

U.S. IMMIGRATION UNDER THE CURRENT ADMINISTRATION

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EXECUTIVE ORDER – TRAVEL BAN

- Executive Order implemented from January 27, 2017 until March 16, 2017.
Imposed 90-day ban on travelers from seven countries: Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen
- Nationwide (TRO) issued on February 3, 2017 and upheld by Appellate Court on February 9, 2017.
- Re-drafted EO issued March 6, 2017, excluding Iraq and providing additional travel ban exceptions to LPRs, current visa holders, and foreign nationals already admitted or paroled into U.S.
- March 15, 2017 → Hawaii District Court issued TRO preventing EO from going into effect.

EXECUTIVE ORDER – TRAVEL BAN (CON'T.)

- The Supreme Court of the United States issued a split decision June 26, 2017 agreeing to uphold a limited version of Executive Order.
- The Supreme Court partially backed the travel ban with exception of:
 - "a credible claim of a bona fide relationship with a person or entity in the United States "close family"
 - The relationship must be "formal, documented, and formed in the ordinary course" and cannot be formed to evade the executive order.
- Supreme Court cancelled scheduled October 10th hearing in light of new order and asked both parties to brief impact of new order on case.

EXECUTIVE ORDER – TRAVEL BAN (CON'T.)

- Department of State conducted a worldwide review of information-sharing practices and made recommendations for national security.
- New travel restrictions on certain foreigners from Chad, Iran, Libya, North Korea, Somalia, Syria, Venezuela and Yemen.
 - Restrictions begin on October 18, 2017 for new countries/categories.
 - Exception remains if there is a "bona fide" relationship with a person or entity in the country.
 - The new restrictions are indefinite.
 - Consular officers will have discretion to waive the new restrictions on a "case-by-case basis."

EXECUTIVE ORDER – TRAVEL BAN (CON'T.)

- **Chad:** Entry into the U.S. of Chadian nationals as immigrants and as temporary visitors on business or as tourists is suspended.
- **Iran:** Entry into the U.S. of Iranian nationals as immigrants and as temporary visitors is suspended *except* for Iranian nationals entering under F, M, and J visas. This latter group may be subject to enhanced screening.
- **Libya:** Entry into the U.S. of Libyan nationals as immigrants and as temporary visitors on business or as tourists is suspended.
- **North Korea:** Entry into the U.S. of all North Korean nationals as immigrants and nonimmigrants is suspended.
- **Syria:** Entry into the U.S. of all Syrian nationals as immigrants and nonimmigrants is suspended.
- **Venezuela:** Entry into the U.S. of certain Venezuelan government officials and their family members as visitors on business or as tourists is suspended.
- **Somalia:** Entry into the U.S. of Somalian nationals as immigrants is suspended. Somalian nationals seeking to enter the U.S. as nonimmigrants will be subject to additional scrutiny.
- **Yemen:** Entry into the U.S. of Yemeni nationals as immigrants and as temporary visitors on business or as tourists is suspended.

EXTREME VETTING BY DEPARTMENT OF STATE

- The U.S. Department of State obtained approval to implement a supplemental questionnaire for U.S. visa applicants.
- Newly created form asks visa applicants for additional personal information during the visa screening process.
- Questions apply to visa applicants "who have been determined to warrant additional scrutiny in connection with terrorism or other national security-related visa ineligibilities."

EXTREME VETTING QUESTIONS

- Travel history during the last 15 years, including source of funding for travel;
- Address history during the last 15 years;
- Employment history during the last 15 years;
- All passport numbers and country of issuance held by the applicant;
- Names and dates of birth for all siblings;
- Name and dates of birth for all children;
- Names and dates of birth for all current and former spouses, or civil or domestic partners;
- Social media platforms and identifiers, also known as handles, used during the last 5 years; and
- Phone numbers and email addresses used during the last 5 years.

ADMINISTRATIVE SITE VISITS FOR EMPLOYERS

- Fraud Detection and National Security Directorate (FDNS)
 - Mission is to protect national security and prevent immigration fraud.
 - Site visits for H-1B, L-1A and L-1B employees.
- Administrative Site Visit and Verification Program (ASVVP)
- Industries Targeted → high-tech, outsourcing
- STEM Optional Practical Training (OPT) site visits
 - Conducted by ICE rather than FDNS
 - 48 hours advance notice

ADMINISTRATIVE SITE VISITS FOR EMPLOYERS (CON'T.)

