



New US travel restrictions

Updated 17 February 2017

Under a temporary restraining order ("TRO") issued by a US Federal Judge (and upheld in a US 9th Circuit Court of Appeals decision), all nationals of the seven designated countries with valid visas are able to travel to the US. For more information on these legal developments, please read the [Flash Alert](#) from KPMG in the US. However, this issue is yet to be resolved, with the White House signalling it may issue a new Executive Order that addresses the Courts' concerns.

Snapshot

On 27 January 2017, US President Donald Trump, signed an Executive Order titled "Protecting the Nation from Foreign Terrorist Entry into the United States" (the "Order"). Its objective is to "protect the American people from terrorist attacks by foreign nationals admitted to the US".

Broadly, the Order relates to US visa issuances, immigration screening procedures and refugees. It suspends the immigrant and non-immigrant¹ entry of nationals from certain designated countries for 90 days from the date of the Order (while the US Government undertakes a review of its visa and immigration processes). The seven designated countries are: Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen.

The new Executive Order has created significant confusion about its practical application

While the situation for New Zealand citizens has been clarified (to some extent), the situation is constantly evolving. Positions and interpretations could yet change

Contact us

Rebecca Armour
Partner, Global Mobility
T: +64 9 367 5926
E: rarmour@kpmg.co.nz

Roanne Govender
Senior Immigration Consultant
T: +64 9 367 5841
E: roannegovender@kpmg.co.nz

Based on a recent clarification, New Zealand citizens who are also nationals of one of the above countries (i.e. dual nationals) are not restricted from travelling to the US. However, they may face additional screening and visa requirements, depending on their circumstances. The Order will however prevent a national of one of the designated countries that is a NZ residence visa holder from travelling to the US, unless they are also a national of another “unrestricted” country. This includes if they already hold a valid US visa.

Given the rapidly evolving situation, positions and interpretations could yet change. Therefore, if you are planning to travel to the US (or proposing to send employees), it is recommended that you seek appropriate advice.

How will the restrictions impact your business and employees?

The Order may impact NZ businesses looking to send employees to the US and the movement of employees already working there, who are non-US nationals.

Impact for NZ citizens / residence visa holders

The U.S. Embassy and Consulate in New Zealand has provided the following guidance **to date** on the impact of the Order for New Zealanders:

1. The Order does not restrict the travel of persons who are dual nationals of New Zealand and one of the designated countries, so long as they hold a valid US visa and a New Zealand passport.
2. US Embassies and Consulates around the world will continue to process visa applications and issue immigrant and non-immigrant visas to otherwise eligible visa applicants who apply with a New Zealand passport, even if they hold dual nationality from one of the designated countries.
3. As before the Order, persons who are dual nationals of New Zealand and Iraq, Iran, Syria, or Sudan are not eligible for the Visa Waiver Program (“VWP”)² and must have a visa for travel. Such individuals may apply for a visa as needed at a US Embassy or Consulate. Dual nationals of New Zealand and Yemen, Libya, or Somalia may continue to travel under the VWP unless they have travelled to any of the designated countries on or after March 2011, in which case they must first apply for a US visa.

The release by the US Embassy and Consulate in New Zealand is available [here](#).

Based on the above, it appears that New Zealand citizens will not be restricted from travelling to the US (but may face additional screening and visa requirements, depending on their circumstances). The Order will however prevent a national of one of the designated countries that is a NZ residence visa holder from travelling to the US, unless they are also a national of another “unrestricted” country. This includes if they already hold a valid US visa.

Other impacts

The Visa Interview Waiver Program has also been suspended, thereby requiring in-person interviews for non-immigrant visa applications. Therefore, those not eligible for the VWP, but previously eligible for an Interview Waiver, may have to appear in person at a US Consulate or Embassy for an interview to obtain a non-immigrant visa.

As a precautionary measure, KPMG in the US is advising all passport holders, citizens, nationals (including dual nationals) of the designated countries, if present in the US on a non-immigrant visa or who are Legal Permanent Residents, to refrain from departing the US until they have spoken to a US Immigration Adviser/Attorney.

Given the fluidity of the situation, the stated requirements and interpretations could be subject to further change. If you believe that you (or your employees) may be affected, please contact us for further information.

Contact us

Rebecca Armour

Partner, Global Mobility
T: +64 9 367 5926
E: ramour@kpmg.co.nz

Roanne Govender

Senior Immigration Consultant
T: +64 9 367 5841
E: roannegovender@kpmg.co.nz

Action points

- 1 Employers should notify employees about the Order and determine their US travel and project needs.
- 2 It would be pertinent to ask employees whether they are affected prior to booking their travel as this may impact visa requirements or employees' ability to enter the US
- 3 Employers should review projects (including timeframes and costs) which require employee travel to the US. If travel is essential, seek US immigration advice and apply for employees' visas well in advance of the intended departure date.

Given that the situation is constantly evolving, it is highly recommended that individuals seek US immigration advice before travelling to, or from, the US.

Notes:

¹ An immigrant visa is the visa issued to individuals wishing to live permanently in the US. A non-immigrant visa is a temporary visa, e.g. allows an individual to enter the US for tourism, business, medical treatment, temporary work or study. These include J, H-1B, L, O, TN, F-1 visas.

² New Zealand citizens, along with citizens of 37 other countries, are eligible to travel to the U.S. temporarily for business or pleasure without a visa, under the [Visa Waiver Program \(VWP\)](#).

For further information

Rebecca Armour

Partner, Global Mobility Services
Auckland
Phone: +64 9 367 5926
Email: rarmour@kpmg.co.nz

Roanne Govender

Senior Immigration Consultant
Auckland
Phone: +64 9 367 5841
Email: roannegovender@kpmg.co.nz

kpmg.com/nz

twitter.com/KPMGNZ

© 2017 KPMG, a New Zealand partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in New Zealand.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name, logo and "cutting through complexity" are registered trademarks or trademarks of KPMG International