



WORLDWIDE ERC® WEBINARS

October 12th, 2017 2pm (ET)

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WORLDWIDE ERC®

WEBINARS

**Grabbing Visas, Compelling Compliance and
EO Fake News: US Business Immigration
Under the Trump Administration Ten Months
In**

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Webinar Instructions

Technical difficulties?

- Dial 866.779.3239, or e-mail questions to support@webex.com

Sound Troubles?

- If your sound quality is poor, check your Wi-Fi strength or connect via cable.
- Call in using the phone number listed under the “Event Info” tab in the upper left-hand corner.

To return to meeting room window:

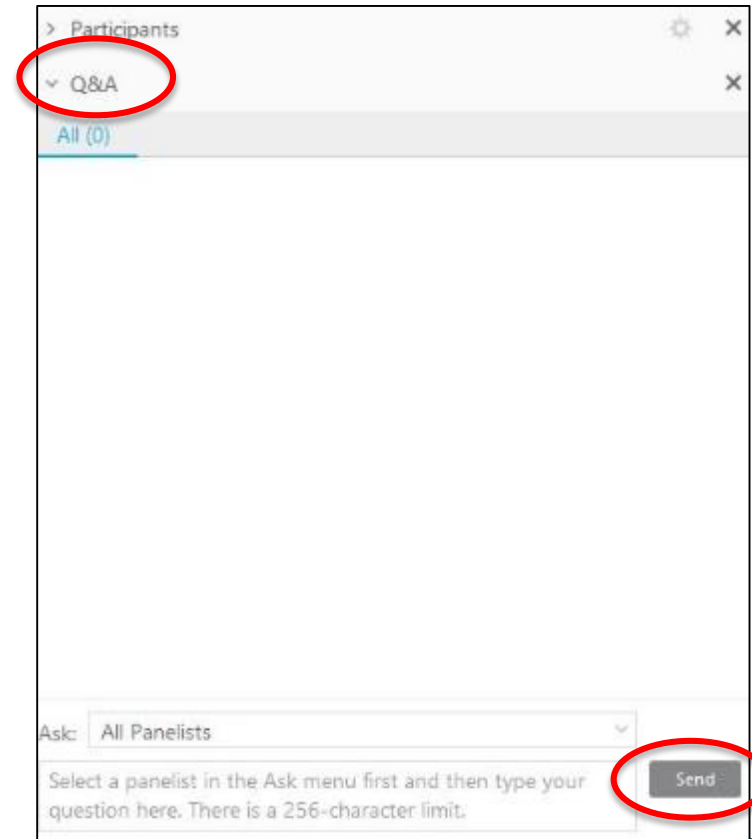
- If you are in full screen mode, you may return to the meeting room window by clicking the View Meeting Room button located at the bottom left corner of your screen.



Q&A Instructions

- Submit questions through Q&A dialogue box
- Box is located in lower right corner of screen
- Do not use the Chat Box
- Be specific
- You may submit your question at any time

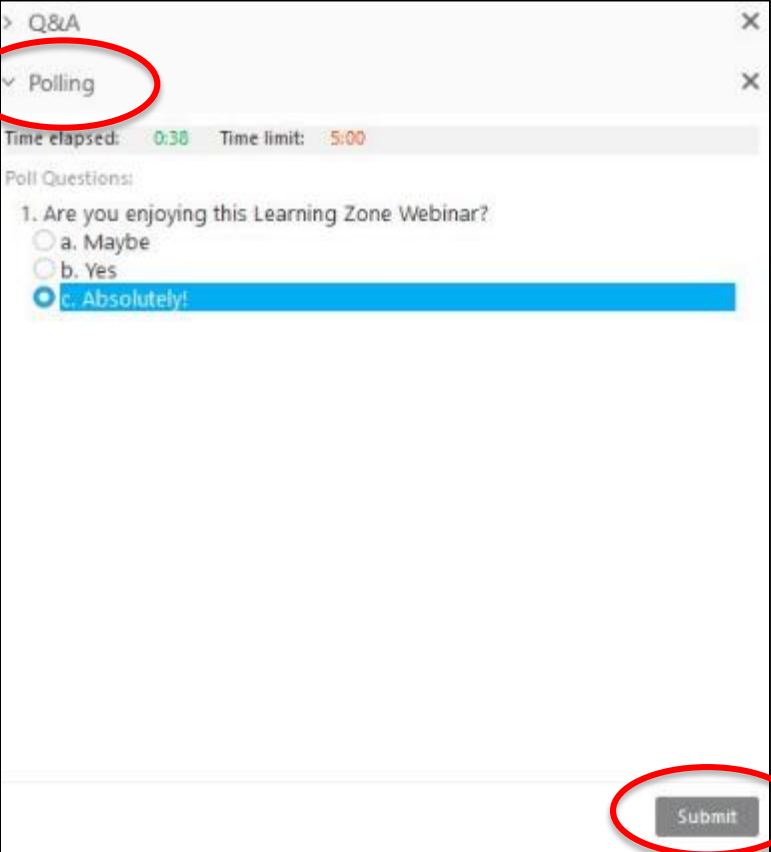
Q&A Dialogue Box:



