President Trump Issues Executive Order Temporarily Banning Travel to U.S. by Nationals of Seven Countries

On Jan. 27, President Donald Trump issued an executive order entitled “Protecting the Nation From Foreign Terrorist Entry Into the United States,” which suspends for a period of least 90 days the admission of nationals of Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen into the United States. The executive order states that the travel ban applies to nationals of the seven named countries who seek entry into the U.S. as refugees, visa holders or immigrants. The ban does not apply to diplomats or government officials of the seven named countries.

Additionally, the executive order suspends the visa interview waiver program, which allows consulates to waive the visa interview requirement for certain applicants renewing their visa stamps at the consulate. The executive order does not affect the Visa Waiver Program, which provides for visa-free admission for citizens of certain counties in Europe and others not deemed to be a risk for visa overstays or security issues.

Also, the executive order directs the Department of State, Department of Homeland Security and Director of National Intelligence to evaluate the government’s access to information needed for the vetting process and, based on that review, to recommend additional countries that should be included in the travel ban.

Shortly after the issuance of the executive order, reports circulated of the first instances of travelers from the seven named countries, including lawful permanent residents, who were barred from entry at U.S. airports by Customs and Border Protection (CBP). That evening, the ACLU and other organizations filed federal lawsuits on behalf of travelers who were refused entry at John F. Kennedy International Airport (New York), Dulles International Airport (Chantilly, Virginia) and Boston Logan International Airport. All three lawsuits resulted in temporary restraining orders affecting various aspects of the travel ban.

Yesterday, on Sunday, Jan. 29, the Department of Homeland Security confirmed that the travel ban would not be applied to lawful permanent residents (green card holders). On the same day, the government of Canada reported that it had held high-level discussions with the Trump administration and confirmed that the travel ban would not apply to nationals of the seven named countries who also hold Canadian passports.
The executive order and its aftermath have raised concerns in the business community regarding employees’ international travel. As the situation is fluid, we will continue to monitor developments closely. At this time, we recommend the following:

- Identify any employees who are citizens of Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen. For clients of Sidley’s immigration practice, we have identified affected employees in our system and are contacting the company representatives to discuss specific issues.

- Advise employees who are nationals of the seven named counties with temporary visa status, such as H-1B, L-1 or F-1, to remain in the United States and cancel any planned international travel until the travel ban is lifted.

- Despite the assurances that the ban does not affect green card holders, recommend that those employees postpone any noncritical travel until such time that we receive consistent reports that green card holders of the seven named countries are not experiencing problems at the ports of entry.

- Advise employees of any nationality who have recently traveled to Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen that they may experience additional questioning in secondary inspection at ports of entry.

- Inform all foreign national employees that due to the heightened focus on scrutiny and vetting procedures, including the suspension of the visa interview waiver program, waiting times and delays in visa issuance at the consulates are expected to increase.

- Inform foreign national employees that applicants for U.S. visas at consulates abroad, regardless of nationality, should plan ahead and allow additional time for visa processing at all U.S. consular posts.

If you have any questions regarding this Sidley Update, please contact the Sidley lawyer with whom you usually work, or

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Sidley Immigration Practice

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