

Fact Sheet: Protecting The Nation From Foreign Terrorist Entry To The United States

March 5, 2017

The Executive Order signed on March 6, 2017, allows for the proper review and establishment of standards to prevent terrorist or criminal infiltration by foreign nationals. The United States has the world's most generous immigration system, yet it has been repeatedly exploited by terrorists and other malicious actors who seek to do us harm. In order to ensure that the U.S. Government can conduct a thorough and comprehensive analysis of the national security risks posed from our immigration system, the Executive Order imposes a 90-day suspension of entry to the United States of nationals of certain designated countries—countries that were designated by Congress and the Obama Administration as posing national security risks with respect to visa-free travel to the United States under the Visa Waiver Program.

The U.S. Government must ensure that those entering this country will not harm the American people after entering, and that they do not bear malicious intent toward the United States and its people. The Executive Order, together with the Presidential Memorandum, protects the United States from countries compromised by terrorism and ensures a more rigorous vetting process. This Executive Order ensures that we have a functional immigration system that safeguards our national security.

This Executive Order, as well as EO 13767 and EO 13768, provide the Department of Homeland Security (DHS) with additional resources, tools, and personnel to carry out the critical work of securing our borders, enforcing the immigration laws of our Nation, and ensuring that individuals from certain designated countries who pose a threat to national security or public safety cannot enter or remain in our country. Protecting the American people is the highest priority of our government and this Department.

DHS will faithfully execute the immigration laws and the President's Executive Orders, and will treat everyone we encounter humanely and with professionalism.

Authorities

The Congress provided the President of the United States, in section 212(f) of the Immigration and Nationality Act (INA), with the authority to suspend the entry of any class of aliens the President deems detrimental to the national interest. This authority has been exercised repeatedly for decades, and has been a component of immigration law since the enactment of the original INA in 1952.

Actions

For the next 90 days, foreign nationals from Sudan, Syria, Iran, Libya, Somalia, and Yemen who are outside the United States on the effective date of the order, do not currently have a valid visa on the effective date of this order, and did not have a valid visa at 5:00 eastern standard time on January 27, 2017, are not eligible to travel to the United States. The 90-day period will allow for proper review and establishment of standards to prevent terrorist or criminal infiltration by foreign nationals.

On the basis of negotiations that have taken place between the Government of Iraq and the U.S. Department of State in the last month, Iraq will increase cooperation with the U.S. Government on the vetting of its citizens applying for a visa to travel to the United States. As a result of this increased information sharing, Iraqi citizens are not affected by the Executive Order. Of course, all normal immigration processing requirements continue to apply, including the grounds of inadmissibility that may be applicable.

In the first 20 days, DHS will perform a global, country-by-country review of the identity and security information that each country provides to the U.S. Government to support U.S. visa and other immigration benefit determinations. Countries will then have 50 days to comply with requests from the U.S. Government to update or improve the quality of the information they provide.

The Executive Order does not apply to certain individuals, such as lawful permanent residents of the United States; foreign nationals admitted to the United States after the effective date of the order; individuals with a document that is valid on the effective date of the order or any date thereafter which permits travel to the United States; dual nationals when travelling on a passport issued by a non-designated country; foreign nationals traveling on diplomatic, NATO, C-2 for travel to the United Nations, G-1, G-2, G-3, or G-4 visas; and individuals already granted asylum or refugee status in the United States before the effective date of the order.

DHS and the Department of State have the discretionary authority, on a case-by-case basis, to issue visas or allow the entry of nationals of these six countries into the United States when a national from one of the countries demonstrates that the denial of entry would cause undue hardship, that his or her entry would not pose a threat to national security, and that his or her entry would be in the national interest.

Similarly, the Refugee Admissions Program will be temporarily suspended for the next 120 days while DHS and interagency partners review screening procedures to ensure refugees admitted in the future do not pose a security risk to the United States. Upon resumption of the Refugee Admissions Program, refugee admissions to the United States will not exceed 50,000 for fiscal year 2017. The Executive Order does not apply to those refugees who have already been formally scheduled for transit by the State Department. During this 120-day period, similar to the waiver authority for visas, the Secretary of State and Secretary of Homeland Security may jointly determine to admit individuals to the United States as refugees on a case-by-case basis, in their discretion, but only so long as they determine that the entry of such individuals as refugees is in the national interest and would not pose a threat to the security or welfare of the United States.

The Department of Homeland Security, in conjunction with the Department of State, the Office of the Director of National Intelligence, and the Department of Justice, will develop uniform screening standards for all immigration programs government-wide as appropriate and in the national interest.

The Secretary of Homeland Security will expedite the completion and implementation of a biometric entry-exit system for all in-scope travelers entering and departing the United States.

