



# Compliance Chatter Virtual Meetings

## *April Session*

April 16, 2025

**Seyfarth Shaw LLP**

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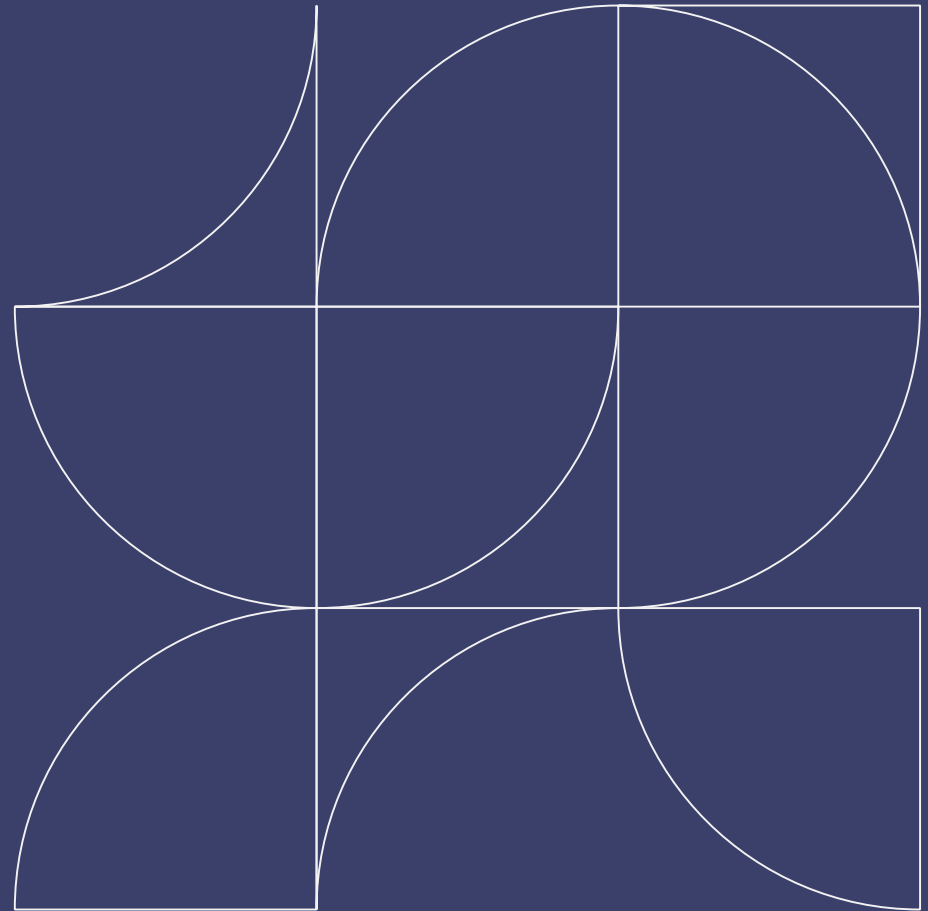


## **Agenda**

- 1** The Current DHS Landscape
- 2** TPS and Humanitarian Programs
- 3** Proactive Compliance Planning

