

# Immigration Alert

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### New \$100,000 Restriction on H-1B Visa Status Admission to the United States

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On September 19, 2025, President Trump issued a Proclamation (the Proclamation) changing the H-1B visa program. The Proclamation is accessible [here](#).

While this Proclamation is currently being interpreted and clarified, it is critical that any U.S. employer with H-1B visa holders on staff and H-1B visa holders consult immigration counsel prior to departing or attempting to re-enter the United States. It is also critical that any U.S. employer preparing to file a new H-1B visa petition with USCIS for an individual outside of the United States consult immigration counsel prior to submitting the petition to USCIS. Legal challenges against these new requirements are anticipated, and we will continue to keep clients updated on important developments. This alert is based on guidance issued by The White House, U.S. Citizenship and Immigration Services (USCIS), and the U.S. Department of State as of September 21, 2025.

## Who This Applies To

New H-1B visa petitions submitted to USCIS on or after September 21, 2025, by U.S. employers for beneficiaries outside of the United States must be accompanied by a \$100,000 payment in order for an H-1B visa holder to become eligible for admission into the United States.

At this time, this \$100,000 payment does NOT apply to the following:

- H-1B beneficiaries for whom the U.S. employer filed the H-1B visa petition with USCIS prior to September 21, 2025 – even if they are outside of the United States at this time and (1) are scheduled, or will be scheduled, for “visa stamping” at a U.S. Consular Post OR (2) have a valid H-1B visa posted into their passport and are traveling back to the United States.
- H-1B beneficiaries currently physically present in the United States who are the subject of an H-1B visa petition filed by their U.S. employer with USCIS for an extension, a change of employer, or change to H-1B visa status.

## H-1B Visa Petitions Not Yet Filed with USCIS

USCIS will only adjudicate new H-1B visa petitions accompanied by a payment of \$100,000 for H-1B beneficiaries who are currently outside of the United States.

There is an emphasis that this new fee requirement will apply to the 2026 H-1B visa lottery conducted by USCIS.

## Duration of Changes Under Proclamation

The Proclamation states that the \$100,000 fee requirement will be in effect for 12 months beginning 12:01 AM on September 21, 2025, and that the effective term may be extended.

## What U.S. Employers, H-1B Visa Holders and Prospective H-1B Visa Holders Should Know

- H-1B visa holders in the United States are strongly advised to consult immigration counsel prior to departing the United States for temporary travel. This Proclamation is rapidly being interpreted and clarified.
- U.S. employers considering or preparing to file a new H-1B visa petition with USCIS are strongly advised to consult immigration counsel prior to filing with USCIS for clarification on whether \$100,000 payment is required.
- Attempting to enter the United States on a B-1 temporary business visa is likely to be restricted or subject to high scrutiny for individuals who are also H-1B visa holders.
- If the \$100,000 payment is made for an H-1B visa, employers and H-1B visa holders should retain evidence of payment and be prepared to show such evidence at the U.S. border for entry purposes.
- There is no distinction made in the Proclamation between cap-subject and cap-exempt H-1B visas.
- Dependents on H-4 visa status are not explicitly addressed in the Proclamation, but they are likely to be impacted by U.S. entry restrictions as well if the underlying H-1B visa is subject to U.S. entry restrictions due to non-payment of the \$100,000.
- Non-immigrants on other visa statuses, such as F-1 OPT or F-1 OPT STEM extension, L-1s, O-1s, and TNs are not explicitly addressed in the Proclamation, and the U.S. entry restrictions outlined in the Proclamation are unlikely to affect such non-immigrants.

- The Proclamation includes a “national interest exemption” for individuals, companies, and/or industries for which H-1B employment is in the national interest of the United States and does not pose a threat to the security or welfare of the United States. We expect further clarification on eligibility for such “national interest exemptions” to be issued.

## CONTACT

We will be monitoring the development of the Proclamation closely. If you would like guidance on any of these constantly evolving matters or would like to discuss general immigration matters, please contact [Allison Ahern Fillo](#) or [Emily Tanji](#) in our [Immigration Law Practice](#).