

Business Immigration Weekly for February 26, 2016

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Practices: Immigration

COUNTRIES ADDED TO LIST OF PROHIBITED COUNTRIES FOR VISA WAIVER PROGRAM

Last week, the Department of Homeland Security added several countries to the list of travel restricted countries for nationals eligible to use the Visa Waiver Program. The new countries are Libya, Somalia and Yemen and only apply to countries that are subject to travel restrictions, not dual nationals. To summarize: nationals of the following Visa Waiver Program countries are no longer be permitted to use the Visa Waiver Program if they travelled to or were present in the following countries on or after March 1, 2011: Iran, Iraq, Sudan, Syria, Libya, Somalia or Yemen. Nationals of Visa Waiver Program countries that are also nationals of Iran, Iraq, Sudan or Syria are also no longer able to use the Visa Waiver Program. Exceptions are made for travel/presence in a prohibited country if the individual's purpose of travel was to fulfill military service for the armed forces of a Visa Waiver Program country or to comply with official duties as a full-time employee of a Visa Waiver Program country's government. These exceptions do not apply to individuals who are also dual-nationals with Iran, Iraq, Sudan or Syria.

Waivers are available in situations concerning law enforcement or national security interests. These may include individuals with travel/presence in a prohibited country on official business of an international, regional or sub-national organization, humanitarian NGO, or as a journalist; and individuals traveling for a legitimate business purpose to Iran after the Iran deal of July 14, 2015 (Joint Comprehensive Plan of Action) or Iraq.

These restrictions are not an absolute travel ban, but serve to better screen Visa Waiver Program travelers. Essentially, affected individuals must apply for a B visa at their local US Embassy or Consulate before entering the United States. Furthermore, the Department of State has now revised the Electronic System for Travel Authorization (ESTA) application to incorporate questions on travel/presence and nationality of a prohibited country and the military service/government employee exception. The Department of State has directed individuals who believe that they may qualify for the exception to carry supporting documentation when they travel to the United States. Travelers covered by these restrictions who are already physically present in the United States are not affected. However, they would not be able to return to the United States using the Visa Waiver Program after any subsequent international travel.

The Visa Waiver Program allows certain nonimmigrants to enter the United States as a Visitor for Business or Pleasure for 90 days without having to previously secure a B-1/B-2 visa at their local U.S. Embassy or Consulate. Prior to entry, the traveler must register with ESTA online and pay a nominal fee. Subject to the restrictions in this article, citizens and nationals of the following countries are eligible to participate in the Visa

Waiver Program: Andorra, Australia, Austria, Belgium, Brunei, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Taiwan, and United Kingdom.

CREATION OF ONLINE REGISTRY FOR CHINESE B VISA HOLDERS

Starting in November 2016, Chinese nationals holding a 10-year tourism or business visitor visa (B1/B2, B1 or B2) will be required to register with an online system, the Electronic Visa Update System (EVUS). Chinese nationals (including Taiwan, Hong Kong and Macau traveling on a Chinese passport) will not be able to enter the United States in B status without previously completing the EVUS registration. The EVUS registration is part of a recent accord with China that allows for the reciprocal issuance of 10-year visas.

The EVUS registration will request an individual's name, birth date, passport and other biographical and employment information. The EVUS registration will be valid for two years and will require payment of a small fee. Chinese travelers will have to update their EVUS registration before traveling to the United States and if they obtain a new passport. Further information on the EVUS system as well as recently released Frequently Asked Questions can be seen here: <http://www.cbp.gov/travel/international-visitors/electronic-visa-update-system-evus/frequently-asked-questions>