The Department of Homeland Security (DHS) has issued an important interim final rule that impacts children born in the United States to foreign government employees who are not U.S. citizens. This regulatory change expands the eligibility for certain children to register as lawful permanent residents (LPRs), a development that law firms advising affected families should carefully consider.

Scope of the New Rule

- The rule broadens existing regulations that previously allowed only children born to foreign diplomatic officers in the United States to register as lawful permanent residents.
- Now, the opportunity extends to children when neither parent holds U.S. citizenship and at least one parent is classified as a foreign government employee at the time of the child's birth.
- The change aligns with provisions under President Trump's Executive Order 14418, reflecting a broader interpretation of foreign government employment.

Definition of "Foreign Government Employee"

- The term "foreign diplomatic officer" has been replaced with the more inclusive "foreign government employee."
- This includes:
  - Foreign diplomatic officers accredited to the United States.

- Certain foreign embassy or consulate employees who are nationals of the foreign country they represent.
- Individuals employed by a foreign government in an official capacity.
- Employees of international organizations that enjoy international-organization immunity.
- Exclusions under the rule specify that personal employees or attendants of foreign officials, some employees of state-owned enterprises, third-country nationals working for foreign governments, certain contractors, and those visiting the U.S. in a personal capacity are not covered.

Implications for Clients

- Children born in the U.S. to eligible foreign government employees may now register as lawful permanent residents, even if they do not acquire U.S. citizenship at birth.
- This provides a pathway to permanent residency without the usual citizenship acquisition at birth, which can be critical for families navigating complex immigration status issues.
- Law firms must advise clients on eligibility requirements, documentation, and the procedural changes introduced by this rule.

Updates to Immigration Forms

- DHS is updating Form I-485 (Application to Register Permanent Residence or Adjust Status) to reflect the new terminology and eligibility criteria.
- References to “Individuals Born in the United States Under Diplomatic Status” are replaced with “Individuals Born to a Foreign Government Employee in the United States.”
- Form G-325R (Biographic Information Registration) is also updated to include provisions for children born in the U.S. who do not acquire citizenship at birth but may register for permanent residence or be subject to alien registration requirements.

Effective Date and Application

- The interim final rule is effective as of September 4, 2026.
- It applies to children born on or after this date.
- Legal counsel should prepare to assist clients in navigating this new regulatory environment, ensuring timely filings and compliance with updated requirements.

Conclusion

This DHS rule marks a significant expansion in immigration options for children born in the United States to foreign government employees. Law firms advising such families must stay informed about these regulatory changes to provide accurate and comprehensive guidance. Understanding the broadened definitions, exclusions, and procedural updates will be essential for effectively supporting clients seeking lawful permanent residency under this new framework.