



President Obama Announces Executive Action on Immigration

Insights

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Last night, President Obama announced his plan for a partial fix of what many believe is a broken U.S. immigration system. This Executive Action will offer over four million undocumented individuals relief from deportation and provide them the opportunity to apply for temporary work authorization under what is being called Deferred Action for Parental Accountability (DAPA), expand the Deferred Action for Childhood Arrivals (DACA) program, strengthen border security measures, expand provisional waivers to include spouses and children of lawful permanent residents (LPR), and support high-skilled businesses and workers.

Providing relief from deportation is known as “deferred action”. Deferred action is a discretionary determination by the U.S. government not to place an individual in deportation proceedings or deport certain individuals from the U.S. If granted deferred action under this new policy, an individual will be permitted to remain in the U.S. and apply for work authorization for a renewable period. Deferred action does not grant legal status or a pathway to citizenship.

Details about eligibility requirements for DAPA and how to apply will be finalized within the next six months but eligibility for this benefit will include being in the U.S. for at least five years, being the parent of a U.S. citizen or LPR child holding that status on or before November 20, 2014, passing a criminal background check, and agreeing to pay taxes. The U.S. Citizenship and Immigration Services (USCIS) expects to begin accepting applications for DAPA in approximately 180 days.

The President’s plan also includes initiatives to allow individuals who are beneficiaries of an approved employment-based immigrant petition (I-140), but caught in an immigrant visa backlog to file adjustment applications (I-485) with the USCIS; various visa modernization changes to promote business and investment; finalizing the H-4 employment authorization regulation (expected to be issued in December 2014); guidance on the L-1B visa category; and increasing the time allowed for Optional Practical Training (OPT) work authorization for science, technology, engineering and math (STEM) graduates.

Despite the fact that the USCIS is not currently accepting applications for DAPA, individuals who believe they may be eligible for this program should start to gather evidence establishing identity, relationship to the U.S. citizen or LPR, and continuous residence in the U.S. over at least the last five years. We will continue to monitor the development of this new policy and provide updates as new information becomes available.

For more information visit our website at www.fisherphillips.com or contact any member of our Global Immigration Practice Group at 404-231-1400.

This Global Immigration Alert provides an overview of a specific executive action. It is not intended to, and should not be construed as, legal advice on any particular fact situation.