

# Bond

Manufacturing Week  
Webinar Series  
October 2-6, 2017

## Navigating Immigration Issues Within the Manufacturing Industry

*Presented by Caroline M. Westover*



# Bond

Manufacturing Week  
Webinar Series  
October 2-6, 2017

- October 2: Cybersecurity: What We Should Be Doing
- October 3: Protecting Your Manufacturing Business from IP Theft
- October 4: Wage and Hour Traps for the Manufacturing Industry
- October 5: Avoiding OSHA Liabilities
- October 6: **Navigating Immigration Issues Within the  
Manufacturing Industry**



## Session Agenda

- Employment Verification Issues
- Commonly Used Work Visas in Manufacturing
- Immigration Updates from the Trump Administration



3



## Employment Verification Issues



4



## The Immigration Reform and Control Act of 1986 (“IRCA”)

### IRCA Requirements

- Requires employers to verify the identity and employment eligibility of all employees hired after November 6, 1986 (I-9 verification process)
- Prohibits against “knowingly” hiring or employing workers who are not authorized to work in the U.S.
- Prohibits against continuing to employ workers not authorized to work in the U.S.
- Anti-Discrimination Provisions

5



## Who Is (and Is Not) Subject to I-9 Employment Verification?



## Current Employees

- Current employees should not be subject to I-9 verification procedures, except in four instances:
  - (1) there is no I-9 Form for a current employee on file;
  - (2) an audit of the employer's I-9 records reveal deficiencies in those records, requiring the verification procedures;
  - (3) the employer has been involved in merger/ acquisition and it wants to assure that the merged/acquired entity has adequate I-9 records; or
  - (4) some current employees indicated on their I-9 Forms that they have time-limited employment authorization, so re-verification is required

7



## New Hires

- All persons newly-hired by the employer, even for one day, must undergo I-9 verification
- Persons who are included in this group include any person put on the employer's payroll to whom a W-2 statement is issued

8



## Independent Contractors

- Independent contractors are **NOT** subject to I-9 verification
  - An employer, however, may not make use of an “independent contractor” knowingly to obtain the services of unauthorized alien workers. If the employer has knowledge that the contractor uses such workers, the employer will also be liable for an IRCA violation

9



## Internal Transfers

- Employees transferred within the same company (*e.g.*, to a different subsidiary, affiliate, or division) need not undergo the I-9 verification procedure
- It is a good practice to have the I-9 record for that employee “follow” the employee to the new division, in case of a government audit

10



## Rehires

- If an employer rehires an employee within three years of the date that a previous I-9 Form was completed, the employer may complete a new I-9 Form for the employee or complete Section 3 of the previously completed I-9 Form
  - If an employee has worked for the company for five years and then leaves the company, only to seek reemployment six months later, the special rule regarding rehires does not apply

11



## Rehires

- If the employee is still authorized to work, enter the date of the rehire in the space provided in Section 3 and sign and date the employer attestation
- If the employee is no longer authorized to work, the employee must be re-verified
- If the current version of the I-9 Form is different from the previously completed I-9 Form, the employer must complete Section 3 on the current version

12



## Form I-9 Updates



13



## The New Form I-9 (rev. 11/14/2016)

- **11/14/2016:** Updated Form I-9 was published
- **01/22/2017:** Mandatory effective date for use of the updated Form I-9
  - Prior versions no longer valid as of 1/22/2017
- **07/17/2017:** Updated Form I-9 was published – *again!*
- **09/18/2017:** Mandatory effective date for use of the updated Form I-9
  - Prior versions no longer valid as of 9/18/2017

14



## A Summary of the “Round #1” Changes to the Form I-9 (v. 11/14/2016 N)

- It’s a “smart form” designed to reduce errors & enhance accuracy of completion.
  - Embedded prompts in the online version w/ instructions on how to complete subsections
  - Drop-down lists for some questions
  - Auto-population of “N/A” for certain blank fields
  - Auto-population of employee’s name / citizenship status into Section 2
  - Prompts for missing and/or incomplete information
  - A “start over” option to clear the Form I-9 and start over
  - A “print” option to print the Form I-9 once data has been entered
  - Generation of a “QR” (quick response) code

