

Mobility: immigration alert

September 2021

United States

United States to ease foreign air travel restrictions

Executive summary

The travel restrictions on individuals who were physically present in China, Iran, the Schengen countries, the United Kingdom, Ireland, Brazil, India, and South Africa are expected to ease in early November.

Background

In response to the COVID-19 pandemic, the Trump Administration issued a series of Presidential Proclamations barring, with limited exceptions, foreign nationals who were physically present in China, Iran, the Schengen countries, the United Kingdom, Ireland, and Brazil within the 14 days preceding their proposed travel to the U.S. After assuming office earlier this year, the Biden Administration maintained these restrictions, citing the unpredictable nature of the pandemic and the emergence of several virus variants. Subsequently, the rule was also expanded to include those physically present in South Africa and India (the Travel Bans).

On 20 September 2021, the White House announced to various news outlets the easing of these restrictions starting in November. Final announcements and rules will be published in advance of the restrictions. Below outlines what is anticipated at this time.

Analysis

The Travel Bans are expected to be replaced with a vaccine mandate and testing regime in early November. These requirements apply globally, from all international travelers entering the U.S.

As part of the new announcement, and for all fully vaccinated travelers, the current requirement to show proof of a negative test taken within 72 hours of boarding a flight will remain in place. In addition to the negative test, it is anticipated that the new regime will require:

- ▶ Foreign nationals to show proof of being fully vaccinated prior to boarding an airplane, in addition to proof of a negative test within 72 hours.
- ▶ Returning U.S. citizens who do not present proof of vaccination will be required to show proof of a negative test within 24 hours of departure, rather than 72 hours, and will be required to test again after their arrival in the U.S.
- ▶ Returning U.S. citizens who are able to present proof of vaccination will need to show proof of a negative test taken within 72 hours of boarding a flight.

The White House will follow guidelines from the Center for Disease Controls and Prevention (CDC) for acceptable vaccinations. The White House will release information regarding what documentation will be acceptable as proof of vaccination, and which vaccinations may or may not be accepted, in the coming weeks.



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The CDC is also expected issue a contact tracing order requiring airlines to collect current information from each U.S.-bound traveler, including their phone numbers and email addresses, so that health officials can track potential COVID-19 exposure.

Exceptions to the full vaccination requirement are limited and include children not yet eligible to receive a vaccine due to their age; COVID-19 vaccine clinical trial participants and certain humanitarian exceptions for individuals who lack access to vaccinations in a timely manner. These exceptions will be narrow, and individuals who are granted exceptions will be expected to become vaccinated upon arrival in the United States.

At this time, the United States' land borders with Canada and Mexico will remain closed to non-essential travel through 21 October 2021. The White House has not yet indicated whether the new vaccine requirements will apply to land border crossings, or whether they will be treated separately as they have been until now.

What this means

Starting sometime in November, fully vaccinated foreign nationals will be permitted to fly to the United States, including those traveling from the 33 countries currently subject to the Travel Bans, though they will also be subject to new testing and contact-tracing procedures.

This development will be a welcome relief for organizations and to foreign nationals who have been prevented from returning to the U.S. under the Travel Bans. It also marks a departure from the patchwork of Presidential Proclamations for individual countries, and a move toward consistent, stringent entry requirements for all international air travelers seeking admission to the U.S.

We will continue to monitor and review future developments. For additional information, or if you wish to discuss this further, please contact your EY Law LLP professional.

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