

s 22(1)(a)(ii)

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**From:** s 22(1)(a)(ii)  
**Sent:** Wednesday, 25 January 2017 12:35 PM  
**To:** s 22(1)(a)(ii)  
**Cc:** Manton, Lucienne; s 22(1)(a)(ii) Hackett, Brett;  
Griffiths, Paul  
**Subject:** RE: Immigration decision ~~[SEC-PROTECTED]~~

~~PROTECTED~~

s 22(1)(a)(ii) thanks – noted. Will discuss with DIBP tomorrow. s 22(1)(a)(ii)

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**From:** s 22(1)(a)(ii)  
**Sent:** Tuesday, 24 January 2017 8:15 PM  
**To:** s 22(1)(a)(ii)  
**Cc:** Manton, Lucienne; s 22(1)(a)(ii) Hackett, Brett; Griffiths, Paul  
**Subject:** Immigration decision ~~[SEC-PROTECTED]~~

~~PROTECTED~~

Hi s 22(1)(a)(ii)

s 33(a)(iii)

if you do get any advice on this one, or better yet ask

DIBP at post to find out, would be much appreciated.

s 33(a)(iii), s 47E(d)

thanks

## Exclusive: Trump Expected to Sign Executive Orders on Immigration

By REUTERSJAN. 24, 2017, 7:51 P.M. E.S.T.

WASHINGTON — U.S. President Donald Trump is expected to sign several executive orders on Wednesday restricting immigration from Syria and six other Middle Eastern or African countries, according to several congressional aides and immigration experts briefed on the matter.

In addition to Syria, Trump's orders are expected to temporarily restrict access to the United States for most refugees. Another order will block visas from being issued to those from Iraq, Iran, Libya, Somalia, Sudan and Yemen, said the aides and experts, who asked not to be identified.

The restrictions on refugees are likely to include a multi-month ban on admissions from all countries until the State Department and the Department of Homeland Security can make the vetting process more rigorous.

Stephen Legomsky, a former chief counsel at U.S. Citizenship and Immigration Services in the Obama administration, said the president has the authority to limit refugee admissions and the issuance of visas to specific countries if it is determined to be in the public's interest.

"From a legal standpoint, it would be exactly within his legal rights," said Legomsky, who now is a professor at Washington University School of Law in St. Louis. "But from a policy standpoint it would be a terrible idea because there is such an urgent humanitarian need right now for refugees."

The Republican president was expected to sign the orders at the headquarters of the Department of Homeland Security, whose responsibilities include immigration and border security.

On the campaign trail, Trump initially proposed a temporary ban on Muslims entering the United States, which he said would protect Americans from jihadist attacks. Many Trump supporters decried former President Barack Obama's decision to increase the number of Syrian refugees admitted to the United States over fears that those fleeing the country's civil war would carry out attacks.

Both Trump and his nominee for attorney general, U.S. Senator Jeff Sessions, have since said they would focus the restrictions on countries whose emigres could pose a threat rather than placing a ban on people who follow a specific religion.

Detractors could launch legal challenges to the moves if all the countries subject to the ban are Muslim-majority nations, said immigration expert Hiroshi Motomura at UCLA School of Law. Legal arguments could claim the executive orders discriminate against a particular religion, which would be unconstitutional, he said.

"His comments during the campaign and a number of people on his team focused very much on religion as the target," Motomura said.

To block entry from the designated countries, Trump is likely to instruct the State Department to stop issuing visas to people from those nations, according to sources familiar with the visa process. He could also instruct Customs and Border Protection to stop any current visa holders from those countries from entering the United States.

White House spokesman Sean Spicer said on Tuesday that the State and Homeland Security departments would work on the vetting process once Trump's nominee to head the State Department, Rex Tillerson, is installed.

Other measures may include directing all agencies to finish work on a biometric identification system for non-citizens entering and exiting the United States and a crackdown on immigrants fraudulently receiving government benefits, according to the congressional aides and immigration experts.

To restrict illegal immigration, Trump has promised to build a wall on the U.S.-Mexico border and to deport illegal migrants living inside the United States. None of the orders to be signed Wednesday are expected to focus on those issues.

Trump is also expected to swear in his new secretary of homeland security, retired Marine General John Kelly, on Wednesday.

(Reporting by Julia Edwards Ainsley, additional reporting by Mica Rosenberg; editing by Cynthia Osterman and Leslie Adler)

regards

s 22(1)(a)(ii)

s 22(1)(a)(ii)

Director | US Political and Strategic Section | Americas Division  
Department of Foreign Affairs and Trade

☎ +61 s 22(1)(a)(ii)

M+61

s 22(1)(a)(ii)

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**From:** s 22(1)(a)(ii)  
**Sent:** Wednesday, 25 January 2017 3:45 PM  
**To:** s 22(1)(a)(ii) Mcphillips, Justin; s 22(1)(a)(ii)  
**Cc:** Manton, Lucienne; s 22(1)(a)(ii)  
**Subject:** RE: Immigration decision ~~SECRET~~

**PROTECTED**

s 22(1)(a)(ii)  
Justin, should also have copied you in. We need to be prepared to update the travel advice on smart traveller as well. Might take a while before we have all the details so might need to be done in stages

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remainder of e-mail trail duplicate of p 1ff.

s 22(1)(a)(ii)

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**From:** s 22(1)(a)(ii)  
**Sent:** Thursday, 26 January 2017 7:39 AM  
**To:** s 22(1)(a)(ii)  
**Cc:** s 22(1)(a)(ii) Mcphillips, Justin; s 22(1)(a)(ii) Manton, Lucienne; s 22(1)(a)(ii)  
s 22(1)(a)(ii)  
**Subject:** FW: Immigration decision ~~SEC-PROTECTED~~

~~PROTECTED~~

s 22(1)(a)(ii)

We and DIBP are tracking closely. The EO wasn't among the batch signed today but is expected tomorrow. We'll report when signed.

