

COVID-19 and the Presidential Proclamation on Immigration

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On Monday, April 20, 2020, President Donald Trump announced a potential “suspension of immigration” via Twitter in light of the COVID-19 pandemic in an effort to protect jobs for United States workers as the country works to recover from the pandemic and individuals reenter the full-time workforce. This announcement spurred panic and uncertainty over the past couple of days as details of what this announcement meant was sought. On the evening of April 22, 2020, President Trump moved forward with the issuance of a proclamation titled “Proclamation Suspending Entry of Immigrants Who Present Risk to the U.S. Labor Market During the Economic Recovery Following the COVID-19 Outbreak” (the “Proclamation”). A summary of the key provisions of the Proclamation, as well as what the Proclamation does (and does not do), is provided below.

- Effective Date: Thursday, April 23, 2020 at 11:59 p.m. ET (the “Effective Date”)
- Duration: The Proclamation expires 60 days from the Effective Date, but provides that within 50 days of the Effective Date, key agencies are to provide recommendations to President Trump regarding continuation and/or modification of the Proclamation
- What Does the Proclamation Do: Suspends the *entry* into the United States of any individual *seeking entry as an immigrant* who:

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- Is outside of the United States on the Effective Date
 - Does not have a valid immigrant visa on the Effective Date
 - Does not have a valid official travel document (e.g., a transportation letter, boarding foil, or advance parole document) on the Effective Date, or issued on any date thereafter that permits travel to the United States to seek entry or admission
- Exemptions from the Proclamation: Individuals falling into the following categories are exempted from the Proclamation:
 - Lawful permanent residents (“LPR”)
 - Individuals and their spouses or children seeking to enter the U.S. on an immigrant visa as a physician, nurse, or other healthcare professional to perform work essential to combatting, recovering from, or otherwise alleviating the effects of the COVID-19 outbreak
 - Individuals applying for a visa to enter the U.S. pursuant to the EB-5 immigrant investor visa program
 - Spouses of U.S. citizens
 - Children of U.S. citizens under the age of 21 and prospective adoptees seeking to enter in certain categories
 - Individuals who would further important U.S. law enforcement objectives
 - Members of the U.S. Armed Forces and their spouses and children
 - Individuals and their spouses or children eligible for Special Immigrant Visas as an Afghan or Iraqi translator/interpreter or U.S. Government Employee
- What does the Proclamation NOT Do: There are key areas of the United States immigration system that are NOT affected by the Proclamation:
 - *Nonimmigrants.* Individuals who hold valid nonimmigrant visas (e.g., H-1B, H-2A, H-2B, F-1, L-1, TN, E-2, etc.) are specifically not included in the Proclamation. However, the Proclamation does provide that key agencies are to provide recommendations to the President within 30 days of the Effective Date as to other measures that may be appropriate to ensure prioritization of hiring United States workers. This is something that Koley Jessen will continue to monitor as updates become available.

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- *Asylum Seekers.* The Proclamation provides that it does not limit applications for asylum or refugee status.
- *Individuals Present in the United States.* There is nothing in the Proclamation that affects or alters the status of any individual who is physically present in the United States as of the Effective Date. Notably, due to the COVID-19 pandemic, USCIS field offices have suspended interviews and other routine visa processing activities. As such, individuals who are awaiting processing from within the United States will likely continue to experience delays in that process based on previously implemented protective measures.
- *Existing Travel / Visa Restrictions.* Irrespective of the impact of the Proclamation, visa services at the consulates abroad and travel into the United States remain restricted based on previously implemented protective measures including the following:
 - Travel is restricted at the northern and southern borders to limit the further spread of COVID-19
 - Routine visa services remain suspended worldwide
 - Travel is restricted due to COVID-19 from China, Iran, the 26 Schengen Zone countries, the United Kingdom, and Ireland
 - President Trump's prior "travel ban" (unrelated to the COVID-19 pandemic) restricts travel from Iran, Libya, Syria, North Korea, Somalia, Venezuela, Burma, Eritrea, Kyrgyzstan, Nigeria, Sudan, and Tanzania

Koley Jessen will continue to monitor the impact of the Proclamation and developments over the coming weeks and months. If you have questions regarding the impact of the Proclamation on a specific situation, please contact one of the immigration specialists with Koley Jessen's Employment, Labor and Benefits group.

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