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Summary of Trump's Sept. 19, 2025 Proclamation: "Restriction on Entry of Certain Nonimmigrant Workers"

Client Alert

9.23.2025

The following is an important update regarding a new presidential proclamation issued by President Trump on September 19, 2025, titled "*Proclamation on the Restriction on Entry of Certain Nonimmigrant Workers*." This Proclamation has direct implications for foreign nationals currently outside the US who are seeking to enter under H-1B status.

1. Summary of the Proclamation

Effective **September 21, 2025**, at 12:01 AM EDT, the Proclamation imposes the following key restrictions:

- **Entry Ban on H-1B Visa Holders Outside the US:** H-1B nonimmigrant workers (specialty occupations) seeking entry into the US from outside must have their employer pay a \$100,000 fee per petition. H-1B Petitions not accompanied by that payment will be restricted/not approved for aliens outside the US.
- **Duration:** This restriction is set to remain in effect for 12 months from the effective date, unless it is extended, modified, or revoked earlier.
- **Compliance, Verification, Enforcement:** Employers must retain documentation proving payment of the \$100,000.
- **Limited Exemptions:** The Secretary of Homeland Security may authorize case-by-case or categorical exemptions for individuals or companies if their entry is deemed to be in the national interest. However, the criteria and process for seeking such exemptions have not yet been clarified.

2. Most Recent Agency Guidance/Clarifications

- **US Citizenship and Immigration Service (USCIS):** Confirmed the \$100,000 payment is required for any new H-1B petition

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filed after 12:01 a.m. EDT on September 21, 2025. Clarified that existing H-1B visa holders, and petitions submitted prior to the effective date, are *not* subject to the new fee. The fee is a one-time fee on new petitions—not something that applies annually or for renewals.

- **Customs and Border Protection (CBP):** Has issued guidance (per the FAQ) consistent with the Proclamation. Guidance confirms that current H-1B visa holders traveling abroad and seeking re-entry are *not* prevented from re-entry because of the Proclamation, so long as they held valid H-1B visa status.
- **Department of State (DOS):** DOS will coordinate with USCIS and verify payment as part of H-1B visa issuance/consular processing. DOS has issued guidance to consular posts consistent with USCIS and CBP policy.

3. Key Points/Considerations:

- **Foreign National Currently Outside the US who is Applying for an Initial H-1B Visa:** If the H-1B Petition was filed prior to September 21, 2025, and approved by the USCIS, and the foreign national needs to apply for an initial H-1B visa at a US Embassy or Consulate outside of the US, it is not clear at this time whether the employer is required to pay the \$100,000 fee.
- **Foreign National Currently Outside the US who Possesses a Valid H-1B visa:** If the H-1B Petition was filed prior to September 21, 2025, and approved by the USCIS, and the foreign national already has a valid H-1B visa as of September 21, 2025, the employer is *not* required to pay the \$100,000 fee.
- **Foreign National Currently Inside the US who are in Valid H-1B Status:** Extensions of stay inside the US, including change of employer, change of status and amended petitions—where the beneficiary remains in lawful H-1B status are not expressly covered, so unless instructed otherwise, it appears they are exempt.
- **H-1B Petition Filing Not Blocked, But Entry Is:** The Proclamation restricts *entry*, not the initial filing of an H-1B Petition. Therefore, it is still possible to file and even obtain H-1B Petition approval. However, the individual may be unable to apply for an initial H-1B visa and travel to the US without satisfying the fee requirement or qualifying for an exemption.
- **Risk of Legal and Policy Changes:** There is potential for litigation or administrative guidance that could clarify, limit, or suspend the impact of this Proclamation. However, at this time, it should be treated as enforceable.

4. Options to Consider

- **Evaluate National Interest Exception:** If applicable, we can explore the possibility of seeking an exemption from the restriction.
- **Adjust Timing and Strategy:** Employers may consider deferring start dates or reviewing remote work arrangements until entry becomes viable.

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- **Alternative Visa Categories:** Depending on qualifications and circumstances, we can assess eligibility for other visa types not impacted by the Proclamation.

For full text of the Proclamation, [click here](#).

For agency-specific guidance on the Proclamation, please visit:

- WH Fact Sheet
- WH H-1B FAQ
- USCIS
- CBP
- DOS

We are monitoring this issue closely and will provide updates as more guidance becomes available from the Department of Homeland Security and Department of State.

Please feel free to contact the authors of this Client Alert or your Butzel attorney for more information.

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