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Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue, NW
Washington, DC 20529

Re: DHS Docket No. USCIS-2010-0017
Employment Authorization for Certain H-4 Dependent Spouses

South Asian Americans Leading Together (SAALT) writes in partnership with twenty-five South Asian organizations (listed below) to commend the Department of Homeland Security (DHS) for the recent Proposed Rule regarding Employment Authorization for Certain H-4 Dependent Spouses (Proposed Rule). The Proposed Rule is a step in the right direction as it will allow the spouses of many H-1B workers to obtain work authorization, build sustainable lives in the U.S., and contribute to the economy. However, we submit this comment to point out areas for improvement that we hope will be taken into consideration.

SAALT is a national, nonpartisan, non-profit organization that elevates the voices and perspectives of South Asian individuals and organizations to build a more just and inclusive society in the United States. SAALT works with a base of individual members and advocates and is the coordinating entity of the National Coalition of South Asian Organizations (NCSO), a network of 49 organizations across the country that engage, educate, and mobilize our communities to ensure that South Asians are afforded equal rights, protections, and dignity in the United States.

With over 3.4 million South Asians in the U.S.,¹ our community includes undocumented immigrants, dependents and temporary workers on various visas, refugees and asylum-seekers, lawful permanent residents, and U.S. citizens. Numerous South Asians enter the country through the H-1B visa program for workers employed in “specialty occupations.” Approximately 162,464 individuals from India, Pakistan, Bangladesh, Sri Lanka, the Maldives, Bhutan, and Nepal received H-1B status in 2012, making up over one-third of the total number of H-1B workers that year.² H-1B workers contribute significantly to the U.S. economy, bringing skilled

¹ *A Demographic Snapshot of South Asians in the U.S.*, South Asian Americans Leading Together (July 2012), available at

<http://www.saalt.org/attachments/1/SAALT%20AAF%20National%20Factsheet%20July%202012%20Update.pdf>.

² U.S. Department of Homeland Security, Office of Immigration Statistics, *2012 Yearbook of Immigration Statistics* (July 2013), available at http://www.dhs.gov/sites/default/files/publications/ois_yb_2012.pdf.

labor to our nation that creates numerous additional jobs and helps our economy thrive.³ The spouses and children of these individuals enter as H-4 visa holders, with approximately 156,668 individuals receiving H-4 status in 2012.⁴ According to the State Department, the overwhelming majority of these individuals are of South Asian descent; specifically, in 2013, approximately 76% of those who received H-4 visa status were from India, Pakistan, Bangladesh, Sri Lanka, the Maldives, Bhutan, and Nepal.⁵

Unfortunately, H-4 dependents face numerous challenges, including the inability to obtain work authorization. This barrier to legal employment prevents spouses and children (of appropriate working age) from contributing to their household income as well as our nation's economy, applying the full scope of their educational and professional skills, and participating fully in American society. Furthermore, the inability of H-4 dependents to pursue work or contribute to their household incomes places an undue burden on H-1B workers and their families as a whole, making it difficult for many to remain in the U.S.

In order for our nation to retain skilled workers, the Proposed Rule must be revised to allow all H-4 dependents work authorization because (1) it currently limits the success of H-1B workers, their families, and our nation's economic growth, and limits the opportunities available to these individuals and their families relative to other visa holders in our immigration system and in comparison to other countries; and, (2) H-1B workers and their families are most successful when H-4 dependents have the ability to contribute to their household income and our economy, pursue their goals, and do not suffer the ancillary effects of being limited in their pursuits.

1. The Proposed Rule limits the success of H-1B workers, their families, and our nation's economic growth, and limits the opportunities available to these individuals and their families relative to other visa holders in our immigration system and in comparison to other countries.

According to the Executive Summary of the Proposed Rule, its purpose is to alleviate the personal and economic hardship placed upon families of H-1B workers by allowing for work authorization for their spouses. Unfortunately, by limiting this work authorization to those whose H-1B partners have an approved I-140 or have received an extension beyond the six-year limit under the American Competitiveness in the Twenty First Century Act (AC21), the Proposed Rule fails to address the needs of the overwhelming majority of H-1B workers and their families and fails to meet the goal of retaining skilled workers in the U.S.

³ See *H-1B Visas and Job Creation*, National Foundation for American Policy (March 2008), available at <http://www.nfap.com/pdf/080311h1b.pdf>.

⁴ *2012 Yearbook of Immigration Statistics*, *supra* note 2, at 65.

⁵ See U.S. Department of State, Bureau of Consular Affairs, *FY2013 NIV Detail Table* (May 22, 2014), <http://travel.state.gov/content/dam/visas/Statistics/Non-Immigrant-Statistics/NIVDetailTables/FY13NIVDetailTable.pdf>.

