

Blog Post

Suspending Entry for Certain Green Card Applicants: How Does it Impact Employers and Foreign National Employees?

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By Denise Gavica Perez

President Trump's latest Executive Order temporarily suspends the issuance of certain Immigrant visas (Green Card) at U.S. Consulates and Embassies overseas and halts Green Card applicants from entering the United States. However, it does not have an immediate impact on U.S. nonimmigrant workers in valid status such as H-1B, H-1B1, E-3, L-1A, L-1B, O-1, and other temporary worker visa classifications. The Proclamation also does not affect those who hold a valid immigrant visa or travel document, such as an Advance Parole, or foreign nationals with pending Adjustment of Status Applications to permanent residence.

The Order affects only those who are outside of the U.S., have not yet secured an immigrant visa at a U.S. Consulate or Embassy, and who do not possess an official travel document, such as an Advance Parole. These foreign nationals will not be admitted to the U.S. during a temporary period of 60 days, effective April 23, 2020.

The following foreign national groups are exempt from the suspension and travel restriction:

- U.S. lawful permanent residents

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- Those seeking to enter the U.S. on an immigrant visa as physicians, nurses, and other healthcare professionals; or to conduct research or work essential to combatting the spread of COVID-19, and their spouses and unmarried children under the age of 21
- EB-5 Immigrant Investor applicants
- Members of the U.S. Armed Forces, and their spouses and children under 21
- Certain Special Immigrants, and their spouses and children under 21
- Those whose entry would be in the U.S. national interest
- Those whose entry would further important U.S. law enforcement objectives
- Spouses and children under 21 of U.S. citizens and prospective adoptees in the IR-4 or IH-4 classifications
- Foreign nationals with temporary visas, whether applied for at the U.S. Consulate or Embassy or from within the U.S., including nonimmigrant workers, and F-1 students

Although the current Proclamation appears to be limited in scope, it follows other immigration restrictions already in effect, including travel bans from certain countries and restrictions on nonessential travel through the U.S. Canadian and U.S. Mexican borders, as well as suspension of most visa services U.S. Consulates and Embassies and in-person services at USCIS local offices and Application Support Centers.

In light of these ongoing challenges, employers should expect further limitations by the current Administration on employment of foreign nationals. Therefore, employers should consider reviewing all of their I-9 forms to ensure that foreign national employees, including executives and managers, are maintaining valid nonimmigrant worker status, and extending such status within six months of expiring.

Further, if the employee has an employment-based permanent residence process pending with USCIS, they should also maintain their advance parole and employment authorization document (combo card) valid at all times, and apply for extensions of the card, when appropriate.

Foreign nationals should bear in mind that even those exempt from the Proclamation are still subject to national security screening when seeking admission to the U.S.

For assistance with business immigration issues, contact your Akerman attorney.

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