Regards

s 22(1)(a)(ii)

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Counsellor (Political)  
Australian Embassy Washington  
Phones 22(1)(a)(ii)  
[Web](#) | [Twitter](#) | [Facebook](#)

s 22(1)(a)(ii)

~~PROTECTED~~

remainder of e-mail trail duplicate of p. 4

s 22(1)(a)(ii)

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**From:** Hackett, Brett  
**Sent:** Monday, 30 January 2017 3:47 PM  
**To:** Mcphillips, Justin; Millar, Caroline  
**Cc:** s 22(1)(a)(ii)  
**Subject:** FW: US Executive Order ~~For Official Use Only~~  
**Attachments:** Archived attachment list.txt

Quick Look

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~~For Official Use Only~~

Justin

For info. The Canadians appear to have been exempted – s 33(a)(iii)

Look forward to receiving advice in due course.

Best  
Brett

s 22(1)(a)(ii)

s 22(1)(a)(ii)

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**From:** Storey, Sarah  
**Sent:** Tuesday, 31 January 2017 8:39 AM  
**To:** McPhillips, Justin; Gordon-Smith, Nicola; s 22(1)(a)(ii)  
**Cc:** s 22(1)(a)(ii)  
**Subject:** RE: US EO on refugees: dual nationals - latest advice ~~(SEC-PROTECTED)~~

~~PROTECTED~~

Justin

Many thanks for the cc.

Having discussed with CSB and CIN, we agree it's probably simplest for American posts to use our script if called rather than ask callers to call another number – minimises the potential for irritation. Of course, we're happy for your posts to add that callers can call the CEC at any time should they wish.

- We are aware the United States has suspended visa issuance to nationals of Iraq, Iran, Libya, Somalia, Sudan, Syria and Yemen following the signing of the Executive Order on Protecting the Nation from Terrorist Attacks by Foreign Nationals on 27 January 2017
- General advice for Australians travelling to the United States is found on Smartraveller.gov.au - [http://smartraveller.gov.au/Countries/americas/north/Pages/united\\_states\\_of\\_america.aspx](http://smartraveller.gov.au/Countries/americas/north/Pages/united_states_of_america.aspx)
  - Recommend people subscribe so that they receive updates to the travel advice, including visas issuance, as they occur
- If you currently hold an Electronic System for Travel Authorisation (ESTA) to visit the US, you can check your ESTA status at <http://esta.cbp.dhs.gov/esta>
- Contact your nearest Embassy or Consulate of the United States of America for the most current information. Alternatively, contact the Department of State or US Customs and Border Protection for further guidance. Relevant websites are below:
  - Visa information at the US Embassy and Consulates in Australia  
<https://au.usembassy.gov/visas/>
  - Department of State, Bureau of Consular Affairs  
<https://travel.state.gov/content/travel/en.html>
  - US Customs and Border Protection  
<https://www.cbp.gov/travel/international-visitors/visa-waiver-program/visa-waiver-program-improvement-and-terrorist-travel-prevention-act-faq>
- Recommend that travellers who are concerned that they may be affected contact their airline to confirm uplift policy.
- As for any country, visa and other entry and exit conditions (such as currency, customs and quarantine regulations) can change at short notice

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**From:** McPhillips, Justin  
**Sent:** Tuesday, 31 January 2017 7:01 AM  
**To:** Storey, Sarah <Sarah.Storey@dfat.gov.au>; Gordon-Smith, Nicola <Nicola.Gordon-Smith@dfat.gov.au>; s 22(1)(a)(ii)

s 22(1)(a)(ii)

**Subject: FW: US EO on refugees: dual nationals - latest advice** ~~(S) (PROTECTED)~~

~~PROTECTED~~

Sarah, Nicola, s 22(1)(a)(ii)

FYI. We will be reporting by cable this afternoon, hopefully with some suggested travel advice wording.

I think Sarah mentioned to Brett that CEC is using a script for responding to calls. LA is getting quite a few and we are getting some. Should we refer those enquiries back to you?

Thanks, Justin.

*Justin McPhillips*  
*Minister-Counsellor (Management)*  
*& Consul General*  
*Australian Embassy, Washington*  
**Tel: +1-202-797** s 22(1)(a)(ii)  
**Cell:** s 22(1)(a)(ii)

s 33(a)(iii), s 33(b)



Caroline

Caroline Millar  
Deputy Head of Mission  
Australian Embassy  
Washington  
1-202-797.s 22(1)(a)(ii)  
s 22(1)(a)(ii)

s 22(1)(a)(ii)

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**From:** McPhillips, Justin  
**Sent:** Tuesday, 31 January 2017 9:55 AM  
**To:** s 22(1)(a)(ii)  
**Cc:** s 22(1)(a)(ii) Storey, Sarah; Gordon-Smith, Nicola; Millar, Caroline  
**Subject:** RE: US EO on refugees: dual nationals - latest advice - PM reported as saying that dual nationals will be allowed in ~~[SEC-PROTECTED]~~

~~PROTECTED~~

s 22(1)(a)(ii)

s 33(a)(iii)

The UK and Canada made public statements as you know s 33(a)(iii), s 47E(d)

Justin.

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**From:** s 22(1)(a)(ii)  
**Sent:** Monday, 30 January 2017 5:46 PM  
**To:** McPhillips, Justin  
**Cc:** s 22(1)(a)(ii) Storey, Sarah; Gordon-Smith, Nicola; Millar, Caroline  
**Subject:** RE: US EO on refugees: dual nationals - latest advice - PM reported as saying that dual nationals will be allowed in ~~[SEC-PROTECTED]~~

~~PROTECTED~~

Thanks Justin.

