

JANUARY 30, 2017 BULLETIN TO ALL IMMIGRATION CLIENTS

President Trump's Immigration-Related Executive Orders

During his first week in office, President Donald Trump issued two sets of Executive Orders regarding immigration issues. Additionally, and although not yet promulgated, drafts of a third immigration-based Executive Order have also been circulated. A summary of each is set forth below:

I. "Protecting the Nation from Terrorist Attacks By Foreign Nationals"

A summary of the provisions of this Executive Order (issued on January 27, 2017) is as follows:

1. A ban of all refugees attempting to enter the United States for four (4) months (which may be extended).
2. Indefinite suspension of all refugees from Syria.
3. Three (3) month ban on all admissions to the United States of people from the following seven (7) Muslim majority nations:
 - (i) Iraq
 - (ii) Syria
 - (iii) Iran
 - (iv) Sudan
 - (v) Libya
 - (vi) Somalia
 - (vii) Yemen

Please note that this provision:

- (i) contrary to the initial version, the ban only applies to nonimmigrant admissions, i.e., it does not ban U.S. permanent residents who are citizens of one of these countries;
- (ii) includes dual nationals, i.e., people who are citizens of one of these and another country (regardless of the country);
- (iii) may even include people from other countries (but not U.S. citizens) who travel to these countries (or, if not banned, these people will most certainly receive extensive questioning at the airport/port of entry);
- (iv) could become indefinite if the countries in question do not take required steps;
- (v) other countries may be added to the list;

- (vi) may also impact other benefits afforded to citizens of these countries e.g., visa extensions, adjustment of status, etc. In fact, and although not confirmed, we have seen reports that the government is or will be halting the adjudication of all applications filed by or on behalf of nationals of these countries; and
 - (vii) may also mean suspension of the issuance of visas to people from these countries, i.e., not just admission to the U.S. utilizing a visa.
4. In person interviews at Consulates will now always be required (eliminating certain limited exceptions previously in effect).
 5. Additional screening for certain immigration benefits, e.g., visa issuance as well as Employment Authorization Documents, advance parole documents, etc.
 6. Completion/implementation of an Entry/Exit (biometric) System.

II. “Border Security and Immigration Enforcement Improvements”

The summary of the provisions of this Executive Order (issued on January 25, 2017) is as follows:

1. Funding of a border wall between Mexico and the United States.
2. Massive expansion of the detention of foreign nationals (both at the border and internally).
3. Expansion of our nation’s detention capacity (to handle the above-referenced efforts).
4. Expansion of provisions relating to expedited removal of certain foreign nationals either illegally in the country or who attempt to enter the country without proper documentation.
5. Expansion of state/local efforts in the enforcement of our immigration laws.
6. Conducting removal proceedings outside of the United States.
7. Limitation of humanitarian protections afforded by our immigration laws, e.g., parole and “credible fear” applications for asylum at the port of entry.
8. Criminal prosecution for persons attempting unlawful entry into the United States.
9. 5,000 additional border patrol agents.
10. Elimination of federal funding/additional sanctions against “sanctuary cities.”

III. “Protecting American Jobs and Workers and Strengthening The Integrity of Foreign Worker Visa Programs”

The summary of this draft Executive Order (which, again, has not been promulgated) is as follows:

1. Overall review of both nonimmigrant visa and immigrant visa processes (with a focus on “putting Americans first”).

2. Possible elimination of certain immigration-related benefits including STEM (OPT) extensions and employment authorization documents for H-4 spouses.
3. Termination of the Deferred Action for Childhood Arrivals (DACA) program (which provides temporary protection from deportation and work authorization for foreign nationals who came to the United States when under the age of 16 and had pursued/were pursuing education).
4. Eliminates relief from the 3/10 year bars to admission (which bars people who have been unlawfully present in the United States for more than 180 days (three year bar) or one year (ten year bar) and attempt to reenter after leaving the United States).
5. Institutes site visits at employers which employ L-1 workers.
6. Implements (in two years) site visits at job locations where employers have people working with all types of nonimmigrant visa categories.
7. Evaluation of the manner in which H-1B applicants are selected (which is currently done through a lottery program).
8. Department of Homeland Security directed to “improve monitoring of foreign students”.
9. DHS also directed to “reform practical training programs for foreign students to prevent the disadvantaging of U.S. students in the work force.”
10. Clarify that people entering the United States as tourists may not perform skilled or unskilled labor (which is already in the law).
11. “Reform the J-1 Summer Work Travel Program to improve protection of U.S. workers.”
12. Initiate efforts to implement a larger revision of U.S. immigration policy by commissioning a report to determine “the extent of any injury to U.S. workers caused by the employment of foreign workers” and to “immediately restart work on regular benefit fraud assessments for all immigration benefits categories.”

As you will no doubt see, several of these provisions will both now and in the future directly impact both current and future foreign national employees (including but not limited to the travel ban imposed on nonimmigrant visa holders from the seven countries). As such, please contact any member of the Cohen & Grigsby, P.C. Immigration Group after you have had an opportunity to review this information so that we can discuss any questions which you may have. We will also, of course, continue to closely monitor any new developments and keep you closely posted.

Please contact any member of the Cohen & Grigsby Immigration Department if you have any questions regarding the above at 412.297.4900. To receive future bulletins and news alerts, please send an e-mail to bulletins@cohenlaw.com

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