

Possible changes coming to nonimmigrant visa options

By [Elizabeth M. Klarin](#)

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On April 22nd, President Trump issued an Executive Order suspending the entry of certain immigrants “who present a risk to the U.S. labor market during the economic recovery following the COVID-19 outbreak.” In this executive order, President Trump stated the following:

“Within 30 days of the effective date of this proclamation, the Secretary of Labor and the Secretary of Homeland Security, in consultation with the Secretary of State, shall review nonimmigrant programs and shall recommend to me other measures appropriate to stimulate the United States economy and ensure the prioritization, hiring, and employment of United States workers.”

We have been closely watching the situation, and there is discussion within the immigration community that the Department of Homeland Security is considering recommending to the White House banning new L nonimmigrants from entering the U.S., as well as banning new H-1B nonimmigrants from entering the U.S. unless the beneficiary is being paid at wage level 4 (under the Department of Labor prevailing wage guidelines) for the job in the specific area of employment. Even if accepted, these possibilities might play out in various ways for nonimmigrants; for example: (1) a ban might apply to all attempted entries in L-1 status, even by those who currently hold L-1 status but are outside the U.S; or (2) a ban might only mean that no new L-1 visas/status would be approved. It is also unclear how or whether any ban on new approvals or “new” entries would impact international travel by those currently in the U.S. who hold valid status.

All that said, speculation is just that at the moment. All ideas generally undergo various levels of interagency and departmental review. While we do believe that announcement will be forthcoming in the coming weeks, we are not aware of any imminent announcement or definitive proposals for specific changes.

We recommend that companies with a need to bring individuals to the U.S. in work authorized status speak with immigration counsel at this time, to determine whether it makes sense to pursue visa or status options prior to publication of an announcement or Executive Order from the White House implementing changes to the nonimmigrant visa program/options. We anticipate that these further limitations on available visa/status options will be pursued with the goal of protecting the U.S. labor market. In April, the U.S. unemployment rate increased by 10.3 percentage points to 14.7 percent—the highest rate and the largest over-the-month increase in the history of the series (since 1948). The number of unemployed persons also jumped sharply in April, from 15.9 million to 23.1 million. Unemployment rates rose sharply among all major worker groups.

Please contact your LMWF immigration professional with any questions regarding this post, or the best immigration strategy for your business, moving forward.

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