15



## A Summary of the “Round #1” Changes to the Form I-9 (v. 11/14/2016 N)

- Section 1
  - “Other LAST Names Used” Field
  - Foreign national workers need only to supply one response from three possible options:
    - Alien Registration Number; or
    - I-94 Admission Number; or
    - Foreign Passport Number.
  - Employees must affirmatively answer whether he/she has used a preparer / translator for completion of Section 1 of the Form I-9
- Section 2
  - Addition of employee’s “citizenship/immigration status” at the beginning of Section 2
  - A dedicated box for comments / additional information for use by the employer representative

16





## A Summary of the “Round #2” Changes to the Form I-9 (v. 07/17/2017 N)

### Revisions to the Form I-9 instructions:

- The anti-discrimination and privacy act notices on the instructions are revised to change the name of the Office of Special Counsel for Immigration-related Unfair Employment Practices to its new name, “Immigrant and Employee Rights Section”
- The phrase “the end of” is removed from the phrase “the first day of employment”

17




## A Summary of the “Round #2” Changes to the Form I-9 (v. 07/17/2017 N)

### Revisions to “List of Acceptable Documents”:

- *New Addition!* Form FS-240, Consular Report of Birth Abroad, has been added as a new “List C” document
- All certifications for reports of birth issued by the Department of State (Form FS-545, Form DS-1350 and Form FS-240) are now combined into one selection within List C
- The Addition of FS-240 to List C has resulted in the “renumbering” of all List C documents (with the exception of the Social Security card)

18





**Employment Eligibility Verification**  
Department of Homeland Security  
U.S. Citizenship and Immigration Services

USCIS  
Form I-9  
OMB No. 1625-0047  
Expires 06/30/2019

**START HERE:** Read instructions carefully before completing this form. The instructions must be available, either in paper or electronically, during completion of this form. Employers are liable for errors in the completion of this form.

**ANTI-DISCRIMINATION NOTICE:** It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which documents an employee may present to establish employment authorization and identity. The refusal to hire or continue to employ an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

**Section 1. Employee Information and Attestation** (Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)

Last Name (Family Name)		First Name (Given Name)		Middle Initial	Other Last Names Used (if any)	
Address (Street Number and Name)		Apt. Number	City or Town		State	ZIP Code
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number	Employee's E-mail Address		Employee's Telephone Number		

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

**I attest, under penalty of perjury, that I am (check one of the following boxes):**

1. A citizen of the United States.

2. A noncitizen national of the United States (See instructions).

3. A lawful permanent resident (Alien Registration Number/EUSIS Number).

4. An alien authorized to work (and expiration date, if applicable, mm/dd/yyyy).  
Some aliens may write "NA" in the expiration date field. (See instructions).

Alien authorized to work must provide only one of the following document numbers to complete Form I-9:

1. Alien Registration Number/EUSIS Number: \_\_\_\_\_  
OR

2. Form I-94 Admission Number: \_\_\_\_\_  
OR

3. Foreign Passport Number: \_\_\_\_\_  
Country of Issuance: \_\_\_\_\_

Signature of Employee \_\_\_\_\_ Today's Date (mm/dd/yyyy) \_\_\_\_\_

**Preparer and/or Translator Certification (check one):**

I did not use a preparer or translator.  A preparer(s) and/or translator(s) assisted the employee in completing Section 1.  
(Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)


**I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.**

Signature of Preparer or Translator \_\_\_\_\_ Today's Date (mm/dd/yyyy) \_\_\_\_\_

Last Name (Family Name)		First Name (Given Name)	
Address (Street Number and Name)		City or Town	State ZIP Code


Form I-9 (07/17/17) 9

Page 1 of 3



## The Current I-9 Form

(p. 1)



**Employment Eligibility Verification**  
Department of Homeland Security  
U.S. Citizenship and Immigration Services

USCIS  
Form I-9  
OMB No. 1625-0047  
Expires 06/30/2019

**Section 2. Employer or Authorized Representative Review and Verification**  
(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. They must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the Table of Acceptable Documents.)

