



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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“[A]pplicant biometric data is not being processed properly, which is preventing overseas posts from performing the security checks necessary to issue visas.”

TECHNICAL ISSUES PROMPT SUSPENSION OF OVERSEAS U.S. VISA PROCESSING

Henry J. Chang

Earlier this month, the United States Department of State (“DOS”) announced that, due to technical problems, it was temporarily unable to issue U.S. visas at consular posts abroad. This problem is currently affecting overseas visa processing worldwide.

According to the [notice](http://travel.state.gov) posted at travel.state.gov, applicant biometric data is not being processed properly, which is preventing overseas posts from performing the security checks necessary to issue visas. As a result, consular posts are unable to issue U.S. visas to these individuals.

The above problems have also affected some U.S. passport processing abroad. Domestic passport operations are still functioning, with some processing delays. However, the technical problems have adversely affected the intake of some mailed applications and same-day service at passport agencies.

The United States Consulate General in Toronto has confirmed that consular posts have been unable to print most immigrant and non-immigrant visas for applicants who were approved after June 8, 2015. They have also been unable to

process new applications submitted on or after June 9, 2015.

Individuals with visa interview appointments that are scheduled in Canada on June 22 or 23, 2015, are being advised to reschedule their appointments, if they submitted a DS-160 online application after June 9, 2015. However, individuals who submitted their DS-160 online applications prior to June 9, 2015, should plan to attend their scheduled visa interview appointments.

Any non-immigrant who is currently in the United States, and who does not already hold a currently-valid U.S. visa, should consider delaying their trip abroad until this technical problem has been resolved. Otherwise, they may experience delays in obtaining a new visa at a consular post abroad. Even after the technical problem has been addressed, visa processing delays are expected as consular posts work to clear the backlog of pending cases.

The only exception would apply to foreign nationals who are entitled to [automatic visa revalidation](#) under 22 CFR §41.112(d). According to 22 CFR §41.112(d), certain non-immigrants in the United States who travel solely to contiguous territory (i.e. Canada or Mexico) for a period of 30 days or less may be readmitted and their expired visas will be deemed revalidated for that one entry.

“Adult applicants must now be physically present in Canada for at least 1,460 days (four years) during the six years preceding the date of their application ...”



Henry J. Chang is a partner in the firm's Immigration Law group. He is admitted to the practice of law in the Province of Ontario and the State of California. Henry is also an Executive Member of the Canadian Bar Association National Citizenship & Immigration Law Section. A recognized authority in the field of United States and Canadian immigration law, he lectures extensively on the subject in both the United States and Canada.

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DOS officials have stated that they are hoping to have their visa systems working again sometime this week. ■

FINAL CANADIAN CITIZENSHIP ACT REFORMS EFFECTIVE AS OF JUNE 11, 2015

Henry J. Chang

Background

As I [previously reported](#), on February 6, 2014, Citizenship and Immigration Minister (the “Minister”) Chris Alexander first unveiled Bill C-24, the *Strengthening Canadian Citizenship Act*, which proposed significant amendments to the *Canadian Citizenship Act* (R.S.C., 1985, c. C-29). I also [previously reported](#) that, on June 19, 2014, Bill C-24 received Royal Assent and became law.

Some of the amendments described in Bill C-24 [came into force](#) last year. On June 5, 2015, Citizenship and Immigration Canada (“CIC”) [announced](#) that the remaining amendments would become effective on June 11, 2015.

A summary of the most significant changes, which came into force on June 11, 2015, appears below:

- Adult applicants must now be *physically present* in Canada for at least 1,460 days (four years) during the six years preceding the date of their application, and they must be also be physically present in Canada for at least 183 days in each of the four calendar years during the qualifying period.
- Adult applicants must now meet any applicable requirement under the *Income Tax Act* [R.S.C., 1985, c. 1 (5th Supp.)] to file an

income tax return for each of the four taxation years during which they claim to have been resident in Canada.

- Applicants between the ages of 14-64 (changed from 18-54) must demonstrate, in one of Canada’s official languages, knowledge of Canada and of the responsibilities and privileges of citizenship.
- Citizenship was automatically extended to additional “lost Canadians” who were born before 1947 and who did not become citizens on January 1, 1947, when the first *Canadian Citizenship Act* came into effect.
- Adult applicants must now declare their intent to reside in Canada once they become citizens and meet their personal income tax obligations in order to be eligible for citizenship.
- There are stronger penalties for fraud and misrepresentation (to a maximum fine of \$100,000 and/or up to five years in prison).
- The Immigration Consultants of Canada Regulatory Council (“ICCRC”) is now designated as the new regulatory body for citizenship consultants. As a result, only lawyers, notaries (including paralegals and students at law), and now ICCRC member may be paid to provide representation or advice in Canadian citizenship matters.

New citizenship application forms also became available on the CIC website on June 11, 2015. Any citizenship application received using the prior forms after June 10, 2015, will be returned to the applicant. ■

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Henry J. Chang's Canada-US Immigration Blog covers recent decisions, legislative changes and news related to Canada and US immigration. [www.americanlaw.com/immigrationblog/]

Blaneys Ontario Court of Appeal Summaries (Blaneys OCA Blog) offers weekly summaries of all decisions released by the Court of Appeal for Ontario (other than criminal law decisions). [blaneyscourtsummaries.com]

Blaneys@Work examines recent events and decisions in the world of labour and employment law. [blaneysatwork.com]

Blaneys Fidelity Blog provides updates on recent developments in fidelity insurance in Canada and the United States, and covers other topics of interest to fidelity insurers. [blaneysfidelityblog.com]

Blaneys on Target provides general information to creditors and other persons interested in the Target insolvency and its CCAA proceedings. [blaneystargetccaa.com/updates/] ■

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New podcasts continue to be posted so check back regularly for the latest topic. Podcasts are also available for download on [iTunes](#). ■

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