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To: Office of General Counsel Attorneys

From: Joseph B. Porter *JBP*
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Date: March 17, 2017

Re: EO Travel Ban - **UPDATE**

Earlier this week, we notified you that President Trump issued a new Executive Order (the "Order") entitled "Protecting the Nation from Foreign Terrorist Entry to the United States." The new Order rescinds and replaces the previous January 27, 2017 order, and was to go into effect on **March 16, 2017 at 12:01 a.m. ET.**

On March 15, 2017 a U.S. District Court Judge for the District of Hawaii issued a Temporary Restraining Order ("TRO") halting the implementation of the Order. The TRO was issued based on the premise that Plaintiffs, including the State of Hawaii, demonstrated (1) a strong likelihood of succeeding on their claim that the Order violates the First Amendment—more specifically, that the Order violates the Establishment Clause because it discriminates against individuals based on religion; (2) that irreparable injury is likely if the TRO is not granted; and (3) that the balance of equities and public interest tip in favor of granting the TRO.

Simultaneously, a U.S. District Court Judge for the District of Maryland issued an injunction barring enforcement of Section 2(c) of the Order, prohibiting the enforcement of the 90-day ban against travelers from the countries of Iran, Libya, Somalia, Sudan, Syria, and Yemen.

The NYS Attorney General intervened in the lawsuit filed by the State of Washington against the President challenging the new Order, and Chancellor Zimpher provided an affidavit in support thereof.

We will keep you apprised of developments as they occur. For your ready reference, below is a recap of the relevant background and main features of the ban:

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1. What

- On March 6, 2017, President Trump issued a new Executive Order (the "Order") entitled "Protecting the Nation from Foreign Terrorist Entry to the United States."
- The new Order rescinds and replaces the previous January 27, 2017 order.

2. When

- The Order will go into effect on March 16, 2017 at 12:01 a.m. ET and remain in effect through June 14, 2017, subject to possible extensions.
- It will be in effect for a 90-day period.

3. Why

- The Order directs the Department of Homeland Security to identify the background information needed from each foreign country in order for its citizens to enter the U.S.
- Within 20 days (April 5, 2017), Homeland Security is to provide the President with a list of the needed information as well as those countries that do not provide it.
- The State Department will then request that each country not already providing such information begin doing so within 50 days.
- At the end of the 90-day period of the Order, Homeland Security will give the President a list of countries that are not providing the information. Their nationals will be barred from entry, and such bar will continue until a country provides the information or its equivalent.

3. Who

- Foreign Nationals
 - The Order suspends the entry of foreign nationals from the countries of Iran, Libya, Somalia, Sudan, Syria, and Yemen.
 - Iraq has been removed from the list of countries.
 - Foreign nationals from the six countries who are outside the United States and who did not have a valid visa at 5 p.m. Eastern Standard Time on January 27, 2017, and do not have a valid visa on the effective date of this order are not eligible to enter the U.S. while the temporary suspension remains in effect
- Refugees
 - The Order also suspends the admission of refugees from any country, including Syria, for 120 days as of March 16th.
- Students & Visitors
 - The Order **does not apply** to individuals who are within the United States on the effective date of the Order or to those who hold a valid visa.
 - Visas that were provisionally revoked under the previous order are valid for purposes of administering this new Order.
 - Individuals holding valid F, M, or J visas may continue to travel to the U.S. on those visas if they are otherwise valid.

- Please note, travelers must hold a valid visa in order to travel to the U.S., regardless of the Order. Travelers whose visa expires after the effective date of the Order must obtain a new, valid visa to return to the U.S.
- Exemptions
 - The Order exempts several classes of foreign nationals, including U.S. lawful permanent residents (green card holders) and holders of a valid U.S. visa.
 - For a **full list of exempted classes**, please see “Exceptions” at <http://www.nafsa.org/Professional Resources/Browse by Interest/International Students and Scholars/Travel Advisory for Nationals of Certain Countries Pursuant to Executive Orders/>
- Waivers
 - The Departments of Homeland Security and State can review individual cases and grant waivers on a case-by-case basis if a foreign national demonstrates that his or her entry into the United States is in the national interest, will not pose a threat to national security, and that denying entry during the suspension period will cause undue hardship to a U.S. citizen or entity.

4. Additional Resources

- For more information on the Order, please visit the following websites:
 - <http://www.woh.com/wp-content/uploads/Immigration-Alert-Travel-Ban-Summary.pdf>
 - <http://www.nafsa.org/Professional Resources/Browse by Interest/International Students and Scholars/Travel Advisory for Nationals of Certain Countries Pursuant to Executive Orders/>
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