

# PUBLICATION

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## Trump Administration Announces New Travel Ban

September 27, 2017

**On September 24, the Trump Administration issued a proclamation which imposed new travel restrictions on certain nationals of Chad, Iran, Libya, North Korea, Somalia, Syria, Venezuela and Yemen. This proclamation was issued by President Trump following a worldwide review of security measures between the U.S. and nearly 200 foreign nations. Following the review, the following eight countries were found to pose a significant security risk and will be subject to country-specific travel restrictions.**

- Chad: Suspends the entry of immigrants and temporary visitors on business or tourist visas (B-1/B-2).
- Iran: Suspends the entry of immigrants and all nonimmigrants, except F (student), M (vocational student) and J (exchange visitor) visas, though they will be subject to enhanced screening.
- Libya: Suspends the entry of immigrants and temporary visitors on business or tourist visas (B-1/B-2).
- North Korea: Suspends the entry of all immigrants and nonimmigrants.
- Somalia: Suspends the entry of immigrants, and requires enhanced screening of all nonimmigrants.
- Syria: Suspends the entry of all immigrants and nonimmigrants.
- Venezuela: Suspends the entry of certain government officials and their family members on business or tourist visas (B-1/B-2).
- Yemen: Suspends the entry of immigrants and temporary visitors on business or tourist visas (B-1/B-2).

Effective immediately, nationals of Iran, Libya, Somalia, Syria and Yemen are subject to restrictions if they were covered by the previous travel ban, unless they have a bona fide relationship to a person or entity in the United States, are otherwise eligible for an exemption, or are granted a waiver. Beginning on October 18, nationals of all eight listed countries are subject to restrictions, unless exempt or granted a waiver. Nationals of Iran, Libya, Somalia, Syria and Yemen will no longer be eligible for an exemption based on a bona fide relationship to a person or entity in the United States.

### Exemptions

Travel restrictions have been lifted for Sudan. Nationals of Iraq are not subject to travel restrictions, but the Department of Homeland Security recommends that additional scrutiny be applied to Iraqi nationals when applying for U.S. visas or seeking admission to the United States.

The proclamation clarified that the travel restrictions do not apply to U.S. permanent residents, dual nationals, foreign nationals who are admitted or paroled into the U.S. on or before the applicable effective date, and nationals who have a document (other than a valid visa such as a transportation letter, boarding foil or advance parole), nationals holding a diplomatic visa, and asylees or refugees.

### Waivers

The Department of Homeland Security retains the authority to issue waivers of the travel restriction if it can be demonstrated that denying entry would cause the foreign national undue hardship, entry would not pose a threat to national security or public safety, and entry would be in the national interest. Waivers may be issued by consular officers at the time of a visa interview or by Customs and Border Protection upon application for

admission into the U.S. It is anticipated that waivers will be subject to intense review and scrutiny and will likely be difficult to obtain.

The proclamation also clarified that waivers may be considered appropriate in the following situations:

- The foreign national has previously been admitted to the U.S. for a continuous period of work, study or other long-term activity, is outside the U.S. on the applicable effective date, seeks to reenter the U.S. to resume that activity and the denial of reentry would impair that activity;
- The foreign national has previously established significant contacts with the U.S. but is outside the U.S. on the applicable effective date for work, study or other lawful activity;
- The foreign national seeks to enter the U.S. for significant business or professional obligations and the denial of entry would impair those obligations;
- The foreign national seeks to enter the U.S. to visit or reside with a close family member (e.g., a spouse, child or parent) who is a U.S. citizen (USC), LPR or lawful nonimmigrant, and the denial of entry would cause undue hardship;
- The foreign national is an infant, a young child or adoptee, an individual needing urgent medical care or someone whose entry is otherwise justified by special circumstances;
- The foreign national can document that he or she has provided faithful and valuable service to the U.S. Government;
- The foreign national is traveling for purposes related to an international organization designated under the International Organizations Immunities Act (IOIA), traveling for purposes of conducting meetings or business with the U.S. Government, or traveling to conduct business on behalf of an international organization not designated under the IOIA;
- The foreign national is a Canadian permanent resident who applies for a visa at a location within Canada;
- The foreign national is traveling as a U.S. Government-sponsored exchange visitor; or
- The foreign national is traveling to the U.S. at the request of a U.S. Government department or agency.

The Supreme Court cancelled hearings that were set for October 10 regarding the previous travel ban. While this travel ban covers a higher number of countries, it does impose more detailed and specific travel restrictions which could provide a stronger defense to constitutional challenge. This particular travel ban differs than previous ones in that it does not have an expiration date or any time limitation. Federal agencies are expected to provide President Trump a report with recommendations as to whether the travel restrictions should be continued, terminated, modified or supplemented every 180 days.

We strongly encourage U.S. employers to proactively identify employees who may be impacted by this new travel ban. If the employees are abroad and have not previously been impacted by the prior travel bans, they should return prior to October 18, 2017. We continue to caution individuals who are nationals of one of the listed countries and who are within the U.S. from travelling internationally at this time.