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Urgent: Travel Restrictions Following Recent Executive Order

By Brian Graham and Karen E. Spain

On January 27, 2017, President Donald Trump signed an executive order titled “Protecting the Nation from Foreign Terrorist Entry into the United States” (the “Executive Order”). Among other provisions, the Executive Order institutes a 90-day ban on entry into the United States by foreign nationals from the following seven countries: **Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen** (the “7 Countries”). The ban exempts foreign nationals traveling on diplomatic visas, North Atlantic Treaty Organization visas, C-2 visas for travel to the United Nations, and G-1, G-2, G-3, and G-4 visas.

Although the Executive Order originally suspended both immigrant and non-immigrant entry into the United States, Secretary John Kelly of the Department of Homeland Security (“DHS”) issued a statement on January 29, 2017, clarifying that Lawful Permanent Residents (“LPR”) (i.e., green card holders) would be permitted entry into the United States “absent the receipt of significant derogatory information indicating a serious threat to public safety and welfare.” Therefore, LPRs from the 7 Countries will be allowed to board aircraft bound for the United States, but they may face heightened questioning upon arrival at a port of entry.

On January 31, 2017, DHS further clarified that travelers are being treated according to the travel document that they present. In other words, if a foreign national of one of the 7 Countries has dual citizenship in a country that is not subject to the ban, such as the United Kingdom, then that person will not be subject to the ban if the person presents his or her United Kingdom passport. However, if the foreign national presents a passport from one of the 7 Countries, then the person will not be permitted entry into the United States, unless the foreign national is also an LPR.

Foreign nationals currently in the United States who may be subject to this Executive Order would be wise to reevaluate and possibly postpone upcoming international travel plans, particularly if they intend to return to the United States. A citizen of one of the 7 Countries who holds a non-diplomatic visa, such as a student visa or an employment-based visa, will be barred from reentry into the United States for at least 90 days following January 27, 2017, unless the person can present a valid passport from a country not included in the ban. All foreign travelers, regardless of nationality, attempting to enter the United States following a trip to one of the 7 Countries may encounter extensive questioning upon reentry. This is a developing story, and we anticipate further clarification from DHS and from federal courts over the coming weeks.

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Authors:

Brian Graham

brian.graham@klgates.com
+1.512.482.6828

Karen E. Spain

karen.spain@klgates.com
+1.843.579.5639

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