

One Minute Memo®



Canada to Revamp Port of Entry Work Permit Application Process

By Pavan Dhillon, Jason Burritt, and Michelle Gergerian

Citizenship and Immigration Canada (CIC) announced a fundamental process change to be implemented on October 26, 2015, which will directly impact Labour Market Impact Assessment-Exempt work permit applications, including NAFTA Professionals and Intracompany Transfers submitted at the Port of Entry. Effective October 26, employers must submit Pre-Clearance Compliance Filings through an online Employer Portal.

The Current Process

In February 2015, Canada implemented a new Pre-Clearance Compliance Filing process that required employers to pay a \$230 CAD Employer Compliance Fee and provide significant information via a mandatory Offer of Employment Form (IMM 5802). Employers must submit this Pre-Clearance Compliance Filing in advance of an employee's travel to the Canadian border, where a Canadian officer adjudicates the work permit application. Currently, the employer must submit the application via email. The impetus for collection of this information is to create a repository of information to ensure that CIC can pursue employers who fail to adhere to Canada's vigorous new compliance regime.

The New Employer Portal

As of October 26, 2015, the IMM 5802 Offer of Employment form will no longer be available. Instead, employers will submit their Pre-Clearance Compliance Filing applications directly through an online Employer Portal, which will take the place of email submission. At this time, CIC has not released any details about the new system.

The Grace Period

As long as the employer has submitted a Pre-Clearance Compliance Filing application in advance of October 26, 2015 under the current system -- by submitting the IMM 5802 and the Employer Compliance Fee via email -- the employee may travel to Canada to submit the work permit application at the Port of Entry until November 20, 2015.

Therefore, we urge employers to consult their internal teams to initiate new work permit cases as soon as possible so that Seyfarth Shaw can prepare these cases by Friday, October 23, 2015 and submit them in advance of the October 26, 2015 deadline. Although we anticipate that the Canadian government will release details about the new Employer Portal this week, we anticipate delays with any cases initiations under the new system. Seyfarth Shaw will keep you apprised as details about the new system emerge.

Pavan Dhillon is counsel in Seyfarth's Boston office, *Jason Burritt* is a partner in the firm's New York and Washington, D.C. offices, and *Michelle Gergerian* is an associate in the firm's Boston office. If you would like further information, please contact your Seyfarth attorney, Pavan Dhillon at pdhillon@seyfarth.com, Jason Burritt at jburrirt@seyfarth.com, or Michelle Gergerian at mgergerian@seyfarth.com.

www.seyfarth.com



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