Polling Instructions

- The Polling Box appears below Q&A Box
- Question will appear on slide and in the Poll Box
- Submit answer quickly
- Results will display in the same location

Polling Box:



The screenshot shows a web interface with a 'Polling Box' window. The window title is 'Q&A' and it contains a 'Polling' section. The 'Polling' section is circled in red. Below the title, it shows 'Time elapsed: 0:38' and 'Time limit: 5:00'. The 'Poll Questions:' section contains a question: '1. Are you enjoying this Learning Zone Webinar?'. There are three radio button options: 'a. Maybe', 'b. Yes', and 'c. Absolutely!'. The 'c. Absolutely!' option is selected and highlighted with a blue bar. At the bottom right of the window, there is a 'Submit' button, which is also circled in red.



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TODAY'S PRESENTERS

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US BUSINESS IMMIGRATION UNDER THE TRUMP ADMINISTRATION



EXECUTIVE BRANCH LANDSCAPE

- Continued focus by administration on rolling back Obama's executive actions
 - DHS has been aggressive in increasing enforcement and eliminating "discretionary" stays of removal
 - Expect additional fights ahead over role of state/local law enforcement (e.g. sanctuary city debate)
- Business immigration: internal team developing policy proposals
 - Incoming Director nominee is expert in business immigration and served as staff to Grassley
 - Expect regulatory action to narrow F-1 Optional Practical Training and H-4 Spousal Work Authorization (6-12 month regulatory process)
 - Increase in audits and investigations by DHS, DOJ and DOL
 - Sub-regulatory policies are expected to focus on use of entry-level wages and third-party placement



ROLLING BACK OBAMA'S EXECUTIVE ACTIONS

Swift Action on Enforcement

FAMILY IMMIGRATION

~~DACA~~
~~DAPA~~
~~Cuban Reunification~~
~~Haitian Reunification~~
~~Filipino Veterans~~
~~Extreme Hardship Standard~~
Provisional Waivers

BUSINESS IMMIGRATION

H-4 Spousal Work Authorization
STEM OPT Extension
AC21 Regulation
L-1 Policy Guidance
Visa Bulletin
~~Entrepreneur Regulation~~

ENFORCEMENT

~~Secure Communities~~
~~Priority Enforcement Program~~
~~Prosecutorial Discretion~~
~~287(g)~~