Contrary to the myth that H-1B workers take jobs from U.S. citizens, extensive research has documented the extent to which H-1B workers actually stimulate our economy and create more jobs. In fact, the expansion of the H-1B category in last year's immigration reform proposals was expected to create 227,000 jobs in the first year and approximately 1.3 million jobs by 2045.⁶ Many economists also underline that caps on H-1B workers have denied our economy hundreds of thousands of new jobs.⁷ The benefits of allowing H-1B workers employment in our nation are manifold. It is crucial that these individuals be able to thrive and succeed—with assistance from their families. The ability of H-4 dependents to contribute to their household and our economy is critical to the long-term success of H-1B workers. Not surprisingly, individuals are better able to succeed with the support of their loved ones and the economic impact of having a multi-income household cannot go unnoted.

Under the current proposal, most H-4 dependents will likely remain ineligible for work authorization for six years at a minimum, in addition to the lengthy period often required to process their application. The Proposed Rule would only impact those perceived to be on the path towards permanent legal status. However, many H-1B workers and their families would stay in the U.S. and apply for citizenship if they were able to set down roots and thrive financially. Unfortunately, a single-income household is often unable to develop this financial sustainability. For many, it is more financially viable for the H-1B worker to be employed in the U.S., while the H-4 spouse and children remain in their country of origin, where they are able to support their families and in turn, the economy in their country of origin. This family separation is not only inconsistent with American values; it also means that much of the H-1B worker's income is not enhancing the U.S. economy, but is instead going overseas to their families. As a result, H-1B workers have fewer reasons to remain in the U.S. For those whose families join them in the U.S., sustaining a household on one income is often too limiting to allow them to remain here long-term.

It is also unlikely that the Proposed Rule will put the U.S. on an equal playing field with the employment visa markets in other countries, such as Canada and Australia. The significant limitation placed upon who qualifies for employment authorization does not create broad enough change for that to occur, particularly in comparison to countries with no limitations on work authorization for spouses of skilled workers. In fact, the Proposed Rule does not even put H-4 dependents on par with other U.S. immigrant visas regarding employment authorization. For example, unlike the current rules regulating the H-1B visa, dependents of the L visa are given work authorization and there is no cap on the issuance of L visas. Our nation continues to lag behind, affording H-1B workers and their families fewer opportunities than similar visa holders in our immigration system and in comparison to that of other countries as well.

⁶ *Key Components of Immigration Reform, An Analysis of the Economic Effects of Creating a Pathway to Legal Status, Expanding High-Skilled Visas, & Reforming Lesser-Skilled Visas* 1, Regional Economic Models, Inc. (July 2013), available at <http://www.remi.com/immigration-report>.

⁷ *Closing Economic Windows: How H-1B Visa Denials Cost U.S.-Born Tech Workers Jobs and Wages During the Great Recession* 9, The Partnership for a New American Economy (June 2014), available at http://www.renewoureconomy.org/wp-content/uploads/2014/06/pnae_h1b.pdf.

Finally, the Proposed Rule does little to incentivize individuals to pursue the immigration process, as it is not H-1B workers who are resistant to applying for legal permanent status. Many H-1Bs instead struggle to find an employer willing to invest in them in terms of completing the application process or paying the attendant fees, particularly given the long wait to obtain a green card. By continuing to prevent many H-1B family members from receiving employment authorization and effectively creating a six-year wait prior to eligibility, the “disincentive to pursue the immigration process” has not been alleviated.

By limiting employment authorization for H-4s, the Proposed Rule fails to meet many of its goals and prevents many H-1B workers and their families from succeeding financially or setting down roots, thereby also limiting its purpose of retaining skilled workers.

2. H-1B workers and their families are most successful when H-4 dependents have the ability to contribute to their household income and our economy, pursue their goals, and do not suffer the ancillary effects of being limited in their pursuits.

H-4 dependents, the majority of whom are women, are instrumental to the success of their H-1B worker spouse or parent and in turn, the sustainability of their lives in the U.S. H-4 dependents should be allowed to work for numerous reasons, ranging from their ability to contribute to the household to the value they provide to our economy. Additionally, these individuals deserve the right to use and enhance the skills they have learned, be financially self-sufficient, thrive mentally and physically, and pursue their dreams.

Beyond allowing H-4 dependents to contribute to their families’ financial stability, H-4 dependents also have the ability to support and expand our economy, like their H-1B spouses or parents. The Proposed Rule fails to acknowledge the economic loss incurred by preventing H-4s from working. Many of these individuals might be interested in establishing a small business or founding an innovative company, yet are effectively barred from doing so because of our immigration system. Additionally, as noted in the Proposed Rule, the suggested expansions would have a “negligible impact on the U.S. labor market” as the civilian work force is over 155,000,000.⁸ Based on the most recent State Department numbers of H-4 dependents, less than 100,000 H-4 visas were issued in 2013.⁹ Given that not all H-4 dependents are of employment age and not all of these individuals will choose to work, the impact of granting all H-4 dependents the option of employment authorization is hardly a drop in the bucket of our civilian work force. Furthermore, by the Department of Homeland Security’s own calculations, the addition of approximately 100,000 potential workers is only a “fraction of a percent” of the civilian workforce in the United States.¹⁰ The benefit of retaining H-1B workers and their

⁸ Employment Authorization for Certain H-4 Dependent Spouses, 79 Fed. Reg. 26,886, 26,891 (proposed May 12, 2014) (to be codified at 8 C.F.R. pts. 214 & 274(a)).