Employee Info from Section 1	Last Name (Family Name)	First Name (Given Name)	M.I.	Citizenship/Immigration Status
------------------------------	-------------------------	-------------------------	------	--------------------------------

Document Title	List A OR List B Validity	AND List C Employment Authorization
Document Title	Document Title	Document Title
Issuing Authority	Issuing Authority	Issuing Authority
Document Number	Document Number	Document Number
Expiration Date (if any) (mm/dd/yyyy)	Expiration Date (if any) (mm/dd/yyyy)	Expiration Date (if any) (mm/dd/yyyy)

Additional information: \_\_\_\_\_  
(See Code Section 1.1 for use in this space)

**Certification: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.**

The employee's first day of employment (mm/dd/yyyy): \_\_\_\_\_ (See instructions for exemptions)

Signature of Employer or Authorized Representative \_\_\_\_\_ Today's Date (mm/dd/yyyy) \_\_\_\_\_ Title of Employer or Authorized Representative \_\_\_\_\_

Last Name of Employer or Authorized Representative		First Name of Employer or Authorized Representative		Employer's Business or Organization Name	
Employer's Business or Organization Address (Street Number and Name)		City or Town	State	ZIP Code	

**Section 3. Reverification and Reattribution** (To be completed and signed by employer or authorized representative.)

A. New Hire (if applicable) \_\_\_\_\_ B. Date of Rehire (if applicable) \_\_\_\_\_

Last Name (Family Name)	First Name (Given Name)	Middle Initial	Date (mm/dd/yyyy)
-------------------------	-------------------------	----------------	-------------------

If the employee's previous grant of employment authorization has expired, provide the information for the document or record that establishes continuing employment authorization in the space provided below:


Document Title	Document Number	Expiration Date (if any) (mm/dd/yyyy)
----------------	-----------------	---------------------------------------

**I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.**

Signature of Employer or Authorized Representative \_\_\_\_\_ Today's Date (mm/dd/yyyy) \_\_\_\_\_ Name of Employer or Authorized Representative \_\_\_\_\_

Form I-9 (07/17/17) 9

Page 2 of 3



## The Current I-9 Form


(p. 2)

**LISTS OF ACCEPTABLE DOCUMENTS**  
All documents must be **UNEXPIRED**  
Employees may present one selection from List A or a combination of one selection from List B and one selection from List C.

LIST A Documents that Establish Both Identity and Employment Authorization	LIST B Documents that Establish Identity	LIST C Documents that Establish Employment Authorization
<ol style="list-style-type: none"> <li>1. U.S. Passport or U.S. Passport Card</li> <li>2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)</li> <li>3. Foreign passport that contains a temporary HSE stamp or temporary HSE printed notation on a machine-readable immigrant visa</li> <li>4. Employment Authorization Document that contains a photograph (Form I-795)</li> <li>5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status:               <ol style="list-style-type: none"> <li>a. Foreign passport; and</li> <li>b. Form I-94 or Form I-94A that has the following:                   <ol style="list-style-type: none"> <li>(1) The same name as the passport; and</li> <li>(2) An endorsement of the alien's nonimmigrant status so long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.</li> </ol> </li> </ol> </li> <li>6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI</li> </ol>	<ol style="list-style-type: none"> <li>1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, state of birth, gender, height, eye color, and address</li> <li>2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address</li> <li>3. School ID card with a photograph</li> <li>4. Voter's registration card</li> <li>5. U.S. Military card or draft record</li> <li>6. Military dependents ID card</li> <li>7. U.S. Coast Guard Merchant Mariner Card</li> <li>8. Native American tribal document</li> <li>9. Driver's license issued by a Canadian government authority</li> </ol> <p style="text-align: center;"><b>For persons under age 18 who are unable to present a document listed above:</b></p> <ol style="list-style-type: none"> <li>10. School record or receipt card</li> <li>11. Clinic, doctor, or hospital record</li> <li>12. Day-care or nursery school record</li> </ol>	<ol style="list-style-type: none"> <li>1. A Social Security Account Number card, unless the card includes one of the following restrictions:               <ol style="list-style-type: none"> <li>(1) NOT VALID FOR EMPLOYMENT</li> <li>(2) VALID FOR WORK ONLY WITH INS AUTHORIZATION</li> <li>(3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION</li> </ol> </li> <li>2. Certification of report of birth issued by the Department of State (Forms DS-1350, DS-042, DS-040)</li> <li>3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal</li> <li>4. Native American tribal document</li> <li>5. U.S. Citizen ID Card (Form I-197)</li> <li>6. Identification Card for Use of Resident Citizen in the United States (Form I-178)</li> <li>7. Employment authorization document issued by the Department of Homeland Security</li> </ol>

Examples of many of these documents appear in Part 13 of the Handbook for Employers (M-274).


