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13. DOS Reorganizes Portions of Guidance Governing Business Visas (B1), Makes Other Minor Updates

On February 22, 2017, the Department of State (DOS) issued two change transmittals making revisions to the Foreign Affairs Manual (FAM):

Change transmittal VISA-288 revised 9 FAM 402.2 by specifying in paragraph 402.2-5(C)(7) (Investor Seeking Investment in United States) that an alien seeking investment in the United States, including an investment that would qualify him or her for status as an E-2 nonimmigrant investor, is not ineligible for a B visa on that basis alone. Similarly, an alien pursuing an EB-5 immigrant visa may be issued a B visa to examine or monitor potential qualifying investments as long as the applicant otherwise establishes qualification for a B visa, including that they do not intend to enter the United States to pursue adjustment of status. In addition, a new subparagraph (b) was added to paragraph 402.2-5(F) (Aliens Normally Classifiable H1 or H3). The new paragraph states that B1 visas issued in accordance with the guidance of the section must be annotated as follows: “B-1 IN LIEU OF H, PER 9 FAM 402.2-5(F).”

VISA-288 also noted the following reorganization: The material formerly found in paragraphs 402.2-5(F)(3)—402.2-5(F)(7) (dealing with entertainers, participants in cultural programs, participants in international competitions, still photographers,

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and musicians) and 402.2-5(F)(10) (artists) was moved to paragraphs 402.2-5(G)—402.2-5(G)(5). The material formerly found in paragraphs 402.2-5(F)(8) and 402.2-5(F)(9) (medical doctors and H-3 trainees, respectively) was renumbered as 402.2-5(F)(3) and 402.2-5(F)(4). Paragraphs formerly designated as 402.2-5(G) (Advisory Opinion Required if Applicant not Clearly Identifiable B1) and 402.2-5(H) (Nonimmigrants Obtaining Social Security Cards) were re-designated as 402.2-5(H) and 402.2-5(I), respectively.

Change transmittal VISA-289 updated 9 FAM 203.6. A reference to Form DS-2053 was changed to Form DS-2054.

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