Introduction and overview

1. Introduction of Panel and Review of Agenda.
2. Review Current Status of International Travel Bans and Consulate Closures.
   - U.S Consulates and Embassies.
   - U.S. Department of States (DOS).
3. Updates on CBP Processes and Bans on Travel into the U.S.
   - USCIS International and Domestic Closures.
   - Updates and Changes to Processes.
5. Temporary Relief for I-9 Procedures.

Trump Says He Will Halt Immigration; States Start to Reopen Businesses

In light of the attack from the Invisible Enemy, as well as the need to protect the jobs of our GREAT American Citizens, I will be signing an Executive Order to temporarily suspend immigration into the United States!

Source: https://twitter.com/realDonaldTrump

Trump says he will sign an executive order to temporarily suspend immigration to the U.S. amid pandemic

Resources

Our firm’s Coronavirus Resource Center is available at:
• U.S. Consulates and Embassies around the world are closed for most business other than assisting U.S. citizens: https://travel.state.gov/content/travel/en/traveladvisories/ea/covid-19-information.html

• U.S. Consulates and Embassies have suspended routine issuance of visas: https://travel.state.gov/content/travel/en/News/visas-news/suspension-of-routine-visa-services.html


• National Visa Center (NVC) confirms correspondence delays: https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/ask-nvc.html
  – A temporary reduction of staff by NVC has affected its ability to respond to inquiries made via the “Ask NVC” form and it will no longer reply to routine messages submitted on or after March 27, 2020. Only urgent humanitarian or medical inquiries or necessary case updates may still make use of the Ask NVC form.
• **Travel and Entry Restrictions:**
  – Many travelers from COVID-19 “hot spots” are prohibited from entering the United States.
  – U.S. Citizens, green card holders (legal permanent residents), and certain applicants for adjustment of status with Advance Parole travel authorization may be eligible for the limited exceptions to this rule: https://www.dhs.gov/news/2020/03/17/fact-sheet-dhs-notice-arrival-restrictions-china-iran-and-certain-countries-europe

• **Border Closures**

• **Satisfactory Departure**
  – Individuals admitted under the VWP/ESTA program who are unable to depart the U.S. before their authorized period of admission ends because of COVID-19 related issues should contact the CBP’s Deferred Inspections office and request Satisfactory Departure for up to 30 days.

• **Trusted Travelers**
  – All Trusted Traveler Program Enrollment Centers are suspended until at least May 1, 2020 (this includes Global Entry, NEXUS, SENTRI, and FAST enrollment locations).

**U.S. Citizenship and Immigration Services (USCIS):**

- **USCIS International Office Closures:**
  https://www.uscis.gov/about-us/find-a-uscis-office/international-immigration-offices

- **USCIS Field Offices and Application Support Centers (ASC) closed through May 3:**
  https://www.uscis.gov/about-us/uscis-office-closings
  - USCIS sending cancellation notices to applicants with previously scheduled interview appointments or naturalization ceremonies affected by the office closures.
  - ASC appointments to be automatically rescheduled by USCIS for applicants affected by the center closures.
  - USCIS to continue providing limited emergency services field offices. For assistance with an emergency service, please call the USCIS Contact Center.
    https://www.uscis.gov/contactcenter

- **USCIS has suspended Premium Processing for all I-129 and I-140 petitions due to COVID-19 crisis:**
  - Form I-129, Petition for Nonimmigrant Worker (i.e. H-1B / L-1).
  - Form I-140, Immigrant Petition for Alien Workers.

- **If and when USCIS lifts the suspension on I-129 Premium Processing, it is likely that H-1B cap cases will not be eligible for Premium Processing, per guidance that was issued prior to the start of the COVID-19 crisis:**
• USCIS is allowing Request for Evidence (RFE) and Notice of Intent to Deny (NOID) response deadline flexibility:
  “Any response to an RFE, NOID, NOIR, or NOIT received within 60 calendar days after the response due date set in the request or notice will be considered by USCIS before any action is taken. Any Form I-290B received up to 60 calendar days from the date of the decision will be considered by USCIS before it takes any action.”

