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US IMMIGRATION & NATIONALITY LAW

IMMIGRATION UPDATE - OCTOBER 25, 2021

Posted on October 25, 2021 by Cyrus Mehta

Headlines:

DHS Continues Travel Restrictions at Land Border Ports of Entry With Mexico – DHS will continue to temporarily limit non-essential travel of individuals from Mexico into the United States at land ports of entry along the U.S.-Mexico border until January 21, 2022.

DOJ, DOL Reach Settlements With Facebook Resolving Claims of Discrimination Against U.S. Workers – The Departments of Justice and Labor released a joint statement on October 19, 2021, announcing separate settlement agreements with Facebook regarding its use of the permanent labor certification program.

USCIS Implements Employment Authorization for Individuals Covered by Deferred Enforced Departure for Hong Kong Residents – USCIS released information on how to apply for employment authorization for eligible Hong Kong residents covered under President Biden's memorandum allowing DED through February 5, 2023.

USCIS Accepts Credit Card Payments From Petitioners for O and P Nonimmigrant Workers – As part of its credit card payment pilot program, U.S. Citizenship and Immigration Services' Vermont Service Center is now accepting credit card payments from petitioners filing Form I-129, Petition for a Nonimmigrant Worker, for O and P nonimmigrants. The program is also in operation at the Nebraska and Texas Service Centers.

Firm in the News

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DHS Continues Travel Restrictions at Land Border Ports of Entry With Mexico

The Department of Homeland Security (DHS) announced it will continue to temporarily limit non-essential travel of individuals from Mexico into the United States at land ports of entry (POEs) along the U.S.-Mexico border until January 21, 2022.

The limit does not apply to those who are fully vaccinated for COVID-19 as defined by the Centers for Disease Control and Prevention, DHS said.

Details:

- DHS notice, 86 Fed. Reg. 58216 (Oct. 21, 2021), https://www.govinfo.gov/content/pkg/FR-2021-10-21/pdf/2021-23005.pdf

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DOJ, DOL Reach Settlements With Facebook Resolving Claims of Discrimination Against U.S. Workers

The Departments of Justice (DOJ) and Labor (DOL) released a joint statement on October 19, 2021, announcing separate settlement agreements with Facebook regarding its use of the permanent labor certification program (PERM).

The DOJ settlement includes about $14 million in fines, along with additional notice, recruitment, and training requirements. The DOJ settlement resolves its claims that Facebook routinely refused to recruit, consider, or hire U.S. workers—a group that includes U.S. citizens, U.S. nationals, asylees, refugees, and lawful permanent residents—for positions it had reserved for temporary visa holders in connection with the PERM process.

Additionally, the DOL settlement resolves issues it separately identified through audit examinations of Facebook's recruitment activities related to its PERM applications filed with the Employment and Training Administration's Office of Foreign Labor Certification (OFLC).

Details:

- Joint DOJ-DOL Statement, Oct. 19, 2021, https://www.justice.gov/opa/pr/justice-labor-departments-reach-settlements-facebook-resolving-claims-discrimination-against
- DOJ-Facebook Settlement Agreement,

https://www.justice.gov/opa/press-release/file/1443336/download

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USCIS Implements Employment Authorization for Individuals Covered by Deferred Enforced Departure for Hong Kong Residents

U.S. Citizenship and Immigration Services (USCIS) released information on how to apply for employment authorization for eligible Hong Kong residents covered under President Biden's August 5, 2021, memorandum allowing Deferred Enforced Departure (DED) for 18 months, through February 5, 2023.

DED for Hong Kong residents applies only to certain eligible Hong Kong residents who were present in the United States as of August 5, 2021; who have continuously resided here since that date; and who meet other eligibility criteria described in the President's memorandum. For purposes of this DED policy, USCIS explained, Hong Kong residents "are individuals of any nationality, or without nationality, who have met the requirements and been issued a Hong Kong Special Administrative Region (HKSAR) passport, a British National Overseas passport, a British Overseas Citizen passport, a Hong Kong Permanent Identity Card, or an HKSAR Document of Identity for Visa Purposes."

There is no application for DED. Eligible Hong Kong residents may apply for an Employment Authorization Document by submitting a completed Form I-765, Application for Employment Authorization. Eligible Hong Kong residents covered by the August memorandum may also receive travel authorization. Individuals must file Form I-131, Application for Travel Document, to apply for advance parole if they wish to travel based on DED.

Details:

- USCIS news release, Oct. 20, 2021, https://bit.ly/3njEUNF
- USCIS Deferred Enforced Departure page, https://www.uscis.gov/humanitarian/deferred-enforced-departure

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USCIS Accepts Credit Card Payments From Petitioners for O and P Nonimmigrant Workers

As part of its credit card payment pilot program, U.S. Citizenship and

Immigration Services' (USCIS) Vermont Service Center is now accepting credit card payments using Form G-1450, Authorization for Credit Card Transactions, from petitioners filing Form I-129, Petition for a Nonimmigrant Worker, for O and P nonimmigrants.

The program is also in operation at the Nebraska and Texas Service Centers. USCIS hopes eventually to expand this payment option to other forms and service centers. The goal is "to bring USCIS one step closer to accepting digital payments using a credit card at all service centers," the agency said.

Details:

- USCIS alert, Oct. 22, 2021, https://bit.ly/3nmvAZn

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Firm in the News

Cyrus Mehta was quoted by Forbes in "DOJ Legal Settlement Discourages Hiring High-Skilled Immigrants." He said, "A U.S. employer is not required to hire the U.S. worker when conducting recruitment in conjunction with labor certification, and is required to conduct a good faith recruitment pursuant to recruitment rules, which DOL has acknowledged deviate from an employer's normal recruitment practice." https://www.forbes.com/sites/stuartanderson/2021/10/20/doj-legal-settlement-discourages-hiring-high-skilled-immigrants/?sh=4e6747d83721 (and for background, see also http://blog.cyrusmehta.com/2020/12/justice-departments-discrimination-lawsuit-against-facebook-chills-employers-ability-to-legitimately-sponsor-skilled-foreign-national-workers-for-a-green-card.html)

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