



GMS Flash Alert

Immigration Edition

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United States - COVID-19: State Department Announces Limited Exemptions on Entry Bans

On July 16, 2020, the U.S. Department of State (DOS) announced limited exemptions to the U.S. entry bans in effect due to the COVID-19 pandemic.¹

Certain business travelers and foreign students present in the Schengen Area, the United Kingdom, or Ireland within 14 days of their entry into the U.S. are now exempt from the entry bans.² Spouses and children of H, J, and L nonimmigrants are further exempt from the June 22 nonimmigrant entry restriction, if the principal nonimmigrants are not subject to the ban.³ Lastly, child immigrant visa applicants who are in danger of aging out of eligibility are exempt from the April 22 immigrant entry restriction.⁴

WHY THIS MATTERS

The DOS' announcements clarified elements of the U.S. entry bans that are currently in effect, and should help facilitate the travel of certain foreign nationals to the United States who would otherwise be impacted by those bans.

At this time, the DOS has yet to provide guidance on how travelers can establish eligibility for certain key economic recovery and national interest exemptions to the entry bans.

Exemptions to Entry Ban for Certain European Countries

In March 2020, the United States introduced travel suspensions from certain European countries (particularly countries in the Schengen Area, the United Kingdom, and Ireland), the People's Republic of China ("China" or "PRC"), and Iran to the U.S. due to the ongoing COVID-19 pandemic. Brazil was later included in the travel suspension in May 2020 (for prior coverage, see GMS [Flash Alert 2020-251](#), May 27, 2020). In announcing the travel suspensions, President Trump cites ongoing widespread transmission of COVID-19 in the affected countries.

The travel suspensions bar entry into the U.S. for any travelers who have been physically present in the Schengen Area of the European Union, the United Kingdom, Ireland, China, Iran, and Brazil within the 14 days preceding their intended entry in the United States. U.S. citizens, lawful permanent residents, spouses, children, siblings, parents of U.S. citizens and legal residents, government employees, crew-members, members of the U.S. Armed Forces and their relatives, along with foreign government representatives are exempted from the travel suspensions.

On July 16, 2020, the DOS announced that the following groups of individuals may be admitted into the United States despite having been present in the Schengen Area, the United Kingdom, or Ireland within 14 days of their entry to the United States, if they qualify under a national interest exception:

- Those traveling in B-1 status or pursuant to ESTA registrations for business travels;
- Those traveling in E-1 or E-2 status; and
- Those traveling pursuant to certain J-1 programs.

Students traveling pursuant to F-1 and M-1 do not need to apply for a national interest waiver at a U.S. consular location before traveling.

Exemptions to Nonimmigrant and Immigrant Visa Bans

On April 22, 2020, President Trump implemented a 60-day suspension restricting the entry of immigrants who did not have a valid immigrant visa or an official travel document allowing entry to the U.S. by the effective date of the suspension. In a June 22 proclamation, the Trump Administration extended this suspension on immigrants' entry until December 31, 2020 (for prior coverage, see GMS [Flash Alert 2020-294](#), June 23, 2020).

The June 22 proclamation also suspended the entry of individuals seeking entry to the U.S. under the H-1B, H-2B, J-1, and L-1 nonimmigrant categories, and their dependents until December 31, 2020, with limited exceptions.

On July 16, 2020, the DOS clarified that the following groups of foreign nationals are exempt from the nonimmigrant and immigrant visa bans introduced in April and June 2020:

- **Spouses and children of H, J, and L visa holders who are already exempted from or are not subject to the nonimmigrant proclamation.** If the principal nonimmigrant is exempt because he or she was present in the U.S. or held an H, L, or restricted J visa on the effective date of the ban, then the spouse and dependent children may benefit from that exemption. If the principal nonimmigrant is granted a discretionary exemption from the restrictions, the spouse and dependent children may benefit from that exemption as well.
- **Certain H and J visa applicants traveling to work in support of a critical U.S. foreign policy objective (such as a COVID-19 response) and/or traveling at the request of the U.S. government.** It is not clear whether this exemption is available to L visa applicants.
- **Child immigrant visa applicants in danger of aging out of eligibility by January 14, 2021** (two weeks after the immigrant visa proclamation expires).

KPMG NOTE

While the proclamations introducing the existing nonimmigrant and immigrant travel bans included certain exemptions for humanitarian travel, public health response, and national security, the DOS has not issued further guidance on how foreign nationals may qualify under these exemptions.

Considerations for Employers and Travelers

Given the overall fluidity of the circumstances, it continues to be prudent for all nonimmigrants and their dependents to remain in the U.S. and avoid international travel, where possible. This will help ensure that nonimmigrant visa holders and their dependents avoid the risk of being unable to return to the U.S. should any further restrictions on entry be imposed by the Trump Administration unexpectedly.

Monitoring the Situation

KPMG Law LLP in Canada is tracking this matter closely. We will endeavor to keep readers of *GMS Flash Alert* posted on any important developments as and when they occur.

FOOTNOTES:

- 1 For information on the June 22, 2020 Presidential Proclamation restricting entry of certain nonimmigrants to the United States, read the following issues of *GMS Flash Alert*: [2020-294](#) (June 23, 2020). For information on the travel restriction from European countries, as well as Brazil, to the United States, read the following issues of *GMS Flash Alert*: [2020-251](#) (May 27, 2020), [2020-059](#) (March 15, 2020), and [2020-055](#) (March 12, 2020). To review the Presidential Proclamation issued on March 11, 2020, restricting entry of travelers from the European Union's Schengen Area, the United Kingdom, Ireland, People's Republic of China, and Iran, [click here](#).
- 2 To review the DOS' announcement on the exemption for certain business travelers and foreign students from the European countries' entry bans, [click here](#).
- 3 To review the DOS' announcement on exemptions to the entry ban introduced by the June 22 proclamation, [click here](#).
- 4 For information on the April 22, 2020 Presidential Proclamation restricting entry of certain immigrant to the United States, read *GMS Flash Alert*: [2020-198](#) (April 27, 2020). To review the Department of State's announcement on exemptions to the entry ban introduced by the April 22 proclamation, [click here](#).

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