



LEGAL UPDATE Apr 23, 2020

# It Shall be Tweeted, It Shall be Written: Temporary Suspension of Immigrant Entry

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**Seyfarth Synopsis:** *The President's Proclamation will pause the issuance of immigrant visas for those seeking lawful permanent residence (Green Card) status through consular processing at posts outside of the U.S. for the next 60 days. This order is limited in scope and should not have a significant impact on the transfer of global talent.*

On Wednesday, April 22, 2020, President Trump issued a [proclamation](#) to pause the issuance of new Immigrant Visas outside the U.S. for an initial period of 60 days, taking effect at 11:59 p.m. on Thursday, April 23, 2020.

## **What is the President's stated purpose of the Proclamation?**

The proclamation described President Trump's concerns regarding the potential "excess labor supply" and "the impact of foreign workers on the United States labor market," as well as the drain on Department of State resources. He also highlighted the ability of newly admitted lawful permanent residents (LPR's) to be immediately eligible for open market work authorization. The Proclamation also suggested that new LPR's place a burden on medical resources.

## **Who is affected by the Proclamation?**

The Proclamation suspends the entry of all intending immigrants (those seeking to enter as green card holders) who:

- Are outside the U.S. as of Thursday April 23, 2020 at 11:59 pm;
- Do not have a valid immigrant visa on the effective date; and
- Do not have valid travel documents[1] on the effective date or any date after that allows for travel to the U.S. to seek admission.

## **Who is not affected by the Proclamation?**

Lawful permanent residents, or green card holders, currently living outside the U.S. are not subject to the ban, nor are the spouses and unmarried children under twenty-one of U.S. citizens. The Proclamation also includes an exception for foreign nationals (and their spouses and children under twenty-one) applying for immigrant visas pursuant to the EB-5 Immigrant Investor Program.

Foreign nationals who seek to become permanent residents and work as physicians, nurses, or other healthcare professionals; perform medical research or other research to combat the spread of COVID-19; or perform work “essential to combating, recovering from, or otherwise alleviating the effects of the COVID-19 outbreak” in the U.S. are also exempt, as well as their families (spouses and children under twenty-one).

Similar to President Trump’s earlier travel restrictions, members of the U.S. armed forces and their families will not be subject to this new restriction either. Further, additional exceptions, including those in the national interest as determined by the Secretary of State, Secretary of Homeland Security Secretary, or their designees, are referenced in the Proclamation.

As most consulates were already closed and many countries have issued travel restrictions, immigrant visa processing is already essentially on pause as a result of the global response to the COVID-19 pandemic. U.S. consulates started canceling appointments in March due to COVID-19. Given this, the immediate impact of this Proclamation on global mobility beyond the existing travel restrictions and challenges is limited, as mentioned in our initial blog post here.

## **What does the future hold?**

While the ban is not as extensive as the President's initial Tweet to "suspend immigration" indicated, additional measures may be taken at the end of the 60-day period or earlier, such as extending this order for a longer period of time. It is important to note that the April 22nd Proclamation is limited to restrictions on **entry** to the U.S.; changing the administration of visa programs for those already in the U.S. presumably may legally require legislative and/or regulatory intervention requiring more time to develop and implement.

Although the president's April 22nd Proclamation did not include restrictions on the issuance of temporary work visas for those outside of the U.S., it does ask for a report within 30 days reviewing nonimmigrant programs and recommending "other measures appropriate to stimulate the United States economy and ensure the prioritization, hiring, and employment of United States workers." The Departments of State, Homeland Security, and Labor have been tasked with working together on this initiative.

In response to this request from the President, the U.S. Chamber of Commerce is working with private industries to identify studies, reports, and other findings to illustrate the benefits of nonimmigrant worker programs on the nation's economy.

Through research, innovation, and growth, nonimmigrant worker programs support U.S. and multinational companies in achieving their objectives, expanding operations, contributing to the U.S. economy, and creating jobs for U.S. workers. In fact, according to this [Washington Post](#) article most economists agree with the dozens of studies that confirm the lack of significant negative impact immigration has on labor markets, stating, "[t]he effects immigrants have on native wages and unemployment are negligible, at most." Efforts are underway by the Chamber and other groups to gather anecdotal evidence about how nonimmigrants have helped companies innovate, develop new technologies, new medicines, and other forms of intellectual property.

Seyfarth will issue subsequent alerts as the situation continues to develop. Should you have any questions, please reach out to your [Seyfarth Shaw contact](#) or the authors of this Legal Update.

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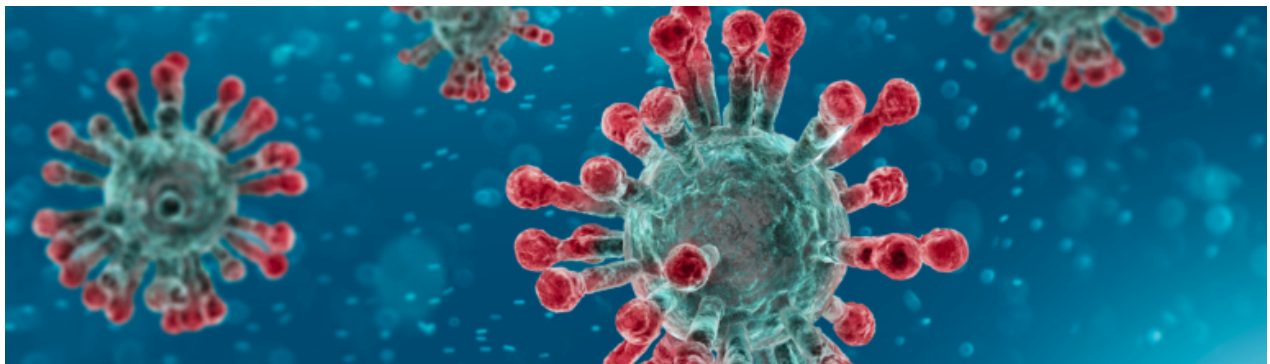


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