Jon is taking a look at it now, he's also asked s 33(a)(iii), s 47E(d)

s 22(1)(a)(ii)

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**From:** McPhillips, Justin  
**Sent:** Tuesday, 31 January 2017 9:30 AM  
**To:** s 22(1)(a)(ii)  
**Cc:** s 22(1)(a)(ii) Storey, Sarah <[Sarah.Storey@dfat.gov.au](mailto:Sarah.Storey@dfat.gov.au)>; Gordon-Smith, Nicola <[Nicola.Gordon-Smith@dfat.gov.au](mailto:Nicola.Gordon-Smith@dfat.gov.au)>; Millar, Caroline <[Caroline.Millar@dfat.gov.au](mailto:Caroline.Millar@dfat.gov.au)>  
**Subject:** RE: US EO on refugees: dual nationals - latest advice - PM reported as saying that dual nationals will be allowed in ~~[SEC-PROTECTED]~~

~~PROTECTED~~

s 22(1)(a)(ii)

Thanks. s 47C, s 47E(d)

OK with that please?

Justin.

**Justin McPhillips**  
**Minister-Counsellor (Management)**  
**& Consul General**  
**Australian Embassy, Washington**  
**Tel: +1-202-797s 22(1)(a)(ii)**  
**Cell: s 22(1)(a)(ii)**

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**From:** s 22(1)(a)(ii)  
**Sent:** Monday, 30 January 2017 5:19 PM  
**To:** McPhillips, Justin  
**Cc:** s 22(1)(a)(ii) Storey, Sarah; Gordon-Smith, Nicola  
**Subject:** RE: US EO on refugees: dual nationals - latest advice - PM reported as saying that dual nationals will be allowed in ~~SEC. PROTECTED~~

**PROTECTED**

Hi Justin

The PM has just been reported as saying that the US has promised to exempt Australians with dual nationality from President Donald Trump's temporary visa ban – <http://www.abc.net.au/news/2017-01-31/turnbull-says-dual-nationals-will-not-be-affected-by-trump-ban/8225596>

We need to update the TA ASAP, would Post be happy with the below change under entry and exit?  
s 47C, s 47E(d)

s 47C, s 47E(d)

s 22(1)(a)(ii)

remainder of e-mail trail duplicate of pp 8ff.

s 22(1)(a)(ii)

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**From:** McPhillips, Justin  
**Sent:** Tuesday, 31 January 2017 11:24 AM  
**To:** s 22(1)(a)(ii) Millar, Caroline  
**Cc:** Hackett, Brett  
**Subject:** RE: US visa issue [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

His 22(1)(a)(ii)

s 33(a)(iii), s 33(b)

Regards, Justin.

*Justin McPhillips*  
*Minister-Counsellor (Management)*  
*& Consul General*  
*Australian Embassy, Washington*  
*Tel: +1-202-797s 22(1)(a)(ii)*  
*Cell: s 22(1)(a)(ii)*

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**From:** s 22(1)(a)(ii)  
**Sent:** Monday, 30 January 2017 7:07 PM  
**To:** Millar, Caroline; McPhillips, Justin  
**Cc:** Hackett, Brett  
**Subject:** FW: US visa issue [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

Dear Caroline and Justin,

s 22(1)(a)(ii)

Please see question below – s 33(a)(iii), s 33(b)

Many thanks,

s 22(1)(a)(ii)

s 22(1)(a)(ii)

A/g Director | US Political and Strategic Section | Americas Division  
Department of Foreign Affairs and Trade  
s 22(1)(a)(ii)

**From:** s 22(1)(a)(ii)  
**Sent:** Tuesday, 31 January 2017 10:52 AM  
**To:** Hackett, Brett <Brett.Hackett@dfat.gov.au>; s 22(1)(a)(ii)  
s 22(1)(a)(ii)  
**Cc:** Gordon-Smith, Nicola <Nicola.Gordon-Smith@dfat.gov.au>; Storey, Sarah <Sarah.Storey@dfat.gov.au>; Philp,

Jon <Jon.Philp@dfat.gov.au>

**Subject:** RE: US visa issue [SEC=UNCLASSIFIED]

**Hi all**

s 33(a)(iii)

**Thanks**

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 33(a)(iii), s 33(b), s 47E(d)

s 22(1)(a)(ii)

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**From:** Storey, Sarah  
**Sent:** Tuesday, 31 January 2017 11:29 AM  
**To:** McPhillips, Justin  
**Cc:** s 22(1)(a)(ii) Gordon-Smith, Nicola; Millar, Caroline  
**Subject:** RE: US EO on refugees: dual nationals - latest advice ~~[SEC - PROTECTED]~~

~~PROTECTED~~

Indeed. Well done to post for securing these excellent results. This has had, as I'm sure you're aware, a very high political profile in Australia.

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**From:** McPhillips, Justin  
**Sent:** Tuesday, 31 January 2017 11:28 AM  
**To:** Storey, Sarah <Sarah.Storey@dfat.gov.au>  
**Cc:** s 22(1)(a)(ii) Gordon-Smith, Nicola  
<Nicola.Gordon-Smith@dfat.gov.au>; Millar, Caroline <Caroline.Millar@dfat.gov.au>  
**Subject:** RE: US EO on refugees: dual nationals - latest advice ~~[SEC - PROTECTED]~~

~~PROTECTED~~

Hi Sarah,

Re the highlighted section, s 22(1)(a)(ii) I think we should now say that 'Australian passport holders are not affected by the Executive Order', in line with the travel advice messaging (once updated).

Regards, Justin.

