INTRODUCTION

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- **Founded in 2014, Meltzer Hellrung combines high-touch service, technology, and a programmatic approach to immigration to assist companies in managing and scaling their immigration programs, increasing their access to talent, and expanding operations into new markets**

- **200+ corporate clients, including venture-backed unicorns, Fortune 500 companies, and small/mid-sized businesses in SaaS, healthcare, aviation, consulting, insurance, and education**

- **Recognized in 2023 by Crain Magazine as a top 100 best places to work in Chicago**

VOYAGER®

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- **Voyager is our proprietary immigration program management platform designed to provide a better immigration experience for employers and employees**

- **Voyager is operated by our exceptionally skilled attorneys, paralegals, and legal assistants to fulfill our mission of providing the best immigration experience**

- **Voyager drives process efficiency, transparency, and centralization of all immigration information throughout the sponsorship process**
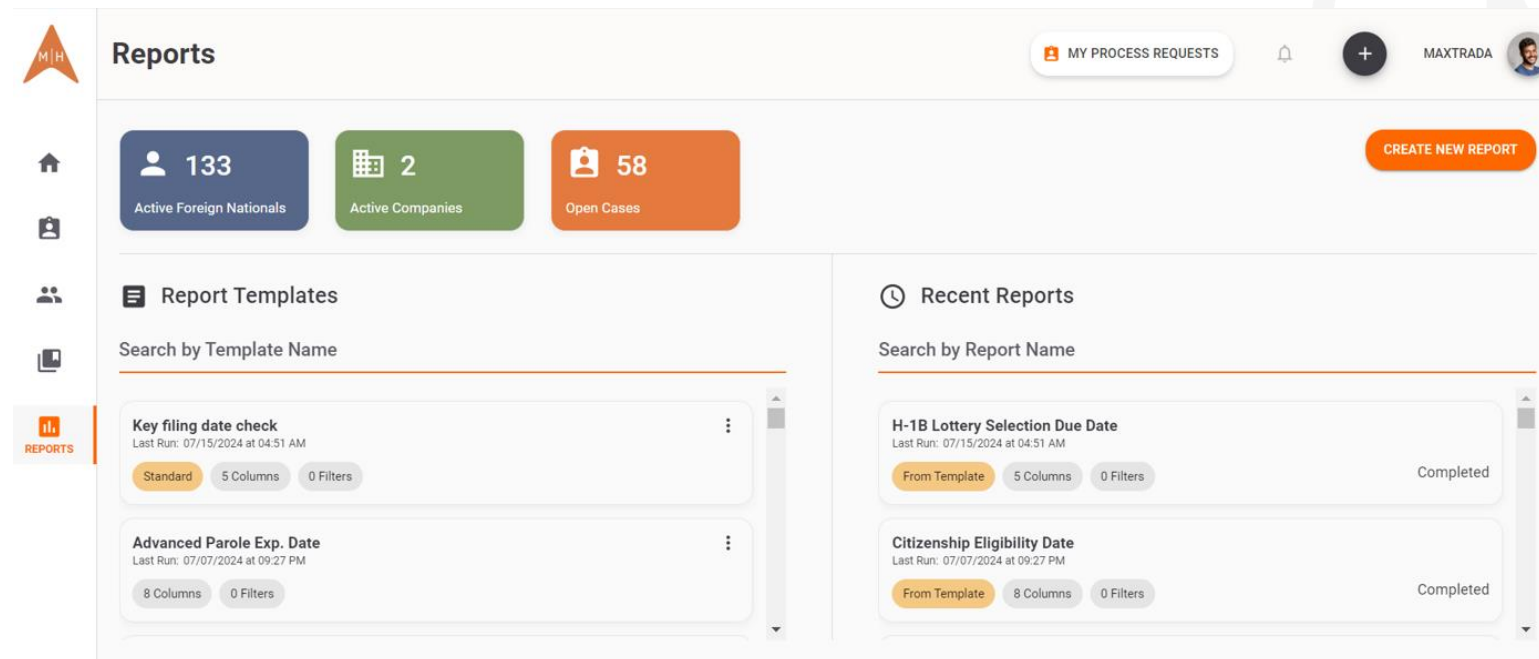
VOYAGER® (continued)

- **Core Features:**

  o **Dashboards that drive transparency throughout all immigration processes**

  o **Efficient workflows that will save employers' and employees' time**

  o **Intuitive user experience that's easy for employers and employees to navigate**

  o **Comprehensive knowledge center**

Learn more about Voyager at <u>Platform - MeltzerHellrung</u>

- ## **Enhanced Immigration Reporting:**

  o **In our latest upgrade to the platform, a self-service feature enables you to run reports on the immigration status of your foreign national employees and case progression at any time. Get the reports you need, whenever you need them—no more waiting for legal support or compiling information from multiple spreadsheets.**

PRESENTERS

MATTHEW HELLRUNG

Co-Founder and Managing Partner

Specializes in scaling immigration programs for high-growth clients via immigration policy creation and stakeholder training.

