

US Travel Alert: Update #1

Travel Ban and Suspension of Visa Issuance for Nationals of Certain Countries Designated by Executive Order

An Executive Order, entitled "[Protecting the Nation from Foreign Terrorist Entry Into the United States](#)" was signed by President Trump on January 27, 2017 impacting travel to the US for nationals of Sudan, Syria, Libya, Somalia, Iran, Iraq and Yemen.

Since the signing of the Executive Order, further guidance has been issued by various government agencies including the White House and the Department of Homeland Security. KPMG Law provides the following Alert to summarize the developments to date that may impact your business.

What is the purpose of the Order?

The Executive Order's policy objectives are to protect the United States and its citizens from foreign nationals who intend to commit terrorist attacks in the United States and to prevent the admission of foreign nationals who intend to exploit United States immigration laws for malevolent purposes.

Specifically, the Executive Order:

1. Suspends the refugee program for 120 days and suspends the Syrian refugee program indefinitely;
2. Caps refugee resettlement numbers at 50,000 for FY 2017;
3. Suspends entry and visa issuance for people from Syria, Sudan, Iran, Iraq, Somalia, Yemen and Libya for a minimum of 90 days while the government undertakes a review of visa issuance and immigration benefits processes;
4. Suspends the Visa Interview Waiver Program – the Order requires in-person interviews for nonimmigrant visa applicants;
5. Establishes requirements for "extreme vetting";
6. Prioritizes refugees whose claims are based on religious persecution but only if the person's religion is a minority in their country of origin; and
7. Directs the Secretary of Homeland Security to expedite the completion of an entry-exit system.



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Who is impacted by the Order?

The Order bans **nationals of Iraq, Iran, Syria, Somalia, Sudan, Libya, and Yemen** from entering the U.S. on any nonimmigrant visa (J, H-1B, L, O, TN, F-1 etc) for an initial period of 90 days (January 27th 2017 to April 27th 2017). The Executive Order also instructs all US embassies and consular posts to immediately suspend the issuance of nonimmigrant and immigrant visas for nationals from the seven countries listed above. Additionally, for 120 days, the order bars the entry of any refugee who is awaiting resettlement in the U.S. and specifically, prohibits all Syrian refugees from entering the US until further notice.

The Executive Order also suspends the Visa Interview Waiver Program thereby requiring **all foreign nationals** to appear at a US Consulate or Embassy to obtain their nonimmigrant visa.

The travel ban **does not apply to individuals who are not nationals of the seven countries above**. For example, Indian nationals who hold an immigrant or nonimmigrant visa who are not also a national of one of the seven countries, may travel to the US and apply for immigrant and nonimmigrant visas.

Foreign Nationals currently in the US holding nonimmigrant visa

If currently in the US on a nonimmigrant visa, Foreign Nationals and dual citizens of the seven designated countries should refrain from departing the US. They would be subject to the ban upon re-entry. Exceptions apply for dual citizens of Canada and the UK which is discussed below.

Foreign Nationals outside the US holding a nonimmigrant visa

In accordance with the Order, Foreign Nationals and dual citizens of the seven designated countries with a nonimmigrant visa will not be permitted to enter the US for 90 days from the issuance of the Order. Exceptions may apply for dual citizens of Canada and the UK which is discussed below.

Foreign Nationals with Lawful Permanent Residence or Green Cards

Foreign nationals and dual citizens of the seven designated countries, who are also permanent residents of the US, will be permitted entry to the US on a case by case basis subject to additional rigorous screening.

Foreign Nationals with Dual Citizenship

If the foreign national is a citizen of Canada or the UK, and a citizen or national of one of the seven countries, they may be permitted entry to the US on a case by case basis subject to additional rigorous screening. We have not received additional guidance on further exceptions for dual citizens.

If an employee is a citizen of one of the seven designated countries and is also a citizen of a country other than Canada or the UK, the ban will apply. For example, if the employee is a dual citizen of South Africa and Iran, they will not be eligible to obtain a nonimmigrant or immigrant visa and enter the US for 90 days from the issuance of the Order.

US Citizens

American citizens (by birth or naturalization) are not affected by the Order.

Length of the Travel Restriction

Although the travel restriction is initially for a period of 90 days from the date the Order was issued, after 90 days, travel is not automatically reinstated.

Our Recommendations

1. Employers should immediately identify employees who may be impacted by the Executive Order and determine travel and project needs;
2. Affected Foreign Nationals who are currently outside the US should not attempt entry into the US and should consult with a US Immigration Attorney;
3. Affected Foreign Nationals, currently present in the US, should avoid international travel until the ban has ended for their respective designated country. If travel is necessary, we recommend consulting with a US Immigration Attorney.

Further Updates

Given the fluidity of the situation, we are expecting further guidance on the above and will provide information as soon as it becomes available.

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