

ALERTS

Immigration Update: Executive Actions on Immigration and What They Mean

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On November 20, 2014, President Obama announced new executive actions on immigration. While the details of many of these actions have yet to be determined and some action will require regulatory change, there are potentially multiple benefits for both nonimmigrants and immigrants.

Many of the specific actions announced that would impact foreign workers and their employers include:

- **Issuance of EAD (Employment Authorization Documents) for certain H-4 visa holders:** Currently spouses of H-1B visa holders are not eligible to work in the U.S. unlike spouses of E-2 and L-1 Visa holders who are eligible to apply for an EAD. It is expected that action will be taken on this in December 2014 or January 2015.
- **Extension of OPT (Optional Practical Training) for STEM graduates:** OPT employment for university graduates in STEM occupations (Science, Technology, Engineering, and Math) will be expanded via regulation.
- **Expansion of options for Foreign Entrepreneurs:** Certain investors will be eligible for parole to come to the U.S., or be granted parole in place if already in the United States, for job creation (no further details at this time). This will be done by regulation.
- **Pre-registration for I-485 Adjustment of Status.** Individuals with approved employment-based immigrant petitions who are caught in the quota backlogs will be able to pre-register for adjustment of status to obtain the benefits of a pending adjustment. This is expected to impact about 410,000 people and will be done by regulation.

Guidance will also be released on the **L-1B Specialized Knowledge visa** category, which has recently been under heightened scrutiny by USCIS.

There will also be extensive action taken on **immigration enforcement priorities and prosecutorial discretion**. Many of the existing memos on enforcement priorities will be replaced by new memos that will take effect immediately, ensuring enforcement is focused on: suspected terrorists, convicted felons (including aggravated felonies), convicted gang members, and people apprehended on the border; people convicted of serious or multiple misdemeanors, and very recent entrants (i.e., those who entered after 1/1/14); and those who, after 1/1/14, failed to leave under a removal order or returned after removal.

Finally, two deferred action initiatives were announced that combined are estimated to affect 4.4 million individuals:

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Expansion of Deferred Action for Childhood Arrivals (DACA). Initially implemented in 2012, DACA will be revised to remove the age cap and will be granted for 3 years (including those with pending renewal applications). Changes to DACA are anticipated to be ready in 90 days.

Deferred Action for Parents (DAP). Parents of U.S. citizens and lawful permanent residents (of any age) who have been continuously present since January 1, 2010, and who pass background checks and pay taxes, will be eligible to apply for deferred action, which will be granted for a 3-year period. Parents of DACA recipients are not eligible. It is expected that the application process for this benefit will be in place within 180 days.