

ALERTS

White House Further Restricts U.S. Immigration in Response to COVID-19

Immigration Practice Group
MVA COVID Resource Center
MVA COVID-19 Resource Center

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Since the start of the COVID-19 outbreak in the U.S., the Trump Administration has issued a variety of Executive Orders aimed at restricting U.S. Immigration. Yesterday, the White House announced the continuation of its order suspending the entry of certain immigrants as well as announced additional restrictive measures directed at suspending the entry of nonimmigrant workers. Specifically, this latest Proclamation will suspend the entry of new H-1B, H-2B, L-1, certain J-1 nonimmigrants, and their accompanying dependents unless they qualify for one of the limited stated exemptions. The application of the ban to Canadian nationals seeking admission in these categories, who are not required to obtain a visa to enter the United States, is still unclear.

This new order is set to begin on June 24, 2020 and last through December 31, 2020, with the possibility of being continued. This entry ban does not apply to foreign nationals in the U.S. including those awaiting a change of status, Lawful Permanent Residents, spouse or children of U.S. citizens, and foreign nationals seeking to enter the U.S. to provide services essential to the U.S. food supply chain. The proclamation also provides for discretionary waivers for any foreign national whose entry would be in the national interest. Waiver procedures are expected to be developed by the State Department in consultation with the Departments of Labor and Homeland Security. The practical impact of this latest order is that foreign nationals outside of the U.S. not already in possession of a valid visa advance parole or other U.S. travel document will not be permitted entry in one of the banned nonimmigrant visa categories until the order expires, is rescinded, or the individual qualifies for an exemption.

In addition, the order directs the Department of Labor and the Department of Homeland Security to pursue regulatory initiatives aimed at the H-1B visa program as well as second (EB-2) and third (EB-3) preference employment-based Green Card categories. The order is silent regarding specific details surrounding these potential changes. It should be noted any regulatory initiatives would be subject to the usual notice and comment rule-making process, which takes between 30 to 60 days. After the comment period, any new rules would be implemented no earlier than 30 days after publication in the Federal Register. Accordingly, these initiatives could come into effect in as soon as Fall 2020.

MVA's Immigration Practice Group is monitoring developments with respect to these and other policy changes. Updates will be posted on our webpage and in the firm's COVID-19 Resource Center.