

Publications

Recent Immigration Updates Affecting Employers and Their Foreign National Employees

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David W. Cook

Robert A. Harris

Sachiyo Isoda Peterson

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Over the past several months, the current administration has introduced significant changes to employment-based immigration processes, producing increased risks associated with immigration-related compliance obligations. Companies who employ foreign nationals, including H-1B workers and those working under Employment Authorization Documents (EADs), should be aware of the following developments:

Project Firewall:

On September 19, 2025, the Department of Labor (DOL) announced Project Firewall, a new enforcement initiative targeting H-1B program compliance. A notable feature of this operation is the use of Secretary-certified investigations. Specifically, the Secretary of Labor will personally certify investigations of H-1B employers if there is reasonable cause to suspect non-compliance. This process is a shift from the traditional complaint-driven process.

DOL will coordinate with agencies such as the U.S. Department of Justice, Equal Employment Opportunity Commission, U.S. Department of Homeland Security, and U.S. Citizenship and Immigration Services with the goal of enforcing compliance and preventing discrimination against U.S. workers. In particular, DOL and USCIS have entered into a Memorandum of Agreement to share data for enforcement purposes.

Employer Impact

Employers found in violation may face back wage assessments, civil penalties, and/or debarment from the H-1B program. To avoid or mitigate any such consequences, employers should ensure strict compliance with H-1B program requirements and be prepared for increased scrutiny and potential investigations, even absent employee complaints. Key compliance steps include:

- Proper completion and maintenance of Public Access Files (“PAFs”) for each Labor Condition Application (LCA);

- Timely availability of PAFs for public inspection;
- Payment of required wage to H-1B worker;
- Ensuring consistency across submission of immigration filings;
- Filing amended H-1B petitions prior to any substantial changes to conditions of employment;
- Preparedness of H-1B worker, manager, and other relevant personnel for Fraud Detection and National Security Directorate (FDNS) administrative visits; and
- Establishing protocols for third-party placement of H-1B workers.

Department of State Expands Online Presence Review for H-1B and H-4 Visa Applicants:

Effective December 15, 2025, the Department of State (DOS) will require online presence reviews for all H-1B principal applicants and H-4 dependents, expanding a policy previously applied to F, M, and J visa applicants.

Under this requirement, H-1B and H-4 visa applicants must set their social media profiles to “public” to facilitate DOS review during adjudication. As part of the expanded vetting process, consular officers will review LinkedIn profiles and resumes to identify evidence of work in areas such as misinformation, disinformation, fact-checking, compliance, and online safety. If an applicant is found to have participated in “censorship or attempted censorship of protected expression in the United States,” they may be deemed ineligible for a visa. This expanded vetting may also result in longer processing times, particularly for applicants with extensive online activity. Additionally, some consular posts are rescheduling visa interviews to prepare for the expanded vetting process.

Employer Impact

Employers should make sponsored employees aware of this policy and recommend that the employees individually review their online presence for consistency with application materials. Both employers and their employees should prepare for delays in the processing of visa applications and longer trips abroad when renewing visa stamps.

USCIS Pauses Adjudications for Applicants from Travel Ban Countries:

On December 2, 2025, USCIS issued guidance pausing all decisions on immigration benefit applications for individuals from 19 “high-risk” countries subject to **the country-based travel ban** that went into effect in June 2025. The affected countries are Afghanistan, Burma, Chad, Republic of the Congo, Equatorial Guinea, Eritrea, Haiti, Iran, Libya, Somalia, Sudan, Yemen, Burundi, Cuba, Laos, Sierra Leone, Togo, Turkmenistan, and Venezuela. The policy applies to individuals who were either born or hold citizenship from the designated countries. There are also credible reports that the administration is seeking to expand the country-based travel ban to additional countries in the coming weeks.

This pause applies to all benefit types, including nonimmigrant worker petitions (including H-1B, L-1, O-1, and R-1), immigrant visa petitions, extension and change of status requests for dependents of sponsored workers, adjustment of status applications, employment authorization document applications, and

applications for advance parole. The policy only pauses the adjudication, meaning that the USCIS will not issue approvals or denials for the affected individuals. It also does not prevent the agency from accepting filings. The USCIS has also paused scheduling of naturalization oath ceremonies and cancelled scheduled ceremonies for applicants from the affected countries.

In addition to pausing adjudications, the USCIS policy will re-examine immigration benefits granted to applicants who are from the affected countries and entered the U.S. on or after January 20, 2021. The USCIS may re-interview affected individuals.

Employer Impact

Employers should expect delays in processing immigration benefits on behalf of current and prospective employees who are from the affected countries. These delays may result in previously unanticipated gaps in employment authorization as well as delays in onboarding of new employees.

USCIS Shortens Validity Period for Certain Employment Authorization Documents:

Effective December 5, 2025, the USCIS reduced the maximum validity period for certain EAD categories from five years to 18 months. The affected categories are refugees (A3), asylees (A5), withholding of deportation/removal grantees (A10), asylum applicants (C8), applicants for adjustment of status (C9), and applicants for cancellation of removal (C10).

This reduction follows a previous change in law that reduced the maximum validity period of EADs for Temporary Protect Status (TPS) recipients and parolees to one year. The rationale provided by the USCIS for these changes is to enhance the vetting of EAD applicants by enabling more frequent background checks.

Employer Impact

Employers employing foreign nationals with EADs should anticipate more frequent reverifications for I-9 compliance and other additional administrative oversight. More significantly, these workers may experience more frequent gaps in employment authorization, resulting in greater operational disruptions for employers.

Recommended Actions for Employers:

Considering these changes, employers should take the following actions:

- **Review H-1B Compliance:** Conduct internal audits and ensure all H-1B program requirements are met.
- **Prepare for Impact of Increased Social Media Vetting of H-1B Employees:** Ensure H-1B employees are aware of the enhanced social media vetting policy for visa applications and prepare operations for lengthier absences of these employees when they renew visa stamps.
- **Monitor Petitions and Applications for Individuals from Travel Ban Countries:** Track pending cases, communicate potential delays to affected employees, and plan for impact of delays on operational continuity.

- **Plan for Impact of More Frequent EAD Renewals:** Prepare for greater administrative burden for I-9 reverification and more frequent gaps in employment authorization that may impact workforce planning and operational continuity.

Since taking office, the current administration has implemented a number of significant changes to immigration policies that impact employers. Employers should continue to monitor agency guidance and legal developments closely, as new changes can impact risks associated with compliance, workforce planning, and operational continuity.