Refer to the instructions for more information about acceptable receipts.




Form I-9 (07/17) 11 Page 3 of 3

## Acceptable Documents for I-9 Verification

# I-9 Compliance Reminders





22

## I-9 Compliance Issues

### Timely Completion of I-9 Forms

- The employee must complete Section 1 of Form I-9 no later than the 1<sup>st</sup> day that the employee begins work
- The I-9 verification procedure must be completed within 3 business days of when the employee starts work; If the employee cannot present acceptable documents by the 3<sup>rd</sup> business day, the employee generally should not be allowed to work
- An employer may require that employees complete their I-9 forms after accepting offers of employment, but before the 1<sup>st</sup> day of scheduled work
- For short term employees, who the employer expects to work less than 3 days, the entire I-9 must be completed at the time employment begins

23



## I-9 Compliance Issues

### Timely Completion of I-9 Forms

- The employee must be allowed to choose which document(s) he/she wants to present from the List of Acceptable Documents
- Employer representative must physically examine each original document to determine if it reasonably appears to be genuine and relates to the person presenting it
  - The person who examines the documents must be the same person who signs Section 2
- The employer must conclude that the documents reasonably appear genuine and establish the employee's identity and work authorization

24



## Accepting Receipts for Verification

- There are three instances in which receipts are acceptable for I-9 verification purposes:
  - (1) The receipt indicates that an application for a replacement of a List A, B, or C document has been submitted because the document was lost, stolen, or damaged. The actual document must be presented within 90 days following the date of hire;
  - (2) The receipt is a Form I-94 containing a temporary I-551 stamp and photograph. The stamp serves as a receipt for Form I-551 which must be submitted before the expiration date listed on the temporary I-551 stamp or within one year from the date of issuance of the Form I-94 when the I-551 stamp does not list an expiration date; or
  - (3) The receipt is a refugee admission stamp on a Form I-94. Form I-94 serves as a receipt for either an Employment Authorization Document (EAD) or a Social Security Card (SSC) one of which must be submitted within 90 days from the date of hire or, if presented for re-verification, within 90 days of expiration of prior work authorization

25



## Copying Documents Presented for I-9 Form Completion

- The law permits the employer to make copies of the documents presented by the employee. The employer, however, is not required to make copies of the documents
- With copies of the documents attached to the I-9 Form, the employer has a chance to demonstrate that even if it made mistakes in completion of the I-9 Form, it had a reasonable basis for concluding that the employee was eligible for employment
- Maintaining copies of the documents may also help the employer avoid fines for paperwork violations. For example, failure to provide document title, ID number, or expiration date of a document is considered a technical mistake if a copy of the document is retained with I-9. An employer cannot be fined for this mistake unless it is given an opportunity to cure the violation

26



## Reverification

- US Citizens
  - U.S. citizens never need re-verification
  - Never re-verify an expired U.S. passport or passport card
- Permanent Residents
  - Permanent residents who have presented Permanent Resident Cards (Form I-551) do not need to be re-verified because permanent residents remain employment authorized even if their permanent resident cards expire
  - Form I-551 may contain no expiration date, a 10-year expiration date, or a 2-year expiration date. Permanent Resident Cards with either an expiration date or no expiration date are List A documents that **should not** be re-verified

27



## Penalty Changes for I-9 Violations



28



## Penalties for IRCA / I-9 Violations

- In 2015, Congress passed the Bipartisan Budget Act of 2015 which mandated federal agencies to **“adjust”** civil penalty amounts for inflation.
- **“Adjustments”** were significant.
  - For example: Penalties for paperwork violations increased by 96%.
- The new penalty schedule took effect on August 1, 2016 and applies to violations occurring after November 2, 2015.



