Executive Order FAQs for H-1B Scholars and Dependents

The Executive Order signed on January 27, 2017 has suspended entry into the United States for non-immigrants and immigrants who are nationals of Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen. The period of suspension is 90 days from the signing date.

The Office of International Affairs strongly cautions against travel outside the United States if you are a national of any of these countries.

The following questions and answers may help clarify information regarding the travel suspension. However, please seek the advice of an experienced immigration attorney if you are from one of the seven countries listed in the Executive Order and are considering travel outside the United States.

Program extension and remaining in the United States as an active H-1B

Q: I am in H-1B status and I am from one of the seven countries. I am worried about my stay and my extension. What can I do?
A: OIA has not received any information regarding H-1Bs who are currently in the United States or seeking extensions of their H status. The Office of International Affairs continues to process all our H-1B requests.

Q: I am in J-1 status and I am from one of the seven countries. I am worried about my stay. What can I do?
A: OIA has not received any information regarding J-1 scholars who are currently in the United States in a valid and active J-1 program. We do recommend that you maintain your program active at all times and if there is a need for you to extend, please do so in a timely manner.

Outside of the United States and visa applications

Q: I have been approved as an H-1B to start in March 2017 with The Ohio State University and I am from one of the seven countries listed in the Executive Order. I am scheduled to attend the visa appointment abroad in order to take the H-1B appointment with Ohio State. What should I do?
A: the U.S. Department of State cautions all individuals from the seven countries who are seeking visa appointments as follows: “If you are a citizen of one of these countries, please do not schedule a visa appointment or pay any visa fees at this time. If you already have an appointment scheduled, please DO NOT ATTEND. You will not be permitted entry to the Embassy/Consulate. We will announce any other changes affecting travelers to the United States as soon as that information is available.”

Q: I am an H-1B employee from one of the seven countries and my dependents are currently not in the United States. How can my dependents come to the United States?
A: According to the Executive Order, entry into the United States has been suspended for 90 days from the date of the signing on January 27, 2017. Your family members should remain abroad and wait at least 90 days when additional guidelines could be issued. For more specific information, please review the NAFSA Travel Advisory.
Q: I am an H-1B employee from one of the seven countries and I am currently out of the United States for professional reasons. My U.S. visa is still valid. How can I reenter the United States as soon as possible?
A: According to the Executive Order, you will not be able to enter the United States at this time. You will need to remain abroad and wait at least 90 days from when the Executive Order was signed on January 27, 2017, or until additional guidance is issued. For more specific information, please review the NAFSA Travel Advisory.

Travel

Q: I am in H-1B status and I am from one of the seven countries and I have international conferences to attend in the near future. Can I still attend?
A: Until further guidance from the U.S. government is received, OIA strongly cautions against travel outside the United States if you are a national of Iran, Iraq, Libya, Somalia, Sudan, Syria or Yemen.

Dual citizenship

Q: Does “from one of the seven countries” mean citizen, national or born in?
A: According to the U.S. Customs and Border Protection website, “Travelers are being treated according to the travel document they present.” Additional screening may occur and entry is not guaranteed.
Q: I am in H-1B status and I was born in one of the seven countries, but I am also a Canadian citizen. Can I travel to Canada, which is now my home country?
A: According to the Executive Order, any person who is considered to be from one of the seven countries is affected by the travel suspension. OIA recommends that scholars be cautious if they choose to travel internationally and consult the U.S. Customs and Border Protection website for further guidance.

The “from” concept

The following information is taken directly from the NAFSA website and provides sample scenarios to help interpret the language contained in the Executive Order.

- Example - An individual born in Iran but who later became a British citizen (dual Iranian/British citizen) now seeks entry to the United States as an O-1 alien of extraordinary ability on her British passport. This individual would be seen as "from Iran," and will not be able to enter the United States because of the Executive Order entry ban.
- Example - An Iraqi citizen who later became a British citizen (dual Iraqi/British citizen) became a U.S. lawful permanent resident several years ago. With a valid I-551 green card, she may be able to travel and reenter on the basis of the lawful permanent resident exception. However, it would be wise to seek the advice of an experienced immigration lawyer before traveling.
- Example - An F-1 student from Iran was doing a semester of study abroad in France the day the Executive Order was signed. He has a valid F-1 visa and now wishes to return to the United States. He is subject to the Executive Order, though and now cannot reenter the United States.
- Example - A professor in TN status under NAFTA who is a dual citizen of Canada and Yemen was in Canada the day the Executive Order was signed. She now wants to reenter the United States in TN status by car through a land port of entry. Although as a Canadian citizen she is exempt from the requirement to have a visa, as a Yemeni citizen she is not eligible to reenter the United States in TN status because of the Executive Order.
Example 5 - An individual born in Syria who subsequently becomes a **U.S. citizen**, but retains his Syrian citizenship (i.e., dual citizenship with the United States and one of the seven countries). Since U.S. citizens are not aliens, and therefore cannot be classified as an immigrant or nonimmigrant, this individual would **not be subject** to the ban, since the ban applies to immigrants and nonimmigrants.

*Please note that these examples are to illustrate the principles of the "from" concept only. They are not legal advice. Also remember that the examples dealing with dual citizenship are based only on the U.S. Customs and Border Protection’s FAQs. Individuals with questions should discuss risks and strategies of their particular situation with an experienced immigration lawyer.*

**H-1Bs and H-4s who are NOT from Iran, Iraq, Libya, Somalia, Sudan, Syria, or Yemen**

**Q:** I am in H-1B status and I am NOT from the seven countries listed in the Executive Order. I am worried about my stay and my extension. What can I do?

**A:** OIA has not received any information regarding H-1Bs who are currently in the United States or seeking extensions of their H status. The Office of International Affairs continues to process all our H-1B requests.

**Q:** I am an H-1B employee, but NOT from one of the seven countries listed in the Executive Order. Am I able to travel internationally?

**A:** Yes, you are permitted to travel internationally. There are always inherent risks in traveling abroad. It is highly important to verify that you have all of the necessary documentation for international travel before leaving the United States. Please review information pertaining to Travel on OIA’s website.

**Q:** I am an H-1B employee, but NOT from one of the seven countries listed in the Executive Order. Are there any concerns that I should be aware of if I want to extend my H-1B program?

**A:** Everyone is welcome to extend their H-1B program as it becomes necessary. For details, please visit the Extension page.

**Q:** Could other countries be added to the seven already listed in the Executive Order?

**A:** OIA highly recommends that everyone check the news before making travel plans as the list of countries may periodically change. According to NAFSA:

“Note that INA 217(a)(12) leaves open the designation of other countries, and so the list of 7 countries could be expanded on that basis too.

Remember that the source of the list of countries affected by the Executive Order is INA 217(a)(12), a provision added for another purpose that restricted entry under the Visa Waiver Program. INA 217(a)(12) also contains provisions related only to the Visa Waiver Program, which are unrelated to the Executive Order. For example, INA 217(a)(12) also restricts entry under the Visa Waiver Program (i.e., WB and WT status) for people who travel to the designated countries, even if they are not a citizen or national of those countries. The Executive Order's use of INA 217(a)(12) appears to be limited to identifying a list of countries, and does not appear to apply to a non-national of one of those countries who has only traveled to one of the countries. Anyone with questions should consult an experienced immigration lawyer.”