

New Immigration Regulation Implements the American Competitiveness in the Twenty-First Century Act

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On Jan. 17, 2017, a new immigration regulation went into effect implementing aspects of the American Competitiveness in the Twenty-First Century Act (AC-21). Signed into law in 2000, AC-21 aimed to address U.S. employers' inability to hire skilled personnel to meet the demands of the modern market. Pub. Law 106-313, 114 Stat. 1251 (Oct. 17, 2000). See also S. Rep. No. 106-260 at 2 (2000). The new regulation, titled "Retention of EB-1, EB-2, and EB-3 Immigrant Workers and Program Improvements Affecting High-Skilled Nonimmigrant Workers," 81 FR 82398 (Nov. 18, 2016), expands the ways U.S. employers can recruit and sponsor foreign professionals. This article will provide an overview of selected key provisions of the new regulation that enhance an employer's ability to hire and retain foreign workers who are in the U.S. permanent residence ("green card") queue, who have recently been laid off by a prior employer, or who face compelling circumstances requiring them to seek new employment. The regulation also expands the ways nonprofits can demonstrate they are exempt from the annual H-1B quota.

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