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New Immigration Executive Order Scales Back Earlier Travel Restrictions

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On Monday, March 6th, President Trump signed a new, narrower Executive Order (EO) that temporarily restricts travel to the United States by citizens of six Muslim-majority countries. The new EO revokes the administration's earlier order that was issued on January 27, 2017. Here are the highlights of the new EO and how it may affect employers in the U.S.

Ninety-day Travel Restrictions

The new EO restricts entry into the U.S. of nationals from six countries for 90 days from the effective date of the order, which is March 16, 2017. The six restricted countries are Iran, Syria, Yemen, Libya, Sudan, and Somalia. During the 90-day suspension period, the Secretary of Homeland Security is directed to conduct a worldwide review to identify additional information that is needed from each foreign country to determine whether individuals who apply for a visa, admission, or other immigration adjudication, are a security or public-safety threat.

Iraq No Longer Subject To Travel Restrictions

As we reported [earlier](#), the administration's January executive order sought to temporarily restrict travel to the U.S. from seven Muslim-majority countries, and only Iraq has been removed from the list due to the "close cooperative relationship between the United States and the democratically elected Iraqi government, the strong United States diplomatic presence in Iraq, the significant presence of United States forces in Iraq, and Iraq's commitment to combat ISIS." The EO further notes that since the January EO was issued, the Iraqi government has taken steps to increase information sharing, travel documentation, and the return of Iraqi nationals who are subject to final orders of removal. Consequently, the temporary travel restrictions will not apply to Iraqi citizens.

Exceptions for Valid Visa Holders and Lawful Permanent Residents

Unlike the confusion caused by the January executive order, the new EO specifies that it does not apply to lawful permanent residents of the U.S. (green card holders) or to foreign nationals of the designated countries who hold a valid visa. The new EO does apply to individuals from the six designated countries who are outside the U.S. and do not have a valid visa on March 16, 2017. In addition, exceptions to the restriction exist for:

- any foreign national admitted to or paroled into the U.S. on or after the effective date of the order,
- any foreign national who has a document other than a visa, valid on

the effective date of the order or issued any date thereafter, that permits travel to the U.S.,

- any dual national of one of the designated countries when traveling on a passport issued by a non-designated country, and,
- any foreign national who has been granted asylum, any refugee who has already been admitted to the U.S., or any individual who has been granted withholding of removal, advance parole, or protection under the Convention Against Torture.

Additional waivers of the suspension of entry from the designated countries may be decided on a case-by-case basis, including when the individual has previously been admitted to the U.S. for a continuous period of work, study, or other long-term activity and seeks to reenter the U.S. to resume that activity. Exceptional waivers may also be granted for spouses, children, or parents of a U.S. citizen, permanent resident, or lawful nonimmigrant where a denial of entry causes undue hardship.

Visa Interview Waiver Program Immediately Suspended

The new EO suspends immediately the Visa Interview Waiver Program, which allows travelers to renew travel authorizations without an in-person interview. Now, all individuals seeking a nonimmigrant visa will have to partake in an in-person interview, unless traveling for certain diplomatic or other excepted purposes.

Refugee Program On Hold For 120 Days

The new EO suspends decision on applications for refugee status for 120 days after the effective date of the order. Unlike the January order, this EO does not single out refugees from Syria as indefinitely suspended. The EO caps the entry of refugees in fiscal year 2017 at 50,000.

March 16, 2017 Effective Date

The new EO becomes effective at 12:01 a.m. on Thursday, March 16, 2017. This advance effective date allows all agencies, airports, airlines, employers, individuals, and others affected by the order to plan for its restrictions.

What Employers Need To Consider

The suspension of the Visa Interview Waiver Program could result in delays for some foreign nationals traveling to the U.S. who now must undergo an in-person interview. Employers who employ individuals in the U.S. with unexpired visas from the designated countries should not be impacted because the suspension only affects workers currently outside the U.S. without a valid visa on the March 16, 2017. Employers seeking to employ or otherwise work with foreign nationals without existing visas from the six designated countries may need to seek a waiver under the case-by-case review process. We will continue to monitor this order, including any legal challenges that may be filed.

If you have questions about how this executive order may affect your

organization, please contact me at RYTsai@hollandhart.com or 801-799-5976.