As part of a broader set of government actions, the Secretary of State will review all nonimmigrant visa reciprocity agreements to ensure that they are, with respect to each visa classification, truly reciprocal.

The Department of State will restrict the Visa Interview Waiver Program and require additional nonimmigrant visa applicants to undergo an in-person interview.

Transparency

In order to be more transparent with the American people and to more effectively implement policies and practices that serve the national interest, DHS will make information available to the public every 180 days. Specifically, in coordination with the Department of Justice, DHS will make available to the public information regarding the number of foreign nationals who have been charged with terrorism-related offenses while in the United States; convicted of terrorism-related offenses while in the United States; removed from the United States based on terrorism-related activity, affiliation, or material support to a terrorism-related organization, or any other national-security reasons; and information regarding the number and types of acts of gender-based violence against women, including so-called “honor killings,” in the United States by foreign nationals.

Q&A: Protecting The Nation From Foreign Terrorist Entry To The United States

1. Who is subject to the suspension of entry under the Executive Order?

Per the Executive Order, foreign nationals from Sudan, Syria, Iran, Libya, Somalia, and Yemen, who are outside the United States and who did not have a valid visa at 5 p.m. Eastern Standard Time on January 27, 2017, and do not have a valid visa on the effective date of this order are not eligible to enter the United States while the temporary suspension remains in effect. Thus any individual who had a valid visa either on January 27, 2017 (prior to 5:00 PM) or holds a valid visa on the effective date of the Executive Order is not barred from entry.

2. Will “in-transit” travelers within the scope of the Executive Order be denied entry into the United States and returned to their country of origin?

Those individuals who are traveling on valid visas and arrive at a U.S. port of entry will still be permitted to seek entry into the United States. All foreign nationals traveling with a visa must continue to satisfy all requirements for entry, including demonstrating that they are admissible. Additional information on applying for admission to the United States is available on CBP.gov.

3. I am a national from one of the six affected countries currently overseas and in possession of a valid visa, but I have no prior travel to the United States. Can I travel to the United States?

Per the Executive Order, foreign nationals from Sudan, Syria, Iran, Libya, Somalia, and Yemen who have valid visas will not be affected by this Executive Order. No visas will be revoked solely based on this Executive Order.

4. I am presently in the United States in possession of a valid single entry visa but I am a national of one of the six impacted countries. Can I travel abroad and return to the United States?

Regardless of the Executive Order, your visa is not valid for multiple entries into the United States. While the Executive Order does not apply to those within the United States and your travel abroad is not limited, a valid visa or other document permitting you to travel to and seek admission to the United States is still required for any subsequent entry to the United States.

5. I am presently in the United States in possession of a valid multiple entry visa but am a national of one of the six affected countries, can I travel abroad and return to the United States?

Yes. Individuals within the United States with valid multiple entry visas on the effective date of the order are eligible for travel to and from the United States, provided the visa remains valid and the traveler is otherwise admissible. All foreign nationals traveling with a visa must satisfy all admissibility requirements for entry. Additional information on applying for admission to the United States is available on CBP.gov.

6. I am from one of the six countries, currently in the United States in possession of a valid visa and have planned overseas travel. My visa will expire while I am overseas, can I return to the United States?

Travelers must have a valid visa to travel to the United States, regardless of the Executive Order. Travelers who do not have a valid visa due to its expiration while abroad must obtain a new valid visa prior to returning to the United States.

7. Will the Department of Homeland Security (DHS) and the Department of State (DOS) be revoking the visas of persons ineligible to travel under the revised Executive Order?

Visas will not be revoked solely as a result of the Executive Order. The Department of State has broad authority under Section 221(i) of the Immigration and Nationality Act to revoke visas.

8. What is the process for overseas travelers affected by the Executive Order to request a waiver?

Waivers for overseas travelers without a valid U.S. visa will be adjudicated by the Department of State in conjunction with a visa application.

9. How are returning refugees and asylees affected by the Executive Order?

Returning refugees and asylees, i.e., individuals who have already been granted asylum or refugee status in the United States, are explicitly excepted from this Executive Order. As such, they may continue to travel consistent with existing requirements.

10. Are first-time arrival refugees with valid /travel documents allowed to travel to the United States?

Yes, but only refugees, regardless of nationality, whose travel was already formally scheduled by the Department of State, are permitted to travel to the United States and seek admission. The Department of State will have additional information.

11. Will unaccompanied minors within the scope of the Executive Order be denied boarding and or denied entry into the United States?

The Executive Order applies to those who do not have valid visas. Any individuals, including children, who seek entry to the United States must have a valid visa (or other approved travel document) before travel to the United States. The Secretary of State may issue a waiver on a case-by-case basis when in the national interest of the United States. With such a waiver, a visa may be issued.

12. Is DHS complying with all court orders?

DHS is complying, and will continue to comply, with all court orders in effect.

