



## CLIENT ALERT

### EMERGENCY TRAVEL ALERT FOR FOREIGN NATIONALS

JANUARY 2017

On Friday, January 27, President Donald Trump signed an executive order that immediately impacts certain foreign nationals seeking to enter the United States or apply for immigration benefits inside the country. Because of the serious implications of this order on travelers from certain nations, we advise employers and individuals to be aware of the impact of this executive action and delay or otherwise avoid nonessential travel by certain affected persons.

#### The Order

The order, titled “Protecting the Nation from Foreign Terrorist Entry Into the United States,” suspends the non-immigrant entry of nationals (which includes citizens) from certain designated countries (Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen) for 90 days from the date of the order. The ban extends to non-immigrant visas and there are some indications that it also extends to other benefits applications filed with U.S. Citizenship and Immigration Services (USCIS) in the United States by nationals of those countries. Green card holders from those countries should generally be permitted to enter the U.S. on a case-by-case basis through the issuance of a waiver by Customs and Border Protection (CBP) so long as they are determined not to pose a threat to the United States. The ban also

applies to dual nationals of those countries, although it does not apply to U.S. citizens who are also nationals of those countries. The Department of Homeland Security (DHS) has stated that the order will not restrict the re-entry of people who travel to the designated countries so long as they are not citizens of those countries. This situation remains fluid and evolving.

Additionally, after 90 days, travel will not be automatically reinstated. The ban will remain in place pending the results of DHS reporting on whether those countries provide certain information about their nationals applying for non-immigrant benefits from the United States.

The order also suspends the U.S. Refugee Resettlement program for 120 days, with indefinite suspension for Syrian refugees until the President deems it in the national interest to resume processing such applications. The order contains an exception for refugees that were “in transit” in the days following the order’s release, but the exception does not apply to people from the countries designated in the travel ban. The order also includes an exception for religious minorities.

#### Client Insights

- Non-immigrant visa holders who might be affected by the executive order should delay or otherwise avoid



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traveling outside of the United States until further notice.

- While DHS has clarified that otherwise admissible permanent resident nationals of these 7 countries should generally be admitted to the United States notwithstanding this travel ban, we nevertheless recommend that such individuals avoid non-essential international travel until we have further information about CBP compliance with the DHS directive. At the very least, individuals from these countries should consult with legal counsel prior to international travel.
- Lawful Permanent Residents are also reminded not to relinquish or abandon their permanent resident status during any detention by CBP Officers. They should insist on speaking with an immigration attorney and appearing before an immigration judge.
- As of this alert's publication, 6 U.S. Federal District Courts have entered injunctive relief countering the implementation of the executive order. These orders vary in scope. While these stays are enforceable against DHS personnel, some reports allege that CBP personnel are not consistently complying with the terms of the stays. It should also be noted that such injunctive relief does not apply to airports with CBP pre-clearance facilities. These airports include Dublin & Shannon, Ireland; Aruba; Freeport & Nassau, The Bahamas; Bermuda; Abu Dhabi, United Arab Emirates; and Calgary, Toronto, Edmonton, Halifax, Montreal, Ottawa, Vancouver, and Winnipeg, Canada. We recommend that individuals who would otherwise benefit from these injunctions avoid entering the United States from these airports.
- Please note that further clarification about how the executive order will be implemented by DHS agencies is forthcoming, and litigation in U.S. Federal courts continues. Please stay tuned into our Navigating Change news for updates to this situation as it unfolds.
- Clients are reminded that only nationals or dual nationals of the seven countries on the January 27 executive order are subject to the travel restrictions. At this time, we have no reason to believe that nationals of other countries will be restricted from traveling to the United States. Foreign travelers from other countries should exercise the same diligence and precautions that they would usually exercise when seeking admission to the United States.