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Interim Final Rule Amending Form I-9 Published

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On December 17, 2008, the Department of Homeland Security published an interim final rule related to documents acceptable for employment eligibility verification (I-9). A copy of a revised form I-9 is attached to the interim rule for informational purposes, but is not yet available on the USCIS website for use. The rule will become effective, including the use of the new I-9 form, on February 2, 2009.

Under the interim rule, employers will no longer be able to accept expired documents to verify employment authorization. Also, due to amendments of the Compacts of Free Association between the United States and the Federated States of Micronesia (FSM) and the Republic of the Marshal Islands (RMI), the interim rule also adds a passport from FSM or RMI with an I-94 or I-94A form indicating non-immigrant admission under the Compacts as approved List A documents.

The interim final rule also makes several technical corrections and updates. Some of the changes to the terminology used on the form and the form set up are so the references are consistent with current statutory language and agency identification. Some of clarifications include:

- 1) List A language related to the I-551 stamp is clarified to include the Department of State (DOS) practice of printing a temporary I-551 notation on machine-readable immigrant visas on foreign passports.
- 2) The Department of Homeland Security no longer uses forms I-688, I-688A, or I-688B and all such documents have expired. Therefore, these documents have been removed from List A and are no longer acceptable.

- 3) Where the list of acceptable documents references form I-94, it is also amended to include reference to form I-94A which is a computer generated document rather than a hand annotated document. Both forms of the document are acceptable as noted in the lists.

If you have any questions about the issues raised by this e-alert, please feel free to contact Laurie A. Petersen at (414) 273-3910 or by e-mail at lpetersen@lindner-marsack.com

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