

Business Immigration ALERT January 2017

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Practices: Immigration

EXPECTED EXECUTIVE ORDER SUSPENDING VISA ISSUANCE, VISA INTERVIEW WAIVER PROGRAM AND SYRIAN REFUGEE ADMISSION

Following through on his campaign promise of banning foreign nationals from certain countries from entering the U.S., the Trump Administration is expected to sign an Executive Order which will make significant changes to the immigrant and nonimmigrant visa process and suspend refugee immigration. Citing concerns about terrorism and the admission of foreign nationals who may potentially engage in evil actions as the basis for these changes, the Trump Administration will implement major changes to existing immigration laws.

Please note that non-U.S. citizens (nonimmigrants and permanent residents) from the affected countries should seek legal counsel prior to international travel. Recently, there have been numerous reports of visa revocations and problems seeking readmission to the U.S. after foreign travel by many nonimmigrants who were in possession of valid visas. For those nonimmigrants who are in the U.S. legally, and do not wish to travel, they may be eligible to change or extend their status while remaining in the U.S. For this reason, it is critical to seek legal counsel. Permanent Residents who are nationals of, or travel to the affected countries, may be subject to additional questioning and screening upon readmission to the U.S.

A summary of the major provisions of the Executive Order follows below:

GENERAL PROVISIONS

- Immediately suspend the issuance of immigrant and nonimmigrant visas to nationals of Iran, Iraq, Sudan, Syria, Libya, Somalia and Yemen for an initial period of 30 days.
 - The Secretaries of State and Homeland Security may, on a case-by case basis, and when in the national interest, issue visas or other immigration benefits to nationals of countries for which visas and benefits are otherwise blocked.
- Mandate foreign governments to supply information on foreign nationals within 60 days of notification.
 - If foreign governments do not furnish the requested information within the 60-day timeframe, the President will issue a Presidential Proclamation that will prohibit the entry of foreign nationals from those countries until they are in compliance. This excludes those on diplomatic visas, NATO visas, and C-2 visas for travel to the United Nations.
 - The Secretaries of State and Homeland Security can add any additional countries to the Presidential Proclamation at any time.

- Expedite the completion and implementation of a biometric entry-exit tracking system for all travelers to the U.S.
- Immediately suspend the Visa Interview Waiver Program. This means that all nonimmigrant visa applicants must attend in-person interviews.
- The Secretary of State will review all nonimmigrant visa reciprocity agreements to ensure that they are, with respect to each visa classification, truly reciprocal.
- Implement Uniform Screening Standards for all Immigration Programs, such as:
 - Develop uniform screening standards and procedures, such as in-person interviews.
 - Creation of a database of identity documents proffered by applicants to ensure that duplicate documents are not used by multiple applicants.
 - Amended application forms that include questions aimed at identifying fraudulent answers and malicious intent.
 - A mechanism to ensure that the applicant is who the applicant claims to be.
 - A process to evaluate the applicant's likelihood of becoming a positive contributing member of society, and the applicant's ability to make contributions to the national interest.
 - A mechanism to assess whether or not the applicant has the intent to commit criminal or terrorist acts after entering the U.S.

U.S. REFUGEE ADMISSIONS PROGRAM

- Suspend the U.S. Refugee Admissions Program (USRAP) for 120 days.
 - Refugee applicants who are already in the USRAP process may be admitted upon the initiation and completion of these revised procedures.
 - At the 120-day mark, the Secretary of State will resume USRAP admissions only for nationals of countries for whom the Secretary of Homeland Security, the Secretary of State, and the Director of National Intelligence have jointly determined that sufficient safeguards are in place to ensure the security and welfare of the U.S.
 - Indefinitely suspend refugee processing of Syrians.
 - Cap refugee admissions for Fiscal Year 2017 at 50,000.
 - During the 120-day suspension period, the Secretaries of State and Homeland Security may admit refugees on a case-by-case basis when in the national interest and may continue to process refugee claims made by individuals on the basis of religious-based persecution, provided that the religion of the individual is a minority religion in the individual's country of nationality.
- Establish safe zones to protect vulnerable Syrian populations within Syria or in the surrounding region.