

U.S. Begins Implementing Changes to Visa Waiver Program

On January 21, 2016, the U.S. began implementing changes to the Visa Waiver Program (VWP) to align with the travel restrictions established by the *Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015* (the Act).

As our office previously explained in an earlier immigration update, certain travelers are no longer eligible to travel or be admitted to the U.S. under the VWP, including:

- Nationals of VWP countries who have travelled to or been present in Iran, Iraq, Sudan or Syria on or after March 1, 2011, with limited exceptions; and
- Nationals of VWP countries who are also nationals of Iran, Iraq, Sudan or Syria.

The restrictions do not apply to VWP travelers whose presence in Iraq, Syria, Iran or Sudan was to perform military and official government service.

ESTA and CBP Notifications

Travelers who previously indicated they hold dual nationality with one of the four countries listed above will have their current Electronic System for Travel Authorization's (ESTA) revoked. These travelers will be contacted via the email they provided as part of the application process.

U.S. Customs and Border Protection (CBP) is working on a system to notify affected travelers who have traveled to or been present in Iran, Iraq, Sudan or Syria that their ESTA has been revoked.

Options for affected travelers

Waiver

Under the Act, the Secretary of Homeland Security may waive these restrictions if he determines that a waiver is in the law enforcement or national security interests of the United States. Waivers will be granted on a case-by-case basis. Categories of travelers who may be eligible for a waiver include:

1. Individuals who traveled to Iran, Iraq, Sudan or Syria on behalf of international organizations, regional organizations, and sub-national governments on official duty;
2. Individuals who traveled to Iran, Iraq, Sudan or Syria on behalf of a humanitarian NGO on official duty;
3. Individuals who traveled to Iran, Iraq, Sudan or Syria as a journalist for reporting purposes;
4. Individuals who traveled to Iran for legitimate business-related purposes following the conclusion of the Joint Comprehensive Plan of Action (July 14, 2015); and
5. Individuals who have traveled to Iraq for legitimate business-related purposes.

Application for a Visitor Visa

Affected travelers are still eligible to apply for a visitor visa at a U.S. Consular or Embassy abroad. Travelers should apply for a visitor visa well in advance of his or her proposed travel date. An expedited appointment may be available for travelers with urgent business, medical or humanitarian travel plans.

If you have questions, concerns or would like to schedule a call to discuss these changes, please contact one of our professionals at Guberman Garson Segal LLP (416 363 1234).

This document is for general information only and should not be construed as specific legal advice.