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Experiencing Green Card Delays? Waiting for Immigrant Visa Numbers? Opening a business or investing in the U.S.? Are you an Inventor or skilled worker in the U.S.? November 20, 2014 Executive Actions

Tiyalaw · Wednesday, January 21st, 2015





Experiencing **Green Card Delays? Waiting for Immigrant Visa Numbers? Opening a business or investing in the U.S.?** Are you an **Inventor or skilled worker in the U.S.?** November 20, 2014 Executive Actions

The President announced various executive actions on November 20, 2014 relating to, among other things, green card and temporary visa matters. Some of them are outlined below.

The executive actions are calling for the U.S. Citizenship and Immigration Services (USCIS) to work with the U.S. Department of State (DOS) to make efficient use of authorized immigrant visa numbers, and better determination of immigrant visa number availability. Various types of green card cases are subject to visa number quota. [Hopefully, **the changes may improve visa number availability such as immigrant visa numbers becoming current.**]

Additionally, the executive actions are requesting the USCIS to relax job or **adjustment portability for delayed or lengthy adjustment of status cases.** **I-485 Adjustment of Status** is the **final stage in a green card process.** Many adjustment cases remain pending or are delayed because of immigrant visa number unavailability (immigrant visa number not current). Currently, a foreign national in an employment green card may change or port to a different employer before his/her green card is approved, when the adjustment case has been pending for a certain period of time. **Presently, such job change or portability is restricted to the same or similar green card job classification, which is narrowly interpreted.** Thus, a foreign national who has changed job under the adjustment-of-status portability but who does not have an H-1B or another temporary work visa for the new job may possibly face removal or deportation proceeding. [Hopefully, the changes **may allow eligible adjustment applicants to transfer or port to a wider range of jobs.**]

In improving the U.S. economy, the executive actions are asking the USCIS to:

1. Clarify the **standard for green card national interest waiver cases for founders of start-up businesses, foreign investors or researchers.** National interest waiver is a process for an eligible foreign national who has an **advanced degree or exceptional ability to apply for green card without the PERM permanent labor certification process.** His/her contributions or skills must be of **U.S. national interests.** [Hopefully, these changes may mean widening the range of evidence

that would constitute exceptional ability or U.S. national interests.]

2. **Parole, on a case-by-case basis, eligible founders of start-up businesses, foreign investors or researchers. This is for a foreign national who has not yet met the national interest waiver standard, and:**

(a) Who has been awarded substantial U.S. investor financing; or

(b) Who has the potential for innovation and job creation through the development of new technologies or cutting-edge research.

Spouses of certain H-1B employees who are in certain green card process may apply for work permit (employment authorization document/EAD). **H-1B visa is for job that requires at least a bachelor's degree or equivalent in a relevant field.**

There may be further clarification and consistency on what constitutes **specialized knowledge for employee transferring from company overseas into the U.S.**

The above executive actions are not effective yet. The government will provide further clarifications and guidelines in the coming months. Please stay tune and sign up for our eNews for future updates.

For additional information on other types of recent executive actions, please visit: <http://immigrationresource.net/in-the-u-s-illegally-need-to-fix-u-s-immigration-status-consider-applying-for-dapa-around-may-19-2015-expanded-daca-february-18-2015/>

This article is intended for informational purposes only, and should not be relied on as legal advice or attorney-client relationship.

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the U.S.; consular processing with U.S. consulates; consular processing via National Visa Centers; filing cases with the USCIS; filing cases with the U.S. Department of Labor; PERM audit; RFE Request for Evidence by USCIS; NOID Notice of Intention to Deny from USCIS; and Immigration Courts.

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