



May 8, 2015

PM-602-0113

Policy Memorandum

SUBJECT: Implementation of the Discretionary Exemption Authority under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act for the Provision of Insignificant Material Support

Purpose

On February 5, 2014, the Secretary of Homeland Security and the Secretary of State (the “Secretaries”), following consultation with the Attorney General, exercised their discretionary authority not to apply the material support inadmissibility ground to certain aliens who provided insignificant material support to an undesignated terrorist organization, or to a member of such an organization.¹ See attachment.

This policy memorandum (PM) guides U.S. Citizenship and Immigration Services (USCIS) adjudicators on implementation of the Secretaries’ Exercise of Authority.²

Scope

Unless specifically exempted herein, this policy memorandum applies to and binds all USCIS employees.

Authorities

- Section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA).
- Exercise of Authority Under Section 212(d)(3)(B)(i) of the INA [79 FR 6913-14] (Feb. 5, 2014).

¹ This Exercise of Authority expressly does not apply to persons whom a USCIS officer knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity. Section 212(a)(3)(B)(i)(II) of the INA.

² This PM supplements existing guidance on terrorism-related inadmissibility grounds (TRIG), including Jonathan Scharfen, Deputy Director, USCIS, “Processing the Discretionary Exemption to the Inadmissibility Ground for Providing Material Support to Certain Terrorist Organizations,” May 24, 2007; Michael L. Aytes, Acting Deputy Director, USCIS, “Implementation of Section 691 of Division J of the Consolidated Appropriations Act, 2008, and Updated Processing Requirements for Discretionary Exemptions to Terrorist Activity Inadmissibility Grounds,” July 28, 2008; Michael Aytes, Acting Deputy Director, USCIS, “Revised Guidance on the Adjudication of Cases Involving Terrorist-Related Inadmissibility Grounds and Amendment to the Hold Policy for such Cases,” February 13, 2009; and PM-602-0051, “Revised Guidance on the Adjudication of Cases Involving Terrorism-Related Inadmissibility Grounds (TRIG) and Further Amendment to the Hold Policy for Such Cases,” November 20, 2011.

Background

Section 212(a)(3)(B) of the INA, *inter alia*, renders inadmissible an alien who provides material support, including insignificant material support, to an undesignated terrorist organization; a member of such an organization; or to an individual the alien knows, or reasonably should know, has committed or plans to commit a terrorist activity. In turn, section 212(d)(3)(B)(i) of the INA authorizes the Secretaries to exempt certain terrorism-related inadmissibility grounds. On February 5, 2014, the exemption signed by the Secretaries was published in the Federal Register (FR). The exemption authorizes USCIS, in consultation with U.S. Immigration and Customs Enforcement (ICE), not to apply the material support inadmissibility grounds to certain aliens who provided insignificant material support to an undesignated terrorist organization, a member of such an organization, or to an individual the alien knew, or reasonably should have known, had committed or planned to commit a terrorist activity. This exemption may be applied to immigration benefit and protection applications under the INA, including but not limited to asylum, refugee status, adjustment of status, and asylee and refugee following-to-join petitions.

Policy

Pursuant to the Secretaries' Exercise of Authority under section 212(d)(3)(B)(i) of the INA, USCIS will consider whether certain aliens are eligible for and warrant an exemption from the application of the material support inadmissibility ground for the provision of insignificant material support. USCIS may consider an exemption if the threshold requirements are met.

Implementation

I. General Considerations

A. Identifying Individuals Subject to TRIG Due to the Provision of Insignificant Material Support

Adjudicators will review benefit applications, supporting documentation, and testimony for indications that an applicant's actions may be described by the inadmissibility ground at section 212(a)(3)(B)(iv)(VI) of the INA, for the provision of material support to an undesignated terrorist organization, a member of such an organization, or to an individual the alien knows or reasonably should know has committed or plans to commit a terrorist activity. If the material support qualifies as "insignificant" based upon the analysis described below, adjudicators may consider application of the exemption.