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**From:** Storey, Sarah  
**Sent:** Monday, 30 January 2017 5:20 PM  
**To:** McPhillips, Justin  
**Cc:** s 22(1)(a)(ii) Gordon-Smith, Nicola  
**Subject:** RE: US EO on refugees: dual nationals - latest advice ~~[SEC - PROTECTED]~~

~~PROTECTED~~

Justin,

We are updating our script to refer to the Government's request that any exemptions apply to Australian dual nationals – amended as below:

- We are aware that the United States has suspended visa issuance to nationals of Iraq, Iran, Libya, Somalia, Sudan, Syria and Yemen following the signing of the Executive Order on Protecting the Nation from Terrorist Attacks by Foreign Nationals on 27 January 2017.

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s 47C



- General advice for Australians travelling to the United States is found on Smartraveller.gov.au - [http://smartraveller.gov.au/Countries/americas/north/Pages/united\\_states\\_of\\_america.aspx](http://smartraveller.gov.au/Countries/americas/north/Pages/united_states_of_america.aspx)
  - Recommend people subscribe so that they receive updates to the travel advice, including visas issuance, as they occur
- If you currently hold an Electronic System for Travel Authorisation (ESTA) to visit the US, you can check your ESTA status at <http://esta.cbp.dhs.gov/esta>
- Contact your nearest Embassy or Consulate of the United States of America for the most current information. Alternatively, contact the Department of State or US Customs and Border Protection for further guidance. Relevant websites are below:
  - Visa information at the US Embassy and Consulates in Australia  
<https://au.usembassy.gov/visas/>
  - Department of State, Bureau of Consular Affairs  
<https://travel.state.gov/content/travel/en.html>
  - US Customs and Border Protection  
<https://www.cbp.gov/travel/international-visitors/visa-waiver-program/visa-waiver-program-improvement-and-terrorist-travel-prevention-act-faq>
- Recommend that travellers who are concerned that they may be affected contact their airline to confirm uplift policy.
- As for any country, visa and other entry and exit conditions (such as currency, customs and quarantine regulations) can change at short notice.

remainder of e-mail trail duplicate of pp. 7ff.

s 22(1)(a)(ii)

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**From:** McPhillips, Justin  
**Sent:** Tuesday, 31 January 2017 11:44 AM  
**To:** Hackett, Brett <Brett.Hackett@dfat.gov.au>  
**Subject:** FW: Input to TPs [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

Brett – just heard back from Caroline. Only one minor change below.  
Justin.

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**From:** McPhillips, Justin  
**Sent:** Monday, 30 January 2017 7:13 PM  
**To:** Hackett, Brett  
**Cc:** Millar, Caroline; Manton, Lucienne  
**Subject:** Input to TPs [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

Brett,  
A few brief suggestions for the TPs. Sorry for the delay. I wanted to run them past Caroline first but have not been able to do so as yet.  
Justin.

s 47C, s 47E(d)

**Justin McPhillips**  
**Minister-Counsellor (Management)**  
**& Consul General**  
**Australian Embassy, Washington**  
**Tel: +1-202-797s 22(1)(a)(ii)**  
**Cell:s 22(1)(a)(ii)**

s 22(1)(a)(ii)

s 33(a)(iii), s 33(b), s 49E(d)

Trust this assists. Cable to follow.

Caroline

Caroline Millar  
Deputy Head of Mission  
Australian Embassy  
Washington  
1-202-797-s 22(1)(a)(ii)  
s 22(1)(a)(ii)

s 22(1)(a)(ii)

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**From:** Griffiths, Paul  
**Sent:** Thursday, 2 February 2017 7:59 AM  
**To:** s 22(1)(a)(ii) Manton, Lucienne; Heyward, Peter; Hackett, Brett  
**Cc:** Millar, Caroline  
**Subject:** RE: Updated points [SEC=UNCLASSIFIED]  
**Attachments:** Archived attachment list.txt



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**UNCLASSIFIED**

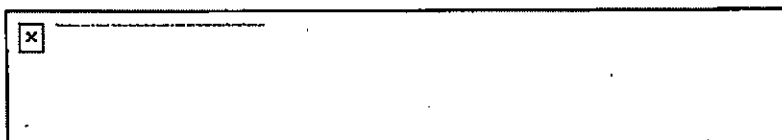
s 22(1)(a)(ii)

The most recent TPs I think cover those questions. s 47C

Regards

PG

~~FOR OFFICIAL USE ONLY~~



**MEDIA TALKING POINTS  
DISTRIBUTION:  
STANDARD**

**Topic: IMMIGRATION & ENTRY CONTROL** Originating Division: AMD  
**Subject: US Presidential Executive Order on Protecting the Nation from Foreign Terrorist Entry into the United States**

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**Version Date:** 1/2/2017

**Reason for Update:** US Government operational directions released

**Version:** 2

**Expiry:** 1/05/2017

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**Talking Points**

- *The US Government has advised the Australian Government that Australian passport holders – regardless of their country of birth or whether they hold another passport/nationality – will not be affected by the US Presidential Executive Order of 27 January Protecting the Nation from Foreign Terrorist Entry into the United States.*
- Australian dual nationals of the seven countries referenced in the Executive Order [*Iraq, Syria, Sudan, Iran, Somalia, Libya and Yemen*] should now be able to apply for travel to the United States
  - and, subject to routine US immigration processes, be eligible for entry to the United States.

- *The Department of Foreign Affairs and Trade has assisted Australian dual nationals affected by the Executive Order before the US Government confirmed an exemption [31 January].*
- *The Australian Government has updated its travel advice for the United States [31 January].*

*If raised: Suspension of US Visas from designated countries and suspension of Refugee Admissions Program*

- We respect the right of all countries to set their own immigration policies and undertake the assessment processes they deem necessary.
- In the Australian context, we are committed to maintaining our non-discriminatory immigration program and generous refugee settlement program, and to building a successful and harmonious multicultural society
  - we are also committed to strong border protection policies that give the public confidence in our immigration and refugee resettlement programs.

