



# GMS Flash Alert

## Immigration Edition

2020-324 | July 21, 2020

# United States - Executive Order Ends Preferential Treatment for Hong Kong

On July 14, 2020, U.S. President Donald Trump signed an Executive Order that will subject foreign nationals born in Hong Kong to the same United States (U.S.) immigrant visa quota and wait times as those born in the People's Republic of China ("PRC" or "mainland China").<sup>1</sup> The Executive Order will also reduce the validity period and increase the application fee associated with certain nonimmigrant visas issued to persons holding a Hong Kong Special Administration Region (SAR) passport. Moreover, the Executive Order will prohibit individuals born in Hong Kong from entering the annual Diversity Visa Program.

---

## WHY THIS MATTERS

Hong Kong has been distinguished from mainland China for U.S. immigration purposes since the enactment of the United States-Hong Kong Policy Act of 1992. As a result, those born in Hong Kong have benefited from decreased wait times for U.S. immigrant visas, and persons holding a Hong Kong SAR passport have generally been issued U.S. nonimmigrant visas with a longer validity period as compared to nonimmigrant visas issued to nationals of the PRC. Per the Executive Order, any preferential immigration-related treatment previously extended to applicants from Hong Kong will end.

The Executive Order will dramatically increase immigrant visa wait times for persons previously chargeable to Hong Kong who must now be considered chargeable to the PRC. The Order will also potentially increase wait times for persons chargeable to the PRC given that intending immigrants from Hong Kong will now fall within the PRC's per-country limit.

## Background

On June 30, 2020, the PRC imposed national security legislation on Hong Kong. (For related coverage, see GMS [Flash Alert 2020-304](#), July 7, 2020.)

The Executive Order of July 14, 2020, declares that Hong Kong should no longer be considered a separate foreign state under U.S. law because the national security legislation imposed on it has undermined its autonomy.

U.S. Congress has established limits on how many individuals in each family or employment-based preference category may become U.S. permanent residents each year by controlling the number of available immigrant visa numbers. In addition, immigrant visas are issued in accordance with a statutory per-country limit of 7 percent, meaning that all intending immigrants “chargeable” to a certain country cannot be granted more than 7 percent of the total annual family and employment-based preference allocation.<sup>2</sup>

---

## KPMG NOTE

The demand for family and employment-based immigrant visas from persons chargeable to PRC, India, Mexico, and the Philippines is typically far greater than supply under the annual per-country limit. For example, it is not uncommon for persons chargeable to the PRC to wait 10 or more years for a U.S. immigrant visa due to backlogs stemming from the per-country limit.

Prior to the Executive Order, Hong Kong was treated separately from the PRC. Since demand for U.S. immigrant visas from persons chargeable to Hong Kong has not historically exceeded the per-country limit, the wait time for an available immigrant visa has been significantly less than the wait time for persons chargeable to mainland China.

---

## New Policy

The U.S. Department of State establishes visa policies on a country-specific basis. Visa duration and fees are in large part based on how U.S. citizens applying for similar immigration benefits in that country are treated. For example, citizens of countries that issue a one-year visa to U.S. citizens would typically only be granted a U.S. nonimmigrant visa valid for one year. The visa reciprocity schedule may change depending on various economic, political, and national security factors.

As a result of the Executive Order, Hong Kong SAR passport holders will now be issued nonimmigrant visas for the same duration as nonimmigrant visa applicants from the PRC. The changes to nonimmigrant visa validity for Hong Kong SAR passport holders are as follows:

- H-1B, H-4 visa validity will go from 60 months to 12 months;
- L-1, L-2 visas reduced from 60 months to 24 months; and
- O visa validity decreased from 60 months to 3 months.

The validity of F, J, and B-1/B-2 visas will remain the same, however, Hong Kong SAR passport holders will now be required to register their B-1/B-2 visas in the Electronic Visa Update System (EVUS).<sup>3</sup>

An additional reciprocity fee of \$120.00 will apply to L visas.

Since the U.S. Diversity Visa Program is not open to citizens of mainland China, the Executive Order restricts persons born in the Hong Kong SAR from participating.

## Next Steps

The U.S. Department of Homeland Security and the U.S. Department of State have 15 days from the date of the Executive Order to begin implementing the changes. The Order is effective indefinitely.

---

## KPMG NOTE

KPMG LLP Law in Canada is tracking these matters closely. We will endeavor to keep readers of *GMS Flash Alert* posted on any important developments as and when they occur.

---

## FOOTNOTES:

- 1 To review the full Executive Order issued on July 14, 2020, [click here](#).
- 2 Section 202 of the Immigration and Nationality Act.
- 3 Registration of B-1/B-2 visas in the Electronic Visa Update System has been required of citizens of the PRC since 2016.

\* \* \* \*

## Contact us

For additional information or assistance, please contact your local GMS or People Services professional\* or one of the following professionals with the KPMG International member firm in Canada:



**Samantha Weizel**  
**Manager, U.S. Immigration**  
KPMG Law LLP – Tax + Immigration, Canada  
Tel. +1 416-943-7882  
[sweizel@kpmg.ca](mailto:sweizel@kpmg.ca)



**Beth Nanton**  
**Partner/U.S. Immigration, Practice Leader**  
KPMG Law LLP – Tax + Immigration, Canada  
Tel. +1 604-691-3316  
[bnanton@kpmg.ca](mailto:bnanton@kpmg.ca)

*\* Please note that KPMG LLP (U.S.) does not provide any immigration or labor law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration and labor matters.*

**The information contained in this newsletter was submitted by the KPMG International member firm in Canada.**

© 2020 KPMG Law LLP, a tax and immigration law firm affiliated with KPMG LLP, each of which is a Canadian limited liability partnership. KPMG LLP is a Canadian limited liability partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved.

[www.kpmg.com](http://www.kpmg.com)

[kpmg.com/socialmedia](http://kpmg.com/socialmedia)



© 2020 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

The KPMG logo and name are trademarks of KPMG International. KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint ventures. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever. The information contained in herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

*Flash Alert* is a GMS publication of KPMG LLP’s Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.