

Immigration Alert

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President Trump Signs Proclamation Suspending Entry of Certain Immigrants

April 23, 2020

Key Points

- Proclamation only suspends entry of applicants for an immigrant visa (“green card”) who are currently outside the United States.
- Proclamation does not apply to anyone currently in the United States.
- Proclamation does not apply to any applicants for nonimmigrant visas, whether inside or outside the United States.
- Spouses and minor children of U.S. citizens, as well as EB-5 immigrant investors are exempt from the entry suspension.
- Second proclamation affecting nonimmigrants (including H-1B temporary workers) may be issued at a later date.

On April 22, 2020, President Trump signed a **Proclamation** temporarily suspending entry of applicants for an immigrant visa (also known as a “green card”) who are currently outside the United States. The Proclamation becomes effective tonight, April 23, 2020, at 11:59 p.m. EDT. The Proclamation exempts certain categories of immigrants and is set to expire in 60 days, on June 22, 2020, although the President may continue it “as necessary.”

Background

The Immigration and Nationality Act (INA) gives the President the authority to suspend entry of any noncitizens whose entry would be “detrimental to the interests of the United States.” Citing the COVID-19 pandemic and record numbers of Americans who have filed for unemployment as the result of the pandemic, the President has imposed a temporary suspension on entry to the United States of certain immigrants to reduce the competition for jobs and to conserve consular resources abroad and health care resources in the United States.

Who Does the Proclamation Affect?

The Proclamation only affects a very narrow set of individuals—applicants for an immigrant visa who are outside the United States. It does not affect anyone already

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present in the United States, and it does not affect any nonimmigrant visa holders (e.g., those on H-1B visas) or those applying for nonimmigrant visas abroad. Individuals applying for a green card in the United States (through the “adjustment of status” process) are not affected by the Proclamation either.

The Proclamation is unlikely to affect many employment-based immigrants because the vast majority of them first come to the United States on a nonimmigrant visa and apply for a green card while in the country.

The Proclamation will primarily affect family-based immigrants who are coming to join their families here in the United States: spouses and children of permanent residents, parents of U.S. citizens, adult children of U.S. citizens and siblings of U.S. citizens, as well as diversity lottery immigrants.

As we described in a prior [alert](#), U.S. embassies and consulates have suspended routine visa issuance due to the COVID-19 pandemic. They are only providing emergency services to U.S. citizens abroad, as well as processing visa applications for emergency travel and for essential work, such as by health care professionals and agricultural workers. Because of the suspension of routine visa services abroad, the Proclamation does not immediately change the situation for green card applicants. If the Proclamation is still in place when U.S. embassies and consulates resume routine visa services, it will prevent those whose entry has been suspended from obtaining immigrant visas, but until then, the closure of U.S. embassies and consulates has the same effect as the Proclamation.

The Proclamation does not modify any of the travel suspensions due to the COVID-19 pandemic, also analyzed in a prior [alert](#). Entry of foreign nationals who have visited China, Iran, the Schengen Area countries, United Kingdom and Ireland in the last 14 days remains prohibited.

Who is Exempt from the Proclamation?

The Proclamation provides exemptions for certain categories of immigrants currently abroad, most notably:

- Lawful permanent residents of the United States (i.e., those who have already obtained a green card).
- Spouses of U.S. citizens, or children of U.S. citizens under the age of 21.
- Individuals entering as health care professionals or to combat COVID-19, as well their spouses and unmarried children under 21.
- Individuals applying for an immigrant visa pursuant to the EB-5 Immigrant Investor Program.
- Individuals whose entry would be in the national interest of the United States or who would further U.S. law enforcement objectives.
- Members of the U.S. military, their spouses and their children.
- Individuals entering on a Special Immigrant Visa (normally issued to foreign nationals who have assisted the U.S. military in its operations abroad).

The Proclamation does not affect the ability of an individual to seek asylum, refugee status, withholding of removal, or protection under the Convention against Torture.

Additional Restrictions Possible in the Future

Within 30 days—by May 23, 2020—the Secretaries of Labor and Homeland Security, in consultation with the Secretary of State, are required to review nonimmigrant programs and recommend “other measures appropriate to stimulate the United States economy and ensure the prioritization, hiring, and employment of United States workers.” Restrictions on nonimmigrant programs may include limitations on H-1B and L-1 workers, among other employment-based categories of foreign employees, which would have a significantly greater impact on U.S. companies than the Proclamation issued today. Affected businesses should watch closely for these future measures to determine how any additional restrictions on immigration may affect their operations.

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