

Legal Update Article

I-9 Interim Rule Allows Approved Foreign Nationals to Begin Working

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The USCIS is in the process of entering a Consent Order to produce, on a specific schedule, Employment Authorization Document (EAD) cards for those 75,000 foreign nationals who have approved employment authorization applications but have been waiting for inordinate amounts of time for the cards themselves. Without the cards, these foreign nationals have not been able to complete the Form I-9 employment verification process and unable to work. In the meantime, so they are not kept waiting any longer, the USCIS has agreed to some interim relief.

Until December 1, 2020, an [employee will be permitted to use a Form I-797 Approval Notice](#) dated from December 1, 2019, through August 20, 2020, for the Form I-9 process as a List C document that establishes employment authorization – notwithstanding contrary language on the approval notice itself. In addition:

- Since the I-765 will not establish identity, the employee also will have to produce an acceptable List B document to meet Form I-9 requirements.
- The I-797 also will be acceptable for re-verification purposes.
- No later than December 1, 2020, employers will have to reverify those who presented Forms I-797 for Form I-9 purposes. By that time, the employee will need to present either a List A or a new List C document.

When the Consent Order negotiations conclude, updates will be provided. If you have any questions about how to proceed, please reach out to your Jackson Lewis attorney.

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