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IMMIGRATION AND COMPLIANCE BRIEFING:

NATIONAL INTEREST EXEMPTION TO NONIMMIGRANT VISA BAN

Restrictions on U.S. entry pursuant to a nonimmigrant visa in certain classifications (H, J, L) remain in place through at least December 31, 2020 pursuant to Executive Order **PP 10052** ("Nonimmigrant Visa Ban" or "NIV Ban"). See our related client alert [here](#). Per the Department of State, individuals otherwise subject to the entry restrictions under the NIV Ban may be exempted by demonstrating a National Interest Exception (NIE). Qualifying criteria includes, but is not limited to, the following:

- Public health/healthcare professionals or researchers traveling to alleviate the effects of the COVID-19 pandemic or to conduct ongoing medical research
- Individuals traveling at the request of a U.S. government agency to meet critical U.S. foreign policy objectives or to satisfy treaty or contractual obligations
- Certain applicants seeking to resume ongoing employment in the U.S. in the same position with the same employer and visa classification
- Certain technical specialists, senior level managers and other workers whose travel is necessary to facilitate the immediate and continued economic recovery of the U.S.
- Senior level executives/managers meeting a critical infrastructure need

■ Certain travel necessary to facilitate the immediate and continued economic recovery of the U.S. (e.g., forestry conservation, nonfarm animal caretakers, etc.)

■ Au Pairs possessing special skills and who will care for a minor U.S. Citizen, Lawful Permanent Resident, or person in lawful nonimmigrant status with special needs (e.g., medical, special education or sign language)

■ Au Pairs who prevent a U.S. Citizen, Lawful Permanent Resident, or person in lawful nonimmigrant status from becoming a public health charge or ward of the state of a medical or other public funded institution

■ Exchange visitors providing childcare services for a child whose parents provide medical care to individuals who have contracted COVID-19 or medical research at U.S. facilities to help the U.S. combat COVID-19

■ Exchange visitors in exchange programs conducted pursuant to a Memorandum of Understanding, Statement of Intent, or agreement between a foreign government and any federal, state, or local U.S. government entity that was in effect prior to June 24, 2020 and that promotes U.S. national interests

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IMMIGRATION AND COMPLIANCE BRIEFING:**NATIONAL INTEREST EXEMPTION TO
NONIMMIGRANT VISA BAN**

This publication is a summary of legal principles. Nothing in this article constitutes legal advice, which can only be obtained as a result of a personal consultation with an attorney. The information published here is believed accurate at the time of publication, but is subject to change and does not purport to be a complete statement of all relevant issues.

■ Interns and Trainees on U.S. government agency sponsored programs (G-3) that support the immediate and continued economic recovery of the U.S.

■ Specialized Teachers in Accredited Educational Institutions (G-5) who will teach full-time and substantially in person at a public or private primary or secondary school; and

■ Exchange visitors whose programs fulfill critical and time sensitive foreign policy objectives.

These criteria are non-exhaustive, and approval of an NIE remains highly discretionary and varies between consulates. Also, qualifying for an NIE under the NIV Ban does not automatically exempt an individual from a separate COVID-related geographic travel ban (i.e. China, Brazil, Iran, UK/Ireland, Schengen Area), and individuals subject to both an NIV Ban and a COVID-related travel ban will need to seek an exemption from both bans separately. However, current available guidance suggests that an individual who qualifies for an exemption under the NIV Ban should also be considered to qualify for an exception under a COVID-related travel ban. The current entry restrictions, exceptions, and related guidance are subject to change and additional clarifications are anticipated.

Associate **Ashley Moore** contributed to this briefing.

Wiggin and Dana's Immigration and Nationality Law and Compliance Practice Group will continue to provide COVID-19 related briefings as more information becomes available. Please contact the

*practice group Co-Chair, **Najia Khalid**, at 203.498.4314 or nkhalid@wiggin.com if you have any questions.*

Visit Wiggin and Dana's COVID-19 Resource Center [here](#) for additional publications and helpful links on multi-disciplinary topics that are relevant during the current COVID-19 global pandemic.