

Immigration Alert: Important I-9 Changes Go Into Effect on February 2, 2009

1/6/2009

On December 17, 2008, U.S. Citizenship and Immigration Services (USCIS) published an interim final rule intended to streamline and improve the security of the existing employment verification process. The changes described below, along with a revised Form I-9, go into effect on **February 2, 2009**.

The main revisions of the new Form I-9 include changes to the list of documents acceptable for identification and employment authorization. Specifically, the revised Form I-9:

- requires that all documents presented during the verification process be **unexpired**;

- eliminates from "List A": Forms I-688, I-688A, and I688B (Temporary Resident Cards and out-of-circulation Employment Authorization Cards);

- adds to List A: foreign passports with certain machine-readable immigrant visas (machine-readable immigrant visas, or MRIVs, issued by some consulates instead of the temporary I-551 stamps evidencing newly approved lawful permanent resident status), valid passports for citizens of the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI), and Form I-94 or Form I-94A confirming nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI;

- updates and revises some of the attestations executed by the employee, specifically adding a new category for employees to attest whether they are U.S. citizens or U.S. nationals (the current Form I-9 combines those statements).

Effective February 2, 2009, employers will be required to use the revised Form I-9 for all new hires and to re-verify existing employees with expiring employment authorization. The current version of Form I-9 (dated June 5, 2007) will no longer be acceptable after February 2, 2009. While USCIS has published a preview version of the new Form I-9, it will not make the new form officially available on its web site until closer to the February 2, 2009 effective date. Once the new Form I-9 has been made available, employers may find it at www.uscis.gov along with a revised version of the *Handbook for Employers: Instructions for Completing the Form I-9*.

It is important to remember that while the new form will require documents to be unexpired to be acceptable for I-9 purposes, the future expiration of an I-551 permanent residence card does not trigger the need for re-verification. A permanent residence card must be unexpired on the day it is presented, but it may expire during the course of employment, and the I-9 does not need to be updated for that reason.

If you would like more information on any immigration matter, please contact your immigration attorney at Mintz Levin or visit www.mintz.com.

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