirements and Ministerial Instructions in effect at the time of application receipt. ■

ESDC ANNOUNCES MORATORIUM ON LMO APPLICATIONS RELATED TO THE FOOD SERVICES SECTOR

Henry J. Chang

On April 24, 2014, Canada’s Minister of Employment and Social Development (Jason Kenney) announced an immediate moratorium on the Food Services Sector’s access to the Temporary Foreign Worker Program (“TFWP”). As a result, Employment and Social Development Canada (“ESDC”) will no longer process any new or pending Labour Market Opinion (“LMO”) applications related to the

“... any unfilled positions tied to a previously approved LMO will be suspended.”

Food Services Sector. In addition, any unfilled positions tied to a previously approved LMO will be suspended.

In other words, LMOs will not be processed for occupations classified by the 2002 *North American Industrial Classification System* (“NAICS 2002”) in Food Services and Drinking Places (NAICS sub-sector 722). Specifically, certain occupations related to sales and service and sales and service management as set out in the *National Occupational Classification* (“NOC 2006”) will not be processed.

The list of Sales and Services Occupations (Skill type 6 based on NOC-2006) affected under the Food Services Sector appears below:

- 6641 Food Counter Attendants, Kitchen Helpers and Related Occupations
- 0631 Restaurant and Food Service Managers
- 6212 Food Service Supervisors
- 6453 Food and Beverage Servers
- 6611 Cashiers
- 6241 Chefs
- 6242 Cooks
- 6252 Bakers
- 0611 Sales, Marketing and Advertising Managers
- 0621 Retail Trade Manager
- 0632 Accommodation Service Managers
- 0651 Other Services Managers
- 6211 Retail Trade Supervisors
- 6213 Executive Housekeepers
- 6214 Dry Cleaning and Laundry Supervisors
- 6215 Cleaning Supervisors
- 6216 Other Service Supervisors
- 6221 Technical Sales Specialists – Wholesale Trade
- 6251 Butchers, Meat Cutters and Fishmongers – Retail and Wholesale
- 6411 Sales Representatives – Wholesale Trade (Non-Technical)
- 6421 Retail Salespersons and Sales Clerks
- 6451 Maitres d’hôtel and Hosts/Hostesses
- 6452 Bartenders
- 6484 Other Personal Service Occupations
- 6622 Grocery Clerks and Store Shelf Stockers
- 6623 Other Elemental Sales Occupations
- 6651 Security Guards and Related Occupations
- 6661 Light Duty Cleaners
- 6662 Specialized Cleaners
- 6663 Janitors, Caretakers and Building Superintendents
- 6681 Dry Cleaning and Laundry Occupations
- 6682 Ironing, Pressing and Finishing Occupations
- 6683 Other Elemental Service Occupations

The above moratorium will remain in effect until the completion of an on-going review of the TFWP. ■

CAN+ PROGRAM TO FACILITATE TRADE AND TRAVEL WITH MEXICO

Henry J. Chang

On May 12, 2014, Canada's Citizenship and Immigration Minister Chris Alexander announced that the Canadian Government was taking action to make it faster and easier for Mexican visitors to come to Canada. Under the new CAN+ Program, Mexican citizens who have traveled to Canada or the United States within the last 10 years will be eligible for expedited temporary resident visa ("TRV") processing, although they will continue to require TRVs to enter Canada.

It is also hoped that, by fast-tracking a large number of applications, CAN+ will free up consular officers to work on other cases. As a result, the Canadian Government expects that the CAN+ Program will improve overall processing times for all Mexican travelers, who will see their visas processed in 10 days or less.

In addition to the CAN+ Program, Citizenship and Immigration Canada offers three expedited programs that help Mexican business people, tourist groups and students come to Canada faster:

1. *Business Express* expedites business travel from Mexico with visas issued within days with a near-perfect approval rate for those registered in the program.
2. *Travel Express* offers a fast, simplified visa application process for tourists who use travel agencies registered with the Canadian Embassy.
3. *Mexican Student Pilot* fast-tracks the processing of study permits with a near-perfect approval rate for those who study at participating Canadian educational institutions. ■

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