



# GMS Flash Alert

## Immigration Edition

2017-102 | June 13, 2017

# United States – President's Travel Ban Blocked Again by Federal Appeals Court

On June 12, 2017, the U.S. Court of Appeals for the 9<sup>th</sup> Circuit in San Francisco, California, upheld a lower court's decision to block President Trump's revised Executive Order which bans travel to the United States for nationals from Sudan, Syria, Libya, Somalia, Iran, and Yemen.<sup>1</sup>

In the 86-page ruling from the three judge panel, the U.S. Court of Appeals refused to re-instate President Trump's revised Executive Order and upheld the lower court's injunction on enforcement of the Order.

(For related coverage, see GMS [Flash Alert 2017-097](#) (June 2, 2017) and GMS [Flash Alert 2017-051](#) (March 16, 2017).)

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## WHY THIS MATTERS

Under the revised Executive Order, as of 12:00 am on March 16, foreign nationals from Sudan, Syria, Libya, Somalia, Iran, and Yemen would not have been permitted entry to the U.S. unless they had a visa valid on January 27, 2017 (prior to 5:00 pm) or they held a valid visa on the effective date of the Executive Order, March 16, 2017.

With the injunction maintained, foreign nationals from the six affected countries may continue to apply for visas and travel to the U.S. without restriction.

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## Following Two Federal Appeals Court Rulings, What Does the Future Hold for the Travel Ban Executive Order?

Enforcement of the revised Executive Order continues to remain on hold as it makes its way to the Supreme Court. Following the ruling from the U.S. Court of Appeals for the 9<sup>th</sup> Circuit, the next step for the administration is to request the U.S. Supreme Court to stay the decision to uphold the injunction. In the ruling from the three judge panel, the

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judges stated that immigration law “requires that the President exercise his authority only after meeting the pre-condition of finding that entry of an alien or class of aliens *would be* detrimental to the interests of the United States. Here, the President has not done so.”<sup>2</sup>

“The order does not offer a sufficient justification to suspend the entry of more than 180 million people on the basis of nationality,” said the 9<sup>th</sup> Circuit in its opinion.<sup>3</sup>

U.S. Attorney General Jeff Sessions released a statement shortly after the 9<sup>th</sup> Circuit’s decision, stating “President Trump’s Executive Order is well within his lawful authority to keep the Nation safe. We disagree with the Ninth Circuit’s decision to block that authority.”<sup>4</sup> At the statement’s close, Mr. Session’s indicated that the Department of Justice will “seek further review by the Supreme Court.”

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## KPMG NOTE

Individuals from the affected countries outside the U.S. should seek immediate advice from their qualified U.S. immigration counsel to determine eligibility to obtain a visa to enter the United States.

KPMG Law LLP will continue to provide updates as further important developments related to the Executive Order occur.

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## FOOTNOTES:

1 For the text of the decision, [click here](#).

2 See page 44 of the [decision](#).

3 See page 43 of the [decision](#).

4 See the June 12, 2017 “[Statement by Attorney General Jeff Sessions on the Ninth Circuit Decision](#),” on the Department of Justice website.

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## Contact us

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*\* Please note that KPMG LLP (U.S.) does not provide any immigration services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

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