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# The Current DHS Landscape



## The Changing Landscape of DHS Enforcement

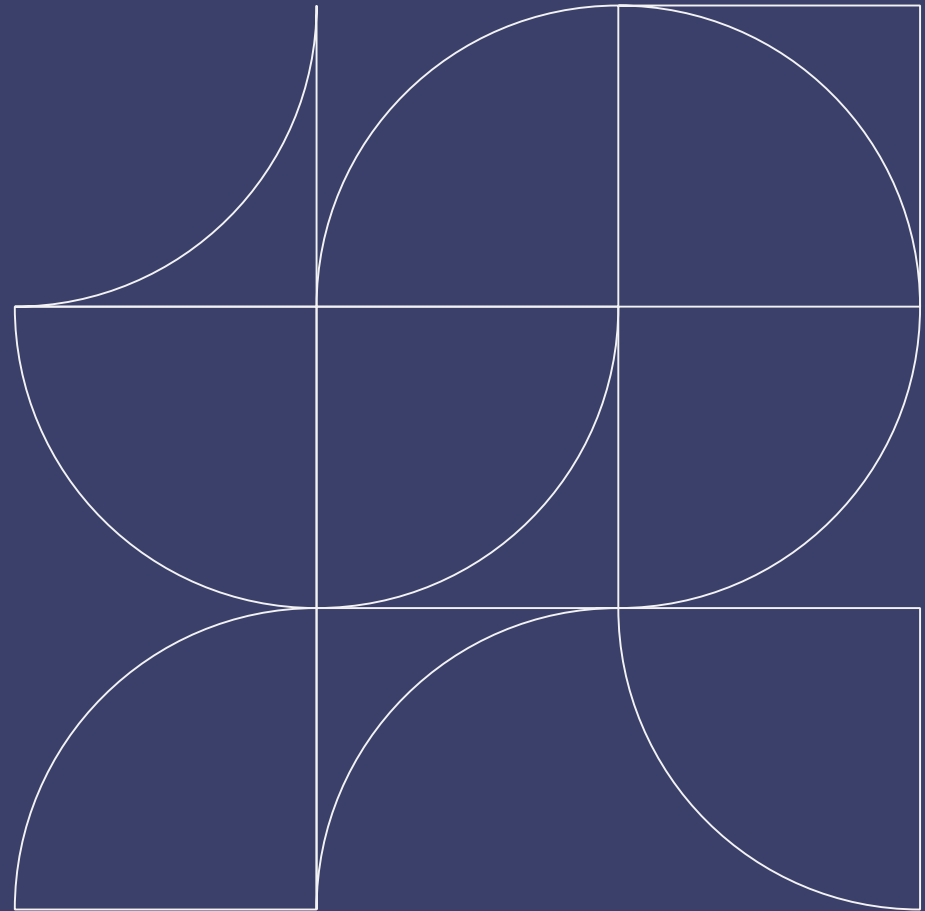
- **What are we seeing in the field in terms of enforcement?**
  - **Increase in I-9 Inspections** – HSI Notices of Inspection continue to be on the rise for small and large business alike
  - **Worksite Enforcement Actions** – Increased fear of ICE Worksite Enforcement Actions and Criminal Prosecutions
  - **FDNS Site Visits** – Work from home issues; RFE issues
- **Other observations**
  - **State and Local Actors** - Sanctuary cities continue to limit cooperation by law enforcement; Rise in 287(g) agreements
  - **Border Issues** - Increased electronic searches and referrals to secondary inspection by CBP

## What is on the Horizon?

- Large-Scale, Disruptive Enforcement Operations
  - DHS currently using resources to build sufficient case to apply for search warrants.
- Increased criminal prosecutions against employers:
  - Knowing Hire/Continue to Employ
  - Harboring
  - Document/Visa Fraud
- Increased uncertainty regarding work authorization:
  - New DHS attempts to terminate or restrict work authorization.
  - Litigation – stays, injunctions, and appeals.
    - Someone may be work authorized in the morning, but not that afternoon.
  - Slower processing times for benefits may result in reliance on complex extension workflows
- Return of social security number no match letters
- Increased FDNS site visits