B. Country Conditions

When considering an exemption, adjudicators must familiarize themselves with country conditions information by consulting the [Refugee, Asylum and International Operations Research Unit](#) and/or research information made available through their Headquarters components. In addition to research conducted by USCIS, open-source reference documents produced by other agencies may be available from the U.S. Department of State (*see, e.g.*, the annual [U.S. Department of State Country Reports on Human Rights Practices](#)), or through the [DHS Library](#) (available on the intranet through DHS Connect).

C. Other Possible TRIG and Applicability of Other Exercises of Exemption Authority

While this exemption is designed to address scenarios involving the provision of insignificant material support, adjudicators will review for, and elicit information about, all TRIG-related activities or associations. If additional terrorism-related grounds apply, adjudicators must verify whether other available exemptions exist for those other grounds and determine whether the applicant is eligible for those exemptions. Earlier Exercises of Authority that provide for exemption of particular activities or associations remain in effect and may be used as appropriate for activity not covered by this exemption. *See* relevant implementation guidance for any other applicable Exercises of Authority.

All applicable exemptions must be adjudicated according to the guidance issued for each exemption. An adjudicator may grant an exemption for the provision of insignificant material support under this policy memo only if there are available exemptions for all applicable TRIG-related activities, and the adjudicator has recommended an exemption for each inadmissibility ground. If an exemption is not available for each inadmissibility ground, the adjudicator should refer the case to the appropriate Headquarters Division for further instructions, including whether to place the case on hold.

II. Specific Considerations for the Exemption for Insignificant Material Support

A. Threshold Requirements

To be eligible for consideration of the insignificant material support exemption, an applicant must satisfy the following threshold requirements:

- Establish that he or she is otherwise eligible for the immigration benefit or protection being sought;
- Undergo and pass all relevant background and security checks;
- Fully disclose, in all relevant applications and/or interviews with U.S. Government representatives and agents, the nature and circumstances of any material support provided and any other activity or association falling within the scope of section 212(a)(3)(B) of the INA, as well as all contact with a terrorist organization and its members;
- Establish that he or she has not provided material support to any individual who the alien knew or reasonably should have known committed or planned to commit a terrorist activity on behalf of a designated (Tier I or II) terrorist organization, as described in section 212(a)(3)(B)(vi)(I) or (II) of the INA;
- Establish that he or she has not provided material support to terrorist activities that he or she knew or reasonably should have known targeted noncombatant persons, U.S. citizens, or U.S. interests;
- Establish that he or she has not provided material support that the alien knew or reasonably should have known involved providing weapons, ammunition, explosives, or components thereof, or the transportation or concealment of such items;
- Establish that he or she has not provided material support in the form of military-type training [as defined in Title 18, United States Code, section 2339D(c)(1)], for which no exemption applies;

- Establish that he or she has not engaged in any other terrorist activity, including but not limited to providing material support to a designated (Tier I or II) terrorist organization, as described in section 212(a)(3)(B)(vi)(I) or (II) of the INA, for which no other exemption applies; and
- Establish that he or she poses no danger to the safety and security of the United States.

B. Qualifying Criteria

Additionally, to be considered for this exemption, an applicant must satisfy the following qualifying criteria:

1. Knowledge

The applicant must establish that he or she did not know and reasonably should not have known that the support he or she provided could be directly used to engage in violent or terrorist activity. Some support—such as providing any quantity of weapons, explosives, or ammunition, or any similar military-type equipment or material—is specifically excluded from consideration under this exemption. Additionally, any material support the applicant knew or should have known could be used directly to engage in violent or terrorist activity is also excluded from consideration under this exemption. Some support—for example, providing food, water, or shelter—will generally not disqualify an applicant unless circumstances warrant otherwise.

2. Intent

The applicant must establish that he or she did not intend to further an organization's violent or terrorist activities. All indications that an applicant intended to support terrorist or violent activities should be considered. Intent and motive may be inferred from the applicant's statements and surrounding circumstances.

3. Activities Constituting Insignificant Material Support

The applicant must establish that the material support he or she provided was “insignificant.” Material support is “insignificant” only if: (1) it is minimal in amount; and (2) the applicant reasonably believed that it would be inconsequential in effect. Adjudicators will evaluate whether the material support provided was minimal by considering its relative value, fungibility, quantity and volume, and duration and frequency.

