

## **White House Issues Executive Order Following COVID-19 Outbreak: *Nonimmigrant visa suspensions to impact mobility through December 31, 2020***

<https://www.whitehouse.gov/presidential-actions/proclamation-suspending-entry-aliens-present-risk-u-s-labor-market-following-coronavirus-outbreak/>

On June 22, 2020, President Trump and the White House issued a proclamation to suspend the entry of non-US individuals into the United States labor market, citing the potential risk that the inclusion of these applicants could pose to the U.S. labor market following the COVID-19 outbreak.

### **What You Need to Know:**

The presidential proclamation will suspend the entry of new H-1B, L, H-2B, and certain J nonimmigrants, as well as their spouses and dependents, from 12:01 a.m. EDT on June 24 through December 31, 2020, with limited exceptions. The proclamation also immediately extends an existing ban on certain immigrant entries through the end of this year.

The ban **does not** affect foreign nationals holding valid U.S. visas and other documents, who are already present in the United States as of the effective date of the ban.

The proclamation directs the Secretary of Labor to consider regulations to ensure that non-U.S. citizens who have been admitted, or who are seeking admission pursuant to an EB-2 or EB-3 immigrant visa or an H-1B nonimmigrant visa, do not disadvantage United States workers.

### **Who is Affected?**

- H-1B visa applicants (foreign workers in specialty occupations)
- H-2B visa applicants (temporary nonagricultural services or labor on a one-time, seasonal, peak load, or intermittent basis nonimmigrants)
- L visa applicants (foreign workers relocating to the corporation's U.S. office after having worked abroad for the company for a relatively short period of time)
  - Applies to L-1A - executives and managers and L-1B - specialized knowledge workers
- J visa applicants (individuals approved to participate in work-and-study-based exchange visitor programs) *to the extent* that they are applying to participate as an intern, trainee, teacher, camp counselor, au pair, or Summer Work Travel Program participant
- Any person accompanying or following to join such applicant (i.e. spouses and children)

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**“U.S. tech giants... are among the top 10 employers of approved H-1B applicants.”  
(Forbes.com, Recent Changes to the H1B Visa Program and What is Coming in 2019,  
published: January 2, 2019)**

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### **What Does This Mean for Mobility?**

The proclamation **restricts the entry** of the above listed categories for individuals seeking entry pursuant to one of the above four visa categories if they:

- Were outside the United States at 12:01 a.m. EDT on June 24<sup>th</sup>, 2020, and
- Do not hold a valid U.S. visa, advance parole, and
- Do not have official U.S. travel documents

Individuals **Exempt** from the Proclamation Entry Ban:

- Those present in U.S. in categories **other** than H-1b, H2b, L and J, such as E-1, E-2, E-3, O-1, P, TN (Canadian and Mexican)
- J-1 categories including college and university student, physician, professor, research scholar, secondary school student, short-term scholar, and specialist
- Foreign workers, including those in H-1B, H-2B, J-1 and L-1 status and their dependent family members may continue to seek extensions of status and/or applications to change status in the United States through the United States Citizenship and Immigration Services (USCIS)
- Foreign nationals entering to provide temporary labor or services essential to the U.S. food supply chain
- U.S. lawful permanent residents
- Spouses and children of U.S. citizens

The filing and processing of U.S. permanent resident applications (i.e. Application to Adjust Status) have not been impacted by this proclamation; USCIS may continue to process such applications filed by foreign workers in the United States.

*If an individual is outside of the U.S. when the proclamation came into effect and they have a valid visa in their passport in the categories mentioned above, they should not be affected by the ban. **However**, it is important to be cautious if the visa expires after the 24<sup>th</sup> of June while they are outside of the country, because a new visa would need to be obtained at the U.S. at a consulate and currently these facilities are closed. The individual would need to consult with their immigration professional.*

### **Travel Advisory for Exempt Foreign Nationals:**

- These individuals must still adhere to pre-existing COVID-19 restrictions at U.S. consulates and ports of entry.
- Because the regulations call for the consular officer to determine the applicability of the exemptions in their discretion, there is the possibility of inconsistent treatment at consulates, ports of entry, and pre-flight inspection stations.
- There is a possibility of reentry delays.

Jeff Margolis, Vice President and General Counsel for SIRVA Worldwide Relocation & Moving, cautions, “The proclamation will limit the entry of skilled and specialized workers, multinational managers, and executives to seek entry to work in the United States through at least the end of 2020. While the proclamation appears to be focused on new applicants seeking entry into the United States labor market, there is some ambiguity and discretionary decision making authorized in the proclamation that could result in inconsistent application. However, considering these new restrictions on nonimmigrant visas, along with the previous restrictions on immigrant visas in the April 22, 2020 proclamation, companies should be prepared to manage their workforce with an

expectation of a further decrease in the foreign workers in the U.S. employment pool, at least through the end of 2020.”

The recommended course of action for organizations currently is to:

- Understand the scope and parameters of the proclamation
- Identify the employee population that may be impacted by the proclamation
- Assess the impact of the proclamation during the current pandemic

Additionally, organizations should recognize that the proclamation reaches beyond immigration considerations; it has potential implications for the way in which organizations manage, develop, and recruit their global workforces. SIRVA recommends that corporate stakeholders engage with recruiting, talent/workforce planning, and learning and development functions, in addition to immigration provider(s), to define the best course of action to support short- and long-term priorities and objectives of the organization.

Stay tuned for additional updates as more information is received and for insights into the impact on mobility.

Visit [SIRVA.com's dedicated COVID-19 Center](#) and follow [SIRVA Worldwide Relocation & Moving on LinkedIn](#) for up-to-date resources and information.