

Legal Update

Temporary Measures Being Introduced Across the Globe to Assist Foreign Nationals in Maintaining Legal Status

As the implications of the COVID-19 pandemic have spread across regions, countries, states and provinces, and municipalities, governmental authorities have implemented increasingly aggressive measures to restrict business operations as a means of diminishing the numbers of people working in proximity to each other and of customers and others interacting with businesses. These restrictions have included the closure of government offices responsible for adjudicating and granting immigration benefits such as the extension of work/residence permits and visas for foreign workers and their accompanying families. The restrictions have the unintended consequence of jeopardizing their legal stay—and the foreign worker's ongoing work authorization—when status expiration dates and filing deadlines fall within the closure period. These same individuals might also be prohibited from departing the country to avoid overstaying the expiration date, given the numerous travel restrictions in place across the globe. Recognizing that these impacted individuals may be in danger of falling out of legal status or will suffer other adverse consequences, governments around the world have introduced temporary measures to ameliorate the situation, including through the grant of extensions—some automatic, some via application—of certain immigration benefits. Below is a sampling of the types of measures governments have taken, spanning Asia, the Middle East, Europe, and North and South America.

South Korea was among the first to introduce such temporary measures. Although government immigration offices remain open and operational, to avoid the public from entering government buildings during the month of March for the purpose of filing extension applications, the government announced an automatic extension of certain visas and Alien Registration Cards until April 30, 2020.

Taiwan soon followed suit. All travelers who entered Taiwan on or before March 21, 2020 on a visitor or landing visa or through the visa-waiver program, and who have not overstayed their legal stay period, will be granted an automatic 30-day extension beyond the initial period of stay granted. No application is required to receive this automatic extension. At this time, the total period of stay cannot exceed 180 days.

Some countries that have moved to a mostly electronic filing process, like **Australia**, are less affected by government closures with respect to the impact on in-country visa holders. Because Australia utilizes an online application process for most visa applications, including the Subclass 482 Temporary Skill Shortage visa commonly used by employers for their skilled worker employees, the Department of Home Affairs continues to accept and process extension applications online.

In **India**, the Foreigners Regional Registration Offices (FRROs)/Foreigners Registration Offices FROs have been authorized to assist foreign nationals who are currently unable to depart India because of travel restrictions. Consular processed visas, electronic visas (e-visas), or stipulations-of-stay endorsed on visas, which have expired or are set to expire during the period from March 13, 2020 (midnight) to April 15, 2020 (midnight), will be extended until April 15, 2020 (midnight). This extension is not automatic; instead, the foreign national must make an online application on the e-FRRO portal. Foreign nationals whose visas have expired and who have made an application to exit the country will be granted an Exit Permit, without being subject to a penalty for the overstay.

Last week, as part of the government's COVID-19-related measures, the Ministry of Human Resources & Emiratisation and the Federal Authority for Identity and Citizenship of the **United Arab Emirates** have exempted foreign nationals from the medical check typically required for a work permit and residence visa renewal. Moreover, work permits and residence visas expiring during a transition period will be automatically renewed. The authorities have not announced the period of the renewal or the length of the transition period, which is expected to run until COVID-19-related measures are lifted. The official announcement indicates that visas will be renewed automatically without any filing requirements, however immigration representatives may impose additional requirements on a case-by-case basis. As such, until further clarification is provided by the authorities, it is best practice to check the requirements of any specific case with the authorities.

The trend has also moved to Europe, which saw a staggering rise in COVID-19 cases, leading to numerous partial or complete lockdowns across the region. In **Italy**, following a closure of government offices, the authorities automatically extended the validity of all foreign national permits, authorizations, certificates, and clearances expiring between January 31 and April 15, 2020, through the new expiry date of June 15, 2020. Residence Permit Renewal applications may be filed during the 60-day period following June 15, 2020. The government also automatically extended the validity of Italian identification documents (such as identity cards and passports) expiring March 17, 2020 or after that date, through August 31, 2020. However, all applications pending as of February 23, 2020 or filed after that date have been suspended from processing until April 15, 2020.

