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LEGAL NOTES

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Advance Parole Exemption for H-1s and L-1s

Applicants for the adjustment of status, who are under H-1 and L-1, are no longer required to apply for advance parole when traveling outside the U.S. This rule took effects July 1 according to a long-awaited interim rule of the INS published recently.

Generally, once an I-485 application is filed, the applicant cannot leave the country unless he obtains an advance parole. Advance paroles are granted for up to one year for multiple entries and they could be issued for business and personal reasons. If the applicants travels without it, his adjustment application will be deemed abandoned.

An advance parole application usually takes a couple of months to process because of the increasing number of adjustment applicants. This delay has caused hardship especially in times of emergency. This new regulation would therefore be a great relief to businessmen and professionals for it will make it easi-

er for them to travel. The rule applies to dependent family members as well.

When returning to the U.S. the alien will be re-admitted on H-1 or L-1 visa (or the dependent's visa) but he will be required to show his Form I-797 filing receipt as proof that his adjustment application has been filed.

The rule comes with a word of caution. The H-1 or L-1 alien must not have violated the terms of his visa in order to be covered by the exemption. He should have worked only for the employer that had petitioned him.

An applicant for adjustment of status, including an H-1 or L-1 alien, has the option to work for another employer upon his receipt of the Employment Authorization Document (EAD). This is called open

market work authorization.

But while the H-1 or L-1 alien will be allowed to work for another employer under this open market work authorization, he would automatically lose his status as employment for another employer would violate the terms of his H-1 or L-1. He would, therefore, be required to obtain advance parole if he wishes to travel. Moreover, if his adjustment of status application is denied, he could be subject to deportation.