C. Discretion

Adjudicators will consider whether those applicants whose support may be characterized as insignificant material support and who have met all other threshold requirements for this exemption warrant a discretionary exemption in the totality of the circumstances. Factors to be considered include but are not limited to the nature of the activities committed by the organization or individual receiving the support and any other relevant factors.

III. Making the Exemption Determination

A. Family Members

The inadmissibility of family members should be reviewed in accordance with existing law and agency policies. Under section 212(a)(3)(B)(i)(IX) of the INA, a spouse or child is inadmissible if the related alien is inadmissible under section 212(a)(3)(B) of the INA for actions occurring within the last 5 years, unless the spouse or child qualifies for one of two statutory exceptions.³ In accordance with agency policy, a spouse or child may be considered for an exemption if the activity of the related alien may be exempted, even if the related alien is not seeking a benefit or protection from USCIS. Furthermore, a spouse or child does not require an exemption relative to any acts for which the related alien has already been or is being exempted.⁴

B. Vetting Cases for Possible National Security Concerns

Adjudicators will follow existing agency procedures when a possible national security concern arises during the course of the adjudication, including through security checks.

C. Documenting the Exemption Determination

Using the 212(a)(3)(B) Exemption Worksheet (revised 2015-04-13), adjudicators will document exemption determinations as follows:

- Determine threshold eligibility;
- Describe the applicant's associations or activities with the group, noting any involvement in violence or other activities of concern;
- Provide relevant information in Section IV.D., "Eligibility for the Insignificant Material Support Exemption;" and
- In Section V., indicate whether the adjudicator recommends granting or denying the exemption.

Each Division will instruct its adjudicators on the requisite levels of review.

D. Record-Keeping Requirements

USCIS will maintain records on the number of cases considered under this exemption and their outcome. Statistics will be consolidated on a quarterly basis, at a minimum. These statistics will be used to provide information to interagency partners and to stakeholders, as well as to inform the content of the required annual report to Congress.⁵

E. Effect of Exemption on Future Adjudications

An exemption determination made under this Exercise of Authority can inform, but shall not control, a decision regarding any subsequent benefit or protection application.

³ A spouse or child is not inadmissible under section 212(a)(3)(B)(i)(IX) of the INA if: (1) he or she did not know or should not reasonably have known of the TRIG activity; or (2) an adjudicator has reasonable grounds to believe that the spouse or child has renounced the TRIG activity. Section 212(a)(3)(B)(ii) of the INA.

⁴ See Jonathan Scharfen, Deputy Director, USCIS, "Processing the Discretionary Exemption to the Inadmissibility Ground for Providing Material Support to Certain Terrorist Organizations," May 24, 2007.

⁵ Adjudicators will report statistics according to procedures directed by their Division.

F. Processing or Placement on Hold of Certain Cases

If a case involving an applicant or beneficiary considered under the exemption does not satisfy all threshold requirements for consideration of the exemption and does not meet the requirements of the hold policy, the requested benefit should be denied. The applicant may be issued a Notice to Appear (NTA) in appropriate cases after review, in accordance with standard operating procedures, including USCIS' NTA policy.

If a case meets all other requirements, but an exemption is denied in the totality of the circumstances, the application should be denied (or, if pertaining to an asylum application, referred as applicable) after appropriate review in accordance with the above procedures. The applicant may be issued an NTA in appropriate cases after review, in accordance with standard operating procedures, including USCIS' NTA policy.

If it is determined that a case does not meet the threshold requirements listed above, but otherwise meets the criteria enumerated under the current hold policy, the application should be placed on hold pending future exercises of the Secretaries' discretionary exemption authority. This includes placement on hold of cases involving applicants who do not qualify for this exemption. The applicant may be issued an NTA in appropriate cases after review, in accordance with standard operating procedures, including USCIS' NTA policy.

Use

This policy memorandum is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable by law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions should be directed through the component chain of command to the component USCIS TRIG Working Group point of contact.