- What happens during the site visit?

Meet with signer of petition, beneficiary and supervisor.

Verify beneficiary's work location, physical workspace, hours, salary, and duties.

Photos of work site and review of documents.

ADMINISTRATIVE SITE VISITS FOR EMPLOYERS (CON'T.)

- What happens after the site visit?

Follow up phone call or email if personnel were not available to meet inspector.

Compliance Review Report

Possible revocation of petition and/or referral to ICE.

ADMINISTRATIVE SITE VISITS FOR EMPLOYERS (CON'T.)

- Don't panic.
- Review the current job duties, job title, work location and salary of H-1B workers to ensure compliance.
- Brief the signer(s) of immigration documents on the possibility of a site visit.
- Assign a backup Human Resources representative.
- Notify and prepare the company's receptionist(s) that a DHS investigator may come to the company unannounced.
- Notify your nonimmigrant workers that a DHS investigator may come to the worksite.
- Ensure that copies of immigration related filings are readily available in the case of a site visit.

FORM I-9

- I-9s are used to verify the identity and employment authorization documents of employees hired after Nov 6, 1986.
- As of **September 18, 2017**, all employers in the United States are required to use the new version of the Form I-9 exclusively to conduct employment eligibility verification (exp. 08/31/2019).
- "Smart I-9" facilitates compliance by guiding users throughout the process and incorporating various features to reduce errors.
- Increase in I-9 audits creates "culture of compliance" under current Administration.
- August 2016, higher civil fines against employers who commit immigration-related offenses, including Form I-9 and E-Verify violations, the unlawful employment of foreign nationals, and unfair immigration employment practices.

I-9 PENALTIES

Violation	Current Penalty (in \$)	Increased Penalty (effective 8/1/2016 for violations after 11/2/2015) (in \$)
Knowingly hiring or employing unauthorized aliens – First Offense (per individual)	Min. 375 Max. 3,200	Min. 539 Max. 4,313
Knowingly hiring or employing unauthorized aliens – Second Offense (per individual)	Min. 3,200 Max. 6,500	Min. 4,313 Max. 10,781
Knowingly hiring or employing unauthorized aliens – Third or Subsequent Offense (per individual)	Min. 4,300 Max. 16,000	Min. 6,469 Max. 21,563
I-9 Paperwork errors (errors or omissions on I-9 form)(per relevant individual)	Min. 110 Max. 1,100	Min. 216 Max. 2,156
Employer's failure to notify government of continuing employment of individual subject to final nonconfirmation of employment eligibility (per individual)	Min. 500 Max. 1,000	Min. 751 Max. 1,502
Unfair immigration-related employment practices, first order (per individual)	Min. 375 Max. 3,200	Min. 445 Max. 3,563
Unfair immigration-related employment practices, second order (per individual)	Min. 3,200 Max. 6,500	Min. 3,563 Max. 8,908
Unfair immigration-related employment practices, subsequent order (per individual)	Min. 4,300 Max. 16,000	Min. 5,345 Max. 17,816
Unfair immigration-related employment practices, document abuse (per individual)	Min. 110 Max. 1,100	Min. 178 Max. 1,782
H-1B violations pertaining to strike/lockout or displacement of U.S. workers; notification or misrepresentations on labor condition applications, early-termination or filing fees paid by employee (per violation)	Max. 1,000	Max. 1,782
H-1B violations pertaining to willful failure pertaining to wages/working conditions, notification labor condition application specificity, recruitment, or discrimination against an employee (per violation)	Max. 5,000	Max. 7,251
H-1B willful violation, where an employer (whether or not the employer is an H-1B-dependent employer or willful violator) displaced a U.S. worker employed by the employer in the period beginning 90 days before and ending 90 days after the filing of an H-1B petition; or willful misrepresentation of a material fact on the labor condition application (per violation)	Max. 35,000	Max. 50,758
H-2B violations related to the failure to pay wages or honor the terms and conditions of a worker's employment, unlawful termination of employment or layoffs	Max. 10,000	Max. 11,940

EMPLOYMENT-BASED IMMIGRATION UPDATES

- Interview requirement for all employment-based green card applications starting on October 1st, 2017.
Expect increased delays in processing of all green card applications.
- No premium processing for H-1B transfers and extensions.
- Increase in Requests for Evidence and denials on H-1B petitions.

Thank You!

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