

Immigration Law Update

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In this update, Perkins Coie highlights some recent developments in immigration law.

Fiscal Year 2016 H-1B Filing Period

The filing period for the fiscal year 2016 H-1B visa cap commences on April 1, 2015. It is expected, as has happened the last several years, that there will be a lottery based on submissions received the first week of the filing period. Last year, approximately 50 percent of petitions for workers without U.S. master's or higher degrees survived the lottery. If you intend to sponsor an employee or prospective employee for H-1B status within the next year, please contact experienced counsel immediately for assistance with preparing petitions to meet the deadline. Those who should be considered for H-1B visa status include employees or prospective employees currently in student status (F-1 visas with employment cards), new foreign hires, employees currently in TN visa status (Canadian or Mexican citizens), and employees in L-1B status whom you may seek later to sponsor for permanent residency.

Executive Actions on Immigration Impacting Business

On November 20, 2014, President Obama announced a series of executive actions that will impact the U.S. immigration system. The most widely publicized of these actions included expanding an existing program to grant "deferred action for childhood arrivals" (DACA) status and employment authorization to undocumented foreign nationals who were brought to the United States as children. The president also announced the creation of a program, Deferred Action for Parental Accountability (DAPA) to grant the same temporary status to an expanded group of undocumented foreign nationals. These initiatives are expected to be implemented over the next few months. Once these persons receive the temporary status and employment cards, it will be legal for U.S. companies to employ them.

Additionally, the president announced initiatives designed to modernize, improve and clarify immigrant and nonimmigrant visa programs to grow the U.S. economy and create jobs. These include the following actions:

- Ensuring that all statutorily available immigrant visas are issued annually;
- Allowing greater job mobility to individuals with long-pending green card applications;
- Clarifying green card national interest waiver standards for inventors, researchers and founders of startup enterprises;
- A new temporary status for inventors, researchers and founders of startup enterprises who may not yet qualify for a national interest waiver but who have been awarded substantial U.S. investor financing, or otherwise hold the promise of innovation and job creation through the development of new technologies or the pursuit of cutting-edge research;
- Finalizing rules to provide work authorization to the spouses of H-1B visa holders who are on the path to lawful permanent resident status; and
- Providing clearer guidance on the meaning of "specialized knowledge" for the L-1B program.

While the current Congress has expressed concerns with the president's unilateral action, it is unlikely that Congress will be able to stop these initiatives from coming into force. None of these initiatives have yet gone into effect and it is widely expected that many of them will take more than a year to be implemented. Watch for more updates as more information becomes available.

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