LEGAL UPDATES

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Key Takeaways from the President's Proclamation Suspending Visa Issuance for Certain Temporary Workers and Exchange Visitors

Services

Business Immigration and Global Mobility

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On June 22, 2020, the president signed an executive order suspending visa issuance for specific classes of visas. Citing economic concerns, the order suspends entry into the United States of those foreign nationals who seek H-1B, H-2B, J-1 and L-1 visas from a U.S. consulate and their dependents. Importantly, this executive order will not affect those foreign nationals who are already in possession of a valid H-1B, H-2B, J-1 or L-1 visa stamp in their passport and does not impact foreign nationals who are currently in the United States in valid immigration status. The executive order contains very limited exceptions for those workers critical to the U.S. food supply chain or who contribute to the U.S. national interest. The executive order takes effect on June 24, 2020, and remains in place until at least December 31, 2020.

Below are the key takeaways from the executive order:

Foreign nationals who do not currently possess a valid H-1B, H-2B, J-1 or L-1 visa stamp in their passport (or dependents) and who require a new visa stamp from a U.S. consulate are no longer able to apply for those visas at the U.S. consulate.

The order does not affect the following visa classifications:

F-1 Students

E-1/E-2 Treaty Trader/Investor

E-3 Australian Professional Workers

TN Professional Workers from Canada or Mexico

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B-1/B-2 or Visa Waiver Program (“ESTA”) Visitors

Lawful permanent residents

Spouse and children of U.S. Citizens

H-1B, H-2B, J-1 or L-1 visa holders whose visas stamps are valid as of June 22, 2020

Exceptions may be granted for those foreign nationals who provide services essential to the U.S. food supply chain or whose entry would be in the national interest of the United States (e.g., COVID-19 healthcare workers and researchers).

The prior executive order suspending the issuance of immigrant visas for those who are currently residing outside of the United States and who seek to apply for permanent residence through a U.S. consulate will remain in place.

The executive order asks the Secretary of Health and Human Services to provide guidance on implementing additional measures to reduce the risk that foreign nationals seeking entry into the United States may contribute to the spread of COVID-19. It also requests the Secretary of Homeland Security to take necessary steps, including issuing new regulations, to ensure H-1B workers currently in the United States do not "disadvantage United States workers."

Employers with foreign national employees in the United States

Foreign national employees in any immigration status should be cautioned against international travel. While not all visa categories are affected by this executive order, the U.S. consulates largely have continued to suspend routine visa issuance services. Until services resume, any foreign national in valid immigration status who leaves the United States and requires a visa stamp from a U.S. consulate to return, may not be able to acquire or timely acquire a visa stamp from the U.S. consulate.

Additionally, the travel restrictions put in place on those who have spent time in the 26 Schengen countries, China, Iran and Brazil prior to traveling to the United States remain in place. Any foreign national who is currently present in one of the listed countries is prohibited from traveling to the United States until the person has spent 14 days outside of one of the affected countries. Foreign national employees are encouraged to consult with immigration counsel prior to travel.

Foreign national employees in H-1B, H-2B, J-1 and L-1 status are eligible for extensions of their immigration status while they remain in the United States, provided they still qualify for the visa category. Employers should seek to file extension applications or petitions at the earliest possible date.

Contact us

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If you have further questions or require more information regarding this update, please contact Kelli Meilink or Christine Fabin.

Comprehensive CARES Act and COVID-19 guidance

Husch Blackwell's CARES Act resource team helps clients identify available assistance using industry-specific updates on changing agency rulemakings. Our COVID-19 response team provides clients with an online legal Toolkit to address challenges presented by the coronavirus outbreak, including rapidly changing orders on a state-by-state basis. Contact these legal teams or your Husch Blackwell attorney to plan a way through and beyond the pandemic.

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