29

 **BOND** SCHOENECK & KING

## Penalties for IRCA / I-9 Violations

- Penalties for Knowingly Hiring Individual Not Authorized To Work in the United States
  - *First Offense: \$539 to \$4,313 per unauthorized worker*
    - *Previously: \$375 to \$3200 per unauthorized worker*
  - *Second Offense: \$4,313 to \$10,781 per unauthorized worker*
    - *Previously: \$3,200 to \$6,500 per unauthorized worker*
  - *Subsequent Offense: \$6,469 to \$21,563 per unauthorized worker*
    - *Previously: \$4,300 to \$16,000 per unauthorized worker*
- Recordkeeping Violations: *\$216 to \$2,156 per record*
  - *Previously: \$110 to \$1,100 per record*
- Document Abuse: *\$178 to \$1,782 per individual*
- Good Faith Defense

30

 **BOND** SCHOENECK & KING

## Penalties for IRCA / I-9 Violations

- Criminal Penalties
  - 10 years and/or \$250,000 fine for harboring, smuggling, concealing or transporting illegal aliens “for financial gain”



31

 **BOND** SCHOENECK  
& KING PLLC

## Commonly Used Work Visas in the Manufacturing Sector



32

 **BOND** SCHOENECK  
& KING PLLC



## The Immigration Alphabet for Work Visas...

- E-1 – Treaty Traders
- E-2 -- Treaty Investors
- E-3 – Australian specialty occupation workers
- H-1B – Specialty Occupation
- H-2 – Temporary skilled and unskilled workers
- H-3 – Alien trainees
- J-1 – Exchange visitors
- L-1 – Intra-Company Transfers
- M-1 – Vocational students
- O-1 – Aliens with extraordinary ability in the sciences, education, business, athletics, their support staff and family
- P-1 – Athletes, entertainment groups, artistic exchange, culturally unique artists and their support personnel
- Q-1 – International cultural exchange program participants
- R-1 – Religious workers
- TN – Canadian and Mexican Professionals

33



## The H-1B Visa: A Frequently Used Non-Immigrant Visa Option



34



## H-1B: Professional & Specialty Occupations

- Applies to professional and other “specialty occupation” workers
- Duration of stay: Total of six years (granted in 3 year increments)
- Additional extensions available when processing for permanent residency
- Requirements
  - Position requiring theoretical and practical application of a body of highly specialized knowledge
  - Attainment of a Bachelor’s degree for entry into the occupation
  - Alien must have the minimum qualifications for the job (education or experience)
  - Alien must intend to depart the U.S., but application for permanent residency is allowed (*i.e.*, dual intent)
  - Payment of the prevailing wage

35



## H-1B: Professional & Specialty Occupations

- Requirements (con't)
  - Provide benefits and other terms of employment consistent with those provided to similarly-situated employees.
  - Notice to workforce or any union representative of the H-1B employment.
  - Public access to records relating to the H-1B employment.
  - No employer initiated lay-off or unpaid leave of absence for the H-1B worker.
  - Employer must pay for return trip to worker’s home country if the visa holder’s employment is terminated prior to the expiration of the approved duration of stay.
- H-1B Portability
  - Employee who is already in the U.S. on an H-1B visa is authorized to work for the employer upon filing of a new H-1B Petition with the Immigration Service

36



## H-1B: Professional & Specialty Occupations

- The H-1B Cap
  - Congress has established an annual maximum of 65,000 H-1B visas at the Bachelor's degree level and an additional 20,000 H-1B visas for the Master's degree level (and higher)
  - Years ago, H-1B visas exhausted quickly. During more recent years, the H-1B cap has been exhausted within several days
  - **APRIL 1, 2018** will be the initial (opening) filing date for the next fiscal year (employment beginning October 1, 2018)

37



## Other Work Visas

- Principal Non-Immigrant Work Visas
  - B-1 Business (Visitor) Visa
  - F-1 (Student) Training & Employment
  - TN – Canadian / Mexican professionals
  - L-1 – Intra-company transfers



38



## B Visitor Visa

- B-1 Business Visitor
  - Purpose: For temporary business visitors who are conducting business in the United States
  - Duration: Up to one year with extensions of stay in six month increments
  - Basic requirements:
    - Intention to depart at expiration of stay
    - Maintenance of a foreign residence
    - Adequate financial arrangements – to cover the cost of travel in the U.S. and cost to depart
    - Engage solely in legitimate business activities (i.e. soliciting sales, negotiating contracts)
  - Visa Waiver Program

