



Friday, November 2, 2007

U.S. DEPARTMENT OF HOMELAND SECURITY REDUCES TRAVEL RESTRICTIONS ON APPLICANTS FOR ADJUSTMENT OF STATUS (“GREEN CARD” APPLICANTS) WHO HOLD H-1, OR L-1 NONIMMIGRANT STATUS

On November 1, 2007, the U.S. Department of Homeland Security published in the U.S. Federal Register a final rule eliminating the need for certain Adjustment of Status Applicants (“Green Card” Applicants) to present an Advance Parole or I-485 Receipt Notice when reentering the United States after international travel.

Originally, all Applicants for Adjustment of Status were required to obtain an Advance Parole travel document prior to departing the United States in order to avoid “abandoning” their Applications. Because adjudication of Applications for Advance Parole and issuance of the documents can take from several weeks to months, such a regulation has effectively imposed a temporary international travel restriction of 4-16 weeks immediately following the filing an Application to Adjust Status.

In recent years, the DHS sought to reduce this burden for H and L nonimmigrants, who frequently must travel on business, and issued a regulation specifying that applicants in H and L nonimmigrant status would be permitted to depart the United States without abandoning their Applications to Adjust Status so long as they were in possession of the CIS-issued Receipt Notices for their Applications to Adjust Status. No Advance Parole travel document would be required of this classification of Adjustment Applicants.

With the publication of the new final rule by the DHS Thursday, November 1, 2007, the government has eliminated the requirement that Adjustment of Status Applicants holding H or L status, and their dependents holding H-4 or L-2 status, be in possession of the CIS-issued Receipt Notice when reentering the United States. Such applicants may travel abroad and reenter the U.S. by presenting valid passports, valid H or L visa stamps, and, whenever applicable, original Approval Notices. The CIS has also extended this provision to K-3 and K-4 nonimmigrants.

This means that such nonimmigrants may depart the United States while their Applications to Adjust Status are pending without presentation of an I-485 Receipt Notice or Advance Parole. Because the issuance of Receipt Notices can take several weeks, as in recent months due to the high volume of Adjustment filings, the elimination of this requirement further facilitates travel for qualifying nonimmigrants.

Should your company have employees who continue to await their I-485 Receipt Notices in order to return to the United States, please note that these employees may now return to the

United States. Should you have questions regarding the applicability of this new regulation, please contact your Tindall & Foster immigration attorney.