



January 2017

## President Trump’s Executive Order (EO) “Protecting the Nation from Foreign Terrorist Entry into the United States”: Q&A

Q1: What do the provisions of the EO address?

A1: The provisions of the EO address several issues:

1. Ban of entry to the United States for nationals of seven countries: **Iran, Iraq, Sudan, Somalia, Yemen, Libya, and Syria**, whether with nonimmigrant (temporary) or immigrant (permanent) visas for 90 days. At the conclusion of 90 days, the ban is not automatically lifted; instead, there are a number of affirmative steps listed in the EO to once again enable such entry.
2. Suspension of the Visa Interview Waiver program for all visa applicants. Instead, the U.S. Department of State will mandate visa interviews for all applicants for nonimmigrant visas, with the following exceptions:
  - a. Diplomatic and official visa applicants (A-1, A-3, G-1, G-2, G-3, G-4, NATO-1 through-6, C-2, and C-3);
  - b. Visa applicants who are under 14 or over 79 years of age;
  - c. Visa applicants who previously held a visa in the same category, which expired less than 12 months before the present visa application.
3. Ban of entry to refugees to the United States from Syria indefinitely.
4. Reduction of the total number of refugees to enter the United States in Fiscal Year 2017 to 50,000.
5. Establishment of requirements for “extreme vetting” for a finding of eligibility of refugee status.

Q2: To whom does the entry ban apply?

A2: This provision of the EO stated that it applies to “nationals” of the seven countries listed above. However, the definition of “national” can be broad and can include citizens, dual citizens, non-citizens born in one of the listed countries and, in some cases, children of individuals born in one of the listed countries. Over the weekend, a top U.S. Customs and Border Protection (CBP) official stated that CBP’s policy will be to treat dual nationals based on the

passport they present for inspection containing a valid visa. However, U.S. Consular Posts have announced that they will cease to issue visas to dual nationals. Furthermore, there are reports that dual nationals are being refused entry at U.S. airports. A number of airlines have also declined to allow dual nationals to board flights to the United States. Individuals fitting the above descriptions should take this into consideration if planning to travel outside of the United States at this time.

Q3: Are U.S. lawful permanent residents (green card holders) subject to the United States entry ban?

A3: Lawful Permanent Residents (green card holders) who are traveling on a valid green card should be allowed to board a U.S. bound aircraft. The Department of Homeland Security (DHS) has stated that green card holders will be “assessed for exceptions” to the entry ban at U.S. ports of entry. Green card holders should expect additional scrutiny, background checks and questioning in secondary inspection at ports of entry. Based on the foregoing, green card holders should consider avoiding all nonessential travel out of the United States at this time.

Q4: I am a dual national holding two passports, one of which is issued by an affected country. What should I do?

A4: CBP officials have stated that dual nationals who travel using the passport *not* issued by one of the affected countries should be allowed to board an aircraft bound for the United States as well as allowed entry to the United States. Officials further clarified that those dual nationals traveling *from* one of the affected countries may be subject to additional security checks and delays. UK officials have stated they have confirmed with White House officials that Dual UK citizens should be allowed entry to the United States. Dual nationals utilizing their passport from one of the affected countries in order to travel will be subject to the ban. Importantly, this has not been implemented consistently by airlines and CBP admitting officers. Therefore, it is possible that dual nationals who present the passport *not* issued by one of the affected countries still may experience trouble boarding a plane abroad or entering the United States because of their dual nationality.

Q5: Are there any exceptions to the entry ban?

A5: The EO provides that DHS and U.S. Department of State (DOS) may, on a case-by-case basis, make a determination that it is in the national interest to issue visas, allow entry, or provide other immigration benefits to the nationals of the seven countries listed above. We plan to provide further updates as soon as the guidelines for this determination are provided. Additionally, foreign diplomats and officials are exempted from the entry ban enacted by the EO.

Q6: Can I travel internationally using my Advance Parole Document?

A6: As discussed, the EO provides for the ban of entry for nationals of seven countries: **Iran, Iraq, Sudan, Somalia, Yemen, Libya, and Syria**, whether with nonimmigrant (temporary) or immigrant (permanent) visas for 90 days. Foreign nationals traveling on a passport from one of the affected countries with an advance parole travel document will be barred from returning to the United States, despite presenting the advance parole. Those individuals that have an advance parole document, including those granted through Deferred Action for Childhood Arrivals (DACA), should not depart the United States for international travel.

Q7: Is it possible that the entry ban could be expanded to apply to other countries?

A7: Yes, the EO itself provides that other countries could be added to the list of seven above. DHS is currently performing a detailed global review for security and visa reciprocity purposes and has been empowered by the EO to make a finding that other countries must be added to the list in the EO.

Q8: Have legal challenges been filed with federal courts against the EO?

