

Newsletter

Immigration Monthly - January 2017

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Welcome to the January 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:

- Reminder: Beginning January 22, 2017, employers must begin using the new version of Form I-9, Employment Eligibility Verification, edition date 11/14/16.
- On January 17, 2017, the new rule, "Retention of EB-1, EB-2, and EB-3 Immigrant Workers and Program Improvements Affecting High-Skilled Nonimmigrant Workers," which includes significant changes to several immigration programs, took effect. It is important to discuss the effects of the new regulations on employees' immigration proceedings with immigration counsel.
- Individuals seeking to renew their Employment Authorization Document (EAD) will now receive an automatic 180 day extension if all of the following are met: (1) the request to renew is done prior to the current EAD expiration date; (2) renewal is based on the same employment authorization category under which the expiring EAD was granted; and (3) the individual continues to be employment authorized incident to status beyond the expiration of the EAD or is applying for renewal under a category that does not first require adjudication of an underlying application. Importantly, for I-9 compliance purposes, the expired EAD, in combination with a Notice of Action (Form I-797C) indicating timely filing of the renewal EAD application, should be considered an unexpired EAD.
- Foreign nationals are now eligible to apply for an EAD based on compelling circumstances if they meet all of the following: (1) currently in the U.S. in valid E-3, H-1B, H-1B1, O-1, or L-1 nonimmigrant status; (2) principal beneficiary of an approved EB-1, EB-2, or EB-3 Immigrant Visa petition; (3) does not have an immigrant visa immediately available; and (4) can demonstrate compelling circumstances. Family members are also eligible for employment authorization and may apply concurrently with the principal beneficiary. The EADs will be granted in 1-year increments. Importantly, individuals are not eligible if convicted of any felony or two or more misdemeanors.
- DHS announced that Somalia's designation for Temporary Protected Status (TPS) is being extended for an additional 18 months. The extended designation is effective March 18, 2017 through September 17, 2018. Somalia's TPS beneficiaries seeking to extend their TPS status must re-register during a 60-day period that began on January 17, 2017 and runs through March 20, 2017. Since re-registrants may not receive their new EADs until after their current EADs expire, USCIS is automatically extending current TPS Somalia EADs bearing a March 17, 2017 expiration date, for an additional six months. These existing EADs are now valid through September 17, 2017. DHS also re-designated Yemen for TPS and extended the existing TPS designation for an additional 18 months, effective from March 4, 2017 to September 3, 2018. The 60-day re-registration period for Yemen began on January 4, 2017 and runs through March 6, 2017. TPS Yemen EADs with an expiration date of March 3, 2017 are automatically extended until September 3, 2017.

DEPARTMENT OF STATE (DOS) UPDATE:

The February 2017 DOS Visa Bulletin "Final Action" chart for employment-based preference cases contains some movement as we head into the fifth month of government's FY2017: EB-2 "Members of the Professions Holding Advanced Degrees or Persons of Exceptional Ability" category and EB-3 "Skilled Workers/Professionals/Other Workers" for All Chargeability areas progresses 2 months to a cut-off date of October 1, 2016. EB-2 and EB-3 China advances 1 month and 3 weeks to cut-off dates of November 15, 2012 and October 1, 2013, respectively. EB-3 India progresses 1 week to March 22, 2005. EB-3 for All Chargeability areas, El Salvador/Guatemala/Honduras, and Mexico advances 2 months to a cut-off date of October 01, 2016. Continue monitoring the monthly Visa Bulletin for further developments.

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