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New Executive Order Impacts Entry to the United States, Visa Issuance, Refugee, and Screening Procedures

On Jan. 27, 2017, President Donald J. Trump signed an Executive Order (EO) on Immigration entitled “Protecting the Nation from Terrorist Attacks by Foreign Nationals.” The EO impacts, among many other processes, the entry to the United States for immigrants and non-immigrants from **Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen**. The EO also impacts the Visa Interview Waiver program, widely utilized by a number of U.S. Consular Posts to renew visas for applicants. This is expected to have a wide effect, including on employers with foreign national employees who are nationals or dual nationals of the above listed countries and are here on work visas and as green card holders. Overall, the EO includes the following provisions:

- > Suspend the entry into the U.S. of foreign nationals from **Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen** (*i.e.*, countries designated pursuant to Division O, Title II, Section 203, of the 2016 Consolidated Appropriations Act (H.R. 2029, P.L. 114-113), for **90 days** from the date of the execution of the Order. This applies to foreign nationals on temporary work visas as well as lawful permanent residents. Importantly, provisions of this EO could be read to apply to dual nationals as well as nationals of the above listed countries who are citizens of countries elsewhere in the world.
 - > Note that additional countries could come to be included on the list as determined by the Department of Homeland Security (DHS) and the Department of State (DOS).
 - > It is not immediately clear whether U.S. Consular Posts will be able to issue immigrant (permanent) and nonimmigrant (temporary) visas, or whether the issuance of visas has likewise been suspended pursuant to this EO as the EO includes contradictory language with respect to this point.
- > After the 90-day suspension, travel and entry into the United States is not automatically restored. Rather, the EO further directs a series of reviews and reports concerning the information provided by foreign countries in processing foreign nationals for U.S. immigration benefits. The EO also provides for the president to issue a presidential proclamation that would indefinitely prohibit the entry of foreign nationals from a designated country

that does not comply with our information requests connected to processing immigration benefits (with limited exceptions for diplomats and the like).

- > Suspend the Visa Interview Waiver Program, requiring visa interviews for all temporary visa applicants, regardless of nationality, including those renewing their visas.
- > Establish requirements for additional screening procedures for adjudication of applications for immigration benefits.
- > Cap refugee resettlement numbers at 50,000 for Fiscal Year 2017
- > Suspend the entry of all refugees for a period of 120 days while ‘extreme vetting’ procedures are developed.
 - > The EO provides that, those refugee applicants already in the application process could be admitted to the United States. however, they would be required to go through the new ‘extreme vetting’ procedures.
- > Establish requirements for “extreme vetting” for a finding of eligibility as a refugee.
- > Permanently bar the entry to the United States of Syrian refugees.
- > Permit states and local jurisdictions to provide input regarding locations for resettlement of refugees within the United States.
- > Carve out an exception to the suspension of refugee admissions on a case-by-case basis, subject to the discretion of the Secretaries of State and Homeland Security, where it is found that such an admission would be in the national interest. The EO explicitly references that religious minorities within their country of nationality who face religious prosecution, where such admission would conform to “pre-existing” international agreements, or where the applicant is already “in transit” and it would cause “undue hardship” if admission were denied.

In light of the above, the impacted individuals who are nationals or dual nationals of the countries listed above, may wish to refrain from international travel until further notice, in order to avoid being unable to re-enter the United States pursuant to the provisions of the EO. Employers may wish to identify employees impacted by the EO and inform them of its provisions, advising for them to remain in the United States. We will continue monitoring the implementation of the EO and any challenges to it, and provide updates as they become available.

For more information on this or other Immigration matters, please visit Greenberg Traurig’s [Inside Business Immigration Blog](#).

Business Immigration & Compliance Group

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