A8: Yes, legal challenges have been filed with federal courts. Federal courts around the United States have issued temporary restraining orders with respect to the implementation of the EO and clarifications and further legal challenges are still pending. GT anticipates publishing a list and description of related lawsuits and Agency clarifications.

GT will continue to monitor all of the developments with respect to the DHS and DOS clarifications regarding the EO and any judicial action in connection with the Order.

This *GT Alert* was prepared by **Nataliya Rymer** and **Jennifer Hermansky**. Questions about this information can be directed to:

- > [Nataliya Rymer](mailto:rymern@gtlaw.com) | +1 215.988.7881 | [rymern@gtlaw.com](mailto:rymern@gtlaw.com)
- > [Jennifer Hermansky](mailto:hermanskyj@gtlaw.com) | +1 215.988.7817 | [hermanskyj@gtlaw.com](mailto:hermanskyj@gtlaw.com)
- > Or, your [Greenberg Traurig](#) attorney

<b>Amsterdam</b> + 31 20 301 7300	<b>Denver</b> +1 303.572.6500	<b>Northern Virginia</b> +1 703.749.1300	<b>Tallahassee</b> +1 850.222.6891
<b>Atlanta</b> +1 678.553.2100	<b>Fort Lauderdale</b> +1 954.765.0500	<b>Orange County</b> +1 949.732.6500	<b>Tampa</b> +1 813.318.5700
<b>Austin</b> +1 512.320.7200	<b>Houston</b> +1 713.374.3500	<b>Orlando</b> +1 407.420.1000	<b>Tel Aviv<sup>^</sup></b> +03.636.6000
<b>Berlin<sup>-</sup></b> +49 (0) 30 700 171 100	<b>Las Vegas</b> +1 702.792.3773	<b>Philadelphia</b> +1 215.988.7800	<b>Tokyo<sup>☒</sup></b> +81 (0)3 4510 2200
<b>Berlin-GT Restructuring<sup>-</sup></b> +49 (0) 30 700 171 100	<b>London<sup>*</sup></b> +44 (0)203 349 8700	<b>Phoenix</b> +1 602.445.8000	<b>Warsaw<sup>~</sup></b> +48 22 690 6100
<b>Boca Raton</b> +1 561.955.7600	<b>Los Angeles</b> +1 310.586.7700	<b>Sacramento</b> +1 916.442.1111	<b>Washington, D.C.</b> +1 202.331.3100
<b>Boston</b> +1 617.310.6000	<b>Mexico City<sup>+</sup></b> +52 55 5029.0000	<b>San Francisco</b> +1 415.655.1300	<b>Westchester County</b> +1 914.286.2900
<b>Chicago</b> +1 312.456.8400	<b>Miami</b> +1 305.579.0500	<b>Seoul<sup>∞</sup></b> +82 (0) 2.369.1000	<b>West Palm Beach</b> +1 561.650.7900
<b>Dallas</b> +1 214.665.3600	<b>New Jersey</b> +1 973.360.7900	<b>Shanghai</b> +86 (0) 21.6391.6633	

*This Greenberg Traurig Alert is issued for informational purposes only and is not intended to be construed or used as general legal advice nor as a solicitation of any type. Please contact the author(s) or your Greenberg Traurig contact if you have questions regarding the currency of this information. The hiring of a lawyer is an important decision. Before you decide, ask for written information about the lawyer's legal qualifications and experience. Greenberg Traurig is a service mark and trade name of Greenberg Traurig, LLP and Greenberg Traurig, P.A. <sup>-</sup>Greenberg Traurig's Berlin office is operated by Greenberg Traurig Germany, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. <sup>-</sup> Berlin - GT Restructuring is operated by Köhler-Ma Geiser Partnerschaft Rechtsanwälte, Insolvenzverwalter. <sup>\*</sup>Operates as a separate UK registered legal entity. <sup>\*\*</sup>Greenberg Traurig is not responsible for any legal or other services rendered by attorneys employed by the strategic alliance firms. <sup>+</sup>Greenberg Traurig's Mexico City office is operated by Greenberg Traurig, S.C., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. <sup>∞</sup>Operates as Greenberg Traurig LLP Foreign Legal Consultant Office. <sup>^</sup>Greenberg Traurig's Tel Aviv office is a branch of Greenberg Traurig, P.A., Florida, USA. <sup>☒</sup>Greenberg Traurig Tokyo Law Offices are operated by GT Tokyo Horitsu Jimusho, an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. <sup>~</sup>Greenberg Traurig's Warsaw office is operated by Greenberg Traurig Grzesiak sp.k., an affiliate of Greenberg Traurig, P.A. and Greenberg Traurig, LLP. Certain partners in Greenberg Traurig Grzesiak sp.k. are also shareholders in Greenberg Traurig, P.A. Images in this advertisement do not depict Greenberg Traurig attorneys, clients, staff or facilities. No aspect of this advertisement has been approved by the Supreme Court of New Jersey. ©2017 Greenberg Traurig, LLP. All rights reserved.*