



IMMIGRATION INSIDER

Kerr, Russell and Weber, PLC

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USCIS Suspends Premium Processing of H-1B Petitions

USCIS has announced that beginning April 3, 2017, it will temporarily suspend premium processing for all H-1B petitions for up to a six month period. The suspension applies to all H-1B petitions filed on or after April 3, including all new H-1B cases filed for the fiscal year 2018 cap; all H-1B change of employer petitions; and, all applications requesting an extension of H-1B status. The stated goal of the suspension of expedited processing is to allow USCIS to address its significant backlog of long-pending H-1B filings, some of which have been pending for eight months or more. During the period of non-availability of premium processing, petitioners may request expedited processing with evidence of emergency, humanitarian, or compelling need.

Automatic Extension of Employment Authorization

Beginning January 17, certain individuals who hold Employment Authorization Documents (EAD) are eligible for an automatic extension of their EAD during the pendency of their renewal applications. This automatic extension will help to prevent gaps in employment authorization for qualifying applicants. To qualify for this benefit, an applicant must timely file an application to renew her employment authorization document, and be eligible for an EAD based on one of the categories enumerated by USCIS in the regulation. Notably, those eligible include individuals who hold an Employment Authorization Document pursuant to a pending application for adjustment of status (green card).

Individuals who hold employment authorization on a basis not named in the USCIS guidance are reminded that they must always be in possession of a valid EAD in order to maintain employment; a pending renewal application is not sufficient. It is, therefore, critical to file the application for renewal as early as possible.

If you have any questions about Employment Authorization, or eligibility under the new regulation, please contact Kerr Russell.

Revised Executive Order – Enjoined on March 15

On January 27, 2017, President Trump signed an Executive Order which, among other provisions, halted the ability of individuals from seven countries to enter the United States. The uncertainty surrounding the reach of the order, as well as the rush to implement its provisions without clear guidance,



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resulted in a flurry of legal actions across the country. Eventually, the implementation of the order was temporarily halted by a federal court in the state of Washington, while attorneys argued its legality.

In an effort to bypass prolonged litigation, on March 6 President Trump signed a second Executive Order which explicitly revoked the earlier version. In part, this order bars the entry of citizens from Iran, Sudan, Syria, Libya, Somalia, and Yemen who are not in possession of a valid U.S. visa as of March 16, 2017, for a minimum period of 90 days. The order does not apply to individuals who hold a valid U.S. visa, lawful permanent residents (green card holders), or dual citizens who also have citizenship in a country not named in the order. The stated purpose of the travel ban is to allow the United States to review visa issuance and security screening processes at its Consulates in the named countries.

On March 15, a federal judge in Hawaii issued a nationwide temporary restraining order (TRO) barring the implementation of the Executive Order, including the travel ban. This TRO will remain in place while the merits of the Order are litigated. On the same day, a federal judge in Maryland also issued a nationwide TRO, but limited his ruling to the travel ban portions of the Executive Order. The President has indicated that he intends to appeal these decisions.

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