

CHAIR, IMMIGRATION
PRACTICE GROUP
Penni Bradshaw
Winston-Salem, NC

EDITOR IN CHIEF
Robin Shea
Winston-Salem, NC

HERE'S HOW OBAMA'S IMMIGRATION ACTIONS WILL AFFECT EMPLOYERS

By Will Krasnow
Boston, MA Office

When President Obama announced his Executive Actions On Immigration (to take effect in about 90 days), he said that the changes were intended to “make it easier and faster for high-skilled immigrants, graduates and entrepreneurs to stay and contribute to our economy, as so many business leaders have proposed.”

Here are the highlights:

A larger pool of undocumented individuals will be eligible to receive work authorization.

Up to 5 million undocumented individuals will be eligible to receive work authorization as a result of

- expansion of the existing Deferred Action for Childhood Arrivals (“DACA”) program for persons who entered the United States as children under the age of 16; and
- institution of a new program for parents of U.S. citizens or lawful permanent residents.

Other proposals should improve our legal immigration system.

- Visa Modernization – There are unreasonably long waits in many employment categories for applicants to obtain visas to become lawful permanent residents. The appropriate agencies are to look at ways to modernize the visa system, including efforts to ensure that all available visa numbers are captured. Agencies will also consider whether spouses and children of employees should be counted as individual applicants, or whether one visa could cover the entire family.
- Enhancing Options for Foreign Entrepreneurs. This initiative includes liberalizing the rules for national interest waivers that will allow employees to bypass the recruitment of U.S. workers via the PERM (permanent labor certification) process.
- Clarification of “Specialized Knowledge” Applicable to L-1B Visas – The U.S. Citizenship and Immigration Services is expected to adopt a more liberal interpretation of “specialized knowledge.”
- Expanded I-140 Portability – Employees with approved I-140 petitions who are unable to apply for permanent residency because of the unavailability of a visa number, will be allowed the benefits of adjustment of status – that is, employment

Atlanta
Asheville
Austin
Birmingham
Boston
Chicago
Columbia
Dallas
Fairfax
Greenville
Jacksonville
Kansas City
Lakeland
Los Angeles County
Macon
Madison
Nashville
Opelika
Port St. Lucie
Princeton
St. Louis
Tampa
Ventura County
West Point
Winston-Salem

December 15, 2014

and travel authorization, and the ability to transfer to a new position or employer in the same occupational classification as the one covered by the I-140 petition or a “similar” one. “Same or similar” also will be clarified to allow greater opportunities for job transfers and promotions.

- STEM (Science, Technology, Engineering and Math) – STEM-based optional practical training will be expanded. Currently, optional practical training is allowed for up to 29 months for U.S. graduates with bachelor’s or higher degrees in STEM fields.
- Spouses of H-1B workers who are in the latter stages of the permanent resident process will be allowed to apply for employment authorization. The proposed rule (announced before the Executive Actions on Immigration) is to be finalized by January 2015.

We will continue to keep you advised of all developments. If you have any questions, please contact any member of **Constangy’s Immigration Law Practice Group** or the Constangy attorney of your choice.

About Constangy, Brooks & Smith, LLP

Constangy, Brooks & Smith, LLP has counseled employers on labor and employment law matters, exclusively, since 1946. A “Go To” Law Firm in Corporate Counsel and Fortune Magazine, it represents Fortune 500 corporations and small companies across the country. Its attorneys are consistently rated as top lawyers in their practice areas by sources such as Chambers USA, Martindale-Hubbell, and Top One Hundred Labor Attorneys in the United States, and the firm is top-ranked by the U.S. News & World Report/Best Lawyers Best Law Firms survey. More than 140 lawyers partner with clients to provide cost-effective legal services and sound preventive advice to enhance the employer-employee relationship. Offices are located in Alabama, California, Florida, Georgia, Illinois, Massachusetts, Missouri, New Jersey, North Carolina, South Carolina, Tennessee, Texas, Virginia and Wisconsin. For more information, visit www.constangy.com.