

LEGAL UPDATES

PUBLISHED: DECEMBER 8, 2015

Service

Business
Immigration and
Global Mobility

Professionals

TONI H. BLACKWOOD
KANSAS CITY:
816.983.8000
TONI.BLACKWOOD@
HUSCHBLACKWELL.COM

KELLI J. MEILINK
KANSAS CITY:
816.983.8309
KELLI.MEILINK@
HUSCHBLACKWELL.COM

Travelers Should Expect Changes to Visa Waiver Program

In his December 6, 2015, address, the President announced plans to combat the threat of terrorism in the United States. As part of these efforts, the White House plans to tighten security measures in the Visa Waiver Program (VWP), which is used by 20 million visitors to the U.S. each year.

The VWP allows visitors from 38 partner countries to travel to the U.S. for up to 90 days without first applying for a visa or appearing for an interview at a U.S. consulate. The program is intended to remove barriers to travel for business and pleasure between the U.S. and those partner countries. However, the increased security measures are expected to result in travel delays.

U.S. to Screen Visitors More Carefully

Every traveler who seeks to enter the U.S. using the VWP must first be approved through the Electronic System for Travel Authorization (ESTA). The Department of Homeland Security uses ESTA to determine visitor eligibility for the VWP by screening for counterterrorism activity and verifying other information from U.S. law enforcement and intelligence agencies. Visitors entering the U.S. through the VWP receive permission to travel faster than those who seek admission to the U.S. by applying for a B-1/B-2 tourist or business visitor visa, which requires an interview at a U.S. consulate.

Under the VWP security enhancements, visitors will be required to provide information about previous travel to help identify trips to countries considered terrorist safe havens. The White House plans to promote the Global Entry trusted traveler program, which permits expedited clearance upon arrival in the U.S. for low-risk travelers who have undergone a background check and interview, and promote information sharing about terrorism and security issues between the U.S. and VWP partner countries. Already, U.S. Customs and Border Protection is negotiating with airports in seven partner countries

for permission to inspect travelers before they board planes bound for the U.S. Data fields have also been added to the ESTA online application in an effort to address threats from terrorists.

The White House has asked Congress to make additional security enhancements to the VWP. These include increasing fines for air carriers that fail to verify VWP visitor passports and maximizing the use of international agencies such as INTERPOL to increase information sharing.

Much of the information in the ESTA online application is self-reported by prospective visitors, leading lawmakers to question whether these new changes go far enough. Legislation has been introduced that would require all first-time travelers to submit fingerprints and a photograph prior to approval through ESTA. The Department of Homeland Security is reviewing VWP partner countries to identify pilot programs to collect and use fingerprints and photographs in the application process and to identify areas where partner countries fail to comply with the program.

What This Means to You

Citizens of VWP partner countries traveling to the U.S. can expect additional screening at airports prior to boarding and should plan accordingly. U.S. businesses whose employees frequently travel internationally should also prepare for additional delays. Individuals who have traveled to countries named as terrorist safe havens will face additional screening that could include a consular interview. Whether these actions will affect the reciprocal circumstances under which U.S. citizens travel to VWP partner countries is still unknown; however, U.S. travelers will want to closely follow developments prior to such travel.

Contact Us

For more information about travel under the VWP or entry into the U.S., please contact Husch Blackwell Immigration attorneys Toni Blackwood or Kelli Stout.