



Summary of *Protecting the Nation from Foreign Terrorist Entry into the United States* or “Refugee/Muslim Ban”

Current as of Jan. 27, 2017

This summary is selective and highlights sections of the Executive Order relating to the ban on nationals of countries of particular concern; the U.S Refugee Admissions Program (USRAP); visa screening and interviews; and entry-exist tracking. This document should not be a substitute for legal advice nor should it be construed to mean that each provision of this Order is lawful or feasible.

Purpose (Section 1)

The Executive Order sets forth that its purpose is to ensure that those admitted, immigrants or non-immigrants, “do not bear hostile attitudes” towards the United States and do not promote “violent ideologies” over American law. Further, it is the purpose of the Executive Order to not admit those who engage in “bigotry or hatred,” including violence against woman, or those who “oppress members of any race, gender, or sexual orientation.”

Suspension of Issuance of Visas and Other Immigration Benefits to Nationals of Countries of Particular Concern (Section 3)

The Executive Order mandates that the Secretaries of State and Homeland Security and the Director of National Intelligence conduct a review “to determine the information needed from any country for the adjudication of any visa, admission, or other benefit under the INA.” After the review, the President will receive a report on necessary information and a “list of countries that do not provide adequate information.” Foreign Governments who are found not to provide adequate information must hand over information on nationals seeking entry to the U.S. within 60 days of notification or entry may be prohibited until such information is received.

This section also immediately suspends the adjudication of any visa, admission, or any other benefit to individuals from particular countries. Pursuant to INA §212(f), the President will exclude from entry immigrants and nonimmigrants “who are from countries referred to in section 217(a)(12), 8 U.S.C. 1187(a)(12)” for a period of 90 days. These countries include: Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen. Additional countries may be added for similar treatment. The Executive Order provides an exception to prohibition of entry in which the Secretaries of State and Homeland Security may review on a case-by-case basis, and allow entry as long as it is found to be in the national interest. How this section will be applied remains to be determined- for example, the language could reach LPRs (green card holders) outside the United States. While only certain countries are mentioned, this Executive Order masks religious discrimination with the concern for national security.

Implementing Uniform Screening Standards for all Immigration Programs (Section 4)

The Executive Order implements a screening program to identify individuals who seek to enter on a “fraudulent basis, with the intent to cause harm, or who are at risk of causing harm subsequent to their admission.” This program will include in-person interviews; the creation of a document database; forms aimed at identifying fraudulent answers and malicious intent; and the applicant’s likelihood of becoming a contributing member of society, among other mechanisms.

Realignment of the U.S. Refugee Admissions Programs (USRAP) for Fiscal Year 2017 (Section 5)

The Executive Order suspends USRAP for 120 days to review the entire application and adjudication process so as to ensure applicants are not a threat to the security and welfare of the U.S.. Further, upon resumption of refugee admission, it prioritizes refugee claims made on religious-based persecution, provided that the religion is a minority religion in the applicant’s country of residence. The Executive Order ceases refugee processing and admission of nationals from Syria as refugees indefinitely until sufficient changes have been made to USRAP to ensure its alignment with the national interest. Additionally, the number of refugees admitted into the United States will be reduced during 2017 to 50,000. The Order attempts to give authority to state and local governments over “the placement or settlement in their jurisdictions of aliens eligible to be admitted to the United States as refugees.”

The suspension of refugees has two exceptions. The Secretaries of State and Homeland Security may admit refugees on a “case-by-case basis . . . but only so long as . . . the admission is in the national interest” when: First, the individual is a “religious minority in his or her country of nationality facing persecution,” or Second, “admitting the person would enable the U.S. to conform to a preexisting international agreement.” Despite the two exceptions, this provision will affect countries across the world. The United States has proven to be a haven for thousands of refugees and an ambassador for human rights from its inception as a country. This provision ignores past humane sentiment.

Expedited Completion of the Biometric Entry-Exit Tracking System (Section 7)

The Executive Order directs agencies to expedite completion of biometric entry-exit system for all travelers, as recommended by the National Commission on Terrorists Attacks Upon the United States.

Visa Interview Security (Section 8)

The Visa Interview Waiver Program will be suspended immediately to achieve compliance with INA §222. Section 222 of the INA requires an in-person interview for every non-immigrant visa, unless a statutory exception applies.

Visa Validity Reciprocity (Section 9)

The Secretary of State shall review all non-immigrant visa reciprocity agreements to ensure that they are truly reciprocal in regard to the visa validity period and fees. Tourists will be affected insofar as their countries of nationality make it harder for American travelers to enter those nations.