39



## Employing F-1 Students

- F-1
  - Curricular Practical Training (CPT)
    - CPT is a training program integral to an established curriculum whereby the student alternates between the approved training and classroom instruction
    - CPT takes place during the student enrollment
    - CPT requires actual job offer
    - CPT does not require approval by the USCIS; can be authorized by the designated school official

40



## Employing F-1 Students

- F-1
  - Optional Practical Training (OPT)
    - OPT may take place during, or after completion of, the individual's studies
    - OPT does not require a job offer, but the student must apply to USCIS before completion of his/her academic program
    - OPT is typically issued for no more than 12 months.
      - In limited circumstances, it may be extended (e.g., STEM extension)
    - Potential transition to H-1B visa

41



## TN Visas

- Temporary employment of Canadian and Mexican professionals
  - Canadian workers can process at the border or port of entry without prior petition to the USCIS
  - Mexican workers must file a petition with the USCIS
- Duration of Stay
  - Up to 3 years in a single request
  - Extensions are permitted
  - No specified outer limit on the number of extensions
- Temporary work requirement
- Non-Immigrant intent is required



42



## TN Visas

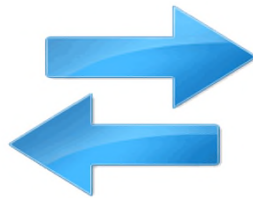
- Requirements:
  - Position listed on Schedule 2 of NAFTA, including:
    - accountant
    - architect
    - computer systems analyst
    - engineer
    - forester
    - graphic designer
    - attorney
    - management consultant
    - various scientific and medical professionals
    - post-secondary teachers
  - The individual must have the minimum qualifications or credentials for the profession as specified on NAFTA Schedule 2

43



## L-1: Intra-Company Transfers

- L-1A – executives and managers
- L-1B – specialized knowledge employees
- Duration: Initial period of stay is 3 years
  - L-1A – May extend for a maximum of 7 years
  - L-1B – May extend for a maximum of 5 years
- Individual must have at least 1 year of service (within the past 3 years) with an existing foreign affiliate entity



44



## L-1: Intra-Company Transfers

- Requirements

- Prior employment with foreign company for a continuous one year period in the preceding three years
- The foreign company is the same employer, a parent, subsidiary or affiliate of the U.S. company
- The foreign company must continue in business during the transferee's entire period of U.S. stay
- The individual must have been employed by the foreign company as an executive or manager, or in a position involving specialized knowledge
- The individual must fill an executive, managerial or specialized knowledge position with the U.S. employer

45



## Immigration Updates from the Trump Administration



46



## The Travel Ban(s) of 2017



47

 **BOND** SCHOENECK & KING PLLC

## Travel Ban #1: Executive Order 13769



- Title: "Protecting the Nation from Foreign Terrorist Entry into the United States"
- Signed by President Trump on Friday, January 27, 2017
- Took effect immediately
- Refugees: Suspends the entire U.S. refugee program for 120 days and the Syrian refugee program indefinitely
- Travel Ban: Suspends the entry of immigrants and non-immigrants from certain designated countries of concern for an initial period of 90 days

48

 **BOND** SCHOENECK & KING PLLC



## Travel Ban #1: Executive Order 13769

- Designated Countries of Concern

- Iran
- Iraq
- Libya
- Somalia
- Sudan
- Syria
- Yemen



49

 **BOND** SCHOENECK & KING ATTORNEYS AT LAW

## Travel Ban #1: Executive Order 13769



Stopped by Court Order

50

 **BOND** SCHOENECK & KING ATTORNEYS AT LAW

## Travel Ban #2: Executive Order 13780

- EO 13780 revoked and replaced EO 13769
- Signed on March 6, 2017; intended to take effect on March 16, 2017
- 90-day pause on the ability of nationals from **6** countries (Iran, Libya, Somalia, Sudan, Syria and Yemen) to enter into the US
  - Would apply only to those foreign nationals from the 6 enumerated countries *IF*:
    - Foreign national is not yet physically present in the US on March 16, 2017
    - Foreign national did not have valid visa at 5:00 pm EST on January 27, 2017
    - Foreign national did not have a valid visa on March 16, 2017
- EO 13780 would not apply to green card holders, those with validly issued visas and dual citizens
- EO 13780 removed indefinite ban on Syrian refugees; capped general admission of refugees to no more than 50,000 for FY2017; suspended refugee admissions for 120 days
- Also included a variety of measures design to review certain agreements, policies, data collection, etc.

