

## UPDATE: Presidential Proclamation Restricting the Entry of H-1B Nonimmigrants to the United States

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September 22, 2025

*The following information updates the alert we distributed on September 20, 2025. The White House, U.S. Citizenship and Immigration Services, and Customs and Border Protection have issued guidance clarifying the scope of the Proclamation. H-1B FAQ – The White House*

*The Proclamation does NOT prevent any foreign national with a valid H-1B visa stamp from traveling internationally and applying for readmission to the United States after international travel.*

*It does not apply to any previously issued H-1B visas, or any H-1B nonimmigrant petitions filed with USCIS prior to 12:01 a.m. eastern daylight time on September 21, 2025.*

*It does not change any payments or fees required to be submitted in connection with any H-1B petitions filed to renew a beneficiary's nonimmigrant status.*

*This Proclamation does require petitioners to submit a \$100,000 payment with any new H-1B petitions filed after 12:01 a.m. eastern daylight time on September 21, 2025. New H-1B petitions include petitions that will be submitted based on the 2026 H-1B CAP lottery and any other "new" petitions filed after 12:01 a.m. eastern daylight time on September 21, 2025.*

*It also directs the Department of Labor to implement a rulemaking to revise and raise the prevailing wage levels associated with the H-1B program, and the Department of Homeland Security to implement a rulemaking to prioritize highly skilled, highly paid aliens in the H-1B lottery over those at lower wage levels. Additional reforms are also under consideration.*

**At this time, it is recommended that individuals who do not have a currently valid H-1B visa stamp in their passport refrain from any international travel until further notice. This does not apply to Canadians with a current I-797 H-1B approval notice, who are visa-exempt.**

*The practical implementation of this Proclamation is fluid. Employers are strongly encouraged to seek counsel from a member of the Miller Canfield Immigration Team for additional guidance.*

On September 19, 2025, President Trump signed an **Executive Order** restricting the entry of anyone seeking to enter or reenter the U.S. in H-1B status without payment of a new \$100,000 fee. This proclamation takes effect at 12:01 am on Sunday, September 21, 2025, will expire after one year, and may be extended.

**URGENT NOTE TO ALL U.S. EMPLOYERS: All H-1B workers who are currently abroad are advised to return to the U.S. as soon as possible before the effective date. As travel outside of the U.S. for visa processing/renewals will be impacted, H-1B workers currently inside of the U.S. should refrain from international travel until further guidance on implementation of this Proclamation has been provided. Beneficiaries of approved H-1B cap petitions with valid H-1B visas should promptly seek entry to the U.S. This guidance also applies to Canadians who are visa-exempt and have an I-797 H-1B approval notice, including Commuters who work in the U.S. pursuant to H-1B status.**

## Continued

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U.S. companies should also consider the following:

- The restriction on entry applies only to H-1B workers who attempt to enter the U.S. after the effective date, *but could also impact those who subsequently depart and attempt to reenter the U.S. in H-1B status during the effective period.*
- The language of the Proclamation does not express whether the new fee and travel restrictions apply to those H-1B workers outside of the U.S. who are cap-exempt.
- USCIS has been directed not to adjudicate petitions unless they are accompanied by proof of payment of the \$100,000 fee for H-1B workers who are currently outside of the U.S., including Canadians who are visa-exempt and have an I-797 H-1B approval notice. This also applies to any commuters who work in the U.S. pursuant to H-1B status.
- Individuals who are currently inside of the U.S. appear to be exempt from payment of the fee. Such individuals also appear to be protected, as petitions for extension of stay inside the U.S., including change of employer, change of status and amended petitions—where the beneficiary remains in lawful H-1B status—are not expressly mentioned in this proclamation.
- No later than 30 days following the next H-1B lottery (March 2026), the Secretary of State, Attorney General, Secretary of Labor, and the Secretary of Homeland Security are directed to jointly submit a recommendation to the President as to whether renewing or extending the restriction on reentry is in the best interest of the U.S.
- The Secretary of State is directed to issue guidance to prevent the misuse of B visas by beneficiaries of approved H-1B petitions who have start dates prior to 10/1/26, to avoid individuals entering the U.S. as visitors and later filing a change of status to H-1B to avoid payment of the fee.
- The Secretary of Labor is directed to initiate rulemaking to amend the prevailing wage levels with the goal of prioritizing admission of highly skilled and highly paid nonimmigrants.

There may be exceptions available for individuals, companies, or industries that DHS determines are in the national interest of the U.S. and do not pose a threat to the security or welfare of the U.S.; however, such guidance has not yet been published.

**The Miller Canfield Immigration Team will continue to monitor the implementation of this proclamation and will promptly provide updates as they become available. If you have questions about how this will affect your organization, please contact your Miller Canfield attorney or one of the authors of this alert.**