

News & Types: Immigration Update

IMMIGRATION ALERT - USCIS to Reinstitute Adjustment of Status Interviews

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Practices: Immigration

USCIS TO REINSTITUTE ADJUSTMENT OF STATUS INTERVIEWS

Effective October 1, 2017, USCIS will reinstitute interviews for certain adjustment of status applicants, ending the interview waiver which has been in place for over a decade.

Under the guise of preventing terrorists from entering the US, pursuant to Executive Order 13780, USCIS will eliminate interview waivers for the following applicants:

1. Employment based adjustment of status applicants (Form I-485);
2. Refugee/Asylee relative petitions (Form I-730).

It should be noted that the general rule has always been to interview adjustment of status applicants. However, especially in the employment based application process, because the applications were routine, legacy INS waived the interview requirement.

The effect of the elimination of interview waivers will be, at the least, a drastic increase in the amount of time it will take to obtain Permanent Residence. At the present time, the adjudication of an adjustment of status application takes approximately 16 - 18 months with an interview waiver. When you add the time for USCIS to schedule an interview, it is not unreasonable to expect processing times to increase to two years (or more) from the time that an applicant is eligible to file the adjustment of status application. Requiring an interview in these routine cases will only increase the cost to the applicant in terms of time and legal expenses, as well as increase costs to the tax payers, as we will have to pay for the increased labor costs entailed in interviewing routine applicants. It should also be noted that while Executive Order 13780 charges the Department of Homeland Security with "Protecting the Nation From Foreign Terrorist Entry Into the United States," adjustment of status applicants are already in the United States, having entered with, in most cases, valid visas.

An alternative to waiting for an adjustment of status interview could be to schedule an Immigrant Visa interview at the US Consulate in the applicant's country of origin. In many cases, especially in "low fraud" countries, the Immigrant Visa interview may be faster than adjustment of status. However, as the requirements for an

Immigrant Visa interview differ in certain aspects from adjustment of status, and because this would require leaving the United States, legal advice should be obtained prior to utilizing this alternative.