CLIENT ALERTS & INSIGHTS

Updates to Fees and Grace Periods for Nonimmigrant Visas

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Key Takeaways

- Effective September 9, 2026, DHS will expand the 9-11 Response Biometric Entry-Exit Fee to all H-1B and L-1 extensions filed by employers subject to the fee, and is proposing to eliminate the 60-day grace period for some nonimmigrant visa categories.
- These changes could increase costs for covered employers and affect options for workers following employment termination.
- Covered employers and affected nonimmigrants should monitor these developments and prepare accordingly.

Expansion of the 9-11 Response Fee

Starting September 9, 2026, the 9-11 Response Biometric Entry-Exit Fee will apply to H-1B and L-1 extension petitions filed by employers subject to the fee. Prior to the new rule, the fee was only required for (1) initial grant of status to a foreign national seeking H-1B or L-1 status and (2) a change of employer in the same status. Under the new rule, the fee will now apply to all H-1B or L-1 extension of stay petitions filed by covered employers. Amended petitions without an extension request will be exempt from the fee.

Currently, the $4,000 or $4,500 fee applies to employers with 50 or more U.S. employees if more than 50% of the employees are in H-1B or L-1 nonimmigrant status. Covered employers planning to file an extension of stay for any employee on a H-1B or L-1 visa should prepare to pay the fee for petitions filed on or after September 9, 2026.

Grace Period Update

The United States Office of Management and Budget (OMB) is currently reviewing a proposed rule that would eliminate the decade-old 60-day grace period for nonimmigrant visa holders and their dependents.

Since 2016, Department of Homeland Security (DHS) regulations have allotted a 60-day grace period for H-1B workers and others with nonimmigrant status, including E-1, E-2, E-3, H-1B1, L-1, O-1 and TN visa holders, to remain in the United States after their employment terminates. The affected nonimmigrants are not considered to have failed to maintain nonimmigrant status because the principal's employment was terminated. During the grace period, workers can change status or find another employer sponsor prior to the expiration of their authorized stay provided by their I-94. The grace period applies whether the nonimmigrant's employment is terminated voluntarily or involuntarily.

Without the grace period, nonimmigrant visa holders whose employment terminates will immediately fall out of legal status, potentially requiring the affected worker to promptly depart the United States to prevent the accrual of unlawful presence. The rule is currently under review by the OMB and will not take effect until it is finalized.

For more information, please contact a member of Benesch's Immigration Practice Group.