⁹ FY2013 NIV Detail Table, *supra* note 5.

¹⁰ Employment Authorization for Certain H-4 Dependent Spouses, 79 Fed. Reg. 26,886 at 26,899.

families and the potential of H-4 dependents to contribute to our economy far outweighs the cost of allowing a negligible number of individuals to pursue employment.

For many H-4 dependents, the inability to work, pursue one's goals, or contribute to one's family can result in additional barriers for the individual and their families. As we have heard from many of our partner organizations who work with domestic violence survivors, H-4 dependents in these situations face tremendous challenges due to their inability to be financially self-sufficient, which is often a barrier to leaving their abusive situations. For those fortunate enough not to struggle with domestic violence, the repercussions of being unable to work, contribute to their families, or pursue their goals are still very serious. These limitations often lead to a loss of self-worth and depression, which greatly impacts H-4 dependents as well as their family members.

Meghna Damani, one of the leading activists for H-4 employment authorization, faced many of these struggles after her arrival to the U.S. Ms. Damani arrived in the U.S. in 2002 on an H-4 visa, while her spouse was working as an H-1B.¹¹ For years, she was unable to work and felt "suspended between two countries, two realities, and two identities – independent and dependent."¹² Despite her Master's degree and years of work experience, she was unable to pursue any employment because her H-4 status would not allow it.¹³ Ms. Damani found herself forlorn and depressed, and at one point, admits that she even became suicidal.¹⁴ But, she is not alone. In fact, so many women struggle with similar experiences¹⁵ that Ms. Damani has dedicated her life to raising awareness about these issues and creating space for H-4 dependent spouses to connect, relate, and find their way through these struggles together.

Most H-4 spouses, like Ms. Damani, often find themselves as involuntary homemakers upon their arrival to the U.S. Not only is their family income and sustainability impacted by this limitation, but their professional skills are diminishing as well. The issues faced by H-4 dependents do not only impact them as individuals—they also impact their relationships inside and outside of their homes. To deprive H-4s of employment opportunities and growth is detrimental to their well-beings as individuals and within their families.

In light of the concerns and comments detailed above, SAALT respectfully requests that the Proposed Rule be modified to allow for employment authorization for *all* H-4 visa holders so that H-4 dependents are able to fully thrive as individuals and contribute to their households, making their families more likely to set down roots in the U.S. to the betterment of their households, neighborhoods, and our nation's economy. Furthermore, SAALT looks forward to

¹¹Hearts Suspended, *Filmmaker's Bio*, <http://www.heartssuspended.com/#!/bio/cwzt> (last visited June 13, 2014).

¹²*Id.*

¹³*Id.*

¹⁴Megan Sweas, *Unable to Work, Indian Immigrant Women Turn to Spiritual Practices for Comfort*, Religion News Service (May 11, 2012), http://www.huffingtonpost.com/2012/05/11/unable-to-work-indian-immigrant-women-spiritual-practices_n_1508261.html.

¹⁵*See id.*



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the intersection of the Proposed Rule with employment authorization for H-4 domestic violence survivors upon the outcome of Draft PM-602-XXXX Adjudicator’s Field Manual, Chapter 30.13 Eligibility for Employment Authorization for Battered Spouses of Certain Nonimmigrants.

Thank you for the opportunity to submit these comments and your consideration of our requests. We are hopeful that this Proposed Rule will help improve the lives of many South Asian Americans as well as our nation.

Respectfully,

Manar Waheed, Esq.
Policy Director
South Asian Americans Leading Together (SAALT)

South Asian Organizational Signatories

- Adhikaar for Human Rights and Social Justice
- Andolan Organizing South Asian Workers
- API Chaya
- Apna Ghar, Inc. (Our Home)
- ASHA for Women
- CHETNA
- Counselors Helping (South) Asians/Indians, Inc.
- Daya, Inc.
- DeQH: Desi lgbtQ Helpline for South Asians
- DRUM South Asian Organizing Center
- Hamdard Center for Health and Human Services
- Mai Family Services
- Manavi
- Raksha, Inc.
- Sakhi for South Asian Women
- SALGA-NYC
- Sikh American Legal Defense and Education Fund (SALDEF)
- Sneha, Inc.
- South Asian American Policy & Research Institute (SAAPRI)
- South Asian American Voices for Impact (SAAVI)
- South Asian Council for Social Services (SACSS)
- South Asian Network
- South Asian Youth Action (SAYA!)
- Turning Point for Women and Families
- UNITED SIKHS