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## Detailed Analysis of New Trump Administration H-1B Entry Restrictions

On September 19, 2025, the Trump administration announced a presidential proclamation imposing new restrictions on the entry of H-1B specialty occupation workers into the United States. These restrictions took effect abruptly at **12:01 a.m. EDT on Sunday, September 21, 2025**. Shortly thereafter, U.S. Citizenship and Immigration Services (USCIS) and U.S. Customs and Border Protection (CBP) issued important guidance documents clarifying the scope and application of the proclamation. This alert provides a comprehensive overview of the new restrictions, how they affect employers and foreign nationals, and practical steps to navigate this rapidly evolving situation.

### Background

The presidential proclamation aims to restrict the entry of H-1B specialty occupation nonimmigrant workers unless their employers pay an additional \$100,000 fee or the employee receives an exemption. The stated goal is to prioritize American workers and reduce perceived competition from foreign H-1B workers.

In practice, the proclamation bars the entry of H-1B workers who seek to enter the United States after the effective date unless certain conditions are met. The proclamation's broad language initially suggested it could apply to all H-1B visa holders and beneficiaries, creating confusion and concern among employers, foreign nationals, and immigration practitioners.

### Who Is Subject to the New H-1B Entry Ban?

- **Subject to the Ban:**
  - Only foreign nationals for whom an H-1B petition is **filed on or after September 21, 2025** are subject to the new entry restrictions and the \$100,000 filing fee.
- **Not Subject to the Ban:**
  - Beneficiaries of H-1B petitions filed before 12:01 a.m. EDT on September 21, 2025.
  - Individuals with a valid H-1B visa.
  - Visa-exempt Canadian nationals with a valid, approved H-1B petition filed before September 21, 2025.
  - H-4 spouses and dependents.
  - Chilean and Singaporean nationals under the H-1B1 program.
  - H-1B fashion models, who are classified differently under immigration law.

### For H-1B Beneficiaries Outside the U.S.

- Those with approved H-1B petitions and valid visas filed before September 21, 2025 should make every effort to enter the United States before the entry restrictions take full effect, or as soon as possible thereafter.

- Travelers should anticipate significant delays and increased scrutiny at U.S. ports of entry due to the implementation of the new policy.
- Foreign nationals are advised to carry supporting documentation, including:
  - Copies of the approved H-1B petition.
  - Valid visa.
  - USCIS and CBP guidance memoranda (once available), to help clarify their status.

#### **For H-1B Beneficiaries Inside the U.S.**

- Those currently in the United States on H-1B status should avoid international travel unless absolutely necessary.
- If travel is unavoidable, they should be prepared for the possibility of being subject to new restrictions upon reentry, pending further guidance.
- International travel plans involving departures on or after September 21 should be put on hold until the scope of the restrictions is fully clarified.

#### **Anticipated Developments**

- **Fee Payment and Exemption Procedures:**
  - The administration is expected to publish details regarding fee payment and procedures for requesting exemptions (including national interest waivers) in the coming days.
- **Possible Litigation:**
  - Legal challenges to the proclamation are likely and could result in rapid changes to enforcement or scope. Employers and foreign nationals should monitor developments closely.

#### **What Should Employers and Foreign Nationals Do Now?**

- **For H-1B Beneficiaries and Visa Holders:**
  - Those holding approved H-1B petitions and valid visas, filed before the effective date, should be able to return to the U.S. after September 21, but should expect possible delays and heightened scrutiny at ports of entry as the new policy is implemented.
  - Travelers may wish to carry copies of the USCIS and CBP guidance to present at the border if questions arise.
- **For New H-1B Petitions:**
  - Employers should be aware that **petitions filed on or after September 21, 2025** will trigger the new requirements, including the \$100,000 filing fee, unless and until further guidance or litigation changes the current landscape.
- **For Upcoming Consular Appointments:**
  - Applicants with pre-September 21 filings should attend their visa appointments but should be prepared for potential delays as consular posts implement the new proclamation.
- **Sponsoring Employers:**
  - Employers should review all current H-1B petitions and visas to confirm filing dates and visa validity for employees who may be impacted.

The Trump administration's proclamation imposing new restrictions on H-1B entry represents a significant shift in U.S. immigration policy with immediate operational challenges for employers and foreign nationals. While clarifications from USCIS and CBP have narrowed the scope, the situation remains fluid and subject to ongoing legal and administrative developments.

Employers sponsoring H-1B workers and affected foreign nationals should act swiftly to understand their position in relation to this new policy, carefully plan international travel, and maintain close communication with immigration counsel. We will continue to monitor this evolving landscape and provide timely updates and tailored advice to help our clients navigate these changes effectively.

