



Department of State Cable Implementing Travel Ban Ruling: Highlights June 29, 2017

On June 29, 2017, Reuters released the full text of a [cable](#) by Department of State regarding the implementation of EO 13780 in the wake of the Supreme Court’s decision to reinstate a portion of the travel ban. Below are selected highlights from the cable, some of which are verbatim and some of which are paraphrased. Additional information about the travel ban ruling can be found [here](#).

1. (SBU) Summary: On June 26, 2017, the Supreme Court partially lifted preliminary injunctions that barred the Department from enforcing. As a result, implementation of those sections for which injunctions have been lifted will begin June 29, 2017.
2. The E.O.’s 90-day suspension of entry will be implemented worldwide at **8:00p.m EST June 29, 2017**.
3. The Supreme Court ruling allows the EO to suspend entry only for those who lack a “bona fide relationship with a person or entity in the United States.” Therefore, applicants who are nationals of the affected countries who are determined to be otherwise eligible for visas and to have a credible claim of a bona fide relationship. Applicants who are nationals of the affected countries and who are determined not to have a qualifying relationship must be eligible for an exemption or waiver as described in section 3 of the E.O.
4. The suspension applies to entry into the United States of, and issuance of visas to, certain nationals from the following countries: Iran, Libya, Somalia, Sudan, Syria, and Yemen. The suspension does not apply to individuals who are inside the United States on June 29, 2017, who have a valid visa on June 29, 2017, or who had a valid visa at 8:00 p.m. EDT January 29, 2017, even after their visas expire or they leave the United States.
5. DOS will continue scheduling NIV [nonimmigrant visa] applicants.
6. Beginning 8:00p.m. EDT June 29, 2017, NIV applicants presenting passports from any of the six countries included in the E.O. should be interviewed and adjudicated following these procedures:
 - a. Officers should determine whether the applicant is eligible for a visa under the INA.
 - b. If yes, during the interview, determine whether the applicant is exempt from the EO.
 - c. Applicants who are not exempt from the EO and who do not qualify for a waiver should be refused.

7. The National Visa Center (NVC) will continue to schedule immigrant visa (IV) appointments for all categories and all nationalities.
 - a. Officers should first determine whether the applicant is eligible for the visa, without regard to the EO.
 - b. If eligible for a visa, the consular officer should determine if the applicant is exempt from the EO and if not whether he or she qualifies for a waiver.
 - c. IV applicants who are not exempt and who do not qualify for a waiver should be refused.

8. For Diversity Visa (DV) applicants already scheduled for interviews falling after the E.O. implementation date of 8:00 p.m. EDT June 29, 2017, posts should interview the applicants. Posts should interview applicants following these procedures
 - a. **Based on the Department experience with the DV program, we anticipate that very few DV applicants are likely to be exempt from the EO's suspension of entry or to qualify for a waiver.**

10. The EO suspension **does not apply** to the following:
 - a. **Any applicant who has a credible claim of a bona fide relationship with a person or entity in the United States. Any such relationship with a "person" must be a close familial relationship, as defined below.** Any relationship with an entity must be formal, documented, and formed in the ordinary course, rather than for the purpose of evading the E.O. Note: If you determine an applicant has established eligibility for a nonimmigrant visa in a classification other than a B, C-1, D, I, or K visa, then the applicant is exempt from the E.O., as their bona fide relationship to a person or entity is inherent in the visa classification. **Eligible derivatives of these classifications are also exempt.** Likewise, if you determine an applicant has established eligibility for an immigrant visa in the following classifications **immediate relatives, family-based, and employment-based** (other than certain self-petitioning employment-based first preference applicants with no job offer in the United States and SIV applicants under INA 101a(27)) -- then the applicant and any eligible derivatives are exempt from EO.
 - b. Any applicant who was **in the United States on June 26, 2017;**
 - c. Any applicant who **had a valid visa at 5:00 p.m. EST on January 27, 2017,** the day E.O. 13769 was signed;
 - d. Any applicant who **had a valid visa on June 29, 2017;**
 - e. Any **lawful permanent resident** of the United States;
 - f. Any applicant who is **admitted to or paroled** into the United States **on or after June 26, 2017;**
 - g. Any applicant who has a **document other than a visa, valid on June 29, 2017,** or issued on any date thereafter, that permits him or her to travel to the United States and seek entry or admission, such as advance parole;
 - h. Any **dual national** of a country designated under the order when traveling on a passport issued by a non-designated country;
 - i. Any applicant **travelling on a diplomatic-type visa;**

- j. Any applicant who has been **granted asylum; admitted refugee; granted withholding of removal, advance parole, or CAT;** and
 - k. Any V92 or V93 applicant.
11. **“Close family”** is defined as a parent (including parent-in-law), spouse, child, adult son or daughter, son-in-law, daughter-in-law, sibling, whether whole or half. This includes step relationships. **“Close family” does not include** grandparents, grandchildren, aunts, uncles, nieces, nephews, cousins, brothers-in-law and sisters-in-law, fiancés, and any other “extended” family members. *N.B. This is a narrow interpretation as it excludes several family relationships that are recognized in U.S. immigration law and culture*
12. **A relationship with a “U.S. entity” must be formal, documented, and formed in the ordinary course rather than for the purpose of evading the EO.** A consular officer should not issue a visa unless the officer is satisfied that the applicant’s relationship complies with these requirements and was not formed for the purpose of evading the E.O. For example, an eligible I visa applicant employed by foreign media that has a news office based in the United States would be covered by this exemption. Students from designated countries who have been admitted to U.S. educational institutions have a required relationship with an entity in the United States. Similarly, a worker who accepted an offer of employment from a company in the United States or a lecturer invited to address an audience in the United States would be exempt. In contrast, the exemption would not apply to an applicant who enters into a relationship simply to avoid the E.O.: for example, a nonprofit group devoted to immigration issues may not contact foreign nationals from the designated countries, add them to client lists, and then secure their entry by claiming injury from their inclusion in the E.O. Also, a hotel reservation, whether or not paid, would not constitute a bona fide relationship with an entity in the United States. **N.B. much of this language is lifted from the Supreme Court ruling.*
14. For those who are not exempt, the EO permits consular officers to grant waivers on a case by case basis.
- a. Denying entry during the 90-day suspension would cause undue hardship;
 - b. His or her entry would not pose a threat to national security; and
 - c. His or her entry would be in the national interest.
15. *This section of the cable lists the examples listed in the EO and notes that many of the examples in the original EO may fall into an exemption after the Supreme Court ruling. A detailed analysis about the waiver provisions in the EO can be found here: <https://pennstatelaw.psu.edu/sites/default/files/WaiverDocFinal%203.28.17.pdf>*
19. The U.S. Refugee Admissions Program (USRAP) is suspended for 120 days, except for those cases where the Supreme Court has kept the temporary injunction in place for an applicant who has a credible claim. ...We believe that by their nature, almost all V93 cases will have a clear and credible close familial relationship with the Form I-730 petitioner in the United States and qualify for issuance under this exemption.