

UNITED STATES

EXECUTIVE ORDER

RESTRICTING ENTRY



INTRODUCTION

On March 6, 2017, President Donald Trump signed an updated executive order to suspend, for a period of 90 days, the entry into the United States of nationals of Iran, Libya, Somalia, Sudan, Syria and Yemen. The Order was enjoined in the courts. On June 26, 2017, the U.S. Supreme Court partially reinstated the ban with an important exemption for anyone with “a credible claim of a bona fide relationship” to a U.S. person or entity.

Is the travel ban in effect?

ANSWER: Partially. The Supreme Court issued an order allowing the government to apply the travel ban to a limited group of foreign nationals. The classes of individuals subject to the travel ban are described in greater detail below. The Supreme Court will hear legal arguments in October about whether the full travel ban may go into effect.

I am a U.S. citizen from one of the countries listed above. Am I subject to the travel ban?

ANSWER: If you are seeking entry to the U.S. as a U.S. citizen (i.e., with a U.S. passport or other evidence of citizenship), you are not subject to the Executive Order travel ban, irrespective of whether you are from a designated country.

I am a green card holder (i.e., Lawful Permanent Resident) or have been issued an immigrant visa. Am I subject to the travel ban?

ANSWER: If you are a returning Lawful Permanent Resident, you are not subject to the travel ban. If you are making a first entry after being issued an immigrant visa at a U.S. consulate overseas, you are also not subject to the travel ban.

I am seeking entry as a nonimmigrant. Am I subject to the travel ban?

ANSWER: Unless you qualify for an exemption or waiver (described below), you will be subject to the travel ban if you are seeking entry to the U.S. as a nonimmigrant (e.g., VWP/ESTA, B-1, H-1B, L-1, etc.) and you are presenting a passport from a designated country.

Who is exempt from the travel ban?

ANSWER: Based on the text of the Executive Order, an individual will not be subject to the travel ban if he or she is:

- In possession of a valid, multiple-entry U.S. visa issued on or before June 26, 2017;
- A dual national traveling on a passport from a country that is not designated in the Executive Order;

FREQUENTLY ASKED QUESTIONS (FAQS)

- An applicant for adjustment of status (Form I-485) in possession of a valid advance parole travel document;
- An individual previously granted asylum in the U.S.;
- An individual who has been admitted as a refugee or has been formally scheduled as a refugee by the Department of State; or
- A foreign national traveling on a diplomatic visa, North Atlantic Treaty Organization visa, C-2 visa for travel to the United Nations, or G-1, G-2, G-3, and G-4 visa.

On June 26, 2017, the Supreme Court issued an order that restricts the ability of the federal government to implement the travel ban for “foreign nationals who have a credible claim of a bona fide relationship with a person or entity in the United States.” The Supreme Court listed the following categories of travelers as examples of individuals who have a credible claim of a bona fide relationship with a person or entity in the U.S.:

- A foreign national who wishes to enter the United States to live with or visit a family member;
- A worker who has accepted an offer of employment from an American company;
- A lecturer invited to address an American audience; and
- A student admitted to a U.S. school who is entering to study.

If you fall into one of the groups identified by the Supreme Court, you are not subject to the travel ban. The Supreme Court order states that the relationship with the U.S. must be formal, documented, and formed in the ordinary course, rather than for the purpose of evading the Executive Order.

How will the government determine whether an individual has a bona fide relationship with a person or entity in the U.S.?

ANSWER: According to guidance issued by the State Department and Department of Homeland Security, family relationships that would qualify for an exemption from the travel ban are limited to a relationship with a parent, spouse, child, adult son or daughter, son-in-law, daughter-in-law, sibling, or fiancé already in the United States. On July 13, a federal court ruled that grandparents, grandchildren, brothers-in-law, sisters-in-law, aunts, uncles, nieces, nephews, and cousins of persons in the United States also are not subject to the ban. The government has not yet released additional guidance in response to the ruling.

