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Client Alert: President Trump Issues Restrictions on Entry of H-1B Workers

The Proclamation: On September 19, 2025, President Trump released a Proclamation restricting entry into the United States for H-1B visa holders unless the petition is accompanied or supplemented by a payment of $100,000.

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What is the H-1B Visa? The H-1B visa program allows U.S. employers to hire foreign workers in specialty occupations. A specialty occupation requires the application of specialized knowledge, and a bachelor's degree or its equivalent. H-1B specialties range over many industries, with key industries including IT, medical and health care, education, and business specialties. The intent of the H-1B program is to help employers who cannot otherwise obtain needed business skills and abilities from the U.S. workforce by authorizing the temporary employment of eligible foreign citizens.

Who is responsible for paying this new fee? Although guidance is limited, the Proclamation restricts "entry" under the H-1B program unless the petition is accompanied by the $100,000 payment. This will most likely affect any new H-1B petition, or any petition currently pending, for a foreign citizen currently located outside the United States. However, more guidance is needed to determine whether this will also affect re-entry from travel outside the country by current H-1B visa holders.

When will this new fee be required? According to the Proclamation, the $100,000 additional fee will go into effect starting **12:01 a.m.** eastern daylight time **on September 21, 2025**.

Are there any exceptions to the fee? Yes, the Proclamation carves out an exception to this fee if the Secretary of Homeland Security determines the hiring of the foreign citizen is in the national interest of the United States and does not pose a threat to the security or welfare of the United States. However, the U.S. Department of State (DOS) and the Department of Homeland Security (DHS) have not issued any further guidance on the criteria reviewed for this discretion.

How will this new fee be implemented? It's not immediately clear how this fee will be implemented. The Proclamation directs the DHS and the DOS to issue joint guidance for verification, enforcement, audits, and penalties. It further requires employers to retain documentation of payment. Further guidance is anticipated to be released.

What to do if you are an employer? Notify all current H-1B employees, and dependents, of the changes and restrictions on travel. This new fee is a substantial increase to the standard H-1B filing fee of $780. The fee is meant to put a significant financial burden on companies wanting to hire foreign talent under the H-1B program. It is imperative to consult an experienced immigration attorney to ensure compliance with current updates and develop strategies for future foreign hires utilizing other available employment-based non-immigrant and immigrant visas.

What to do if you are an H-1B employee or H-4 Dependent? If you currently have H-1B status and are in the United States, do not exit the country without speaking to your immigration attorney. Although the Proclamation does not specifically address H-4 dependents, it is recommended that you remain in the United States until further guidance is released. If you have H-1B, or H-4 status, but are currently traveling outside the United States, it is recommended that you try to return (and clear customs) before **12:01 a.m. EST** on **September 21, 2025**.

We understand that the executive order will most likely result in a multitude of additional questions. Please note that our Immigration Team will continue to watch developments in this space. So, be sure to check back with us for updates! In the meantime, please feel free to reach out to a member of Shumaker's Immigration Team to assist with your immigration needs.

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