*If raised: US Resettlement Arrangement*

- The arrangement entered into with the United States to support the resettlement of refugees from Nauru and Papua New Guinea remains in place.
- It is a matter for the US Administration to decide which refugees are eligible for admission through the United States Refugee Admissions Program.
- We will continue to work with the United States to align the resettlement arrangement with any adjustments to US policy and processes.

**Any use or disclosure of personal information about individuals and the incidents contained in this background should not be made public. To do so may constitute a breach of the Privacy Act 1988 (Cth).**

**Background**

President Trump signed the Executive Order on *Protecting the Nation from Foreign Terrorist Entry into the United States* on 27 January 2017.

DFAT updated its travel advice for the United States, including reference to the Executive Order, on 28 and 29 January.

The Governments of the United Kingdom and Canada issued public statements in the days following the Executive Order's release indicating that holders of their respective passports, including dual nationals, would not be affected by the Executive Order. This advice was subsequently reflected in each country's travel advice.

On 30 January, the Australian Embassy in Washington held discussions with relevant US Government agencies (the White House and the Department of Homeland Security) on the implementation of the Executive Order. As a result of those discussions, US officials agreed that Australian passport holders, including dual nationals, are not affected by the Executive Order.

*On 31 January, the Prime Minister and Foreign Minister issued a joint statement announcing that Australian dual nationals were not affected by the order, and this was reflected in a further reissue of the travel advice for the United States.*

A number of Australian dual nationals of listed countries have registered concern with Ministers and the Department about the impact of the Executive Order on their personal circumstances, in some cases through the media. The Department is working to assist these Australians as quickly as possible, and has referred a number of individual cases to the US Embassy in Canberra.

*On 31 January, Australian Embassy officials in Washington met with the Department of Homeland Security, who re-confirmed that Australian dual nationals travelling on an Australian passport would not be affected by the Executive Order. US Embassies and Consulates have been provided with operational directions confirming they are allowed to process visa applications and issue non-immigrant and immigrant visas to otherwise eligible visa applicants who apply with a passport from an unrestricted country, even if they hold dual nationality from a restricted country.*

*The US Embassy in Canberra has advised DFAT that US posts in Australia will return to normal visa processing procedures for eligible Australian dual nationals today (1 February).*

### **Handling Notes**

### **Media Interest**

There is widespread media interest.

s 22(1)(a)(ii)

Paul Griffiths  
Minister-Counsellor (Political)  
Australian Embassy Washington  
1-202-797-s 22(1)(a)(ii)  
s 22(1)(a)(ii)

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**From:** s 22(1)(a)(ii)  
**Sent:** Wednesday, 1 February 2017 3:51 PM  
**To:** s 22(1)(a)(ii) Griffiths, Paul; Manton, Lucienne; Heyward, Peter; Hackett, Brett  
**Cc:** Millar, Caroline  
**Subject:** FW: Updated points [SEC=UNCLASSIFIED]

Hi all

We have just been advised that the Minister is doing media so I have put together the following TPs.



s 22(1)(a)(ii)

s 47C

Also can you please send a list of the unrestricted countries?

The FM is doing media in the next hour so grateful urgent advice. Apologies for the quick turnaround.

Thanks

s 22(1)(a)(ii)

s 22(1)(a)(ii)

s 22(1)(a)(ii)

**From:** Marcelo, Ray  
**Sent:** Wednesday, 8 February 2017 7:57 AM  
**To:** Manton, Lucienne <Lucienne.Manton@dfat.gov.au>; s 22(1)(a)(ii)  
**Cc:** Hackett, Brett <Brett.Hackett@dfat.gov.au>; Millar, Caroline <Caroline.Millar@dfat.gov.au>; Griffiths, Paul <Paul.Griffiths@dfat.gov.au>; s 22(1)(a)(ii)  
**Subject:** RE: United States: Updates overnight no change to existing TPs [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

Thanks all for rolling updates on media. Penny Williams seems well briefed for morning media.

s 22(1)(a)(ii)

**From:** Manton, Lucienne  
**Sent:** Wednesday, 8 February 2017 7:49 AM  
**To:** s 22(1)(a)(ii)  
**Cc:** Hackett, Brett <Brett.Hackett@dfat.gov.au>; Millar, Caroline <Caroline.Millar@dfat.gov.au>; Griffiths, Paul <Paul.Griffiths@dfat.gov.au>; s 22(1)(a)(ii) Marcelo, Ray <Ray.Marcelo@dfat.gov.au>  
**Subject:** RE: United States: Updates overnight no change to existing TPs [SEC=UNCLASSIFIED]

Hi s 22(1)(a)(ii) thanks for your helpful and timely update this morning. Very helpful. s 22(1)(a)(ii)

Grateful advice. Kind regards, Lucienne.

Sent with Good ([www.good.com](http://www.good.com))

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**From:** s 22(1)(a)(ii)  
**Sent:** Wednesday, 8 February 2017 5:46:42 AM  
**To:** s 22(1)(a)(ii) Hansen, Murray  
**Cc:** Manton, Lucienne; Williams, Penny; Hackett, Brett; Millar, Caroline; Hockey, Joe; s 22(1)(a)(ii) Griffiths, Paul; Heyward, Peter; Bopping, Derek; s 22(1)(a)(ii) Mcphillips, Justin; Marcelo, Ray  
**Subject:** United States: Updates overnight no change to existing TPs [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

Colleagues,

There are no updates to report that change existing 7 February TPs. We will monitor the White House Press Briefing at 2pm (EST) and immediately send through any pertinent updates that might change this status.

