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Visa Immigration

Information Session –
Employees

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With You Today



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Agenda

1. BAL Analysis: Proclamation
2. Update on Green Card Process (PERM Recruitment)
3. COVID Impact: Travel, Job Changes, Remote Work

BAL Analysis: Proclamation

June 24 Proclamation Overview

Suspending Certain Work visas

Executive Order: The proclamation imposes new restrictions on **entry** into the United States under certain nonimmigrant work visas, effective June 24 and extends the existing restrictions on immigrant visas that took effect on April 23

Obstacles to Entry: Barriers for certain foreign workers outside of the U.S.



Impact: No Change

Consular Processing Delays:

- Routine visa processing at U.S. consulates remains suspended
- Local conditions will dictate timeline to reopen
- Long delays/backlog when they reopen
- Some exceptions may apply, but rare/difficult



Impact: No Change

Physical Presence Bans:

- Foreign nationals are banned from entry if they have been physically present in **China, Schengen Area, United Kingdom, Ireland, Iran** or **Brazil** during the 14-day period prior to arrival in U.S.
- Must quarantine in another location for 14 days prior to entry
- No end date



New

Nonimmigrant Work Visa Ban:

- **H-1B, H-2B, L-1A/B** and (most) **J-1** visa entries are suspended, as well as their family members
- Does not apply to change or extension of these statuses in U.S.
- Ban in place through calendar year (30/60 day review), but plan for longer

Impact of June 24 Proclamation

Who is impacted (banned until December 31, 2020*)?

- Anyone outside the U.S. who did not have a valid visa stamp on June 24 in H-1B, L-1A, L-1B, H-2B or J-1 (intern, trainee, teacher, camp counselor, au pair, summer work) status
- Family members of H-1B, L-1A, L-1B, H-2B, or J-1 (e.g. H-4, L-2, J-2) without a valid visa stamp.
 - **UPDATE 7/16/2020:** The Department of State (the branch in charge of the consulates) released information indicating that family members of people currently in the U.S. in H-1, L-1, or J-1 status may receive visa stamping appointments before 12/31, but they would still be unable to travel until 2021. Awaiting final guidance.

Who is not impacted?

- Anyone in the U.S. as of June 24, 2020
- Anyone outside U.S. on June 24, 2020 who had unexpired visa stamp in an impacted category (H-1B, L-1, J-1, H-4, L-2, J-2)
- Anyone holding valid status not listed in the order, including F-1 OPT, TN, H-1B1, O-1, E-3, B-2, etc.
- Anyone applying for change of status, extension of status, adjustment of status, immigrant petitions, or labor certification (PERM)

* The ban is effective until December 31 with an option to extend beyond that date.

What Happens Next:

What Are We Hearing? What Can Employees Expect?



USCIS is bankrupt. Expect fee increase (H-4 EAD), but how much? Expect delays in adjudications. Expedite requests for EADs have a high bar (must show substantial financial impact to U.S. employer), rarely succeed.



May see virtual site visits from USCIS where officer is ensuring conditions match the petition. Reach out to Global Mobility (immigration@visa.com) and your BAL team if you receive an email or phone call.



Election year: rumors and chatter are likely to increase, but not all rumors (or tweets) result in government action. Global Mobility and BAL are continuously monitoring and will reach out as we analyze impact on employees' specific situations.

Update on Green Card Process (PERM Recruitment)

Green Card Process Update

In response to unprecedented times and market changes, we will proceed with the recruitment phase of the PERM process at a later date for employees with sufficient time remaining on their temporary work authorization.

The Goal Remains the Same: To file PERM at a time that provides the employee with the best chance of a successful filing with an approvable outcome

Why a Change?

Given the current environment, when work authorization can continue without disruption, this is not the right time to move forward with recruitment and filing due to:

- Job market conditions
- High unemployment rates

What has not changed?

- For cases already initiated, BAL will continue to work cases up to recruitment:
 - Complete questionnaires
 - Strategize PERM and create Job Summary
 - Job Summary approval
 - File Prevailing Wage
 - Reference letters drafted
 - Prevailing Wage received and reviewed
- Does not impact PERM applications already in process with the Department of Labor
- Global Mobility Team & BAL will continue to monitor expiration dates and resume efforts at the earliest opportune moment



COVID Impact: Travel, Job Changes, Remote Work

COVID Considerations:

Remote Work, Job Changes & Travel

- For immigration purposes, work permit is often tied to work location
- Employees must notify BAL if working from a different location than their home (commuting distance from office)
- Employees in the U.S. who have urgent travel needs should discuss with manager, HRBP, Global Mobility, and BAL to consider factors that could preclude re-entry into the U.S.
- Physical presence ban
 - President could expand list of countries in that ban and employees run the risk of getting stuck outside the U.S.

COVID Considerations:

Travel and Consulates

- Consulates are still closed for routine services. Even once they are open, expect operational delays
 - Employees or their families who are outside the U.S. without current visa stamps should contact immigration@visa.com for assistance.
- Employees may be able to apply for emergency appointments. No set process, standard for “emergency” likely to be very high
- Change to new, unaffected status for someone outside U.S.?
 - O-1 Extraordinary Ability – possibly, but very high bar to qualify
 - Any new status would require new visa stamp – with consular backlogs, entry before 12/31 uncertain
- Global Mobility team is actively monitoring these situations and is reaching out to managers and HRBP to discuss strategies for alternate work arrangements

COVID Considerations:

Students

UPDATE 7/14/2020: On July 14, 2020, the administration announced it would not move forward with the rules described below impacting students. This rule has been withdrawn entirely.

