

# USCIS ANNOUNCES FINAL RULE IN SUPPORT OF FAMILY UNITY DURING WAIVER PROCESS

*Immigration Alert*  
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**Practices & Industries**

Immigration

On January 2, 2013, Secretary of Homeland Security Janet Napolitano announced the publication of a final rule in the *Federal Register* that permits immediate relatives of U.S. citizens, i.e., spouses, parents, and children under 21 years of age, who are not eligible to adjust their status to permanent residence in the United States to apply for a waiver of the three or 10 year bar in the United States prior to attending their consular interview abroad.

Under prior regulations, immediate relatives of U.S. citizens who could not adjust their status and traveled abroad to a consular interview became subject to the three or 10 year bars upon exiting the United States. They were then required to apply for a waiver of the bar at the American consulate before being permitted to obtain an immigrant visa and return to the United States as permanent residents. Because this process could take months to complete, families would be separated with a risk the waiver could be denied, thereby creating a disincentive to complete the permanent residence process.

Under the new regulations, this waiver application can now be filed in the United States. If the waiver is approved, the applicant will then be able to travel abroad to his or her consular interview without having to wait months to be reunited with U.S.-citizen relatives.

The requirements for extreme hardship waivers have not changed. The extreme hardship waiver requires the immediate relative to prove that his or her absence from the United States would cause extreme hardship to the sponsoring U.S. citizen relative.

The new provision is only available to foreign nationals who are inadmissible solely because of the three or 10 year bar. The new process will take effect on April 2, 2013.