• USCIS has relaxed the original / “wet” signature requirement, though it does require those submitting petitions or applications to retain the original documents for submission via mail/courier if it requests them at a later time:

• USCIS reusing previously submitted biometrics to process the I-765 applications:
  – Applicants will have their I-765 applications processed using previously submitted biometrics if they had scheduled ASC appointments or filed for a work authorization on or after March 18.
COVID-19 and Public Charge Rule:

- Testing, treatment, or preventative care related to COVID-19 will not be considered as part of a public charge determination or as related to the public benefit condition applicable to certain nonimmigrants seeking an extension of stay or change of status by USCIS, even if such treatment is provided or paid for by public benefits. [https://www.uscis.gov/greencard/public-charge](https://www.uscis.gov/greencard/public-charge)

- The earned benefits through a person's employment and specific tax deductions such as unemployment benefits will not be considered public benefits by USCIS under the public charge inadmissibility determination. [https://www.federalregister.gov/documents/2019/08/14/2019-17142/inadmissibility-on-public-charge-grounds](https://www.federalregister.gov/documents/2019/08/14/2019-17142/inadmissibility-on-public-charge-grounds)

- Form I-129 with section on “Information About The Beneficiary’s Public Benefits.”

COVID-19 and Public Charge Rule (continued):

- H-1B Workers and Unemployment Insurance Benefits.
  - Two parts to eligibility: employer and individual
    - Employer: loss of employment through no fault of employee and
    - Individual: prior work history and available for work
  - Federal rules requires states to abide by certain rules to be reimbursed
  - “Available for Work” is defined differently by states

U.S. Immigration and Customs Enforcement (ICE):

  - Form I-20, Certificate of Eligibility for Nonimmigrant Student Status.

Other Actions Taken by DHS:

• Form I-9, Employment Eligibility Verification during COVID-19:
  https://www.ice.gov/news/releases/dhs-announces-flexibility-requirements-related-form-i-9-compliance
  – DHS will exercise discretion to defer the physical presence requirements associated with Form I-9 by not requiring employers to review the employee’s identity and employment authorization documents in the employee’s physical presence.

• E-Verify Extends Timeframe for taking action to resolve Tentative Confirmations:
  – The timeframe to take action to resolve SSA and DHS Tentative Nonconfirmations (TNCs) extended by E-Verify due to private and public office closures.

Department of Labor (DOL)

• The DOL has issued guidance on how employers can comply with LCA posting requirements and other issues:

• H-1B/LCA prevailing wage rules continue to apply during the COVID-19 crisis period.

• The DOL is now issuing electronic approval materials for Certified PERM applications to be sent to the employer/applicant in the case via email:

• Employers should be sensitive to the implication of furloughs and layoffs on PERM applications.
Minnesota Department of Public Safety: COVID-19 Response

• MN provides an extension for expiring driver’s licenses or ID cards:
  – The expiration dates of valid driver’s licenses or IDs that would expire during the peacetime emergency will be extended for two months after the month the peacetime emergency ends.

Overview of Principal Government Agencies Administering Immigration Law

• The Department of Homeland Security (DHS). Key DHS agencies that affect immigration include:
  – U.S. Citizenship and Immigration Services (USCIS) is the principal agency that processes petitions and applications for U.S. immigration benefits for foreign nationals. If you or one of your foreign national employees are preparing to file a petition or application for U.S. immigration benefits (e.g. permission to employ a foreign worker), the USCIS is the agency you are most likely to need to deal with next.
  – U.S. Customs and Border Protection (CBP) supervises and manages entry to the U.S. at the border, for both U.S. citizens and foreign nationals. If your U.S. citizen or foreign national employees plan to enter the United States, they will need to deal with a U.S. CBP officer for their application for admission.
  – U.S. Immigration and Customs Enforcement (ICE) is the enforcement arm of the DHS. It oversees investigations, enforcement, worksite violations, and deals with document fraud. You are likely to encounter ICE agents if your company gets audited for Form I-9 compliance.
• U.S. Department of State (DOS) operates the U.S. Embassies and Consulates around the world, which control the issuance of visa stamps to foreign nationals. If you have a foreign national employee who is outside the United States and needs to apply for a visa stamp in their passport, the DOS is the government agency they are most likely to deal with next.

• U.S. Department of Labor (DOL) has jurisdiction over U.S. labor laws, including elements regarding the employment of foreign nationals in the United States. It oversees the PERM Labor Certification program (which relates to green card/permanent residence processing) and the Labor Condition Application (LCA) program (which relates to foreign nationals working in H-1B, H-1B1, or E-3 immigration status). If you are preparing to file an LCA or PERM application with the Department of Labor in conjunction with another filing, or waiting to receive its decision, the DOL’s processing will affect the timing of when you can make related filings with the USCIS and/or DOS.