

## Tomorrow's Executive Action on US Immigration- What it Means

I wrote an article over three months ago entitled "Possible Executive Actions President Obama may take on Immigration," and I listed the first and most likely possibility would be an extension of DACA to adults. It appears from all available leaked information President Barack Obama will in fact be substantively extending DACA to adults.

While DACA enables work authorization, under the black letter law being approved for DACA officially provides no legal status to foreign citizens. However, since foreign citizens approved for DACA may receive work authorization and then a social security number, from a practical standpoint DACA by itself does provide a degree of legal status. As an example, my clients approved for DACA believe they have gained legal status, even though I have told them officially they still lack legal status. This is because my clients approved for DACA, similar to most foreign citizens without status, equate lawful status in the US with receipt of work authorization.

### The Issues with DACA

1) **DACA is not permanent and needs to be renewed.** The theory among immigrant communities is that, once received, foreign citizens without status who are approved for DACA will be able to renew it indefinitely (under the theory it would be a political nightmare for law makers to take away work authorization). However, any future extension of DACA is not guaranteed, and DACA does not under the black letter law provide lawful status. There is also no guarantee that the entire program of DACA will not be terminated in the future.

2) **Being approved for DACA does not guarantee any ability to leave the US and reenter.** Foreign citizens approved for DACA may apply for and receive advanced parole, which is travel authorization from the US Citizenship & Immigration Services (USCIS). However, a foreign citizen out of status in the US for 6 months or more has an automatic 3-year bar to US reentry, and a foreign citizen out of status for 1 year or more has an automatic 10-year bar to US reentry. For these reasons, a high percentage of individuals who may qualify and receive advanced parole/travel authorization under DACA from USCIS, if they in fact do leave the US, will still be barred to reenter by US Customs & Border Patrol.

3) **Being approved for DACA seldom provides any real grounds to a foreign citizen for permanent residency, more or less US Citizenship.** Being approved for DACA with work authorization allows a foreign citizen to legally work and receive a social security number. However, DACA does not provide any US permanent residency benefits, including but not limited to sponsorship of children or spouses, a pathway to US Citizenship, health coverage under the Affordable Care Act, a qualifying relative able to file a termination of removal based on undue hardship or in-state tuition at US colleges or universities (unless an individual state or university declares otherwise).

4) **Mortgage Brokers and credit card companies love DACA.** Being approved for DACA enables foreign citizens without status to build up credit and receive financing. Mortgage brokers especially win when foreign citizens are approved for DACA, as substantial numbers of individuals without status have enough cash for sizeable down payments but lacked any ability to receive mortgages (no social security numbers or legal status required for mortgages). For these reasons, its possible down the road the only groups that won't be complaining or upset in hindsight by the executive action terms will be mortgage brokers and creditors.

5) **Once the executive action is done, unless its shot down, immigration reform will become a national non-issue.** Americans are very caring but also inherently busy people with a lot going on. So

they generally neither know about nor care much for the specifics of immigration, as the details fall under the conversation heading of “too much information.” Because of this, most Americans will either support or oppose the Executive Action of the President, but after time the executive action terms will be accepted as final, cumulative comprehensive immigration reform. Most Americans will no longer consider the issue a top priority, because they will consider the issue done. Similarly Americans will generally not care to know the differences between a formerly out of status foreign citizen with DACA and work authorization from a formerly out of status foreign citizen with US permanent residency.

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