

New Law Impacts Certain Foreign Nationals Traveling To The United States As Visitors Under The Visa Waiver Program

Eileen Momblanco

03.03.2016

In January 2016, the United States implemented changes under the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015 (the Act). Previously, certain foreign nationals could travel to the United States without a visa if they met certain criteria under the Visa Waiver Program (VWP). Pursuant to the new Act, travelers in the following categories are no longer eligible to travel or be admitted to the United States without a visa under the VWP:

- Nationals of VWP countries who have traveled to or been present in Iran, Iraq, Sudan, or Syria on or after March 1, 2011 (with limited exceptions for travel for diplomatic or military purposes in the service of a VWP country).
- Nationals of VWP countries who are also nationals of Iran, Iraq, Sudan, or Syria.
- These individuals will still be able to apply for a visa using the regular immigration process at embassies or consulates. For those who need a U.S. visa for urgent business, medical, or humanitarian travel to the United States, U.S. embassies and consulates stand ready to process applications on an expedited basis.

Attorneys

Eileen M. Momblanco

Practice Areas

Business Immigration

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Beginning January 21, 2016, travelers who currently have valid Electronic System for Travel Authorizations (ESTA's) and who have previously indicated holding dual nationality with one of the four countries listed above on their ESTA applications will have their current ESTA's revoked. Under the new law, the Secretary of Homeland Security may waive these restrictions if he determines that such a waiver is in the interests of the law enforcement or national security of the United States. Such waivers will be granted only on a case-by-case basis. Any traveler who receives notification that he or she is no longer eligible to travel under the VWP is still eligible to travel to the United States with a valid non-immigrant visa issued by a U.S. embassy or consulate. Such travelers will be required to appear for an interview and obtain a visa in their passports at a U.S. embassy or consulate before traveling to the United States.