President Trump Bans Entry of Certain Temporary Foreign Workers, Extends “Green Card” Ban Through 2020

Article By
Jeffrey S. Bell
Katherine H. Smith
Polsinelli PC
Alerts

- Immigration
- Administrative & Regulatory
- Labor & Employment
- All Federal

Tuesday, June 23, 2020

President Trump has issued a new Executive Order extending the current ban on immigrant visas for those outside the United States, as well as barring entry of new classes of nonimmigrant visas, namely H-1B, H-2B, L, and J visas (and their family members). The stated reason for the order is the unemployment of US workers in the United States due to the COVID-19 outbreak.

The latest order extends an earlier Executive Order banning the issuance of new immigrant visas to those outside the United States seeking permanent entry to the United States (or a “green card”). The latest order’s provision regarding immigrant visas takes effect immediately, and extends the bar until December 31, 2020 (and allows for a continuation after such date as necessary).

In addition, and importantly, the newest order suspends the entry of certain classes of nonimmigrants seeking to work in the United States as well. The visa suspension applies to individuals outside the US as of June 24, 2020 and not in possession of a
current US visa or travel document. This includes foreign nationals seeking work visas in the H-1B, H-2B, L intracompany transfer, and certain J exchange visitor visa categories. The spouses and children accompanying such nonimmigrants or following to join in the respective derivative visa categories, i.e., H-4, L-2, and J-2, are also banned (though children who “age out” due to the restriction can be exempted). This nonimmigrant work visa ban will be effective until December 31, 2020, and may be renewed.

Under the terms of the Executive Order, the ban will not apply to certain workers including:

- Food supply chain workers
- Those “critical to the defense, law enforcement, diplomacy, or national security of the United States”
- Certain medical professionals who are involved with the provision of medical care to individuals who have contracted COVID-19 and are currently hospitalized
- COVID-19 Medical researchers at U.S. facilities
- Those “necessary to facilitate the immediate and continued economic recovery of the United States;” and
- Others whose entry would be deemed in the U.S. national interest (such determinations will be made in sole discretion of DOS, DHS, or their designees)

Beyond the immediate ban on work visas, President Trump also directs the Department of Homeland Security and Department of Labor to promulgate new regulations with regard to the H-1B program, as well as EB-2 and EB-3 employment-based green cards “as soon as practicable,” to ensure these programs do not disadvantage US workers.

Although the new order does not apply to individuals presently in the US, employers may want to discourage employees on work visas from traveling internationally for the time being, particularly if an employee needs to renew a visa to return to the US.

© Polsinelli PC, Polsinelli LLP in California

National Law Review, Volume X, Number 175

Source URL: https://www.natlawreview.com/article/president-trump-bans-entry-certain-temporary-foreign-workers-extends-green-card-ban