Key points to note:

s 22(1)(a)(ii)

**Trump immigration executive order:** A federal appeals court (the Ninth Court of Appeals) will hear oral arguments Tuesday, 7 February 6pm (EST) (10am Canberra time) on whether to restore President Trump's immigration executive order. The hearing will be conducted by telephone. We will report any outcomes from the hearing that are made public.

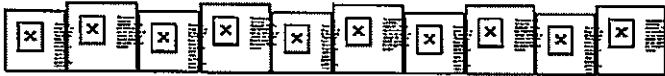
s 22(1)(a)(ii)

s 22(1)(a)(ii)

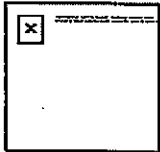
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s 22(1)(a)(ii)

Director of Public Diplomacy  
Embassy of Australia  
1601 Massachusetts Avenue NW  
Washington DC 20036-2273  
s 22(1)(a)(ii)



**Candidate for the UN Human Rights Council**



**Title:** United States: Executive Order on Foreign Terrorist Entry - Appeals court ruling on Temporary Restraining Order  
**MRN:** s 22(1)(a)(ii) 09/02/2017 08:12:11 PM EST  
**To:** Canberra  
**Cc:** s 22(1)(a)(ii)  
**From:**  
**From File:**  
**EDRMS:**  
**Files:**  
**References:**  
**Response:** Routine, Requires Action

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**UNCLASSIFIED**

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### Summary

A US Court of Appeals panel has unanimously ruled to uphold the Temporary Restraining Order which suspended aspects of President Trump's Executive Order on immigration and refugees. President Trump said he believed the court decision was political and foreshadowed further legal action. The government is expected to appeal the ruling in the Supreme Court. Cable provides suggested text for the Travel Advice.

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On 9 February, three federal judges from the Ninth Circuit Court of Appeals unanimously ruled in favour of upholding the District Court's Temporary Restraining Order which suspended aspects of President Trump's Executive Order (EO) on immigration and refugees.

2. In making the ruling, the judges rejected the Administration's claim that the court did not have the authority to review the President's actions. They also noted that the states (Washington and Minnesota) had raised serious allegations about religious discrimination. They said the government had not presented any evidence that any alien from any of the countries named in the EO had perpetrated a terrorist attack in the United States, nor evidence of a sufficient national security threat to justify immediately reinstating the EO.

3. President Trump responded to the ruling by tweeting 'See you in court, the security of our nation is at stake!' He told reporters at the White House, 'It's a political decision and we'll see them in court...it is a decision that we will win in my opinion very easily'. The Department of Justice said it was reviewing the decision and considering its options. Commentators expect the government to appeal the decision in the Supreme Court, rather than returning to the Ninth Circuit Court of Appeals.

### Implications for the Travel Advice

4. s 47C, s 47 E(d)

s 47C, s 47 E(d)

text ends

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s 22(1)(a)(ii)

**Title:** United States: Executive Order on Foreign Terrorist Entry - Appeal hearing  
**MRN:** s 22(1)(a)(ii) 07/02/2017 07:56:00 PM EST  
**To:** Canberra  
**Cc:** s 22(1)(a)(ii)  
**From:**  
**From File:**  
**EDRMS**  
**Files:**  
**References:**  
**Response:** Routine, Information Only

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**UNCLASSIFIED**

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**Summary**

Late on 7 February, three federal judges from the Ninth Circuit Court of Appeals heard oral arguments from the US Department of Justice (DOJ) and the Washington State Solicitor General on the legal challenge to President Trump's Executive Order (EO) on immigration and refugees. The hearing focused on DOJ's request for the court to stay the Temporary Restraining Order issued by a Washington State federal judge last week. The court said in a statement that it did not expect to hand down a ruling that day, but 'probably this week'. Post will continue to monitor.

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text ends

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s 22(1)(a)(ii)

**Title:** United States: Executive Order on Foreign Terrorist Entry - Court Order  
**MRN:** s 22(1)(a)(ii) 04/02/2017 02:50:20 PM EST  
**To:** Canberra  
**Cc:** s 22(1)(a)(ii)

**From:** Washington

**From File:**

**EDRMS**

**Files:**

**References:** s 22(1)(a)(ii)

The cable has the following attachment/s -  
170204 Media\_summary\_legalchallenge.pdf  
170204 White House statement.docx  
170204 DHS statement.docx

attachments omitted as outside  
scope of the request

**Response:** Routine, Information Only

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**UNCLASSIFIED**

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## Summary

A Federal Court judge has issued a nationwide Temporary Restraining Order (TRO) on President Trump's Executive Order (EO) on refugees and immigration vetting. The TRO overturns sections of the EO related to entry of nationals from the seven listed countries and suspension of refugee admissions. US Customs and Border Protection has suspended implementation of relevant sections of the EO and the State Department has reversed its provisional revocation of visas. The White House is expected to appeal the order through the US Department of Justice.

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On 3 February, a Federal Court judge in Washington State issued a nationwide Temporary Restraining Order (TRO) on President Trump's Executive Order (EO) on refugees and immigration (Protecting the Nation from Foreign Terrorist Entry into the United States).

2. The Federal Court judge determined that the EO was likely to have both constitutional and statutory violations. He said the EO had adversely affected residents in areas of education, employment, business, family relations and freedom to travel. This judgment was sufficient to meet threshold criteria for issuing the TRO.

3. The TRO operates in a similar way to a court injunction. It has the effect of temporarily overturning sections 3 and 5 of the EO (relating to admission to the US of nationals from the seven listed countries, and suspension of the Refugees Admissions Program respectively) until the Federal Court hears the matter in full.