# 2

## Visa Terms, Revocations & LPRs in Custody





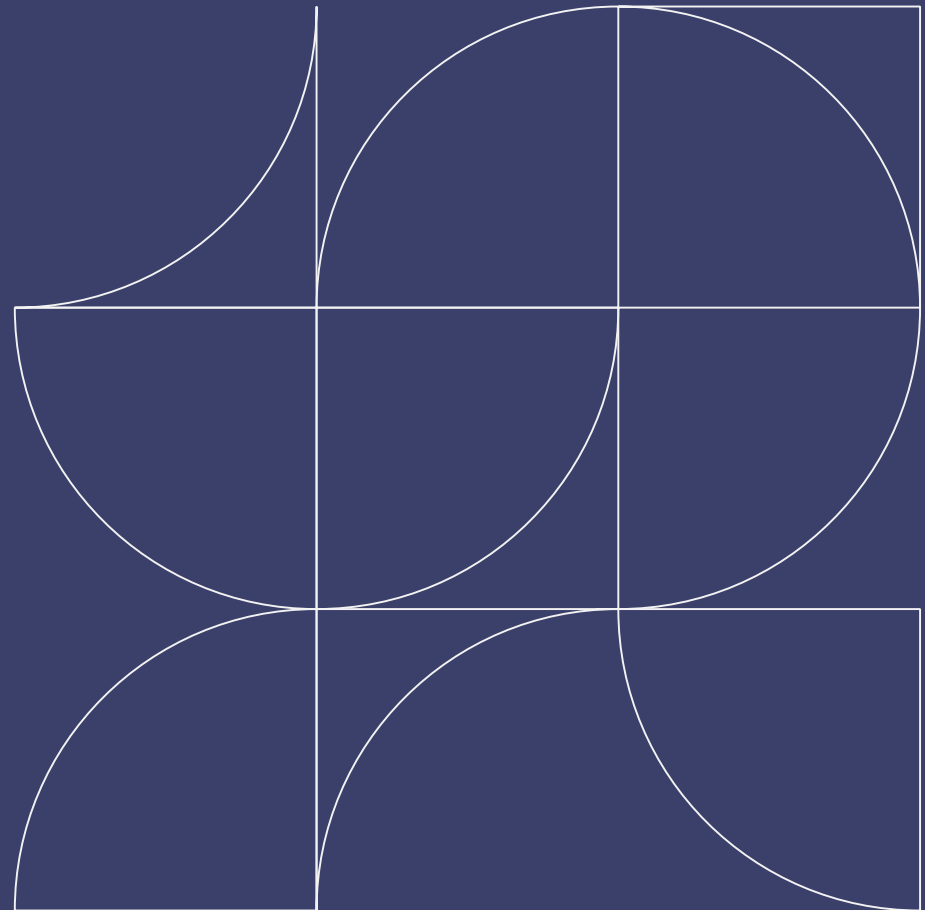
## Employer and School Perspectives

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- Revocation of international students' visas – F-1 Visas
- Increase in SEVIS terminations including OPT/ STEM OPT F-1
- Uncertainty surrounding reasons for revocation
  - minor traffic stops or no prior history
- Schools and employers grappling with compliance and perceived complicity
- Wrongful arrests and terminations
- Increased Litigation

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## TPS and Humanitarian Programs



# Termination of Temporary Protected Status

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- **Background**

- Temporary Protected Status (TPS) allows noncitizens from certain countries to remain in the United States and obtain work authorization.
- DHS is attempting to terminate TPS and strip work authorization
- Terminations are subject to litigation.

- **Employer Impact**

- Compliance: Must ensure that every employee remains work authorized
  - Impact on new hire process v. existing employees
  - Complicated by litigation.
- Workforce Continuity: Employers must prepare for swaths of employee population to lose work authorization

## Navigating Uncertainty for Employees and Employers – TPS

- **Venezuela.** U.S. District Judge Edward Chen issued order pausing revocation of TPS Temporary relief for Venezuelan TPS recipients
  - Continued work authorization for Venezuelan TPS recipients
  - Additional ongoing lawsuits from immigrant rights groups
    - EADs set to expire on April 2, 2025, remain valid and employees remain eligible for automatic extension
- **Haiti.** On Feb. 20, 2025: Secretary of Homeland Security Kristi Noem partially vacated the July 1, 2024 notice regarding Haiti's TPS
  - TPS extension and redesignation period for Haiti was reduced from 18 months to 12 months
  - The new TPS end date is Aug. 3, 2025
  - The initial registration period for new applicants will now also remain in effect through Aug. 3, 2025
- **Afghanistan and Cameroon.** News outlets have reported that the administration will end temporary protections for more than 10,000 people starting next month

# Termination of Parole

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- **Background**

- Parole allows certain noncitizens the ability to enter the United States and obtain work authorization without first obtaining a visa.
- Prior administration exercised parole authority broadly.
- DHS is attempting to terminate parole *en masse* as opposed to on a case-by-case basis.
- Program currently enjoined; subject to litigation.

- **Employer Impact**

- Compliance: Must ensure that every employee remains work authorized, however determining who is work authorized is difficult.
  - How do I achieve it without committing document abuse?

