



# New Executive Order Imposes a Temporary Ban for Certain Entries to the United States, Albeit with More Exceptions

6 March 2017

On 6 March 2017, President Donald Trump signed a new Executive Order (EO), “Protecting the Nation From Foreign Terrorist Entry Into the United States.” The new EO revokes Executive Order 13769 from [27 January 2017](#) and imposes a new temporary ban on certain entries to the United States, but with several more exceptions compared to the prior order.

## Summary

The adverse impact of this new EO on U.S. employers, universities, and other organizations with respect to current visa holders should be more limited. Certain individuals may still need to seek waivers on a case-by-case basis. However, the new EO limits the ability of new persons from such countries to obtain visas to come to the United States.

The current countries subject to the new EO are: Iran, Libya, Somalia, Sudan, Syria, and Yemen. While Iraqi visa holders/applicants will be subject to additional inquiries related to terrorism, Iraq is not subject to the ban.

U.S. Customs and Border Protection (CBP), which is the agency within the U.S. Department of Homeland Security (DHS) responsible for administering inspections at U.S. borders and airports, has published a [Fact Sheet](#) and [Q&A document](#) providing further clarifications regarding the scope of the new EO.

We have summarized the key points below.

## Key Points

1. **Effective date:** 16 March 2017 is the effective date for restrictions imposed by the new EO.

2. **Temporary travel/visa ban:**

Six countries (instead of seven) are impacted by the 90-day ban on issuing new visas (Iraq is removed from the list so the ban applies to Iran, Libya, Somalia, Sudan, Syria, and Yemen). The ban does **not** apply to nationals/citizens of those six countries who are:

- U.S. permanent residents (green card holders),
- Physically in the United States pursuant to prior admission or parole (i.e., they can remain in the U.S. consistent with the terms of their prior entry),
- In possession of a valid visa as of 27 Jan. 2017, and in possession of a valid U.S. visa as of 16 March 2017 – those individuals can use such visa to seek entry to the United States if their visa remains valid by the time of their entry,
- In possession of a valid U.S. document (other than a visa) that permits the person to travel to the United States and seek entry (such as an advance parole document),
- Dual nationals who are traveling on a passport issued by a non-designated country (e.g., a dual citizen of Libya and Morocco who is traveling to the U.S. with a valid U.S. visa issued in his/her Moroccan passport), or
- Traveling on a diplomatic visa, NATO visa, C-2 visa for travel to the UN, or a G visa (G-1, G-2, G-3, or G-4).

Nationals/citizens of those six countries who are impacted by the ban and do not qualify for one of the exceptions above could seek a waiver and obtain a U.S. visa from a U.S. consulate (or admission from CBP) if the U.S. government decides to exercise discretionary relief on a case-by-case basis, based on undue hardship and not posing a threat to national security. Some of the grounds for granting waivers in particular cases include:

- The person is a landed immigrant in Canada who applies for a U.S. visa at a location within Canada,
- The person has previously been admitted to the U.S. for a continuous period of work, study, or other long-term activity, is outside the United States on 16 March, seeks to re-enter the United States to resume that activity, and the denial of reentry would impact that activity,
- The person has previously established significant contacts with the U.S. but is outside the country on 16 March for work, study, or other lawful activity,
- The person seeks to enter the U.S. to visit or reside with a close family member who is a U.S. citizen, green card holder, or an alien lawfully admitted on a valid nonimmigrant visa, and the denial of entry during the 90-day suspension period would cause undue hardship, or
- The person is an infant, a young child or adoptee, or a person needing urgent medical care, or another person whose entry is justified by the special circumstances of his/her case.

Visa holders may renew visas in certain cases. In a “Frequently Asked Question” regarding students, CBP stated:

**25. What happens to international students, exchange visitors, or their dependents from the six countries, such as F, M, or J visa holders if their visa expires while the Executive Order is in place and they have to depart the country?**

The Executive Order does not affect F, M, or J visa holders if they currently have a valid visa on the effective date or held a valid visa on 27 January 2017 prior to the issuance of the Executive Order.

With that said, travelers must have a valid visa to travel to the United States, regardless of the Executive Order. Travelers whose visa expires after the effective date of the Executive Order must obtain a new, valid visa to return to the United States.

**3. Temporary ban on admission of refugees:**

- 120-day suspension of travel by refugees into the United States;
- No permanent ban on refugees from Syria;
- Does not apply to refugee applicants who, before 16 March, have been formally scheduled for transit by the U.S. State Department; and
- Imposes a limit of 50,000 refugees for entry during fiscal year 2017.

**4. Uniform screening and vetting standards for all immigration programs:**

- The new EO calls for implementation of a program to identify individuals who “seek to enter the United States on a fraudulent basis, who support terrorism, violent extremism, acts of violence toward any group or class of people within the United States, or who present a risk of causing harm subsequent to their entry.”
- The new EO provides certain parameters for such a new program, including, for example, the development of a uniform baseline for screening and vetting standards and procedures; a database of identity documents proffered by applicants to ensure that duplicate documents are not used by multiple applicants; amended application forms that include questions aimed at identifying fraudulent answers; and malicious intent.
- The new EO does not impose a specific deadline for the implementation of such a new vetting program but requires the U.S. government to submit progress reports to the President after 60 days, 100 days, and 200 days from 16 March.

**5. In-person visa interviews for non-immigrant visa applicants:**

- Similar to the January order, the new EO suspends the Visa Interview Waiver Program which allowed U.S. consulates to waive an in-person interview for certain types of nonimmigrant visa applications (e.g., renewals of visas in the same category etc.). As a result, all individuals seeking a non-immigrant visa will have to undergo an in-person interview, subject to specific statutory exceptions.

**6. Biometric Entry-Exit Tracking system:**

- Similar to the January order, the new EO calls for DHS to expedite the completion and implementation of a biometric entry-exit tracking system for certain travelers to the United States.

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We will continue to monitor these developments. Please contact any member of our team if you have questions about the applicability of the new EO or U.S. immigration law restrictions on your situation.

## Contacts



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