

## *Visa Policies for Lawyers*

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Sullivan & Cromwell and its clients have long benefited from the skills and perspectives of lawyers from around the world. Lawyers holding non-U.S. passports face particular challenges and responsibilities when assigned to one of our offices in the United States. This statement sets forth our policies and practices in relation to our lawyers<sup>1</sup> who hold non-U.S. passports, and is intended to communicate the nature of the support that our lawyers can expect from the Firm and responsibilities those lawyers have with respect to maintaining their authority to be employed in the United States.

### ***U.S. Visa Stamp***

First, the U.S. visa stamp in the passport (not required for Canadians) serves as the necessary document for entry to the United States in nonimmigrant visa status. Because this visa stamp is necessary for travel, the Firm expects that each nonimmigrant visa holder will be vigilant about its validity and take the necessary action for visa issuance or renewal. Therefore, it is incumbent upon each holder to monitor the expiration date of his or her visa stamp and plan travel abroad accordingly, keeping in mind the processing time for obtaining a visa stamp from a U.S. consulate abroad.

The Firm financially supports obtaining a U.S. visa stamp at a U.S. consulate abroad if international travel is for business reasons. Costs incurred for personal travel are not covered.

### ***TN Status***

The Firm's financial support for business related travel expenses is likewise applicable to those holding TN status. TN status is a special nonimmigrant status unique to citizens of Canada and Mexico. In the case of TN status for Canadians (different procedures apply for Mexicans) the individual will obtain the initial TN classification at a U.S. port of entry – either at the border or pre-flight inspection in Canada. The TN status granted by the Department of Homeland Security will be valid for a three-year period and will be reflected as such on the I-94 Arrival/Departure record.

Before a lawyer's TN expires, the Firm recommends that, whenever possible, the lawyer contact Pauline Edwards in the Legal Human Resources Department at least four weeks before the I-94 Arrival/Departure card expires (1) to make appropriate plans for travel to Canada or for a petition to be filed with a Service Center in the United States and (2) to allow Pauline to work with our immigration counsel to prepare the TN documents necessary for the TN application.

While TN status is temporary in nature and issued for three years, it is renewable in three year increments indefinitely. However, an individual in TN status must maintain nonimmigrant intent and demonstrate that his or her stay has a reasonable, finite end that does not equate with permanent residence. Any questions concerning the temporary nature of the assignment or the necessary intent for the TN category should be directed to Pauline Edwards, who will arrange for a discussion with our immigration counsel.

The Firm will support TN visa status and may also sponsor individuals for H-1B visa status at the conclusion of any three year TN approval period. Individuals have the option to request that the Firm sponsor an H-1B visa at any time and the Firm will consider earlier sponsorship.

<sup>1</sup> For all purposes of this statement, references to "lawyer" mean a lawyer in good standing employed by the Firm as an associate, special counsel, European counsel or specialist.

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### ***H-1B Status***

Because the H-1B visa is subject to a numerical limitation based upon a congressionally mandated quota that commences with the government's fiscal year on October 1<sup>st</sup>, the Firm, in its discretion, may require that an individual maintain TN status until the H-1B visa is approved by the U.S. Citizenship and Immigration Service. The Firm works with counsel to secure the H-1B visa as appropriate in advance of the October 1<sup>st</sup> start date, but due to government constraints it may not be possible to obtain H-1B visa status on behalf of each lawyer at the desired time. For those who obtain H-1B visa status, the Firm likewise expects vigilance with regard to the visa stamp for travel and the status for continued, uninterrupted employment in the United States.

For lawyers new to the Firm, the Firm will help them secure H-1B visas as well, but new lawyers need to be aware that these efforts may not succeed due to government constraints and new lawyers remain responsible for maintaining their own authority to work in the United States. If a new lawyer is unable to obtain a visa that will permit him or her to work in the United States, the Firm may consider requests to work in a non-U.S. office, but whether office transfers will be permitted will depend on the needs of the Firm, including the relevant office and practice, and other factors, and the Firm can make no commitments in this regard. Lawyers holding non-U.S. passports who propose to join the Firm in the United States should alert Pauline Edwards of their visa status as soon as possible, promptly following acceptance of their offers.

If the Firm has obtained an approval of a change of visa status to the H-1B classification from another classification, then the individual can work in the United States in H status as of the date on the approval notice (Form I-797) and the period of admission will be reflected on the I-94 Arrival/Departure record at the bottom of the approval notice. This means that to work legally without interruption one need not depart the United States to obtain the H visa stamp in the passport and may work in H status.

With regard to international travel, however, those holding non-U.S. passports who live in the United States (except Canadians who are visa exempt) must have a valid H visa stamp in their passports in order to re-enter the United States after traveling abroad. Because the Firm requires that lawyers be available to travel outside the United States on business, it is incumbent upon each person in H-1B visa status to make arrangements to have the H visa stamped in his or her passport as soon as feasible, following the above guidelines for the Firm's financial support. We encourage individuals to contact our immigration counsel before making a visa stamp appointment at a U.S. consulate abroad.

Once a lawyer obtains a visa stamp from a U.S. consulate abroad and admission in a nonimmigrant category is granted, the lawyer must send a copy of the I-94 Arrival/Departure record to Pauline Edwards because that record controls the period of authorized stay in the United States.

### ***Green Cards***

The Firm may, in its discretion, sponsor its lawyers working in the United States for lawful permanent resident status, also known as "green card" status. At this time, the Firm will consider requests for green card sponsorship made by lawyers who are employees in good standing and who are at the beginning of their second three-year term, or 37th month, of an H-1B visa with the Firm, or who have been employed by the Firm for a comparable period and are within 24 months of the final expiration of another class of nonimmigrant visa. In each case, if the Firm decides to sponsor a lawyer for a green card, the lawyer will be required to confirm in writing his or her "at will" employment status and acknowledge that termination of employment for any reason prior to obtaining a green card could result in termination of the green card process, with the consequence that the lawyer may be required to leave the United States upon expiration of his or her nonimmigrant visa.

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*Other Assistance*

The Firm also provides assistance to its lawyers in the United States who do not have U.S. citizenship or lawful permanent resident status. This includes access, at the Firm's expense within established limits, to immigration counsel in connection with obtaining family-based lawful permanent residence (e.g., marriage to a U.S. citizen). Any questions about this access should be directed to the Legal Human Resources Department.



Any questions on the Firm's practices and policies should be directed to Sherry Kilar, Director of the Legal Human Resources Department, who will seek advice from our immigration counsel about particular circumstances when necessary. Our immigration counsel is not to be contacted directly without the prior approval of the Legal Human Resources Department.

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