

Management Alert



Immigration-Related FAQs In Response to President Trump's Recent Executive Orders, as of February 2, 2017

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Seyfarth Synopsis: This Management Alert addresses Frequently Asked Questions (FAQs) from employers and foreign nationals regarding President Trump's recent Executive Order on immigration

1. I'm not from one of the listed countries but have international travel planned. Is there anything I should know or do?

If you are not from one of the listed countries and you have an unexpired visa stamp (or if you are Canadian and do not require a visa stamp), the Executive Order will not affect your ability to travel. If you do not have an unexpired visa stamp and plan to apply at a U.S. Embassy or Consulate abroad, you should anticipate visa appointment backlogs when scheduling your appointment. In addition, we expect that Consular officers will screen visa applicants more thoroughly and will not hesitate to place visa applications under administrative processing, particularly if the applicant possesses a degree in an academic field that is on the government's Technology Alert List, including degrees in Nuclear Engineering, Chemical Engineering, Biomolecular Engineering, and Cybersecurity.

2. I'm currently traveling internationally but I am not from one of the listed countries. Is there anything I need to be aware of about returning to the U.S.?

Similar to the above, despite your country of birth and/or your current citizenship, you must be prepared for delays when entering into the U.S. Please make sure you are carrying and presenting all of the necessary documents for admission in your visa category. In addition, we are hearing reports of Customs and Border Protection officers asking to search phone contacts and social media information. Please keep this in mind as you plan your travel and enter the U.S. Specifically, if you have a connecting flight after your initial entry into the U.S., allow additional time between those flights to get through the Customs and Border control screening process.

3. I already have a "Drop-Box" confirmation; can I still use the Drop-Box?

Although we have heard reports from various U.S. Embassies and Consulates (specifically, those in the UK, Canada, and India) that the "Drop-Box" visa applications are still being honored, you **should not rely** on using the Drop-Box option and should make an appointment with a U.S. Embassy or Consulate, as the Drop-Box program **can be suspended without notice**.

4. Does this Executive Order affect U.S. domestic travel?

No. There are no rules prohibiting travel within the United States. However, please note, you are required to carry proof of your lawful status in the U.S. at all times. If you are traveling domestically, you should have proof of status with you.

5. I am planning to travel abroad and will have a visa stamping appointment at the Consulate. Do I need to take any additional paperwork with me my visa interview?

At this time there are no changes to the documents required. Here is the list of paperwork you should bring:

1. Current passport valid for at least 6 months (bring extra photocopy of ID pages)
2. Expired passports (containing previous U.S. visas and entry stamps)
3. Appointment Confirmation Letter (print out of the confirmation of your visa appointment)
4. DS-160 Confirmation Page (form completed online prior to appointment)
5. Receipt for payment of visa application fee (fee paid for the DS-160)
6. Extra passport-type photograph
7. I-797 Approval Notice (original and copy)
8. Full copy of Nonimmigrant Petition
9. Recent employment verification letter
10. Recent pay statements

Any spouse and/or child who will be applying for a dependent visa stamp with you will need their supporting documentation, in addition to your marriage certificate and/or your child(ren)'s birth certificate.

6. If I already have a nonimmigrant visa and I am a dual citizen of one of the seven countries as well as a third country, will I be eligible to enter the U.S.?

If you already have a nonimmigrant visa and you are a dual citizen, you may be eligible to enter the U.S.

Customs and Border Protection issued a FAQ stating, "Travelers are being treated according to the travel document they present. For example, if they present a Canadian passport, that is how they are processed for entry." However, we cannot confirm whether Customs and Border Protection is applying this position uniformly and it is possible that you can be denied entry. We advise limiting international travel due to the "extreme vetting" and long processing delays at the ports of entry, even for dual nationals.

7. I am a U.S. Permanent Resident. Does the Executive Order impact me if I am from one of the banned countries?

According to a Department of Homeland Security summary of the Executive Order, U.S. Permanent Residents will be allowed to board U.S. bound aircraft and will be assessed for exceptions at arrival ports of entry, as appropriate. Department of Homeland Security has deemed the entry of U.S. Permanent Residents as in the national interest and projects "swift entry" for these individuals. In spite of this guidance, U.S. Permanent Residents from one of the banned countries should expect long delays and "extreme vetting" at the U.S. port of entry.

8. I am a U.S. Permanent Resident with dual citizenship from a banned country. Does the Executive Order impact me?

As above, according to a Department of Homeland Security summary of the Executive Order, U.S. Permanent Residents will be allowed to board U.S. bound aircraft and will be assessed for exceptions at arrival ports of entry, as appropriate. Department of Homeland Security has deemed the entry of U.S. Permanent Residents as in the national interest and projects "swift entry" for these individuals. In spite of this guidance, U.S. Permanent Residents from one of the banned countries should expect long delays and "extreme vetting" at the U.S. port of entry.

9. Does the Executive Order impact my green card case that is currently in process if I am from one of the banned countries?

Yes. The Executive Order does impact all cases that are pending with USCIS. USCIS announced that they will stop processing cases for applicants from one of the banned countries until they have received clearance to resume processing the cases. Note, this does not mean that your case will be rejected and/or denied, but rather, held in abeyance until USCIS is able to proceed with the adjudication of your application.

10. Does the Executive Order impact my green card case that is currently in process if I am NOT from one of the banned countries?

No. The Executive Order does not impact your application. Of course, because of all of the changes that have taken place over the past few days, it is likely that there may be some delays in processing, but, overall, your case should not be impacted and you will continue to remain eligible for all of the rights and benefits associated with filing for your Adjustment of Status Application (I-485).

11. Does the Executive Order impact petitions to extend nonimmigrant status such as an H-1B or my ability to apply for a green card and/or renew my EAD if I am not from one of the banned countries?

No. If you are not from one of the listed countries, you may continue to renew/extend your nonimmigrant visa status (H-1Bs, L-1s, TNs, E-3s, F-1s, etc.) and your Employment Authorization (EAD) and Advance Parole (AP) documents.

Likewise, as long as your priority date is "current" or your priority date falls under the "Eligible to File" category on the [Department of State's monthly visa bulletin](#), you may continue to file for the final stage of your green card -- the Adjustment of Status Application (I-485).

Note, while the petitions and applications will continue to be accepted, we expect that the processing times across the board (Department of State, Department of Labor, and USCIS) will increase. Although the processing times will likely inconvenience you, they will not hinder your ability to continue working and/or residing in the United States.

12. I heard that there is an additional Executive Order related to other employment immigration benefits (H-1B and H-4). How does it affect me?

There is speculation of an additional Executive Order; however, unless or until the President finalizes and signs the order, we will not know the impact. We will continue to monitor the situation and will send further communications to the impacted populations if changes are officially announced.

13. How does this impact the upcoming H-1B lottery?

The H-1B lottery will proceed as planned. However, it has been reported that USCIS has taken the position that all pending immigration benefits applications on behalf of nationals of the affected countries within the U.S. will be suspended indefinitely as a result of the Executive Order. It is unclear how USCIS will handle H-1B cap petitions filed on behalf of citizens/nationals of one of the affected countries.

14. Will other countries be added to the list of banned countries?

At this time, it is not clear which, if any, other countries the President will add to the list of banned countries. However, it is possible that the President will add the remaining countries from the Bush administration's National Security Entry-Exit Registration System ("NSEERS"), which also included: Afghanistan, Algeria, Bahrain, Bangladesh, Egypt, Eritrea, Indonesia, Jordan, Kuwait, Lebanon, Morocco, North Korea, Oman, Pakistan, Qatar, Saudi Arabia, Tunisia, and United Arab Emirates.

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