51



## Travel Ban #2: Executive Order 13780



Stopped by Court Order

52



## US Supreme Court Weighs In On Travel Ban By Executive Order...

- June 26, 2017 – US Supreme Court permit a portion of the travel ban to be implemented
- SC decision allowed Trump Administration to exclude foreign nationals from each of the six countries of concern, provided they have no “credible claim of a *bona fide* relationship with a person or entity in the United States”
  - 90-day ban beginning on June 29, 2017



53

 **BOND** SCHOENECK & KING PLLC

## The Latest... Travel Ban by Presidential Proclamation



54

 **BOND** SCHOENECK & KING PLLC

## A Word About E-Verify...



55

 **BOND** SCHOENECK  
& KING PLLC

## E-Verify

- What is it? An internet-based system that compares information from an employee's Form I-9, Employment Eligibility Verification, to data from U.S. Department of Homeland Security and Social Security Administration records to confirm employment eligibility.
  - E-Verify is an *additional verification step*, not a replacement for I-9 verification
- E-Verify is mandatory for federal contractors
- A number of states have also adopted laws that require use of an E-Verify system

56

 **BOND** SCHOENECK  
& KING PLLC

## What's on the Horizon for E-Verify?



57

 **BOND** SCHOENECK  
& KING PLLC

## In the Cross-Hairs: The H-1B Visa

- Attacking the H-1B visa program through “Buy American, Hire American” Executive Order
  - Crack down on fraud and abuse
  - Direct DOL, DOJ, DOS and DHS to suggest reforms to H-1B program
  - Goal(s):
    - Switch current system away from low-skilled workers to high-skilled workers by removing lottery system in favor of points system
    - higher wages
    - higher visa fees



58

 **BOND** SCHOENECK  
& KING PLLC

## In the Cross Hairs: The TN Visa

- May 18<sup>th</sup>: the Trump Administration provided notice to Congress regarding his intent to “renegotiate” NAFTA – a free trade agreement between the US, Canada and Mexico
- 1993: NAFTA created new immigration visas (TN visa) to all 3 countries that would provide greater mobility for certain professionals
  - Professions that qualify for the TN visa are listed in Appendix 1603.D.1 of NAFTA
  - More than 60 professions covered / included
  - Most (but not all) of the listed professions require at least a Bachelor’s degree
- If NAFTA is renegotiated it is unknown (at this time) what will happen to the TN visa



59

 **BOND** SCHOENECK & KING PLLC

## The Announcement to End DACA... (Deferred Action for Childhood Arrivals)



- On September 5<sup>th</sup>, formal plan to end DACA was announced
- DACA:
  - allows illegal immigrants who entered the U.S. as minors to receive a renewable two-year period of deferred action
  - DACA recipients are eligible to receive an employment authorization document (“EAD”), which allows them to work legally in the U.S.
- DACA is scheduled to end on March 5, 2018; as of September 5<sup>th</sup>, no new DACA applications accepted for processing
- Individuals whose DACA/work permit expires prior to March 5, 2018 may apply for a two-year renewal, but applications must be received on or before October 5<sup>th</sup>

60

 **BOND** SCHOENECK & KING PLLC

## “Extreme Vetting”: Interviews for Employment-Based Green Cards

- In-person interviews will now be required for employment-based nonimmigrant visa holders (e.g., H-1B, O-1, etc.) applying to adjust their status to permanent residents (“green card” holders)
- In-person interview requirement is expected to take effect on October 1, 2017
- This new “step” will lengthen green card processing times



61

 **BOND** SCHOENECK & KING PLLC

## Building a Wall



62

 **BOND** SCHOENECK & KING PLLC

## Questions



63



## Navigating Immigration Issues Within the Manufacturing Industry



**Caroline M. Westover**

One Lincoln Center  
Syracuse NY 13202-1355  
315.218.8636  
cwestover@bsk.com

64

