

President Issues Executive Order Further Limiting Entry of Lawful Nonimmigrants and Immigrants to the United States

June 23, 2020

President Trump issued a new executive order on June 22, 2020, which suspends the entry of foreign nationals on certain employment-based nonimmigrant visas (**H-1B, H-2B, J, and L**) into the United States. This executive order takes effect on **Wednesday, June 24, 2020**, and remains in place through **December 31, 2020**, subject to modifications and/or continuations as necessary beginning on July 22, 2020, and continuing every 60 days thereafter.

What Employment-Based Visas Are Suspended

Specifically, this executive order suspends **the issuance of the following nonimmigrant visas** to foreign nationals:

- H-1B, specialty occupation visa;
- H-2B, non-agricultural visa;
- J visa, in the intern, trainee, teacher, camp counselor, au pair, or summer work travel programs; and
- L, multinational manager/executive or specialized knowledge visa.

Visa issuance is also suspended for spouses and children under age 21 who plan to accompany family members in these categories.

Who Is Affected

This executive order only applies to the foreign nationals identified above if they are:

- **Outside the United States** on June 24, 2020;
- Do not already have a nonimmigrant visa that is **valid on June 24, 2020**; and
- Do not already have an official travel document other than a visa (such as a transportation letter, boarding foil, or advance parole document) that is valid on June 24, 2020, or issued thereafter permitting the individual to be admitted to the United States.

Who Is Not Affected

This executive order **does NOT apply to foreign nationals already in the United States, or to foreign nationals who already hold a nonimmigrant visa valid as of June 24, 2020, or to asylum seekers.**

Who Is Exempted

Along with lawful permanent residents ("green card holders") and spouses and children of U.S. citizens, individuals seeking entry to provide temporary labor essential to the U.S. food supply chain are exempted from the above-mentioned restrictions.

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The executive order also has a "national interest" exemption which would allow Consular Posts to issue visas (subject to standards issued by the Department of Homeland Security and Department of Labor) to those individuals deemed to be in the national interest of the United States including:

- those critical to defense, law enforcement, diplomacy, or national security of the U.S.;
- those involved in medical care to individuals who have contracted COVID-19 and are hospitalized;
- those involved with the provision of medical research at U.S. facilities to help the U.S. combat COVID-19;
- those necessary to facilitate immediate and continued economic recovery of the U.S.; or
- children who would age out of eligibility for a visa as a result of this executive order.

COVID-19 Provisions

The executive order requires the Secretary of Health and Human Services to provide guidance to the Departments of State and Homeland Security with measures to reduce the risk of those seeking admission to the U.S. from introducing or spreading COVID-19, such as requiring individuals to take a COVID-19 test prior to arriving in the United States.

Additional Measures Imposed by the Order

In addition, the order contains measures related to the following regulatory and/or enforcement actions:

- Governmental actions to ensure that those who have already been admitted to the U.S., or who are seeking admission to the U.S., on an EB-2 or EB-3 immigrant visa (i.e. an employment-based "green card" immigrant visa) or on an H-1B nonimmigrant visa do not limit the opportunity for U.S. workers;
- Investigation of Labor Condition Application ("LCA") violations (such as failing to pay wages pursuant to the LCA);
- Possible modification of regulations to change the issuance of cap-subject H-1B visas in a manner that does not disadvantage U.S. workers (such as prioritizing the highest paid H-1B workers in the numerical cap);
- Completion of biometrics, photographs, signatures and fingerprints prior to applying for a visa or admission to the U.S.; and
- Governmental actions to prevent certain individuals who have been ordered removed from the U.S., or who are deportable from the U.S., or who have been arrested, charged, or convicted of a criminal offense, from being able to work in the United States.

Extension of April 22, 2020, Executive Order Restricting Immigrant Visas

This executive order also extends the April 22, 2020, executive order restricting certain categories of immigrants from entering the United States for 60 days. A summary of this executive order can be found [here](#). Effective immediately, the April 22, 2020, executive order is also extended through **December 31, 2020**, subject to modifications and/or continuations as necessary pursuant to periodic review.

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Employers with foreign nationals affected by this executive order should contact our office immediately. We will continue to monitor and provide updates on the implementation and impact of this executive order.

This is part of a series of our **COVID-19 alerts** providing clients with practical advice on measures they can take to navigate through these troubled times. Please contact the authors or your Miller Canfield attorney with further questions.

This information is based on the facts and guidance available at the time of publication and may be subject to change.