4. Following the ruling, US Customs and Border Protection announced that it had suspended all action related to implementing the relevant sections of the EO and that standard policy and procedure would resume (statement attached).



5. A State Department spokesperson said on 4 February that the State Department had reversed the provisional revocation of visas and that 'those individuals with visas that were not physically cancelled may now travel if the visa is otherwise valid.'

6. President Trump responded to the ruling by tweeting, "The opinion of this so-called judge, which essentially takes law-enforcement away from our country, is ridiculous and will be overturned!" The White House had earlier stated that the Department of Justice intended to file an emergency stay of the order and defend the President's EO, which was 'lawful and appropriate' (statement attached). The appeal may involve the matter being considered in the US Supreme Court.

7. Cable attaches relevant media reports.

text ends

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s 22(1)(a)(ii)

**Title:** United States: What is an Executive Order?  
**MRN:** s 22(1)(a)(ii) 02/02/2017 06:42:59 PM EST  
**To:** Canberra  
**Cc:** s 22(1)(a)(ii)

**From:** Washington

**From File:**

**EDRMS**

**Files:**

**References:** s 22(1)(a)(ii)

The cable has the following attachment/s -  
s 22(1)(a)(ii)

**Response:** Routine, Information Only

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**Summary**

s 22(1)(a)(ii)

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s 22(1)(a)(ii)

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s 22(1)(a)(ii)

### **Trump's Executive Orders**

s 22(1)(a)(ii)

11. Trump's EO on immigration has been the most controversial and is facing multiple court challenges in multiple US jurisdictions. Trump's decision to fire acting Attorney-General Sally Yates on 30 January was in response to her announcement that the Department of Justice would not defend the Government in these court cases (although she stopped short of categorically saying that the EO was unlawful). New acting Attorney-General Dana Boente has indicated he will defend the EO. But the legal community is divided as to whether the EO on immigration is Constitutional. Bloomberg news reported that Laurence Tribe, a prominent Constitutional scholar at Harvard University, called the order "barely disguised religious discrimination against Muslims and religious preference for Christians." But Jonathan Turley, a law professor at George Washington University, predicted the courts would not interpret the order as a religious ban. "It is not on its face a Muslim ban ...because the vast majority of Muslims around the world are not affected by the limitations placed on these seven countries."

s 22(1)(a)(ii)

text ends

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s 22(1)(a)(ii)

**PROTECTED**

s 33(b), s 33(a)(ii), s 47 E(d)

Page redacted

s 33(b), s 33(a)(i), s 47 E(d)

Page redacted

**Title:** United States: Executive Order - s 33(a)(ii), s 47 E(d)

**MRN:** s 22(1)(a)(ii) 31/01/2017 04:59:59 PM EST

**To:** Canberra

**Cc:**

**From:** Washington

**From File:**

**EDRMS**

**Files:**

**References:** s 22(1)(a)(ii)

**Response:** Priority, Information Only

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~~SECRET - LIMITED DISTRIBUTION~~

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\*\*\* ~~THE FOLLOWING CONTAINS SENSITIVE INFORMATION~~ \*\*\*

**Summary**

s 33(a)(ii), s 47 E(d)

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text ends

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s 22(1)(a)(ii)

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s 33(a)(ii), s 47 E(d)

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**Title:** United States: Executive Order - Protecting the Nation Against Foreign Terrorist Entry

**MRN:** s 22(1)(a)(ii) 30/01/2017 10:38:49 PM EST

**To:** Canberra

**Cc:** s 22(1)(a)(ii)

**From:** Washington

**From File:**

**EDRMS**

**Files:**

**References:** s 22(1)(a)(ii)

The cable has the following attachment/s -  
170130 Letter from National Security Leaders on EO.docx  
170129 Trump statement on EO.docx

attachments omitted as outside scope of the request

**Response:** Routine, Information Only

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**UNCLASSIFIED**

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### Summary

US officials s 33(a)(iii) President Trump's Executive Order (EO) on 'extreme vetting' for refugees and immigrants from seven majority Muslim countries. The EO has prompted wide-spread criticism, protests and legal action as travellers from affected countries, including green card holders, were detained at airports. DHS will stand up a task force from 1 February to look at implementing the EO.

US officials s 33(a)(iii) President Trump's Executive Order (EO) on 'extreme vetting' for refugees and immigrants from seven majority Muslim countries (WH70127H) amid confusion over what the new measures mean and widespread criticism.

### Mounting criticism

2. The EO prompted protests at a number of major US airports over the weekend after, travellers from affected countries, including green card holders, were detained. Three federal judges ruled to temporarily block parts of the EO in response to emergency law suits filed on behalf of detained travellers. The American Civil Liberties Union and the Council on American-Islamic Relations have foreshadowed suing the Trump Administration, arguing the EO is unconstitutional.

3. s 47 E(d) the Acting Attorney-General (Obama Administration appointee Sally Q. Yates) has ordered the Department of Justice not to defend the EO in court, stating she was not convinced it was lawful.

4. Republicans and Democrats alike have criticised the EO. Republican Senators John McCain (R-AZ) and Lindsay Graham (R-SC) released a joint statement saying the EO sent the message that 'America does not want Muslims coming into our country' and that they

feared the EO would become a 'self-inflicted wound in the fight against terrorism'. They said the EO banned Iraqi pilots from 'coming to military bases in Arizona to fight our common enemies'. They also said they were concerned by reports that the order went into effect with 'little or no consultation' with key agencies. Senator Bob Corker (R-TN) said the EO had been 'poorly implemented, especially with respect to green card holders'. Senate minority leader Charles Schumer (D-NY) has said Democrats are considering introducing legislation to overturn the EO.

