

WORKPLACE IMMIGRATION UPDATE: MARCH 10 EDITION

Insights
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The initial months of President Donald Trump's second term have seen the administration enact several significant new immigration policies that have immediate implications for employers across the United States. Understanding these changes and implementing appropriate compliance measures are crucial for businesses to navigate the evolving legal landscape. Here is a quick recap of what has taken place and practical steps you can take to keep pace.

New Registry Process for Undocumented Immigrants

President Trump issued the "Protecting the American People Against Invasion" executive order on his first day in office. It directed the Department of Homeland Security (DHS) to enforce compliance with the registration requirements outlined in Section 262 of the Immigration and Nationality Act (INA) (8 U.S.C. 1302). It prioritized civil and criminal enforcement against those who fail to comply – including employers.

Under the INA, nearly all noncitizens aged 14 and older who were not fingerprinted or registered when applying for a U.S. visa – and who remain in the United States for 30 days or longer – must register and undergo fingerprinting. Parents and guardians must also register children under 14, and previously registered children must re-register and be fingerprinted within 30 days of turning 14. After registration and fingerprinting is complete, DHS will issue proof of registration, which must be carried by noncitizens over 18 at all times. This new registration requirement is a legal obligation, resulting in possible civil and criminal penalties,

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including misdemeanor prosecution and fines, for those who do not comply.

While most noncitizens in the U.S. already registered when they applied for a visa at a U.S. Embassy or Consulate, many people in the U.S. find themselves required to do the registration. This includes those who entered the U.S. without inspection, Canadian visitors who entered the U.S. through a land port of entry and were not issued evidence of registration (i.e., an I-94 record) and those who are beneficiaries of certain programs that may not have issued evidence of registration, including DACA and TPS applicants. To enable people to register, U.S. Citizenship and Immigration Services (USCIS) is introducing a new form and process for registration. Moving forward, no noncitizen will have grounds for noncompliance. Stay tuned for more details, and make sure your affected employees are aware of these new requirements.

Introduction of \$5 Million 'Gold Card' Visas

In a move to increase the flow of affluent immigrants to the U.S., President Trump recently unveiled a new initiative offering a \$5 million "Gold Card" visa. Intended as a replacement for the existing EB-5 immigrant investor visa program, the new gold card would grant holders the right to live, work, and eventually obtain permanent citizenship in the United States. The stated reason for the new program is to streamline the visa and permanent residency process for wealthy applicants and reduce susceptibility to fraud.

According to Commerce Secretary Howard Lutnick, the new initiative, unlike the EB-5 program, will focus solely on the applicant's wealth, eliminating requirements of the EB-5 to create jobs or invest in economically distressed areas. The proposed Gold Card visa program is designed to attract wealthy investors rather than skilled workers, so it is unlikely to directly help employers with workforce shortages – but it may create economic opportunities that indirectly benefit businesses.

TPS Revocation Challenged: Haiti and Venezuela

A group of concerned parties filed a lawsuit in a Massachusetts federal court on March 3, challenging DHS's decision to terminate Haitian and Venezuelan Temporary Protected Status (TPS). [You can read about the Haitian revocation in our previous Insight here.](#) This lawsuit joins

two existing suits filed in California and Maryland challenging the termination of Venezuela TPS.

The suit alleges that DHS Secretary Kristi Noem lacked legal authority to vacate former DHS Secretary Alejandro Mayorkas' July 1, 2024, decision to grant an 18-month extension of TPS for Haiti, and his January 17, 2025, decision to grant an 18-month extension of TPS for Venezuela.

The Venezuelan lawsuit also argues that DHS violated the Administrative Procedure Act. The law does not permit early terminations, the challengers allege, and DHS failed to follow necessary rules by rushing to its decision without required review. Until now, no administration has ever moved to rescind TPS before the end of the time period established by law and authorized in the federal register.

The suits further contend that the Trump Administration is discriminating against both groups of migrants based on race, ethnicity, or national origin in violation of the Fifth Amendment's Equal Protection Clause.

The plaintiffs ask the court to block enforcement of Secretary Noem's decisions to terminate Haiti and Venezuela TPS and to declare that former DHS Secretary Mayorkas' 18-month extensions of Haiti and Venezuela TPS remain in effect.

We will keep close tabs on these legal actions and provide updates as warranted.

USCIS Proposes Gathering Social Media Data from Immigrants

The Trump administration recently unveiled a proposal to increase scrutiny of social media activity for individuals seeking entry into the U.S.

USCIS announced plans on March 4 to incorporate social media data into its applicant review process. The agency said that this step aligns with a White House directive aimed at strengthening national security and preventing terrorism, identifying a new procedure that it believes will enhance the vetting process for prospective immigrants. USCIS also indicated that this data will help verify identities and assess whether an applicant poses a security or public safety risk.

The proposal is now subject to a 60-day public comment period before it can be implemented. While USCIS said it

intends to use social media data to establish guidelines for evaluating applicants' eligibility for immigration benefits, it did not specify which visa categories or benefits may be affected.

More Background Reading

- [Workplace Immigration Update: February 7 Edition](#)
- [Top 5 Takeaways for Employers as Attorney General Announces Aggressive Immigration Stance](#)
- [How the Trump 2.0 Immigration Policy Will Impact Tech Employers](#)

Conclusion

If you have any questions about these developments or how they may affect your business, please contact your Fisher Phillips attorney, the author of this Insight, or any member of our [Immigration Practice Group](#). Our [Employers' Rapid Response Team](#) (877-483-7781 or DHSRaid@fisherphillips.com) is on call to provide immediate legal counsel when a raid occurs, assist with documentation and compliance review, and provide post-raid support and strategy assistance.

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