Attachment:

1. Exercise of Authority under Section 212(d)(3)(B)(i) of the INA (Insignificant Material Support).

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Barba Koroma, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, Bethesda, MD 20892, 301-594-3292, koromabm@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: January 30, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014-02316 Filed 2-4-14; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Cancer Institute Board of Scientific Advisors.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Board of Scientific Advisors.

Date: March 6, 2014.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: Director's Report: Ongoing and New Business; Reports of Program Review Group(s); and Budget Presentations, Reports of Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Institutes of Health, Building 31, 6th Floor, Conf. Rm. 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Paulette S. Gray, Ph.D., Executive Secretary, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, 7th Floor, Rm. 7W444, Bethesda, MD 20892, 240-276-6340, grayp@mail.nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: <http://deainfo.nci.nih.gov/advisory/bsa/bsa.htm>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS).

Dated: January 30, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014-02322 Filed 2-4-14; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

Office of the Secretary

Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCIES: Office of the Secretary, DHS; Office of the Secretary, DOS.

ACTION: Notice of determination.

Authority: 8 U.S.C. 1182(d)(3)(B)(i)

Following consultations with the Attorney General, the Secretary of Homeland Security and the Secretary of State have determined that grounds of inadmissibility at section 212(a)(3)(B) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(a)(3)(B), bar certain aliens who do not pose a national security or public safety risk from admission to the United States and from obtaining immigration benefits or other status. Accordingly, consistent with prior exercises of the exemption authority, the Secretary of Homeland Security and the Secretary of State, in consultation with the Attorney General, hereby conclude, as a matter of discretion in accordance with the

authority granted by INA section 212(d)(3)(B)(i), 8 U.S.C. 1182(d)(3)(B)(i), as amended, as well as the foreign policy and national security interests deemed relevant in these consultations, that paragraphs 212(a)(3)(B)(iv)(VI)(bb) and (dd) of the INA, 8 U.S.C.

1182(a)(3)(B)(iv)(VI)(bb) and (dd), shall not apply with respect to an alien who provided insignificant material support to an organization described in section 212(a)(3)(B)(vi)(III) of the INA, 8 U.S.C. 1182(a)(3)(B)(vi)(III), or to a member of such an organization, or to an individual described in section 212(a)(3)(B)(iv)(VI)(bb) of the INA, 8 U.S.C. 1182(a)(3)(B)(iv)(VI)(bb), provided that the alien satisfies the relevant agency authority that the alien:

(a) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) has undergone and passed all relevant background and security checks;

(c) has fully disclosed, in all relevant applications and/or interviews with U.S. government representatives and agents, the nature and circumstances of any material support provided and any other activity or association falling within the scope of section 212(a)(3)(B) of the INA, 8 U.S.C. 1182(a)(3)(B), as well as all contact with a terrorist organization and its members;

(d) has not provided more than an insignificant amount of material support to a terrorist organization described in section 212(a)(3)(B)(vi)(III) of the INA, 8 U.S.C. 1182(a)(3)(B)(vi)(III), or to a member of such an organization, or to an individual described in section 212(a)(3)(B)(iv)(VI)(bb) of the INA, 8 U.S.C. 1182(a)(3)(B)(iv)(VI)(bb);

(e) (1) has not provided the material support with any intent of furthering the terrorist or violent activities of the individual or organization; (2) has not provided material support that the alien knew or reasonably should have known could directly be used to engage in terrorist or violent activity; and (3) has not provided material support to any individual who the alien knew or reasonably should have known had committed or planned to commit a terrorist activity on behalf of a designated terrorist organization, as described in section 212(a)(3)(B)(vi)(I) or (II) of the INA, 8 U.S.C. 1182(a)(3)(B)(vi)(I) or (II);

(f) has not provided material support to terrorist activities that he or she knew or reasonably should have known targeted noncombatant persons, U.S. citizens, or U.S. interests;

(g) has not provided material support that the alien knew or reasonably

should have known involved providing weapons, ammunition, explosives, or components thereof, or the transportation or concealment of such items;

(h) has not provided material support in the form of military-type training (as defined in section 2339D(c)(1) of title 18, United States Code);

(i) has not engaged in any other terrorist activity, including but not limited to providing material support to a designated terrorist organization, as described in section 212(a)(3)(B)(vi)(I) or (II) of the INA, 8 U.S.C.

