

CLIENT ALERT: EXECUTIVE ORDER ON IMMIGRATION

Immigration Alert
February 1, 2017

On Friday, January 27, 2017, President Trump signed an executive order titled, “Protecting the Nation from Foreign Terrorist Entry into the United States.” The Executive Order was effective immediately and the Department of Homeland Security began detaining arriving individuals and removing travelers who are affected by the order.

The Executive Order implements a 90 day “suspension” from entry to the US for nonimmigrants (B-1’s, H-1B’s, L-1’s, E-1’s, TN’s, O-1’s, J-1’s, F-1 OPT’s) “from” certain countries. These countries currently consist of Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen. The Secretary of Homeland Security has indicated that the admission of U.S. lawful permanent residents is in the national interest and those individuals may be admitted on a case-by-case basis.

The Department of Homeland Security has stated that U.S. citizens who have dual nationality with Iran, Iraq, Libya, Somalia, Sudan, Syria or Yemen are not subject to the travel ban. Persons who hold dual citizenship with one of the seven countries banned from entry to the US and with a non-banned country (e.g., Germany/Syria, France/Iraq) are not subject to the travel ban as long as they present their passport from the non-banned country upon arrival to the U.S. If those persons have visited a banned country, they should expect additional questioning from US Customs and Border Protection (CBP) as part of the normal inspection process at US ports-of-entry and pre-flight inspection at international airports.

There is a narrow grant of discretion given to the Secretary of State and Homeland Security who may, “on a case-by-case basis, and when in the national interest,” issue visas and/or other immigration benefits to nationals of countries for which visas and benefits have been blocked.

After 90 days, travel will not be automatically reinstated. Instead, per other requirements in the Executive Order, the Department of Homeland Security is required to report whether countries have provided information “needed ... for the adjudication of any ... benefit under the INA ... to determine that the individual seeking the benefit is who the individual claims to be and is not a security or public-safety threat.” If not, the country has 60 days to comply, or the travel ban becomes indefinite.

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We will provide more information as it becomes available. In the meantime, please contact one of our immigration attorneys if you have questions about this alert.

Update: Despite the language in the Executive Order, the US State Department has confirmed that US consulates may continue to exempt certain visa applicants from in-person interviews. The factors for consideration are (1) being from a non-banned country, (2) applying to renew a visa in the same classification that is either still valid or has expired within the last 12 months; or (b) being under 14 or over 79 years of age. As usual, the visa applicant will need to review the website of the relevant consulate for specific information.

