

Pres. Trump Issues New Immigration Proclamation Expanding Covered Countries

September 25, 2017

Pres. Donald Trump added new countries to the list of those whose citizens face travel restrictions into the United States.

On Sept. 24, 2017, Pres. Trump issued the "Presidential Proclamation Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats." The proclamation is an update and expansion of his preexisting immigration order that was signed on March 6, 2017, and expired on Sept. 24.

The proclamation adds countries to the list of those whose citizens face travel restrictions into the U.S., in what the administration says is an effort to protect against terrorist attacks "and other public-safety threats." Foreign nationals from Chad, Iran, Libya, North Korea, Syria, Venezuela, Yemen and Somalia will now face some form of travel restriction to the United States to "address the threats that the countries' identity-management protocols, information-sharing inadequacies, and other risk factors pose to the security and welfare of the United States."

Foreign nationals from Iraq will no longer face travel restrictions, but their entry will be subject to additional scrutiny to determine if they pose a threat to the United States.

The President's proclamation distinguishes between immigrants and non-immigrants from the countries listed above given that persons admitted on immigrant visas present distinct national security concerns from non-immigrants. For reference, immigrants are defined as persons wishing to live permanently in the U.S. whereas nonimmigrants are persons with permanent residence outside the U.S. but wish to be in the U.S. on a temporary basis for a specific purpose and duration such as for business, temporary work or study, for example.

Entry of non-immigrants from the named countries is tailored to each specific country. Some countries displayed "mitigating factors" during the administration's review of the country's immigration policies, and the President restricted only certain categories of nonimmigrants from those countries. For example, entry of immigrants from Chad, Iran, Libya, North Korea, Syria, Yemen and Somalia is suspended indefinitely under the new ban, meaning immigrants from these countries are no longer permitted subject to legal challenges.

Nonimmigrants from Chad, Libya and Yemen seeking entry into the United States on business (B-1), tourist (B-2), and business/tourist (B-1/B-2) visas will be suspended. Iranian citizens seeking entry into the United States under a valid student (F and M) and exchange visitor (J) visa will not be suspended, although they will be subject to enhanced screening and vetting. Nonimmigrants from North Korea and Syria are banned completely from entry into the United States. For Somalian nonimmigrants, there will be increased screening standards to determine if those individuals pose a threat to national security.

Finally, Venezuelan government officials "involved in screening and vetting procedures" and their immediate family members seeking entry on B-1, B-2 and B-1/B-2 visa will be suspended. This is a result of the Venezuelan government's failure to cooperate with the United States' effort to gather public-safety and terrorism-related information during their review process.

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The proclamation lists several exceptions to the individual travel bans, including foreign nationals who have lawful permanent residence in the United States, any foreign national who is admitted into the United States on or after effective date of this proclamation, any foreign national who has been granted asylum or refugees who have already been admitted to the United States, among others. The proclamation also outlines when waivers may be granted in certain limited circumstances 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 entry restrictions for citizens from countries who were previously subject to the March 6, 2017, executive order went into effect on Sept. 24, 2017, while the restrictions for citizens from countries that are new to the list will go into effect on Oct. 18, 2017.

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 may need to refrain from international travel for the duration of the ban, or until further notice.