

## The Supreme Court Allows Pres. Trump's Immigration Proclamation to Take Effect

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December 5, 2017

The Supreme Court has issued orders allowing the Trump Administration to enforce a ban on travel to the United States while the Ninth U.S. Circuit and Fourth U.S. Circuit Court of Appeals rule on its legality.

As we previously wrote about, 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 was an update and expansion of his preexisting immigration order that was signed on March 6, 2017, and expired on Sept. 24 and added countries to the list of those whose citizens face travel restrictions into the U.S., including foreign nationals from Chad, Iran, Libya, North Korea, Syria, Venezuela, Yemen and Somalia.

We also reported that on Oct. 17, 2017, a federal district court in Hawaii issued a nationwide temporary restraining order ("TRO") that prevented implementation of many of the travel restrictions intended by the Proclamation. One day later—the day the Proclamation was set to take effect—a second federal district court in Maryland ruled that it would allow some of the administration's new restrictions to take effect but only for those who lack a credible claim of a bona fide relationship with a person or entity in the United States.

The Supreme Court's orders request the Court of Appeals to make its rulings on the legality of the proclamation quickly. The orders also note that Justice Ginsburg and Justice Sotomayor would deny the application for stay.

As a result, the Trump Administration can fully enforce its Sept. 24 proclamation during the appeals.

### **Impact on Foreign Nationals**

The administration has not yet announced when the travel restrictions will go into effect, but a determination is imminent. Once in effect, limitations will be placed on the travel of those from the following countries as outlined in the proclamation:

**Chad:** Business (B-1), Tourist (B-2) and Business/Tourist (B-1/B-2) visitor visas; immigrant; and diversity lottery visas will be suspended

**Libya:** Business (B-1), Tourist (B-2) and Business/Tourist (B-1/B-2) visitor visas; immigrant; and diversity lottery visas will be suspended

**Yemen:** Business (B-1), Tourist (B-2) and Business/Tourist (B-1/B-2) visitor visas; immigrant; and diversity lottery visas will be suspended

**Iran:** Nonimmigrant visas (except for F and M student visas and J exchange visitor visas); immigrant; and diversity lottery visas will be suspended

**North Korea:** Nonimmigrant; immigrant; and diversity lottery visas will be suspended

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**Syria:** Nonimmigrant; immigrant; and diversity lottery visas will be suspended

**Somalia:** Nonimmigrant visas subject to increased screening standards to those who pose a threat to national security; immigrant and diversity lottery visas will be suspended

**Venezuela:** Business (B-1); Tourist (B-2); and Business/Tourist (B-1/B-2) visitor visas for Venezuelan government officials and immediate family will be suspended

**What this means for Employers**

U.S. lawful permanent residents remain exempt from the restrictions above. In addition, foreign nationals who are currently inside the U.S. with a valid visa or advance parole are also exempt but should review their ability to travel or obtain a new visa on a case-by-case basis.

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. In order to determine whether the restrictions will impact the employment of foreign workers, employers should contact their Miller Canfield immigration attorney.

Miller Canfield is closely monitoring developments related to the executive order and will continue to update you on any important developments.