PROTECTIONS

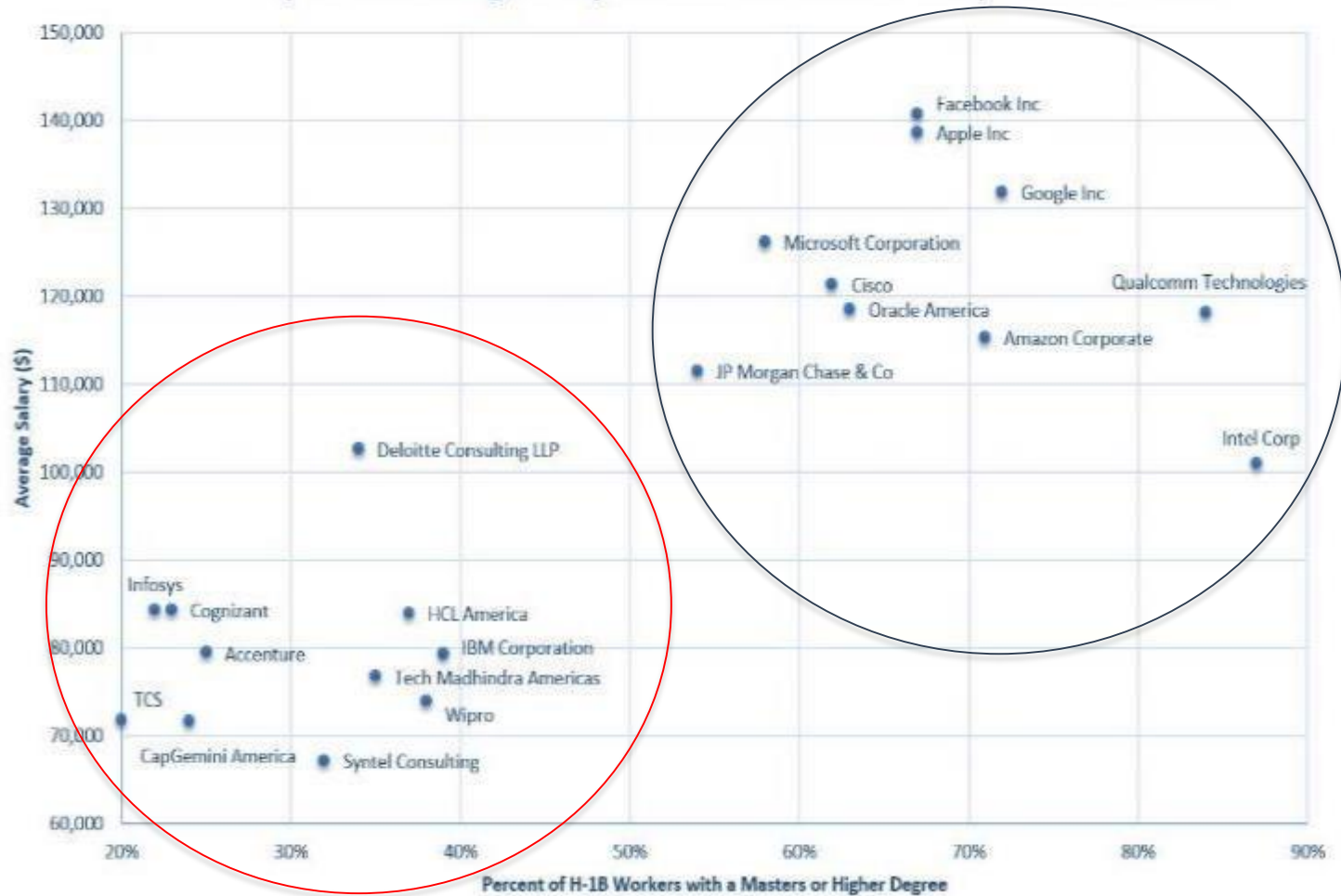
~~Refugee numbers (70k to 110k)~~
~~Terrorism grounds of inadmissibility~~

Yellow = Policy Guidance; White = Regulatory Action



POLICY TARGETS

Top 10 Consulting vs. Top 10 Tech & Finance H-1B Sponsors in FY2016



H-1B WORKERS

PROPOSAL	REGULATORY/LEGAL COMPLEXITY	TIMEFRAME
Revise H-1B allocation system based on wages and educational	High	Long
Increase prevailing wage levels	High	Long
Prohibit primary/secondary displacement	High	Long
Require U.S. worker recruitment	High	Long
Terminate H-4 spousal work	Medium	Medium
Increase oversight and investigations	In process	Fast
Release program data	Low	Fast
Conduct benefit fraud assessment	Low	Fast



L-1 INTRACOMPANY TRANSFER

PROPOSAL	REGULATORY/LEGAL COMPLEXITY	TIMEFRAME
Increase RFE and denial rates	In process	Fast
New definition of “specialized knowledge”	Low	Fast
Require petition amendments	Low	Fast
Impose wage obligations	Medium	Medium
Increase oversight and agency investigations	Low	Fast
Release program data	Low	Fast
Conduct benefit fraud assessment	Low	Fast