## Navigating Uncertainty for Employees and Employers – CHNV and other Parole

- **March 25, 2025** – DHS announced termination of CHNV program
- **April 10, 2025** - U.S. District Court Judge Talwani issued statement of intent to issue stay
- *Doe et al. v. Noem et al.*
- *Svitlana Doe v. Noem*
- Possibility to certify case as a class action
- Following a stay on the order:
  - Employment Authorization for CHNV beneficiaries would remain valid
  - Temporary halt to employee terminations
- **April 14, 2025** Stay issued by Judge Talwani
  - Work authorization will continue past the 24<sup>th</sup>
  - DHS can appeal to the First Circuit or take it directly to SCOTUS

# Termination of Parole - Sample



## Termination of Parole

Effective March 25, 2025, the U.S. Department of Homeland Security (DHS) has exercised its discretion to terminate the categorical parole programs for aliens who are nationals of Cuba, Haiti, Nicaragua, and Venezuela, and their immediate family members.

Your parole will terminate upon the earlier of (1) your original parole expiration date or (2) April 24, 2025. You should depart the United States now, but no later than the date of the termination of your parole. Failure to timely depart may have adverse immigration consequences.


As of the termination of your parole, you may be subject to expedited removal pursuant to section 235 of the Immigration and Nationality Act (INA) or removal proceedings pursuant to section 240 of the INA, either of which may result in your removal, unless you have departed from the United States or have obtained a lawful basis to remain within the United States. If you have not obtained a lawful basis to remain in the United States and do not depart the United States by the date your parole terminates, you will begin to accrue unlawful presence in the United States unless you are otherwise protected from such accrual. Accrual of more than 180 days of unlawful presence followed by departure from the United States may result in being inadmissible if you again seek admission within a certain period of time after departure.

If you are departing the United States via land, you should report your departure once outside the United States via the CBP Home mobile app. If you are having trouble reporting your departure via land, visit <https://i94.dhs.gov/home> for more information about voluntarily reporting your departure.

## Notice of Intent to Revoke Parole-Based Employment Authorization

**If you have been granted employment authorization based on parole pursuant to 8 CFR 274a.12(c)(11), and your employment authorization has not already automatically terminated as set forth in 8 CFR 274a.14(a) and is not scheduled to expire before April 24, 2025, the following applies to you:**

Consistent with 8 CFR 274a.14(b), DHS provides notice of intent to revoke your parole-based employment authorization under 8 CFR 274a.12(c)(11). DHS intends to revoke your employment authorization because the condition upon which your parole-based employment authorization was granted — being paroled into the United States under section 212(d)(5)(A) of the INA — no longer exists. See 8 CFR 274a.14(b)(1)(i). Additionally, DHS has for good cause determined that your employment authorization should be revoked with the termination of your parole. See 8 CFR 274a.14(b)(1)(i).

 By operation of this notice, your unexpired parole-based employment authorization will be revoked as of April 24, 2025 unless you submit countervailing evidence that you remain paroled into the United States under section 212(d)(5)(A) of the INA through the expiration date on your Employment Authorization Document by uploading your countervailing evidence in your myUSCIS online account before April 13, 2025. See 8 CFR 274a.14(b)(2).

The timely submission of countervailing evidence does not impact the termination of your parole originally granted under the Cuba, Haiti, Nicaragua, or Venezuela parole programs described above.

Any decision to revoke your employment authorization is final and no appeal shall lie from the decision to revoke employment authorization. See 8 CFR 274a.14(b)(2). If you work without employment authorization, you are in violation of the law.

# CBP One – Notice of Termination of Parole - sample

04/11/2025

## Notice of Termination of Parole

It is time for you to leave the United States.