The United Kingdom announced a series of measures to similarly address visitors who may be stranded or residents requiring an extension of stay. Individuals who are in the UK legally (such as visa holders, visitors and residence permit holders) facing expirations of their stay within the period January 24 to May 31, 2020, and who are unable to depart the UK because of travel restrictions or self-isolation, will be granted an extension of stay to May 31, 2020. Extensions may be requested by way of a simple application to the government's newly-formed Coronavirus Immigration Team (CIT) by email or telephone. In addition, certain applications—which previously could only be submitted by the applicant while abroad—may now be submitted from within the UK, until May 31, 2020. For these in-country applications, the terms of the visa currently held by the applicant will be extended while the new application is being processed.

In **Ireland**, the Department of Justice and Equality announced an automatic extension of all immigration permissions (including Irish Residence Permits) expiring between March 20 and May 20, 2020, for a period of two months. The renewal is on the same basis as the existing permission with the same conditions attached. The government notice references the possibility of a further extension, if normal business has not resumed by the end of that period.

In **the United States**, while US Citizenship & Immigration Services (USCIS) has suspended routine in-person services in its offices until April 7, 2020, most employment-based immigration benefits must be requested from USCIS via hard copy application documents submitted to the agency by mail. Employers and their

foreign workers continue to be required to prepare and exchange documents that need to be shipped in hard copy to the designated USCIS office. On March 27, 2020, in hopefully the first of a series of similar measures, USCIS announced that in response to the coronavirus COVID-19 pandemic, the agency would adopt a measure to assist in the preparation of responses to requests for evidence (RFEs) and notices of intent to deny (NOIDs). Specifically, for applicants and petitioners who receive an RFE or NOID dated between March 1 and May 1, 2020, any responses submitted within 60 calendar days after the response deadline set forth in the RFE or NOID will be considered by USCIS before any action is taken.

Finally, in **Brazil**, the Federal Police responded to the COVID-19 public health emergency by suspending all services, including immigration processing for foreign nationals (except in the case of emergency). Concurrent with the suspension of services, as of March 16, 2020, the Federal Police also suspended migratory deadlines for foreign visitors and work visa holders admitted to Brazil for a limited period of time. The “clock” for counting the visa stay period will resume once the government announces the end of the public health emergency situation, under guidelines to be issued by the General Coordination of Immigration Police.

For more information about the topics raised in this Legal Update, please contact any of the following authors.

Grace Shie

+ 1 202 263 3845

gshie@mayerbrown.com

María E. Ferré

+ 1 415 874 4261

mferre@mayerbrown.com

Paul J. Sarauskas

+ 1 312 701 7019

psarauskas@mayerbrown.com

Mayer Brown is a distinctively global law firm, uniquely positioned to advise the world's leading companies and financial institutions on their most complex deals and disputes. With extensive reach across four continents, we are the only integrated law firm in the world with approximately 200 lawyers in each of the world's three largest financial centers—New York, London and Hong Kong—the backbone of the global economy. We have deep experience in high-stakes litigation and complex transactions across industry sectors, including our signature strength, the global financial services industry. Our diverse teams of lawyers are recognized by our clients as strategic partners with deep commercial instincts and a commitment to creatively anticipating their needs and delivering excellence in everything we do. Our “one-firm” culture—seamless and integrated across all practices and regions—ensures that our clients receive the best of our knowledge and experience.

Please visit mayerbrown.com for comprehensive contact information for all Mayer Brown offices.

Any tax advice expressed above by Mayer Brown LLP was not intended or written to be used, and cannot be used, by any taxpayer to avoid U.S. federal tax penalties. If such advice was written or used to support the promotion or marketing of the matter addressed above, then each offeree should seek advice from an independent tax advisor.

This Mayer Brown publication provides information and comments on legal issues and developments of interest to our clients and friends. The foregoing is not a comprehensive treatment of the subject matter covered and is not intended to provide legal advice. Readers should seek legal advice before taking any action with respect to the matters discussed herein.

Mayer Brown is a global services provider comprising associated legal practices that are separate entities, including Mayer Brown LLP (Illinois, USA), Mayer Brown International LLP (England), Mayer Brown (a Hong Kong partnership) and Tauli & Chequer Advogados (a Brazilian law partnership) (collectively the “Mayer Brown Practices”) and non-legal service providers, which provide consultancy services (the “Mayer Brown Consultancies”). The Mayer Brown Practices and Mayer Brown Consultancies are established in various jurisdictions and may be a legal person or a partnership. Details of the individual Mayer Brown Practices and Mayer Brown Consultancies can be found in the Legal Notices section of our website.

“Mayer Brown” and the Mayer Brown logo are the trademarks of Mayer Brown.

© 2020 Mayer Brown. All rights reserved.