



## CLIENT ALERT

### TRAVEL BAN 2.0: PRESIDENT TRUMP SIGNS NEW EXECUTIVE ORDER

MARCH 2017

On Monday morning, March 6<sup>th</sup>, President Donald Trump signed an executive order reinstating many of the travel and visa restrictions that he imposed on nationals of certain countries in his January 27<sup>th</sup> executive order. The new executive order revokes the prior order, but effective March 16, 2017, reinstates a temporary suspension of the U.S. Refugee Admissions Program and temporarily restricts the issuance of new visas and admission to the U.S. of certain nationals of six of the seven originally named nations.

For a period of 90 days, and effective March 16, 2017, the new executive order will suspend the entry for nationals of Iran, Libya, Somalia, Sudan, Syria and Yemen who are outside the United States on March 16, did not have a U.S. visa as of January 27, 2017 and who do not have a visa as of March 16, 2017. Individuals exempted from this suspension include:

- U.S. lawful permanent residents;
- Those who are admitted to or paroled into the United States;
- Those holding travel permits, such as an advance parole document;
- Dual nationals of these countries carrying passports issued by a non-designated country;
- Those holding diplomatic visas or certain treaty visas; and

- Those granted asylum status, withholding of removal, advance parole or protection under the Convention Against Torture, or who are already admitted under the refugee program.

The order allows for case-by-case discretionary waiver where the Secretary of the Department of Homeland Security deems it to be in the national interest. It also clearly states that visas issued prior to March 16 will not be revoked under the order.

Significant differences between the new order and the January 27<sup>th</sup> order include:

- Iraq is no longer among the list of countries whose nationals will be temporarily blocked from entering the United States, although its nationals will be subject to additional screening to determine whether applicants for U.S. immigration benefits have terrorism ties.
- Syrians will not be singled out by being blocked indefinitely from general entry or from the U.S. Refugee Admissions Program.
- The prior provision allowing waiver of the “travel ban” for those who have experienced religious



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prosecution in their home country, which was widely viewed as favoring Christians from Muslim nations, is now a much broader, case-by-case waiver provision.

Many of these provisions appear to be specifically intended to address the legal challenges that resulted in a temporary restraining order (TRO) on the original executive order issued on January 27, 2017. That previous order was stayed through a nationwide TRO issued by a federal district court in the state of Washington, and the U.S. Court of Appeals for the Ninth Circuit dismissed the administration's appeal.

### Client Insights:

1. Individuals from the six designated countries, as well as Iraqis, should plan ahead for international travel from March 16, 2017 through June 14, 2017. Those who may be subject to the ban should defer non-essential travel to the United States and consult with legal counsel prior to engaging in international travel during this period. We also advise nationals of the six designated countries who fall under an exception to the ban to consult with legal counsel prior to engaging in international travel. They should anticipate scrutiny at the border from Customs and Border Protection Officers and potential placement in "secondary inspection" so that federal agents can further question them.
2. Lawful Permanent Residents are 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 if they are asked to relinquish their permanent residency.
3. Holders of U.S. temporary visas are reminded to comply with the terms of their visas at all times and to be prepared to demonstrate continued compliances when requesting re-entry or requesting other immigration benefits inside the United States, such as extension of work authorization, change or extension of status, or adjustment of status to lawful permanent residency.
4. Employers and individuals are reminded that CBP officers hold vast power when admitting individuals at the border. Such power includes the ability to detain individuals, to search their belongings and possessions (including electronic devices), and denial of the right to counsel.
5. This executive order, like the previous one, is very likely to be challenged on a variety of constitutional and statutory grounds. We will continue monitoring reports about the implementation of this



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order by federal agents and these legal challenges. Please stay tuned into our Navigating Change news

for updates to this situation as it unfolds.