MATTHEW MELTZER

Co-Founder and Managing Partner

Specializes in assisting foreign companies to enter the U.S. market and building custom solutions for entrepreneurial and high net-worth clients.

AGENDA

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- **Immigration under Obama**

- **Immigration under Trump**

- **Immigration under Biden**

- **What Immigration Will Look Like Under Harris**

- **What Immigration Will Look Like Under Trump 2**

- **What Can Companies Do Now to Prepare?**

Immigration Under Obama

➢ **Enforced Law on the Books**

○ Deported more a million more immigrants than Bush II

■ Prioritized recent crossers as well as violent criminals, with 2008 and 2009 highest deportation years and declining through 2016

○ Issued 15 times as many fines on employers

○ 8 times as many arrests for immigration violations

○ Encouraged employers to sign up for E-verify

○ Ended Cuban "wet feet, dry feet" status policy

➢ **Expansion of Immigration Programs**

- ○ Deferred Action for Childhood Arrivals (DACA) to help DREAMers (750,000)

- ○ Deferred Action for Parents of Americans (DAPA) (3.7 million/program ended by court decision)

- ○ International Entrepreneur Rule

- ○ Continued all TPS designations and added Haiti, South Sudan, Syria, Guinea

- ○ Implemented and expanded F-1 STEM OPT

- ○ Expanded EAD card usage for dependents

➢ **Processing**

○ Moved agencies toward streamlined operations and digital technology adoption

○ Introduced electronic I-94

○ Expanded online filing opportunities at USCIS

○ Consular operations relatively stable with slight increase in transparency and accessibility

○ PWRs 60 days

○ PERMs 6 months

○ AOS filings 9 months

○ Regular processing of work visa petitions 2-4 months

➢ **Adjudications**

    ○ USCIS H-1B denials peaked at roughly 30% with RFE rate at 35% in 2009, due to recession, proof of work issues, and overall tightening of adjudication standards

    ○ USCIS H-1B denial rate fell to roughly 4% and RFE rate to 20% in 2016

    ○ DOS ~35% visa stamp rejection rate in 2016, with majority of denials in the B1/B2, F-1, and J-1 categories

        ■ Excluding the above visa categories, denial rate was ~10%

Immigration Under Trump

➢ **Quick and voluminous immigration changes**

  ○ 400 executive actions on immigration in 4 years

  ○ Prioritized border security with increase CBP officers and barriers

  ○ Prioritized deporting undocumented immigrants with any criminal offense and increased ICE raids within 100 miles of US border

  ○ Zero-tolerance policy of family separation at border crossings

  ○ Eliminated deference to previously approved immigration petitions

➢ **Contraction of Immigration Benefits**

- ○ Phased out DACA for new applicants

- ○ Canceled TPS for Haiti, El Salvador, Nicaragua, Sudan, Nepal, and Honduras

- ○ Restricted asylum eligibility

- ○ Adding Public Charge restrictions to green card adjudications

- ○ Travel and refugee bans affecting Iraq, Iran, Libya, Somalia, Sudan Somalia, Yemen, Venezuela, and North Korea

- ○ Decreased government transparency and communication with immigration community

- ○ Forced attrition from USCIS, DOS, DOL

➢ **Processing**

- Separated filing addresses and more complicated immigration processing for dependents

- Increased immigration form lengths and requested information

- Increased consular, USCIS, and DOL processing times

- Increased RFE and denial rates at consulates, USCIS, and DOL

- PWRs 6 months

- PERMS 9 months

- AOS filings 10 months

- Regular processing of work visas 4-6 months

➢ **Adjudications**

- ○ USCIS H-1B denial rate peaked at 32% and the RFE rate at almost 40% in 2019, several fold increases from 2016 numbers

- ○ RFEs rates and denials also increased in TN, L-1, and O-1 visa applications

- ○ DOS visa stamp rejection rate increased to 41% in 2018, with increased rejections of L-1, H-1B, F-1, and O-1 visa stamp applications

