

Mobility: immigration alert

February 2021

United States

Presidential proclamation rescinding the suspension of entry of certain immigrant visa holders to the U.S.

Executive summary

On 24 February 2021, President Biden rescinded Presidential Proclamation ("Proclamation") 10014 (*Suspension of Entry of Immigrants Who Present Risk to the U.S. Labor Market During the Economic Recovery Following the COVID-19 Outbreak*), which suspended the entry of certain immigrants into the U.S.. Proclamation 10014 was issued by President Trump in April 2020 to mitigate the anticipated harm to the economic recovery of the U.S. due to the COVID-19 pandemic.

Background

On 22 April 2020, President Trump signed Proclamation 10014 which temporarily suspended the entry of certain immigrant visa (green card) holders into the U.S. for sixty days due to the perceived risk to the U.S. economy following the COVID-19 outbreak.

On 22 June 2020, the Proclamation was extended under Proclamation 10052 to include certain non-immigrants (including L-1 and H-1B foreign nationals) until 31 December 2020. President Trump later extended both Proclamations 10014 and 10052 until 31 March 2021.

On 24 February 2021, President Biden rescinded Proclamation 10014 noting that it "does not advance the interests of the United States." Proclamation 10014 applied to certain immigrant visa holders seeking entry to the U.S. who were:

- ▶ Outside the United States
- ▶ Did not have a valid immigrant visa on 22 April 2020

- ▶ Did not have an official travel document other than a visa (e.g. a transportation letter, boarding foil, or an advanced parole document) that was valid on or after 22 April 2020

Following the rescission of the Proclamation, the Department of State (DOS) has issued [instructions for immigrant visa applicants](#), which provide guidance and next steps for immigrant visa applicants who:

- ▶ have not yet been interviewed
- ▶ were previously refused visas due to the Proclamation; or
- ▶ hold diversity visas issued in 2020

The DOS has noted that routine visa services will continue to resume on a post-by-post basis.

The suspension of the issuance of visas for non-immigrant workers seeking entry to the U.S., [remains in effect](#). This includes:

- ▶ H-1B visa holders and any foreign national accompanying or following to join
- ▶ H-2B visa holders and any foreign national accompanying or following to join
- ▶ J visa holders, i.e., interns, trainees, teachers, camp counselors, au pairs, or summer work travel programs, and any person accompanying or following to join
- ▶ L visa holders, and any foreign national accompanying or following to join

Analysis

The rescission of Proclamation 10014 is part of a significant shift in immigration policy under the current administration.

President Biden wrote that Proclamation 10014 "... harms the United States, including by preventing certain family members of United States citizens and lawful permanent residents from joining their families here."

While the rescission of Proclamation 10014 represents a marked change for immigrant visa holders who were impacted by the suspension on entry, President Biden has not revoked the ban on entry of non-immigrant visa holders (including new H-1B, J-1 and L-1 applicants).

It is unknown at this point whether the President will allow that limitation to lapse naturally on 31 March 2021 or extend it further.

What this means

Employers should review their programs to determine employees who were impacted by Proclamation 10014 and inform them that the temporary ban on entry to the U.S. no longer applies.

For employees impacted by Proclamation 10014 who have not yet received an interview or had their interview scheduled, scheduling will resume as part of DOS' [phased resumption of visa services](#) framework, in which visa services are being prioritized and re-opened on a post-by-post basis.

For employees who previously received an interview and their immigrant visa was refused due to Proclamation 10014, they should anticipate further instructions to be provided by the U.S. consulate where they were interviewed.

Employers should be aware that due to the phased reopening of routine visa services at U.S. embassies and consulates, increased processing times are anticipated because of backlogs and pent-up demand. At this time, no specific dates have been provided for the re-opening of each U.S. consulate.

We will continue to monitor and review future developments. For additional information, or if you wish to discuss this further, please contact your EY Law LLP professional.

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