13. When will the Executive Order be implemented?

The Executive Order is effective at 12:01 A.M., Eastern Standard Time, on March 16, 2017.

14. Will the Executive Order impact Trusted Traveler Program membership?

No. Currently, CBP does not have reciprocal agreements for a Trusted Traveler Program with any of the countries designated in the Executive Order.

15. When will CBP issue guidance to both the field and airlines regarding the Executive Order?

CBP will issue guidance and contact stakeholders to ensure timely implementation consistent with the terms of the Executive Order.

16. Will first-time arrivals with valid immigrant visas be allowed to travel to the U.S.?

Yes. Individuals holding valid visas on the effective date of the Executive Order or on January 27, 2017 prior to 5:00 PM do not fall within the scope of the Order.

17. Does this affect travelers at all ports of entry?

Yes, this Executive Order applies to travelers who are applying for entry into the United States at any port of entry—air, land, or sea—and includes preclearance locations.

18. What does granting a waiver to the Executive Order mean? How are waivers applied to individual cases?

Per the Executive Order, the Departments of Homeland Security and State can review individual cases and grant waivers on a case-by-case basis if a foreign national demonstrates that his or her entry into the United States is in the national interest, will not pose a threat to national security, and that denying entry during the suspension period will cause undue hardship.

19. Does “from one of the six countries” mean citizen, national, or born in?

The Executive Order applies to both nationals and citizens of the six countries.

20. How does the lawsuit/stay affect DHS operations in implementing this Executive Order?

Questions regarding the application of specific federal court orders should be directed to the Department of Justice.

21. Will nationals of the six countries with valid green cards (lawful permanent residents of the United States) be allowed to return to the United States?

Per the Executive Order, the suspension of entry does not apply to lawful permanent residents of the United States.

22. Can a dual national who holds nationality with one of the six designated countries traveling with a passport from an unrestricted country travel to the United States?

The Executive Order exempts from its scope any dual national of one of the six countries when the individual is traveling on a passport issued by a different non-designated country.

23. Can a dual national who holds nationality with one of the six designated countries and is currently overseas, apply for an immigrant or nonimmigrant visa to the United States?

Please contact the Department of State for information about how the Executive Order applies to visa applicants.

24. Are international students, exchange visitors, and their dependents from the six countries (such as F, M, or J visa holders) included in the Executive Order? What kind of guidance is being given to foreign students from these countries legally in the United States?

The Executive Order does not apply to individuals who are within the United States on the effective date of the Order or to those individuals who hold a valid visa. Visas which were provisionally revoked solely as a result of the enforcement of Executive Order 13769 are valid for purposes of administering this Executive Order. Individuals holding valid F, M, or J visas may continue to travel to the United States on those visas if they are otherwise valid.

Please contact the State Department for information about how the Executive Order applies to visa applicants.

25. What happens to international students, exchange visitors or their dependents from the six countries, such as F, M or J visa holders if their visa expires while the Executive Order is in place and they have to depart the country?

The Executive Order does not affect F, M, or J visa holders if they currently have a valid visa on the effective date or held a valid visa on January 27, 2017 prior to the issuance of the Executive Order. With that said, travelers must have a valid visa to travel to the United States, regardless of the Executive Order. Travelers whose visa expires after the effective date of the Executive Order must obtain a new, valid visa to return to the United States.

26. Can U.S. Citizenship and Immigration Services (USCIS) continue refugee interviews?

The Departments of Homeland Security and State will conduct interviews as appropriate and consistent with the Executive Order. However, the Executive Order suspends decisions on applications for refugee status, unless the Secretary of Homeland Security and the Secretary of State jointly determine, on a case-by-case basis, that the entry of an individual as a refugee is in the national interest and would not pose a threat to the security or welfare of the United States.

27. Can the exception for refugee admission be used for Refugee/Asylee Relative Petitions (Form I-730) cases where a family member is requesting a beneficiary follow to join?

No. Individuals who already have valid visas or travel documents that permit them to travel to the United States are exempt from the Executive Order. To the extent that an individual does not yet have such documents, please contact the Department of State.

28. Does the Executive Order apply to those currently being adjudicated for naturalization or adjustment of status?

USCIS will continue to adjudicate Applications for Naturalization (Form N-400) and Applications to Register Permanent Residence or Adjust Status (Form I-485) and grant citizenship consistent with existing practices.

29. Will landed immigrants of Canada affected by the Executive Order be eligible for entry to the United States?

Landed immigrants of Canada who hold passports from one of the six countries are eligible to apply for a visa, and coordinate a waiver, at a location within Canada.

30. Has CBP issued clear guidance to CBP officers at ports of entry regarding the Executive Order?

CBP has and will continue to issue any needed guidance to the field with respect to this Executive Order.

