PROTECTING AFGHAN DIPLOMATS IN THE U.S.

• Lift the cap on green cards for Afghan diplomats and their family members stranded in the United States—fewer than 200 people.

• Exempt the diplomats and their family members from the burden of filing fees associated with these green card applications.

Our Afghan allies who were in the United States in August 2021 when the Taliban took over their country cannot return to Afghanistan. They and their family members are eligible for adjustment to permanent residency under Section 13 of the Immigration & Nationality Act, which allows diplomats who cannot return home to apply directly for green cards. But that provision, unamended since 1957, caps adjustments at only 50 per year (including family members). Fewer than 200 former Afghan diplomats and family members will be eligible for Section 13 adjustment (only diplomats who were serving in the U.S. in August 2021 are eligible, along with immediate family members). However, under the current cap and given a backlog in applications from nationals of other countries, these adjustments would take more than four years (and create a backlog for other diplomats in the future who may need Section 13 relief).

We propose the following amendment to Section 13 to temporarily lift the cap, and only for qualified Afghan nationals (again, this number is less than 200). Given the temporary but profound economic hardship faced by these diplomats, who suddenly lost their income, we propose that they should be exempted from filing fees (which exceed $1,000 per applicant, nearly $5,000 for a family of four).

The numerical limitation contained in Subsection (d) of Section 13 of the Immigration and Nationality Act, Pub. L. No. 85-316, 71 Stat. 639, 643 (1957) (as amended), applying to aliens who may be granted the status of aliens lawfully admitted for permanent residence under that Section, shall not apply to citizens or nationals of Afghanistan who properly file applications for adjustment of status under that Section in fiscal year 2022, regardless of the year in which such aliens are granted the status of aliens lawfully admitted for permanent residence. All applications filed pursuant to this provision, including applications for work authorization, shall be exempt from any filing or biometric fees, regardless of any other provision of law requiring otherwise.

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These materials are being distributed by Akin Gump Strauss Hauer & Feld LLP on behalf of Adela Raz, Adbul Hadi Nejrabi, and Safiullah Delwar. Additional information is available at the Department of Justice, Washington, DC.