

President Trump Issues Updated Immigration Order

March 6, 2017

On March 6, 2017, President Trump signed an executive order, "Protecting the Nation from Foreign Terrorist Entry into the United States." The order is an updated version of the previous order issued on Jan. 27, 2017.

What Has Changed?

The order imposes a 90-day ban on entry to the United States for nationals of six countries: Iran, Libya, Somalia, Sudan, Syria, and Yemen. Iraq, which had previously been on the list, has now been taken off. The order, however, notes that decisions about issuing visas or granting admission to Iraqi nationals will be subjected to additional scrutiny to determine if those individuals have connections to terrorist organizations.

According to the order, entry into the United States by foreign nationals from the six countries mentioned above will be suspended for 90 days. This applies to foreign nationals who are outside of the United States and do not have a valid visa on March 16, 2017 (the effective date of the order), and did not have a valid visa as of 5 p.m. EST on Jan. 27, 2017. This ban does not include foreign nationals who have lawful permanent residence in the United States, any foreign national who is admitted into the United States after March 16, 2017, any foreign national who has been granted asylum or refugees who have already been admitted to the United States, among others.

The order suspends travel of refugees into the United States for 120 days in order for the Secretary of Homeland Security to review the refugee application and adjudication process and imposes a cap of 50,000 refugees to be admitted in the United States in 2017. Refugees may be admitted on a case-by-case basis so long as the Secretary of State and Secretary of Homeland Security determine that entry of these individuals would be in the national interest and not pose a threat to national security.

The order also provides U.S. Customs and Border Protection the discretion to grant waivers on a case-by-case basis to foreign nationals who would otherwise be suspended from entry to the United States under this order if the foreign national can show that denial of entry would cause undue hardship or that their entry would not threaten national security and would be in the national interest. The order gives examples of when waivers would be appropriate, such as if the foreign national had previously been admitted to the United States for a continuous period of work or study and was outside the country on the date of the order and wanted to resume their work or study. Other examples include those who seek entry for "significant business or professional obligations," to visit or reside with a close family member who is a United States citizen, lawful permanent resident, or alien lawfully admitted on a nonimmigrant visa, or an infant, young child, adoptee or an individual needing medical care.

The order also calls for the implementation of a program that has uniform screening and vetting standards for all immigration programs. A first report on the progress of the program must be given within 60 days of this order, a second report within 100 days, and a third report within 200 days. Finally, the order suspends the Visa Interview Waiver Program (VWIP) for nonimmigrant visa applicants processing visas at U.S. consular posts abroad.

How Are Employers of Foreign Nationals Impacted?

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Employers should work with their Miller Canfield immigration attorney to determine if any of their employees are subject to the order. Foreign national employees who are from one of the listed countries should refrain from international travel for the duration of the ban – until June 14, 2017, or until further notice. As mentioned above, however, the immigration ban does not include lawful permanent residents.

We will continue to monitor developments related to the executive order and will update you with any important developments.