June 22, 2020

Presidential Proclamation
Suspending Entry to the US of Aliens Presenting a Risk to the US Labor Market

PRINCETON UNIVERSITY
WITH YOU TODAY

AVRAM MORELL
Partner

DESIREE GOLDFINGER
Associate

Pryor Cashman
7 Times Square
New York, NY 10036
212.326.0489 direct
212.798.6931 fax
OVERVIEW

- Recent Presidential Proclamations Suspending Entry into the US
- Limited Service at US Consulate Worldwide
- Strategies for Those with International Travel Plans
- What is ahead?
Presidential Proclamations
PRESIDENTIAL PROCLAMATIONS RESTRICTING ENTRY FROM CERTAIN COUNTRIES

Applies to people who have been in the following countries in the 14 days prior to entry to the US:

• January 31, 2020 – China (not including Hong Kong and Macau)
• February 29, 2020 – Iran
• March 11, 2020 – European Countries: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, and Switzerland.
• March 14, 2020 - UK and Ireland.
• May 24, 2020 – Brazil

End date: unknown
PRESIDENTIAL PROCLAMATIONS SUSPENDING ENTRY OF IMMIGRANTS AND NONIMMIGRANTS

• April 22, 2020 – Presidential Proclamation Restricting Entry into the US for Immigrants Who Present a Risk to the US Labor Market
  • Applies to certain individuals outside the US, not those with pending adjustment of status
  • Extended June 22 through December 31, 2020
• May 29, 2020 - Presidential Proclamation Suspending Entry into the US of Students and Researchers from China (F and J visas)
  • Applies to graduate and post-grads, not undergraduates
  • Limited to those involved in Chinese “military-civil fusion strategy” (technologies that can advance PRC’s military strategies)
  • In place indefinitely
• June 22, 2020 – Presidential Proclamation Suspending Entry into the US of Aliens Who Present a Risk to the US Labor Market (Nonimmigrants, including H, L, and J visas and extends immigrant restrictions)
EXEMPTIONS

Each of these proclamations include certain exemptions based upon factors such as:

- US citizenship
- Legal Permanent Residence
- Family relationship to US citizens and/or lawful permanent residents
- Individuals whose work is considered in the national interest as determined by the Secretary of State or Secretary of Homeland Security
- Certain other rare exceptions (family of military, by invitation of the US government, diplomats, crewmen, etc.)

As the exemptions depend on the individual proclamations, each exemption must be examined on a case by case basis.

These proclamations suspend entry in to the US.
Limited Service at US Consulates Worldwide during COVID
WIDESPREAD CLOSURES OF US CONSULATES WORLDWIDE

- US consulates worldwide have been closed since approx. mid-March

- Local health/quarantine conditions affect reopening of consulates

- Visa processing **extremely** limited
  - Frequent appointment cancellations
  - Focus on emergencies and U.S. citizen services

- Third country processing options limited
  - In addition to closures, local quarantine rules and limited accommodations

- Reopening dates of US consulates worldwide is unknown
Presidential Proclamation of June 22, 2020
Suspending Entry into the US of certain Individuals in H, L and J Status
WHICH VISAS ARE IMPACTED?

- H-1B & H-2B visas
- H-4 dependents
- L-1 visas
- L-2 dependents
- Certain J visas (interns, trainees) and their J-2 dependents

Visas that are not impacted:

- F-1 students
- J-1 research scholars, university students, and foreign medical graduates
- TN visas
- E-1, E-2, and E-3 visas
- O-1 visas
EXCEPTIONS

• Canadian Citizens
• Lawful Permanent Residents
• Spouse or child of a US citizen
• Seeking to provide labor or services essential to the food chain
• Providing work in the national interest of the US
TWO IMPORTANT FACTORS IN THE JUNE 22, 2020 PRESIDENTIAL PROCLAMATION

1) Were you in the US on 6/24/2020?

2) Do you have a valid visa sticker or other travel document such as an advance parole?
THE VISA HOLDER IS PHYSICALLY IN THE US ON JUNE 24, 2020

Can I remain in the US if I am in H, L or J status? YES

Can I extend by H, L or J status from within the US? YES

Can I change my status to H, L, or J status from within the US? YES

Is my H-1B cap case filed as a change of status still valid? YES

I am in valid H, L, J status and have a valid H, L, J visa in my passport. Can I travel internationally and return to the US? YES, BUT INTERNATIONAL TRAVEL REMAINS RISKY.

I want to travel internationally but will need an new H, L, or J visa from a US Consulate to return. Can I travel internationally and return to the US? UNCLEAR AT THIS TIME.

When in doubt, don’t travel!
THE VISA HOLDER IS OUTSIDE THE US

I am outside the US, but have a valid H, L or J visa in my passport or an advance parole document, can I enter the US? YES, SO LONG AS OTHER TRAVEL RESTRICTIONS DO NOT APPLY.

I am outside the US, but have a valid B visa in my passport, can I get an H, L or J visa at a foreign US Consulate? UNCLEAR AT THIS TIME

There are multiple ambiguities in the drafting of the proclamation.
Strategies for Those With International Travel Plans
RETURNING TO THE US FROM A RESTRICTED COUNTRY

- If traveler has a U.S. citizen child under 21 = EXEMPTION

- Travel to a third country for 14 week quarantine period
  - Keep in mind:
    - Travel/quarantine restrictions imposed by third country
    - Public health situation in third country
    - Availability of flights/accommodations

- Options to consider
  - Mexico
  - Jamaica
  - Other countries in the Caribbean
ENTERING THE US FROM CANADA OR MEXICO

- Travel prohibited across land borders for “nonessential” travel (*tourism*)
  - Restriction extended to July 21

- Essential travel permitted:
  - Work and study, critical infrastructure support, economic services and supply chains, health, immediate medical care, and safety and security.

- Does not apply to
  - U.S. citizens and permanent residents
  - Air travel
OTHER IMPORTANT CONSIDERATIONS

- Cancellation of existing visa appointment or continued closure of US consulate restricting visa issuance
- New travel bans and restrictions depending on the how the disease progresses in certain countries
- Availability and cost of flights to the US
- Be prepared for 14 day quarantine upon arrival from US
- Separation of family members who plan travel at different times

WHEN IN DOUBT, DON’T TRAVEL!
What is Ahead?
WHAT IS NEXT?

The Presidential Proclamation directs the Department of Homeland Security and Labor to review regulations and develop potential new guidelines for:

- H-1B visas, including revising the number of H-1B cap numbers available in any given year
- EB-2 and EB-3 immigrant visa holders (skilled workers and advanced degree professionals)
QUESTIONS?