

Publications

Presidential Proclamation Extends the Suspension of Entry of Certain Nonimmigrants and Immigrants Through March 31, 2021

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On December 31, 2020, President Trump signed a Presidential Proclamation extending the suspension of entry of certain nonimmigrant visa holders to **March 31, 2021**. The ban extends an earlier proclamation that had been set to expire on December 31, 2020. The visa categories affected include **H-1B, H-2B, J-1, L-1, and their dependents**.¹ Continuing the previous restrictions, the proclamation only impacts individuals seeking to enter the U.S. in one of these nonimmigrant visa categories on or after June 24, 2020, the effective date of the original proclamation. It does **not** affect the ability of individuals who are already in the U.S. to extend or change their nonimmigrant status from within the U.S.

The proclamation does **not** prevent persons who were already in the U.S. on June 24, 2020 in one of the subject visa statuses from extending their status or changing their status. Nonimmigrants who were in the U.S. on June 24, 2020 may continue to file to extend or change their status according to existing laws and regulations. The Proclamation also does not apply to individuals who already had a visa in their passport that was valid on June 24, 2020, even if they are outside of the U.S. in one of the identified visa categories.

In addition, the Proclamation **does not** apply to the following individuals:

- Any U.S. Lawful Permanent Resident (“Green Card” holder);
- Any foreign national who is the spouse or unmarried child (under the age of 21) of a U.S. citizen;
- Any foreign national who is seeking to enter the U.S. to provide temporary labor or services essential to the U.S. food supply chain; and
- Any foreign national whose entry would be in the “national interest” as determined by the Secretary of State, Secretary of Homeland Security, or their respective designees.

The Department of State considers national interest exceptions based on specific criteria set out for each affected visa category. The exceptions likely would apply to only a small class of individuals, and are available generally only to those whose employment in the U.S. are important to the recovery from the health and economic crises occasioned by the COVID-19 pandemic, or who are seeking to resume ongoing employment in the U.S. in the same position with the same employer and visa classification.

In addition to the national interest exceptions, some employers are exempt from the Proclamation as a result of being associated with certain organizations involved in lawsuits regarding the Proclamation. Notably, employers who are a member of the National Association of Manufacturers and National Retail Federation are exempt.

The new Proclamation also extends through March 31, 2021, an earlier Proclamation that suspends entry of certain immigrants seeking to enter the U.S. as new permanent residents. Click [here](#) for our client alert on that earlier Proclamation.

If you have any questions regarding the Presidential Proclamation, whether your employee qualifies for an exception, or any other visa or immigration matter, we encourage you to contact your Vorys attorney.

¹ Only J-1 visa beneficiaries (and their dependents) participating in an intern, trainee, teacher, camp counselor, au pair, or summer work travel program are affected by this proclamation.