5. Over 100 former National Security officials, including former Secretary of State Madeleine Albright, former NSA Susan Rice, and former Deputy Secretary of State Tony Blinken, have signed a letter (attached) opposing the Executive Order. The letter, addressed to Homeland Security Secretary Kelly, acting Attorney General Yates and acting Secretary of State Shannon, says Trump's order will "harm our national security" and that "we risk placing our military and diplomatic efforts at risk by sending a clear message to all Muslims that the United States does not have their backs ... that the US government is at war with them based on their religion".

#### **Damage control**

6. Trump has responded to criticism of the EO in a statement (attached) arguing that his policy was similar to President Obama's ban on visas for Iraqi refugees in 2011 and that the seven countries named in the EO had previously been identified by the Obama Administration as sources of terror. He said 'this is not a Muslim ban...this is not about religion - this is about terror and keeping our country safe.' He said he had 'tremendous feeling for the people involved in this horrific humanitarian crisis in Syria' and that he would 'find ways to help all those who are suffering'.

7. The Pentagon spokesperson said the White House had asked the Pentagon to submit a list of Iraqis recommended for exemption who had 'demonstrated tangibly to fight alongside us and support us'. The move follows reports that military circles were outraged after Iraqi translators were detained at US airports.

8. Secretary of Homeland Security General Kelly has sought to clarify the impact of the EO on green card holders. In a statement released on 30 January Kelly said the entry of 'lawful permanent residents' was 'in the national interest', and that in the absence of 'significant derogatory information' indicating a serious threat, lawful permanent residency would be a 'dispositive factor in case by case determinations'. A White House official had earlier said that green card holders from the seven affected countries who were currently outside the US would need a case by case waiver to return.

9<sup>s</sup> 33(a)(iii), s 33(b), s 47 E(d)

#### **Comment**

10. Despite criticism, the Trump Administration has shown no sign of backing down on the core substance of the EO. s 33(a)(iii)

text ends

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s 22(1)(a)(ii)

pp. 16-17 exempt in full - s 33(b),  
s 33(a)(iii), s 47 E(d)

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**Title:** United States: Executive Order - Protecting the Nation from Foreign Terrorist Entry

**MRN:** s 22(1)(a)(ii) 27/01/2017 09:35:04 PM EST

**To:** Canberra

**Cc:** s 22(1)(a)(ii)

**Ministers:** Foreign Minister

**From:** Washington

**From File:**

**EDRMS**

**Files:**

**References:** s 22(1)(a)(ii)

The cable has the following attachment/s -  
170127 EO on extreme vetting.docx

attachment omitted as outside scope  
of request

**Response:** Routine, Requires Action

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## Summary

President Trump has signed an Executive Order (EO) that temporarily suspends refugee admissions and entry to the US for nationals from a designated list of majority Muslim countries. The EO aims to protect against terrorist acts by foreign nationals by enhancing visa screening processes. The EO allows for honouring pre-existing international agreements on refugees. State is unclear on how the EO will be interpreted and operationalised. The new measures won't affect the Visa Waiver Program but may have other visa implications for Australian dual nationals and those applying for certain US visa classes. Cable includes suggested text for the Travel Advice.

Late on 27 January, President Trump signed an Executive Order (EO) (attached) on Protecting the Nation from Foreign Terrorist Entry into the United States. A leaked draft of the EO had been published in the media earlier in the week (WH651239L).

2. Speaking at the signing, Trump said the EO would 'establish new vetting measures to keep radical Islamic terrorists out of the United States of America.' The EO aligns with Trump's campaign proposal for 'extreme vetting' of immigrants, though falls short of his pledge to ban immigration from countries with a history of widespread terrorism. Key elements of the EO include:

- suspending entry to the US for nationals from a list of designated countries (reported as Syria, Iran, Libya, Somalia, Sudan, Yemen and Iraq) for a period of 30 days;
- suspending the Refugee Admissions Program (RAP) for a period of 120 days;
- suspending entry of Syrian refugees until changes made to the RAP meet the national interest;
- reducing the refugee intake for fiscal year 2017 to no more than 50,000;

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- reviewing all non-immigrant visa reciprocity agreements to ensure they are reciprocal with respect to validity period and fees, and other treatment;
- reviewing screening procedures for issuing visas;
- suspending the Visa Interview Waiver Program (distinct from the Visa Waiver Program as widely misreported in the media);
- expediting completion of a biometric entry-exit system;
- increasing reporting on terrorism-related offences committed by foreign nationals, including the number of foreign nationals who have been radicalised after entry.

3. The EO notes that those travelling on diplomatic or NATO visas, or on official travel to the UN, or government officials travelling in connection with an international organisation will be exempt from its provisions.

4. The EO acknowledges that DHS and State may jointly determine to admit refugees on a case-by-case basis, including those that form part of '**pre-existing international agreements**'. Such admissions would still need to be in the 'national interest' of the United States (Section 5 (e)).

5. Civil rights groups and Democrats have criticised the EO. The American Civil Liberties Union released a statement saying that 'Extreme vetting is just a euphemism for discrimination against Muslims', while Democrat Senator Kamala Harris stated 'Make no mistake - this is a Muslim ban.'

s 22(1)(a)(ii)

#### **Comment**

7. s 33(a)(iii), s 47E(d)

8. s 33(b), s 33(a)(iii), s 47 E(d)

9. We recommend the following wording be added to the **Travel Advice** at the end of the second paragraph under Entry and Exit: 'In most cases, you will be required to attend an interview at a US Embassy or Consulate as part of the visa application process.'

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10. s 33(a)(iii), s 47 E(d)

11. Cable prepared in consultation with Consular and DIBP.

text ends

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s 22(1)(a)(ii)

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pp. 21-22 exempt in full  
- s 33(a)(iii), s 33(b)

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s 33(a)(iii), s 33(b)

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