

IMMIGRATION ALERT:

New Executive Order

Please advise all foreign nationals born in or holding a passport from the following countries to avoid departing the U.S. for any reason, without first seeking legal counsel: Iran, Libya, Somalia, Sudan, Syria, and Yemen.

On March 6, 2017, President Trump issued an updated Executive Order (“EO”) halting the current U.S. refugee admission program and restricting travel to the U.S. by foreign nationals from six largely Muslim countries: Iran, Libya, Somalia, Sudan, Syria, and Yemen. The new EO, which takes effect March 16, 2017, revokes and replaces a prior Executive Order issued on January 27, 2017, which met substantial legal challenges and delays. While the update dials back many of the initial order’s restrictions, the EO still poses significant immigration planning issues for affected foreign nationals, as well as their employers, educational institutions, and families.

The prior order applied broadly to restrict entry to the U.S. by all foreign nationals from the designated countries. The new EO applies only to foreign nationals currently outside the U.S. who do not currently hold a valid visa. The EO includes a number of carve outs, specifically allowing for continued travel by:

- Lawful permanent residents (green card holders).
- Foreign nationals admitted or paroled into the U.S. who continue to have an unexpired visa or other valid travel document (such as advance parole).
- Dual nationals presenting a passport from a non-designated country.
- Foreign nationals granted asylum and refugees already admitted to the U.S., now seeking to reenter.
- Foreign nationals from Iraq, who are no longer included in the travel ban.

In addition to these specific exemptions, the EO includes waiver provisions, allowing for exceptions where the foreign national’s entry would be in the national interest, would not threaten national security, and where enforcing the ban would cause undue hardship. The EO provides examples where a waiver may be appropriate, such as foreign nationals previously admitted to the U.S. for work or study, those seeking to enter the U.S. for significant business and professional obligations, and those seeking to visit a U.S. citizen or lawful permanent resident family member. People applying to adjust to permanent residence may travel using advance parole.

As with the prior EO, the travel ban is valid for 90 days, and will continue past that date for all countries unable to provide the U.S. with certain information needed to process visa applications. Therefore, the ban may be indefinite, and other countries may be added if they are unable or unwilling to provide such information.

Please consider the following guidance regarding your travel and immigration planning:

- Foreign nationals born in or holding a passport from the affected countries currently in the U.S. should not depart the country without first seeking legal counsel. If outside the U.S., foreign nationals from these countries should contact a member of the immigration practice group as soon as possible for further information.

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- Employers may wish to prioritize permanent residence applications for foreign nationals from the affected countries, particularly for jobs requiring travel.
- The EO requires every visa applicant to appear for an in-person interview. While many consulates routinely waive interviews for straightforward visa renewals, this change could result in significant processing delays at consulates worldwide.
- Upon reentering the U.S., permanent residents should under no circumstances agree to relinquish their green cards by signing a Form I-407 if requested to do so by a border officer.

Harter Secret & Emery's immigration practice group has reached out to affected individuals and organizations. We will continue to monitor the situation closely, and provide updates as they become available.

If you have any questions regarding this LEGALcurrents®, please do not hesitate to contact any member of our firm's Immigration Practice Area at (585) 232-6500. ■



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