1182(a)(3)(B)(vi)(I) or (II), to which no other exemption applies;

(j) poses no danger to the safety and security of the United States; and

(k) warrants an exemption from the relevant inadmissibility provision in the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular alien meets each of the criteria set forth above.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above can inform but shall not control a decision regarding any subsequent benefit or protection applications, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority creates no substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the U.S. Department of Homeland Security or by the U.S. Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of

the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Jeh Charles Johnson,
Secretary of Homeland Security.

John F. Kerry,
Secretary of State.

[FR Doc. 2014-02353 Filed 2-4-14; 8:45 am]

BILLING CODE 9110-9M-P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

DEPARTMENT OF STATE

Office of the Secretary

Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act

AGENCY: Office of the Secretary, DHS; Office of the Secretary, DOS.
ACTION: Notice of determination.

Authority: 8 U.S.C. 1182(d)(3)(B)(i).

Following consultations with the Attorney General, the Secretary of Homeland Security and the Secretary of State have determined that the grounds of inadmissibility at section 212(a)(3)(B) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(a)(3)(B), bar certain aliens who do not pose a national security or public safety risk from admission to the United States and from obtaining immigration benefits or other status. Accordingly, consistent with prior exercises of the exemption authority, the Secretary of Homeland Security and the Secretary of State, in consultation with the Attorney General, hereby conclude, as a matter of discretion in accordance with the authority granted by INA section 212(d)(3)(B)(i), 8 U.S.C. 1182(d)(3)(B)(i), as amended, as well as the foreign policy and national security interests deemed relevant in these consultations, that paragraphs 212(a)(3)(B)(iv)(VI)(bb) and (dd) of the INA, 8 U.S.C. 1182(a)(3)(B)(iv)(VI)(bb) and (dd), shall not apply with respect to an alien who provided limited material support to an organization described in section 212(a)(3)(B)(vi)(III) of the INA, 8 U.S.C. 1182(a)(3)(B)(vi)(III), or to a member of such an organization, or to an individual described in section 212(a)(3)(B)(iv)(VI)(bb) of the INA, 8 U.S.C. 1182(a)(3)(B)(iv)(VI)(bb), that involves (1) certain routine commercial transactions or certain routine social

transactions (i.e., in the satisfaction of certain well-established or verifiable family, social, or cultural obligations), (2) certain humanitarian assistance, or (3) substantial pressure that does not rise to the level of duress, provided, however, that the alien satisfies the relevant agency authority that the alien:

(a) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) Has undergone and passed all relevant background and security checks;

(c) Has fully disclosed, in all relevant applications and/or interviews with U.S. government representatives and agents, the nature and circumstances of any material support provided and any other activity or association falling within the scope of section 212(a)(3)(B) of the INA, 8 U.S.C. 1182(a)(3)(B), as well as all contact with a terrorist organization and its members;

(d) Has not provided the material support with any intent or desire to assist any terrorist organization or terrorist activity;

(e) Has not provided material support (1) that the alien knew or reasonably should have known could directly be used to engage in terrorist or violent activity or (2) to any individual who the alien knew or reasonably should have known had committed or planned to commit a terrorist activity on behalf of a designated terrorist organization, as described in section 212(a)(3)(B)(vi)(I) or (II) of the INA, 8 U.S.C. 1182(a)(3)(B)(vi)(I) or (II);

(f) Has not provided material support to terrorist activities that he or she knew or reasonably should have known targeted noncombatant persons, U.S. citizens, or U.S. interests;

(g) Has not provided material support that the alien knew or reasonably should have known involved providing weapons, ammunition, explosives, or components thereof, or the transportation or concealment of such items;

(h) Has not provided material support in the form of military-type training (as defined in section 2339D(c)(1) of title 18, United States Code);

(i) Has not engaged in any other terrorist activity, including but not limited to providing material support to a designated terrorist organization, as described in section 212(a)(3)(B)(vi)(I) or (II) of the INA, 8 U.S.C.

1182(a)(3)(B)(vi)(I) or (II), to which no other exemption applies;

(j) Poses no danger to the safety and security of the United States; and