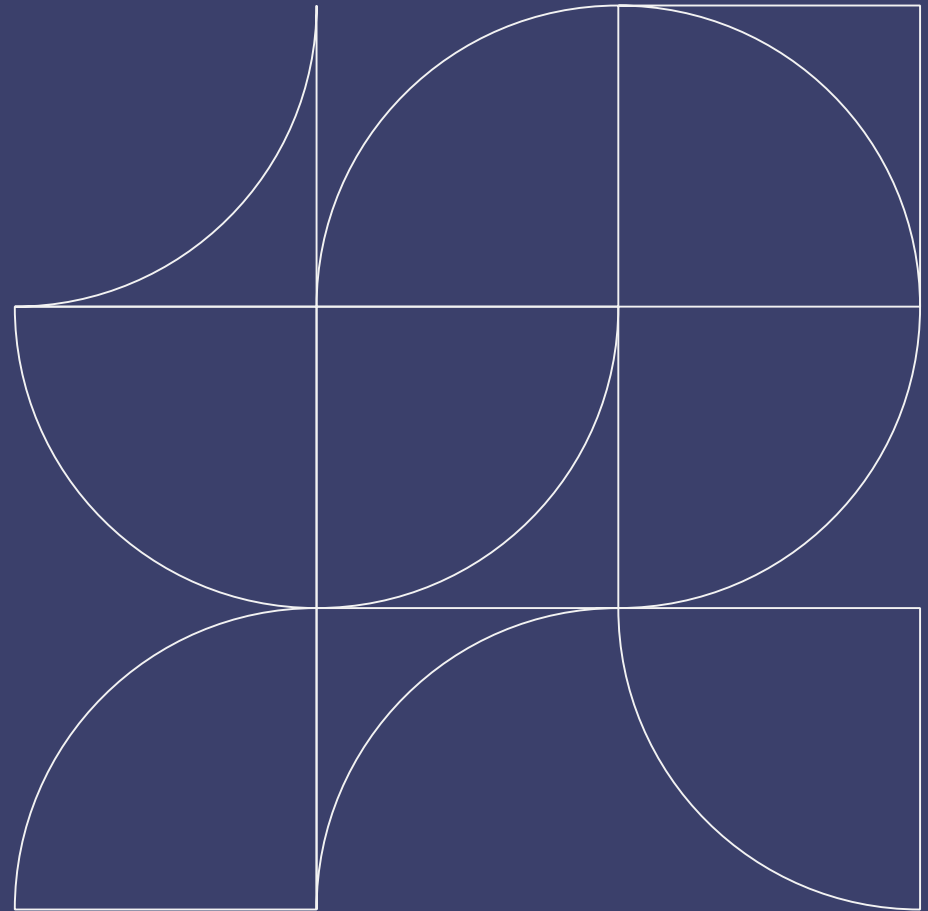
You are currently here because the Department of Homeland Security (DHS) paroled you into the United States for a limited period. Pursuant to 8 U.S.C. § 1182(d)(5)(A) and 8 C.F.R. § 212.5(e), DHS is now exercising its discretion to terminate your parole. Unless it expires sooner, your parole will terminate 7 days from the date of this notice.

If you do not depart the United States *immediately* you will be subject to potential law enforcement actions that will result in your removal from the United States — unless you have otherwise obtained a lawful basis to remain here. Any benefits you receive in the United States connected with your parole — such as work authorization — will also terminate. You will be subject to potential criminal prosecution, civil fines, and penalties, and any other lawful options available to the federal government.



# 3

## Proactive Compliance Planning



## What Can I Do Right Now?

- Legal Compliance:
  - Subscribe to legal updates
  - Ensure Forms I-9 are properly completed and/or updated
  - Evaluate current processes, policies, and procedures. Revise as necessary. Test on a regular basis.
    - Ranging from job posting through termination.
  - Develop a plan to handle law enforcement encounters.
- Workforce Continuity:
  - Leveraging the Form I-9, identify segments of workforce that used a Form I-94 or EAD. Understand the provision of law under which they obtained work authorization. Work with legal counsel to see if that provision is under threat (i.e., TPS).
  - Work with HR and operations partners to determine how the organization will handle an immediate or sudden loss of noncitizen employees.

## What is on the Horizon?

- Regulatory changes:
  - End of employment authorization extensions
  - Termination of the alternative Form I-9 inspection procedure
  - Shortening the List of Acceptable Documents
- Legislative changes (federal):
  - Congressional Review Act: H-1B Modernization Rule
  - Congressional Review Act: 540-Day EAD Extension
  - Nationwide E-Verify
- Legislative Changes (state):
  - Additional states passing new, or broadening existing, E-Verify mandates
  - Increase in state audits



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