

IMMIGRATION ALERT - Travel Advisory & Visa Processing Guidance (as of 1/31/17)

2/1/2017

Practices: Immigration

On 1/27/17, President Trump issued an Executive Order (EO) suspending immigrant and nonimmigrant entry to the U.S. of individuals from Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen ("affected countries") for at least 90 days. The implementation of the EO has an immediate impact on certain travelers to the U.S., including U.S. citizens, Lawful Permanent Residents (a/k/a green card holders) and nonimmigrants. Certain travelers, who are not nationals of the affected countries, may still be indirectly impacted by the EO. As a result, it is critical to seek legal counsel prior to travel. The following guidelines are suggested for those contemplating travel outside the U.S.

The following groups are directly impacted by the travel ban to the U.S. and should seek legal counsel:

- Nonimmigrant visa holders (i.e. B-1 or B-2, F-1, H-1B, J-1, L-1, etc.) who are nationals of the affected countries and are presently residing in the U.S. should seek legal counsel prior to traveling.
- Lawful Permanent Residents ("LPR") who are nationals of the affected countries should seek legal counsel prior to traveling.
- Dual citizens of a non-affected country (i.e. U.K., Germany, etc.) and one of the affected countries should seek legal counsel.

The following groups of individuals should exercise caution if they travel as they may be subject to increased scrutiny and questioning upon return to the U.S.:

- U.S. citizens and LPRs who are not nationals of the affected countries but who have traveled to one of the affected countries for business or pleasure in the past or seek to travel to one of the affected countries.
- U.S. Citizens who are also citizens of the affected countries.
- Nonimmigrants who are not nationals of the affected countries but who have traveled to one of the affected countries for business or pleasure in the past or seek to travel to one of the affected countries.

Lawful Permanent Residents should NOT sign the Form I-407, Record of Abandonment of Lawful Permanent Resident Status

- The Form I-407 enables an LPR to voluntarily abandon status as an LPR of the United States.

- Upon signing the Form I-407, the LPR has formally abandoned his green card and gives up the rights and benefits that go with that status. If in the future the individual wants to return to the U.S. as a permanent resident, he/she will have to begin the process anew.
- There have been numerous reports of immigration officials ordering LPRs to sign the Form I-407.
- LPRs who are asked to sign the Form I-407 by an immigration official should not sign the document, even if threatened or strongly encouraged to.
- LPRs who are asked to sign the Form I-407 should insist on attending a hearing before an Immigration Judge.

THE IMPACT OF THE ADDITIONAL PROVISIONS OF THE EXECUTIVE ORDER

- Visa Interview Waiver Program Cancelled - The EO suspends the consular practice of waiving an in-person interview for a select group of eligible nonimmigrant visa applicants. The EO now requires all nonimmigrant visa applicants to undergo an in-person interview.
- Expect Delays at Consular Posts Worldwide – Whether a visa applicant is a national of the affected countries or not, as consulates begin implementation of the various provisions of the EO, there will likely be considerable delays in visa issuance.
- Suspension of Visa Processing and Adjudication of Visa Petitions and Naturalization Applications – U.S. consular posts worldwide have halted immigrant and nonimmigrant visa processing for nationals of the affected countries. The U.S. Citizenship and Immigration Services has suspended adjudication of petitions for benefits and naturalization applications that were previously filed for nationals of the affected countries.
- Foreign Nationals with Arrests or Convictions – The EO contains a provision specifying the collection of information on the immigration status of foreign nationals charged with major offenses. While it is unclear exactly what this means, it is anticipated that foreign nationals who are arrested and/or convicted will be immediately reported to immigration authorities.