

The Jaffe Update

Legal News Delivered

A publication of Jaffe Raitt Heuer & Weiss

June, 2020

Presidential Proclamation Suspends Entry of Several Temporary Worker Visa Categories

President Trump has issued an executive order (“EO”) adding several categories of non-immigrant work visas to the EO announced 60 days earlier which suspended admission to the U.S. of many intending permanent resident immigrants. Premised upon temporarily-high unemployment rates in the U.S. attributable to COVID-19, the new EO imposes a bombshell of disruption to employment-based temporary workers and their employers.

Effective June 24, 2020, the EO bars the admission of many foreign nationals in the following visa categories:

- H-1B specialty occupation/professionals
- L-1 intracompany transferee managers, executives and specialized knowledge workers
- H-2B non-agricultural workers
- J-1 exchange visitors

Details of the EO are critical as it suspends *entry* to the U.S., meaning that only workers who are outside the U.S. and seek admission are affected; similarly, foreign nationals who already hold an unexpired non-immigrant visa also are not impacted by the EO (it remains to be seen whether a person holding a B-1/B-2 visitors visa, as indeed is a non-immigrant visa, is allowed to enter the U.S. and later apply to change status to one of the forbidden categories, such as H-1B or L-1).

Given that many employers and/or proposed employees have already gone to great lengths to apply for, and in many cases already secured, USCIS approval for these visa categories, this will impose tremendous hardship.

The suspension Order for these visa categories will remain in effect until December 31, 2020.

There are miscellaneous exceptions to the suspension Order, including for U.S. lawful permanent residents, spouses or children of U.S. citizens, and additional categories subject to the discretion of U.S. agencies, such as whether the worker’s services would be essential to the U.S. food supply chain or would be in the U.S. national interest.

BUSINESS IMMIGRATION



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It is notable that several areas of immigration targeted by the administration escaped unscathed. For example, international students utilizing post-graduate OPT (Optional Practical Training) which allows one to three years of authorized work experience, were not addressed. Similarly, H-4 EAD's, being the spouses of H-1B workers who are backlogged in Permanent Resident waiting lists, currently can receive employment authorization. That rule also was not challenged in the EO.

However, the EO included ominous anti-immigration language directing government agencies to consider and implement additional measures in the future in order to assure that H-1B workers "do not disadvantage U.S. workers", and that certain employment-based immigrant visa categories potentially be reconsidered.

This EO has sparked tremendous controversy amongst U.S. business leaders, employers and employees, and the citizenry of this country. Time (and potentially a federal court) will tell whether the EO remains fully in effect throughout its 185- day term or, at the other extreme, whether it might even be extended into 2021.

Further detailing by U.S. government agencies is anticipated to be provided over upcoming weeks. If you have employees or an employer who you believe may be impacted by this EO, please contact any member of the Jaffe Immigration Group for assistance.

To learn more, or to discuss your needs, contact our Business Immigration Attorneys **Eli Maroko**, **Kreuz Gjezi** or **Ilene Zaitouna**.

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