31. What coordination is being done between CBP and the carriers?

CBP has been and will remain in continuous communication with the airlines through CBP regional carrier liaisons. In addition, CBP will hold executive level calls with airlines in order to provide guidance, answer questions, and address concerns.

32. What additional screening will nationals of restricted countries (as well as any visa applications) undergo as a result of the Executive Order?

In making admission and visa eligibility determinations, DHS and DOS will continue to apply all appropriate security vetting procedures.

33. Why is a temporary suspension warranted?

The Executive Order signed on March 6, 2017, allows for the proper review and establishment of standards to prevent terrorist or criminal infiltration by foreign nationals. The Executive Order protects the United States from countries compromised by terrorism and ensures a more rigorous vetting process. Protecting the American people is the highest priority of our Government and this Department.

Congress and the Obama Administration designated these six countries as countries of concern due to the national security risks associated with their instability and the prevalence of terrorist fighters in their territories. The conditions in the six designated countries present a recognized threat, warranting additional scrutiny of their nationals seeking to travel to and enter the United States. In order to ensure that the U.S. Government can conduct a thorough and comprehensive analysis of the national security risks, the Executive Order imposes a 90-day suspension on entry to the United States of nationals of those countries.

Based on commitments from the Government of Iraq, the suspension of entry in this Executive Order will not apply to nationals of Iraq. Iraq has taken steps to increase their cooperation with the United States in the vetting of Iraqi nationals and as such it was determined that a temporary suspension is not warranted.

DHS will faithfully execute the immigration laws and the President's Executive Order, and will treat all of those we encounter humanely and with professionalism.

34. Why is a suspension of the refugee program warranted?

Some of those who have entered the United States as refugees have also proved to be threats to our national security. For example, in October 2014, an individual admitted to the United States as a refugee from Somalia, and who later became a naturalized U.S. citizen was sentenced to 30 years in prison for attempting to use a weapon of mass destruction in connection with a plot to set off a bomb at a Christmas tree-lighting ceremony in Portland, Oregon. The Federal Bureau of Investigation has reported that approximately 300 persons who entered the United States as refugees are currently the subjects of counterterrorism investigations.

35. How were the six countries designated in the Executive Order selected?

The six countries, Iran, Libya, Somalia, Sudan, Syria, and Yemen, had already been identified as presenting concerns about terrorism and travel to the United States. Specifically, the suspension applies to countries referred to in, or designated under—except Iraq—section 217(a)(12) of the INA, 8 U.S.C. § 1187(a)(12). In that provision Congress restricted use of the Visa Waiver Program by dual nationals of, and aliens recently present in, (A) Syria and Iraq, (B) any country designated by the Secretary of State as a state sponsor of terrorism (currently Iran, Syria, and Sudan), and (C) any other country designated as a country of concern by the Secretary of Homeland Security, in consultation with the Secretary of State and the Director of National Intelligence. In 2016, the former Secretary of Homeland Security

designated Libya, Somalia, and Yemen as additional countries of concern regarding aliens recently present in those countries.

For the purposes of this Executive Order, although Iraq has been previously identified, based on commitments from the Government of Iraq, the suspension of entry in this Executive Order will not apply to nationals of Iraq. However, those who are dual nationals of Iraq and aliens recently present in Iraq continue to have restricted use of the Visa Waiver Program.

On the basis of negotiations that have taken place between the Government of Iraq and the U.S. Department of State in the last month, Iraq will increase cooperation with the U.S. Government on the vetting of its citizens applying for a visa to travel to the United States. As such it was determined that a temporary suspension with respect to nationals of Iraq is not warranted at this time.

36. Why was Iraq treated differently in this Executive Order?

The close cooperative relationship between the United States and the democratically-elected Iraqi government, the strong U.S. diplomatic presence in Iraq, the significant presence of U.S. forces in Iraq, and Iraq's commitment to combat ISIS justify different treatment. In particular, those Iraqi government forces that have fought to regain more than half of the territory previously dominated by ISIS have earned special status. In addition, since Executive Order 13769 was issued, the Iraqi government has expressly undertaken steps to provide additional information about its citizens for purposes of our immigration decisions. Accordingly, it is no longer necessary to include Iraq in the temporary suspension applicable to the other six countries, but visa applications and applications for admission to the United States by Iraqi nationals will be subjected to additional scrutiny to determine if they have connections with ISIS or other terrorist organizations.

37. Are Iraqi nationals subject to the Executive Order? Will they require a waiver to travel to the United States?

This Executive Order does not presently suspend the entry of nationals of Iraq. However, all travelers must have a valid travel document in order to travel to the United States. Admissibility will be determined by a CBP officer upon arrival at a Port of Entry. Please contact the Department of State for information related to visa eligibility and application.