



GMS Flash Alert

Immigration Edition

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United States - Supreme Court Allows Travel Ban to Proceed, Litigation Continues

On December 4, 2017, by a 7-2 vote, the Supreme Court of the United States (“SCOTUS”) issued an order permitting full enforcement of the U.S. government’s travel restrictions on certain nationals of Chad, Iran, Libya, North Korea, Somalia, Syria, Venezuela, and Yemen, pursuant to the [presidential proclamation](#) that was issued on September 24, 2017.¹ (For prior coverage, see GMS [Flash Alert 2017-155](#), October 25, 2017.)

SCOTUS’s decision is temporary, pending the current litigation of the Proclamation in two separate circuits of the U.S. Court of Appeals.

WHY THIS MATTERS

The December 4 SCOTUS decision removes the temporary injunctions that had been imposed, and allows the U.S. government to **fully implement** the ban while legal challenges continue in the Courts of Appeals for the Fourth and the Ninth Circuits. This could have implications for employers with *employees who travel internationally* from the aforementioned countries currently in the U.S. or intending to come to the U.S., as well as for researchers, academics, and students who are nationals of the aforementioned countries currently in the U.S. or intending to come to the United States. The Trump Administration is expected to announce when it will begin implementing the ban. Once the ban is implemented, nationals of the eight countries will be subject to the U.S. travel limitations, unless otherwise exempt.

Context

After the Proclamation was issued, two lower federal courts in separate challenges partially blocked the ban’s restrictions from being fully enforced. However, following the appeal of those rulings and request for temporary permission to implement the proclamation, the Ninth Circuit Court of Appeals allowed the ban to partially take effect. Both cases are

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currently pending, with oral arguments scheduled in the Ninth Circuit in Seattle on Wednesday, December 6, and in the Fourth Circuit in Richmond, Virginia, on Friday, December 8.

KPMG NOTE

- Nationals of Iran, Libya, Syria, Yemen, Somalia, Chad, and North Korea already in the U.S. should contact an immigration lawyer prior to international travel.
- As a result of numerous court orders, if you are detained at a U.S. airport or other port of entry you have the right to request legal counsel. If you are detained, please contact KPMG Law LLP in Canada immediately (see contacts listed on the last page).
- Dual nationals of one of the specified countries, may be permitted entry to the U.S. so long as they present a valid passport from one of the non-enumerated countries. Please also note that despite the above guidance, the ban may apply nonetheless to those dual nationals travelling directly from one of the enumerated countries. Further, U.S. citizens may also receive additional scrutiny if they have recently travelled to one of the specified countries.
- It has been reported that officers are requesting that green card holders sign Form I-407, voluntarily relinquishing their permanent residency **Do not sign Form I-407 without first contacting a U.S. immigration attorney.** Neither failure to sign nor abandonment is grounds for detention. Rather, a lawful permanent resident (“LPR”) who refuses to sign Form I-407 must be issued a Notice to Appear (“NTA”) so that an immigration judge can determine whether he/she has lost his/her LPR status.

If you have any questions about how this ongoing litigation may affect your company or employees, please contact your immigration attorney.

KPMG Law LLP will continue to provide updates regarding the impact of this requirement as and when they become available.

FOOTNOTE:

1 See: <http://www.scotusblog.com/2017/12/justices-allow-full-travel-ban-go-effect-government-appeals/> .

See the Court’s December 4 order re: TRUMP, PRESIDENT OF U.S., ET AL. V. HAWAII, ET AL at: https://www.supremecourt.gov/orders/courtorders/120417zr_4gd5.pdf

See the Court’s December 4 order re: TRUMP, PRESIDENT OF U.S., ET AL. V. INT’L REFUGEE ASSISTANCE, ET AL. at: https://www.supremecourt.gov/orders/courtorders/120417zr1_j4ek.pdf .

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Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in Canada:

Morwenna K. Claire

Associate Attorney, U.S. Immigration

KPMG Law LLP – Tax + Immigration,
Canada

Tel. +1-416-943-7847

morwennaclaire@kpmglaw.ca

Chuck Gillman

Senior Attorney, U.S. Immigration

KPMG Law LLP – Tax + Immigration,
Canada

Tel. +1-416-943-7882

cgillman@kpmg.ca

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