THIRD IMMIGRATION EXECUTIVE ORDER SIGNED

On Friday, January 27, 2017, President Trump signed a third executive order dealing with immigration titled, "Protecting the Nation from Foreign Terrorist Entry into the United States." The provisions contained in the order impose a 90-day ban on entry for all nationals of seven named countries. The order also imposes a halt for all U.S. refugee admissions for four months and Syrian refugee admissions indefinitely. In addition, the order lays out added security protocols to be put in place, including a requirement that U.S. government officials conduct a face-to-face interview with every person who applies for a nonimmigrant visa.

OVERVIEW

90-Day Ban

The 90-day ban stops all nonimmigrant entry for people from seven specific countries. The countries named in the order for which the 90-day ban applies are:

- Syria;
- Iraq;
- Iran;
- Libya;
- Somalia;
- Sudan; and
- Yemen.

People from these countries will not be able to enter the United States on a nonimmigrant visa for up to 90 days. Other countries may be added in the future, and adjudications of other immigration benefits could be impacted. However, beneficiaries from countries other than these seven should not see any significant changes at this time.

Refugees

All refugee programs for all countries are suspended for 120 days, while programs for Syrian refugees have been suspended indefinitely. The order also imposes a capped total of allowed refugees at 50,000 for 2017. Exceptions can be made on a case-by-case basis if: (i) it is in the national interest, the person would not pose a risk and the person is a religious minority facing religious persecution; (ii) the admission of the person is required to conform U.S. conduct to an international agreement; or (iii) a person is already in transit and denying admission would cause hardship.

RECENT DEVELOPMENTS

Clarification

Secretary John Kelly put out a statement on January 29 that clarifies the executive order as to lawful permanent residents. The statement reads:

> In applying the provisions of the president's executive order, I hereby deem the entry of lawful permanent residents to be in the national interest. Accordingly, absent the receipt of significant derogatory information indicating a serious threat to public safety and welfare, lawful permanent resident status will be a dispositive factor in our case-by-case determinations.

As a result of this statement, people from the seven named countries who have lawful permanent residency status should not be unduly detained or denied entry into the United States, despite the 90-day ban for those countries.

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Court Rulings

There have been several lawsuits filed and some stays granted in district courts across the nation. Below is an overview of some of those decisions from the American Immigration Lawyers Association.

- A federal judge in the Eastern District of New York issued the first order, granting a nationwide stay of removal preventing deportation for individuals with valid visas and approved refugee applications affected by the executive order.
- The next decision came out of a federal court in Massachusetts - it went a bit further and barred federal officials from detaining or removing individuals subject to the executive order.
- In a case filed in Virginia, the court ordered federal officials to provide lawyers access to "all legal permanent residents being detained at Dulles International Airport" and barred officials from deporting covered individuals for the next seven days.
- In a case out of Washington State, the federal judge barred the federal government from deporting two unnamed individuals from the United States.
- Lawyers in the New York case are seeking clarification from the court.

PRACTICAL TAKEAWAYS

As it stands, this executive order only affects people from the seven named countries who are attempting to come to the United States and all refugees who would be resettled in the United States. Those people who are legal permanent residents, or are citizens of other countries with valid visas, should not be denied admission to the U.S. stemming from this executive order. However, all foreign nationals considering trips outside the U.S. to any of the banned countries should not travel to those banned locations. Further, all foreign nationals should consider postponing upcoming trips outside the U.S., as it is anticipated that U.S. Visa Officers, as well as Customs and Border Protection, will implement heightened scrutiny and screening for all those seeking to enter the U.S. This could result in delays in Visa Stamp Processing at the U.S. Embassies/U.S. Consular Posts, as well as delays in admission upon arrival in the U.S. We anticipate many questions and concerns regarding immigration issues in the days ahead, so please do not hesitate to contact us.

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