Immigration Under Biden

➢ **Stabilizing the ship**

- ○ 535 immigration actions since taking office, more than Trump, with approach to repair and stabilize the immigration system

- ○ Humanitarian entrance numbers are trending toward high's of 1990s with increased refugee, asylum, TPS, DACA, and parole benefits expanded

- ○ TPS expanded/reauthorized to Cuba, Haiti, Ukraine, Venezuela, Nicaragua, El Salvador, Burma, Ethiopia, Honduras, Nepal, Yemen, Syria, South Sudan, Afghanistan, and Yemen

- ○ H-1B modernization rule - proposes to narrow qualifications for an H-1B visa and placing additional documentation requirements on employees located at 3rd party worksite but extends F-1 OPT grants (pressure to significantly amend provisions and publish before leaving office)

- ○ Somewhat modernized processes including online filing, remote hearings, waived interviews, and extended document validity periods

- ○ Expanded spousal work authorization benefits

- ○ Proposal to improve AOS processing and employment authorization to be released in August 2024

- ○ High migration at the southern border, record 6.3 million border encounters under Biden with restricted asylum processes and expedited removal increasing

➢ **Processing**

- Across the board, processing times have increased as a result of the pandemic and lack of staff

  - USCIS director stated in 2023 that they need 3,000 more staff

- PWRs 8-9 months

- PERMS 12 months

- AOS filings 12-18 months

- Regular work visa processing 4-6 months

- 10.4 million new visa passport stamps issued (most since 2015)

- Consolidated some visa processing to promote efficiencies, including dependents, electronic H-1B lottery, consular dropboxes, and interview waivers

➢ **Adjudications**

○ 3.5% H-1B denial rate in 2023, with H-1B RFE rate at 10%

○ Decreased denials in other work visa and green card categories

○ Visa stamp denial rate decreased to 21%, work visa denial rate below 10%

Immigration Under Harris

➢ **Harris has a strong desire for comprehensive immigration reform that:**

- ○ Provides a pathway to citizenship for undocumented immigrants, including DACA recipients, and a fast track for vital pandemic positions

- ○ Eliminates family-based green card backlogs and address 3,10, and permanent bars in family separation situations

- ○ Increasing work visa quotas on H-1Bs and employment-based green cards

➢ Likely to see similar policies from the democratic nominee on humanitarian benefits including refugee, asylum, TPS, DACA, and parole continuation and, potentially, expansion

➢ Likely to see similar employment-based policies, further stabilization of immigration processes, and a desire to decrease immigration costs and processing times

➢ Immigration crisis at the border offers common ground for both parties to potentially address border security and, potentially, comprehensive immigration reform in the next 4 years

➢ May carry forward Biden's regulatory agenda with H-1B modernization, AOS improvements, increased use of Schedule A, H-2 modernization, and increased flexibility provisions for nonimmigrant workers and spouses

Immigration Under Trump II

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➢ **Likely to return to a harsher policy and enforcement stance on employment and family-based immigration, including:**

- More RFEs for employment-based visas

- Level 1 wage issues

- F-1 CPT status issues

- Specialty occupation

- More denials for employment-based visas

- Longer consular appointment wait times and higher visa stamp denial rates

- If Biden's H-1B modernization rule is not finalized or finalized too late, could be used to narrow H-1B qualifications and limit 3rd party H-1B work

- Could increases prevailing wages for H-1B, H-1B1, E-3, and green card positions

➢ Likely to contract humanitarian immigration programs, including TPS, parole, asylum, and refugee benefits

➢ May have greater influence over immigration agencies due to appointment agenda

➢ Project 2025

➢ Overturn of Chevron may, ironically, provide employers and others greater legal recourse against overly restrictive immigration changes that are not expressly authorized by law

What Companies Can Do Now to be Prepared

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➢ **Before the election**

- ○ File visa extensions as early as possible this year

- ○ Have employees prioritize renewing visa stamps before the end of the year

- ○ Be prepared to upgrade pending cases to premium processing to avoid potential RFEs and denials come January 2025

- ○ Accelerate green card sponsorship cases

- ○ Have employees avoid international gravel in Q1 2025 if possible

➤ **During/After the election**

- ○ Examine immigration policy and I-9 compliance programs

- ○ Assess the political visibility of your company to determine whether it may be subject to unusually high harassment

- ○ Budget for additional immigration expenses and delays in 2025

- ○ Assess your current vendor's experience and ability to pursue immigration litigation

- ○ Expect changes to H-1B rules for wages and third-party employers under either administration

QUESTIONS?

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