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## **Legal Alert: The Rules for Employers Keep Changing**

### **New I-9 Form Delayed**

Last month, we informed you that all employers must use a new I-9 form starting on February 2, 2009. The revised form was designed to implement a rule changing the list of authorized documents that may be used to verify identity and employment authorization. In response to requests for additional time to comment on the rule change, the Citizen and Immigration Service has delayed implementation of the rule (which is likely to be modified in response to new comments) until **April 3, 2009**. The old form must continue to be used for new hires, as well as for any employment reauthorizations (i.e. for an authorization that expires on or after that date), until further notice.

### **Congress Extends Time to File Pay Discrimination Claims**

The Lilly Ledbetter Fair Pay Act, the first piece of legislation signed by President Obama, overturns a controversial Supreme Court decision by confirming that the time to file a pay discrimination claim starts again each time an employee receives a paycheck (or retirement benefits). The Supreme Court had earlier ruled that the time for filing a pay discrimination claim starts to run from the time that an employment decision, such as a low starting salary or a poor evaluation resulting in a small pay increase, is made, even though the effects of that decision might be felt for years thereafter as subsequent pay increases are made on a base that is lower than it should have been because of discrimination. Note that the new law applies to claims of **pay discrimination** on account of race, sex, color, religion, national origin, age, and disability, but not to other types of discrimination claims.

This seemingly abstract procedural rule has many practical implications for employers, who may now be called upon to defend employment decisions that may have been made years ago by managers who have left the organization, and may even no longer be alive. Employers should scrutinize their pay practices, preferably with attorney guidance, to ensure that compensation decisions truly reflect the value of the job and the employee's performance. Managers must be trained to write detailed and fair performance evaluations, which should be reviewed for consistency. Finally, because even very old decisions are now subject to challenge, employee records should be retained indefinitely.

*This alert is meant to provide general information only and not legal alert. For further information, contact Judith Moldover at Lawyers Alliance for New York at (212) 219-1800 ext. 250 or visit our website [www.lawyersalliance.org](http://www.lawyersalliance.org) for further information.*