- July 6 rollback of relaxed guidelines for students under COVID: Students will not qualify for F-1 status if classes are entirely online for fall 2020. Some flexibility for hybrid (online/in-person) approach.
 - **No impact** on OPT/STEM OPT.
 - **Does impact CPT.** Work with school international department, DSO (designated school official).
 - Lawsuit filed by some schools that may pause implementation of the rule; may also see new regulation

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Questions

We're here for you. Contact us at:

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Appendix

Common U.S. Work Permits

Visa Type	Requires	Typically Used	Total Time	Notes
H-1B	Bachelor's Degree	New Hires	6 years (*sometimes more)	Role requires at least a bachelor's degree in a specialized field; no new visas or entries before 12/31/2020
F-1 (CPT, OPT)	Enrollment in or Recent Graduation from degree program/Sponsorship by educational institution	Grad Hires/Interns CPT for Interns only (not new hire FTEs)	While in school with limits, + up to 12 months OPT after grad, + additional 24 months for STEM degrees	Must convert to another visa category to continue working
TN	Canadian or Mexican Citizens	New Hires	Indefinite	Generally requires Bachelor's degree; only certain types of roles and degrees qualify
H-1B1	Singapore or Chile Nationals	New Hires	Indefinite	Renewed in 1-year increments; often convert to H-1B to facilitate Green Card
E-3	Australian Nationals only	New Hires	Indefinite	Renewed in 2-year increments; often convert to H-1B to facilitate Green Card
L-1A	Managerial or Executive Role; Employment with Visa for 1+ year abroad	Overseas Employees	7 years	Manager or executive who has worked for Visa outside the U.S. for 1+ years in the last 3 years; typically apply through consulate abroad; no new visas or entries before 12/31/2020
L-1B	Visa Proprietary Knowledge ("Specialized Knowledge"); Employment with Visa for 1+ year abroad	Overseas Employees	5 years	Employee with specialized or advanced Visa-specific knowledge; typically apply through consulate abroad; no new visas or entries before 12/31/2020
O-1	Extraordinary Ability in field of expertise	New Hires	Indefinite	Very high bar to proving eligibility – must be able to show contributions that are widely used in the field; typically Ph.D. and research experience, and/or famous national/international awards for work
H-4 EAD	For certain H-4 dependents (spouse of H-1B holders)	New Hires	Duration of spouse's status	Convert to H-1B before starting Green Card; category could be eliminated by current administration
L-2 EAD	For L-2 dependents (spouse of L-1 holders)	New Hires	Duration of spouse's status	Convert to H-1B before starting Green Card

What is a visa?



- A visa (or “visa stamp”) is an **entry document** in a passport and is **permission to apply for admission** into the U.S.
- Most Foreign National employees are required to have a valid visa for all international travel
- Visas can only be obtained from **U.S. Consulates and Embassies abroad**
- Current delays in getting visas due to consulate closures for COVID. After reopening, may continue to see increased security checks (**administrative processing**)

I-94 Records: Two Kinds

USCIS

CBP

Department of Homeland Security
U.S. Citizenship and Immigration Services

RE-MAILED

THE UNITED STATES OF AMERICA

I-797A, Notice of Action

Receipt Number: [REDACTED]
I-94 Number: [REDACTED]
Name: [REDACTED]
Class: [REDACTED]
Valid From: 06/26/2014 UNTIL: 11/24/2014

122537306 30

United States Citizenship and Immigration Services

I-94 Departure Record

PETITIONER: [REDACTED]

Form I-797A (Rev. 10/21/09)

U.S. Customs and Border Protection
Securing America's Borders

Most Recent I-94

Admission (I-94) Record Number: [REDACTED]
Most Recent Date of Entry: 2016 August 10

Class of Admission: F1
Admit Until Date: D/S

Details provided on the I-94 Information form:

Last/Surname: [REDACTED]
First (Given) Name: [REDACTED]
Birth Date: [REDACTED]
Passport Number: [REDACTED]
Country of Issuance: [REDACTED]

- I-94 is an Arrival/Departure Record issued by either USCIS (in an extension petition) **or** CBP (at the border)
- I-94 controls status in the US - generally, the **most recent I-94 controls your stay**
- Employee must leave or extend status before the expiration date on the I-94, even if they have a valid visa
- If you get a new I-797 from USCIS after traveling, **your CBP I-94 will not change on the website**, but it is no longer valid; the new I-94 from USCIS controls.

Who Is Subject to the June 24 Proclamation? Who Is Exempt?

Who is Subject?

The proclamation applies only to a foreign national who is applying for entry pursuant to an H-1B, L-1A/B, H-2B or J-1 visa **and** who:

- Was outside the U.S. on June 24;
- Does not have a nonimmigrant visa stamp in the affected categories that was valid on June 24; and
- Does not have an official travel document (e.g. AP) that is valid on June 24 or issued after that date

Canadian national who is outside of the U.S. on June 24 is not subject because Canadians are visa exempt

Who is Eligible for Exemption?

- National Interest (e.g. law enforcement, medical care for COVID-19 hospitalized; medical research, **necessary to facilitate the immediate and continued economic recovery of the U.S.**)
- Food supply chain
- Green card holders
- Spouses and children (but not parents) of U.S. citizens

How to Apply for Exemption?

- Authority rests with Department of State at time of visa issuance
- Consular Officers may exercise discretion to exempt aging out children