As far as business or professional links are concerned, the State Department said a legitimate relationship must be “formal, documented, and formed in the ordinary course rather than for the purpose of evading” the ban. Journalists, students, workers, or lecturers who have valid invitations or employment contracts in the U.S. would be exempt from the ban. The exemption does not apply to those who seek a relationship with an American business or educational institution purely for the purpose of avoiding the rules, the State Department cable said. A hotel reservation or car rental contract, even if it was pre-paid, would also not qualify for an exemption. We anticipate that a short-term business traveler in possession of an invitation letter from a U.S. company will be exempt from the travel ban; however, the guidance does not clearly address this.

Are any visa classifications exempt from the ban?

ANSWER: According to the State Department guidance, applicants who have established eligibility for a nonimmigrant visa in a classification other than a B, C-1, D, I, or K visa, are exempt from the Executive Order, as their bona fide relationship to a person or entity is inherent in the visa classification. This means that applicants who qualify for H-1B, L-1, E, F or J visas should be exempt from the ban. In addition, the eligible dependents of applicants for visas with these classifications (spouses and children) are also exempt. For immigrant visas, the cable states that applicants who have established eligibility in the immediate relative, family-based, and employment-based classifications (other than certain self-petitioning employment-based first preference applicants with no U.S. job offer and Special Immigrant Visa (SIV) applicants under INA 101a(27)) and any eligible dependents will be exempt.

If I have a work visa (L-1, H-1B, etc.), will my spouse or child be subject to the ban?

ANSWER: Because the Supreme Court exempted foreign nationals coming to live with or visit family members, family members who have or are eligible for derivative work visas (L-2, H-4, etc.) should be exempt from the ban.

Is it possible to apply for a waiver of the travel ban?

ANSWER: The ban allows consular officers or immigration officials to waive the provisions of the ban on a case-by-case basis. It lists examples of cases that could be appropriate for a waiver. Many of these examples will now be exempt from the ban due to the Supreme Court ruling. Other examples of cases that could be waived include:

- Persons coming for medical treatment;
- Landed Canadian immigrants coming from Canada;
- Persons coming to do business with an International Organization or the U.S. government; and
- Persons with “significant business or professional obligations” in the U.S. that would be impaired by an entry denial.

How will the government determine whether an individual is “from” a designated country?

ANSWER: U.S. Customs and Border protection will consider the passport that is presented for entry in determining your nationality. If you present a passport that is not from a designated country, you will not be subject to the travel ban. For example, if you are presenting a Canadian passport, you will be considered a Canadian national even if you were born in a listed country.

I was born in one of the listed countries, does this apply to me?

ANSWER: If you present a passport from a country that is not listed for U.S. entry, it does not apply. If you present a passport from that country and are not a U.S. citizen, you will be subject to the travel ban, unless you qualify for an exception or waiver.

I believe that I’m subject to this Order, and am presently in the United States. Should I cancel my planned travel abroad?

ANSWER: We are advising impacted employees to remain in the U.S. and avoid any unnecessary travel. There is no restriction on international travel, but impacted employees won’t be able to reenter the U.S. during the 90-day period, or possibly longer if the ban is extended.

What if I have urgent international business travel plans that cannot be canceled?

ANSWER: We are advising impacted employees to remain in the U.S. and avoid any unnecessary travel. There is no restriction on international travel, but impacted employees won’t be able to reenter the U.S. during the 90-day period, or possibly longer if the ban is extended.

FREQUENTLY ASKED QUESTIONS (FAQS)

I'm a national of a listed country and I'm outside the U.S. waiting for a visa. How long will I be delayed?

ANSWER: If you are not in one of the classes that are exempt from the ban or eligible for a waiver, you will likely be delayed at least 90 days. We recommend that you contact the U.S. Consulate with specific questions about visa interview appointments.

What should I do if I cannot return to the U.S. due to this travel ban?

ANSWER: You should immediately contact your company's global mobility group so that we can start the process to provide you with assistance.