

# GMS Flash Alert

## Immigration Edition

2021-039 | January 26, 2021



## United States – COVID-19 Travel Bans Reinstated, South Africa Added

On January 25, 2021, U.S. President Joseph R. Biden issued a proclamation reinstating the travel restrictions for individuals who have been in the Schengen Area of the European Union, the United Kingdom (“U.K.”), Ireland, and Brazil within the 14 days preceding their intended entry into the United States (“U.S.”).<sup>1</sup> This is a reversal of former President Donald Trump’s announcement on January 18, 2021 lifting the travel restrictions for individuals seeking admission to the U.S. from the above-mentioned regions that was anticipated to take effect January 26, 2021 (for prior coverage, see [GMS Flash Alert 2020-032](#), January 19, 2020).

In addition, President Biden adds South Africa to the list of countries where travelers will be restricted from entry citing such measures were necessary to protect the public health amidst growing concerns of increased COVID-19 transmission with a new variant strain from the region. Starting 12:01am (EST) on January 30, 2021, travelers who were physically present in South Africa during the 14-day period preceding their entry or attempted entry will be not be able to enter the U.S. unless the individual qualifies for an exemption.

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### WHY THIS MATTERS

As the Biden Administration continues to evaluate its strategy to contain and address the COVID-19 pandemic, we anticipate there will be continuing updates to the U.S. travel restrictions and entry requirements; thus creating uncertainty among employers and their global workforce. In light of the evolving travel restrictions, it is important for foreign nationals stationed in the U.S. to re-evaluate the necessity of their international trips, even to countries not currently impacted by a travel ban. Individuals may be unable to re-enter the U.S. should the Administration unexpectedly adopt additional measures to its travel suspension policies. As well, there may be unforeseen circumstances making it difficult to comply with the now in-effect pre-departure requirement to present a negative COVID-19 test prior to boarding.<sup>2</sup> Given the fluidity of the circumstances, it may be prudent to remain in the U.S. and avoid international travel where possible.

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# Who Is Exempt from COVID-19 Regional Travel Restrictions

Mirroring much of the list of exemptions outlined in former President Trump's COVID-19 regional travel bans<sup>3</sup>, the below list of individuals are not subject to the current president's travel restriction. Nevertheless, all inbound U.S. air travelers two (2) years of age or above, regardless of citizenship, will be required to comply with the pre-departure requirement to either test negative for COVID-19 within three (3) calendar days of their flight to the U.S., or provide documentation confirming recovery from COVID-19.

Those exempt from President Biden's COVID-19 regional travel restriction are:

- U.S. citizens and U.S. lawful permanent residents (green card holders);
- Spouses of U.S. citizens and lawful permanent residents;
- A noncitizen who is the parent or legal guardian of an unmarried U.S. citizen or lawful permanent resident under the age of 21;
- A noncitizen who is the sibling of a U.S. citizen or lawful permanent resident, provided they are both under 21;
- A noncitizen who is the child, foster child or ward of a U.S. citizen or lawful permanent resident, or who is a prospective adoptee seeking to enter the United States on an IR-4 or IH-4 visa;
- A noncitizen traveling at the invitation of the U.S. government for a purpose related to containment or mitigation of the COVID-19 virus;
- An air or sea crew-member;
- Certain A, C, E-1 (TECRO or TECO employees), G, and NATO nonimmigrants;
- A noncitizen whose entry would further U.S. law enforcement objectives;
- A noncitizen whose entry would be in the national interest; and
- Noncitizen members of the U.S. armed forces and their spouses and children.

## Looking Ahead

The proclamation and travel ban will remain in effect until terminated by the president. The proclamation further directs the Secretary of Health and Human Services, every 30 days following publication of the proclamation, to review the ongoing measures and recommend whether the President should continue, modify, or terminate the proclamation.

Employers and all potential travelers should further be advised that the Biden Administration intends on imposing a mandatory self-quarantine for all inbound U.S. travelers, regardless of citizenship or national origin. In a presidential action published January 21, 2021, the president directs the department heads at Health and Human Services, Centers for Disease Control and Prevention, Department of Transportation, and Department of Homeland Security to develop a plan outlining the viability of implementing a mandatory self-quarantine requirement for all international travelers.<sup>4</sup> We are anticipating further announcements in the coming weeks to address enforcement measures for self-quarantine as well as any possible exemptions.

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## KPMG NOTE

KPMG LLP Law 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.

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## FOOTNOTES:

- 1 To review the presidential proclamation issued on January 25, 2021, [click here](#).
- 2 For more details on this new pre-departure requirement for air travel to the U.S., see [GMS Flash Alert 2021-026](#) (January 15, 2021).
- 3 For information on the travel restriction from Brazil to the United States, read the following issue of *GMS Flash Alert*: [2020-251](#) (May 27, 2020). On European countries to the United States, read the following issues of *GMS Flash Alert*: [2020-059](#) (March 15, 2020) and [2020-055](#) (March 12, 2020).
- 4 To review the presidential action issued on January 21, 2021, [click here](#).

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## Contact us

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