

Newsletter

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Welcome to the February issue of our monthly newsletter! This is a complimentary service to clients and friends of the Firm to keep you informed of immigration law developments that may affect you or your organization. Please contact Munsch Hardt's Immigration Team with your comments and questions.

DEPARTMENT OF HOMELAND SECURITY (DHS) UPDATE:

H-1B Season is Nearing! April 1, 2017 marks the beginning of the new H-1B petition filing season with the U.S. Citizenship and Immigration Services (USCIS). As in prior recent years, the filing season is likely to be brief (i.e., most likely, limited to the first week of April) and, if more petitions are received than there are available visas (65,000 regular H-1Bs and 20,000 allocated to foreign nationals with U.S. graduate degrees), visa numbers would be distributed via lottery. To maximize your chances to secure these much coveted visas, start petition planning and preparation early. Consult your immigration counsel now to plan the upcoming H-1B petition submissions and related timelines.

PRESIDENT TRUMP'S EXECUTIVE ORDERS:

On January 27, 2017, President Trump signed an Executive Order ("EO"), "Protecting the Nation from Foreign Terrorist Entry into the United States", which, among other things, suspended immigrant and nonimmigrant entry for nationals of Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen, for a minimum of 90 days. The state of Washington, later joined by Minnesota, filed a lawsuit in federal court challenging the EO on constitutional grounds and also filed a motion asking the court to grant a nationwide temporary restraining order ("TRO"). The TRO was granted on February 3, 2017. On February 9, 2017, in a per curiam order, a three-judge panel of the United States Court of Appeals for the Ninth Circuit denied the federal government's emergency motion for a stay of the TRO, finding that the government failed to show a likelihood of success on the merits of its appeal or that failure to stay the TRO would cause irreparable injury.

On February 10, 2017, a Ninth Circuit judge made a sua sponte request that a vote be taken as to whether the three-judge panel's order should be reconsidered by a fuller panel. Briefs with respective positions regarding this matter are due by February 16, 2017.

Given the precarious state of matters regarding the EO, per our recent immigration alert, we advise the nationals of the above-listed countries that are presently in the U.S. in a nonimmigrant or permanent immigrant status refrain from international travel. Additionally, we suggest that any U.S. nonimmigrant visa holders consult immigration counsel before traveling to and from the U.S. and/or applying for a U.S. visa at a consulate.

In regards to immigration proceedings currently pending with USCIS, please note that USCIS issued a memorandum stating that the EO does not affect USCIS's adjudication of applications or petitions filed for or on behalf of individuals in the U.S., regardless of nationality.

We will provide further updates and guidance regarding the existing and future executive orders affecting you and your immigrant employees.

DEPARTMENT OF STATE (DOS) NEWS:

The March 2017 DOS Visa Bulletin “Final Action” chart for employment-based preference cases reflects progress as we head into the sixth month of the government’s fiscal year (“FY”) 2017: EB-2 “Members of the Professions Holding Advanced Degrees or Persons of Exceptional Ability” category for China and India progresses 1 month and 6 weeks to cut-off dates of December 15, 2012 and June 1, 2008, respectively. EB-3 “Skilled Workers/Professionals/Other Workers” for All Chargeability areas, Mexico, and El Salvador/Guatemala/Honduras continues its steady movement by advancing 2 months to a cut-off date of December 1, 2016. EB-3 China and the Philippines advances 5 months to cut-off dates of March 15, 2014 and March 15, 2012, respectively.

The DOS projects that EB-1 Priority Workers for China and India categories, which are presently current, will likely have a cut-off date by August 2017. The DOS anticipates potential monthly progress by 5 weeks and 1 month for EB-2 China and India, respectively. For EB-3, the DOS expects potential monthly movement at the following rates: All Chargeability – up to 3 months; China – up to 6 months; India – limited forward movement; Mexico – remain current; and Philippines – up to 6 months.

Continue monitoring the monthly Visa Bulletin for further developments.

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