



News & Types: Immigration Update

COVID-19 Immigration Alert

3/13/2020

Practices: Immigration

As many of you are aware the World Health Organization has declared the COVID-19 a world-wide pandemic. Many foreign nationals and their employers are struggling to determine how the numerous actions that local, federal and foreign governments are taking to contain the virus will affect their U.S. immigration status and their ability to travel internationally. This is a fluid situation with news and groundbreaking developments being released at a breakneck speed. It is very important to communicate with counsel prior to making any decision that will impact the employment or immigration status of the foreign national. The following guidance addresses some of the common questions that employers and foreign nationals have with respect to maintenance of immigration status and travel:

WHAT IF MY OFFICE CLOSES AND I HAVE TO WORK FROM HOME?

Several work visas, specifically H-1B, H-1B1 and E-3, have a Labor Condition Application (LCA) requirement. The LCA requires the employer to take certain actions before placing a foreign national at a different worksite. If an employer's office closes temporarily and foreign national employees are required to work at different worksites, including a home office, please contact counsel prior to the worksite location change to determine what, if any, actions need to be taken before the work at the new worksite begins. If changes will be made to the foreign national's employment, such as non-payment of wages, etc. due to the office closure, please contact counsel.

WHAT IF I HAVE AN ADJUSTMENT OF STATUS INTERVIEW SCHEDULED?

Many USCIS offices are postponing interviews. You can check the following link on USCIS office closures. Please contact counsel to determine your options.

WHAT IF I HAVE AN ASC APPOINTMENT FOR BIOMETRICS?

We generally do not recommend rescheduling these types of appointments. However, if the ASC facility is closed, you are sick, you believe you have been exposed to COVID-19, you have traveled internationally to any country outside the United States within 14 days of your appointment, you should not attend the ASC appointment. You can check on office closings or other restrictions and how to reschedule here.

WHAT IF MY NONIMMIGRANT STATUS WILL EXPIRE IN THE NEXT FEW MONTHS?

Foreign nationals should check their, and their dependent family members', Forms I-94 to ensure that they know the expiration dates. The current and valid Form I-94 is the one that was most recently issued. This can be a Form I-797 Approval Notice issued by the U.S. Citizenship and Immigration Services or by U.S. Customs and Border Protection after international travel (see link). If the foreign national's I-94 will expire in the next few

months, the foreign national should speak with his employer and counsel to determine what options are available.

WHAT IF I WANT TO TRAVEL INTERNATIONALLY?

The U.S. government has placed many restrictions on travel to the U.S. by nonimmigrants who are seeking admission from countries impacted by Covid-19. Foreign nationals should check the latest updates on the Department of State website to evaluate if there are restrictions that would prevent travel to or from any country. Please check the following link. New travel restrictions are being imposed on a daily basis. Therefore, just because there are no travel restrictions from a certain country today, does not guarantee that a travel restriction will not be placed tomorrow. As a result, the safest course of action at this time may be to cancel any international or domestic travel until further notice.

WHAT IF I HAVE A VISA APPOINTMENT AT A U.S. EMBASSY OR CONSULATE ABROAD?

U.S. Embassies and Consulates worldwide are announcing office closures, cancellations of visa appointments, or delayed scheduling of visa interviews. If you have an appointment scheduled, prior to attending the interview, please check the consulate's website to confirm that the appointment will take place. Consulates are posting daily updates on office closures and cancellations on their websites.

CAN I TRAVEL TO CANADA OR MEXICO TO APPLY FOR MY VISA?

U.S. Embassies and Consulates in Mexico and Canada may allow third-country nationals to apply for certain types of visas at their posts. As a general matter, these posts will only consider visa renewal applications rather than first time visa applicants. Foreign nationals must consider the following issues prior to scheduling an interview at a U.S. consular post in Canada or Mexico: 1. The foreign national may need to apply for and obtain a Canadian or Mexican visa; 2. Third-country nationals may need to wait 5 – 6 months for an interview at a U.S. consular post in Canada or Mexico; 3. By the time the applicant is ready to travel for his visa interview, the U.S. government may have placed travel restrictions or quarantine measures on individuals traveling to the United States from Canada or Mexico; and 4. If the visa is denied, the foreign national may not be allowed to return to the U.S., and may have to return to his home country to apply for a new visa .

Please reach out to counsel if you have any questions or concerns, and to understand the full risks of any action taken in light of this unpredictable situation. If you have questions, please contact Esther Contreras at econtreras@masudafunai.com or 847-734-8811.