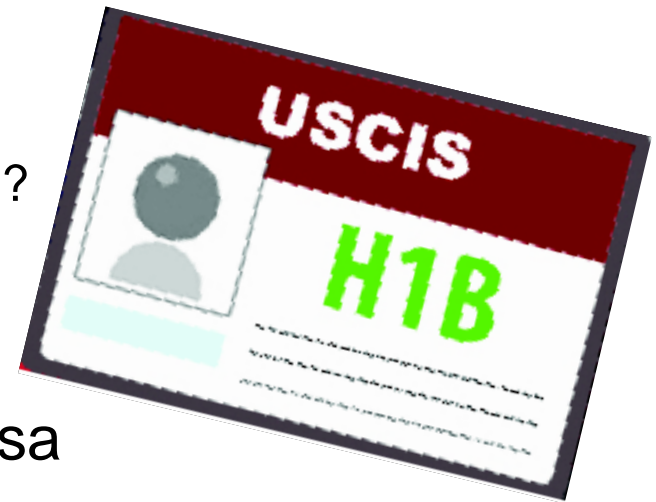
F-1 FOREIGN STUDENTS (OPT) AND NAFTA (TN)

PROPOSAL	REGULATORY/LEGAL COMPLEXITY	TIMEFRAME
Terminate F-1 OPT for all graduates	High	Long
Terminate 24 month extension of OPT for STEM graduates	Medium	Long
Impose new wage/U.S. worker obligations	Medium	Medium
Increase investigations of U.S. universities	Low	Fast
Renegotiate NAFTA TN requirements	Medium	Medium



H-1B Challenges

- Premium Processing suspended for six months
- Rescission of Programmer Analyst Safe Harbor
- Request for Evidence – Explosive Growth Full 45% increase over last year
 - New creation – “Level 1 RFE”
 - Survey – What has your RFE growth been?
 - Same
 - A little
 - A lot
- Follow ups on 3rd party worksites at Visa Interviews
- Similar scrutiny to E-3 Australian cases



L-1 Challenges

- Blanket L program
 - Rejections increasing across the globe
 - London, Chennai, Singapore
- USCIS L-1 Petitions
 - Challenging prior employment abroad – requiring detailed documentation from foreign subsidiary
 - Survey – Are you seeing more challenging L-1 RFEs?
 - Yes No
- BAL requesting statistics from USCIS



F-1 and TN Challenges

- STEM Training Obligations and Potential Site visits
- Targeted H-1B requests for evidence
- Cap gap concern as adjudications lengthen
- NAFTA TN's challenged more frequently both at border and with USCIS



Green Card Challenges

- Mandatory interviews for all green card applications filed after March 6
- Denials of Advance Parole travel authorization
- New provisions on “Misrepresentation” for actions in the first 90 days of entry



KEY INVESTIGATION TOOLS

USCIS
ASVVP
Random
Sampling

USCIS FDNS
Target
Investigation
– relevant to
application or
administrative
subpoena?

ICE I-9 Audit
or Criminal
Investigation



ADMINISTRATIVE SITE VISITS

- Initially focused on H-1B employment
- In 2014, site visits for L-1As implemented
 - Only applies to L-1As filed with USCIS; not Blankets
- Trump Executive Order could result in expansion to other categories
 - Order is broad and instructs federal agencies to protect the interest of U.S. workers and prevent fraud and abuse
 - New FDNS initiative to enhance the “Buy American, Hire American” – more targeted focus.



HOW TO PREPARE FOR A SITE VISIT?

- Company protocol/plan in place
 - Train first point of contact (receptionist/security staff)
 - Ask for credentials/government ID
 - Tracking system to identify trends
 - Phone list
- Identify parties that should be notified of protocol/plan



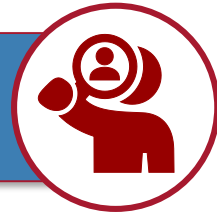
I-9 AUDITS

- Employers notified via a Notice of Inspection
 - Regulations require provision of 3 days notice prior to conducting a review
- Notice usually requests:
 - Forms I-9 for all active employees
 - Payroll records covering a particular time frame
 - If electronic system is used, specific information regarding software: how I-9s are stored, indexing system, how electronic signature is captured, and audit trail



EXTREME VETTING

SOCIAL MEDIA HANDLES



COMPUTER SEARCHES

PHONE SEARCHES



Questions & Answers

Q
and
A



THANK YOU FOR ATTENDING!

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