

# GMS Flash Alert

## Immigration Edition

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# United States - Lifting COVID-19 Travel Restrictions by November 2021

On September 20, 2021, the White House announced that in early November 2021 it will begin re-opening travel to fully vaccinated foreign nationals of countries in which travel restrictions were instituted since the start of the COVID-19 pandemic.<sup>1</sup> The countries and regions to which this applies include People's Republic of China, India, Brazil, Iran, South Africa, the United Kingdom, Ireland, and the Schengen Area.

All travelers, including U.S. citizens, returning from international destinations, will be required to demonstrate proof of full vaccination in addition to the negative, pre-entry COVID-19 test result already in place for all international travelers (age two years and older) boarding a U.S.-bound aircraft.<sup>2</sup> Unvaccinated travelers, including U.S. citizens and permanent residents, will be subject to heightened pre- and post-entry requirements aimed at preventing the spread of COVID-19 from passengers flying into the United States.

## WHY THIS MATTERS

This announcement from the Biden Administration is highly significant for foreign nationals who have been restricted from entering the U.S. for over 18 months to participate in business, employment, or personal activities. The withdrawal of the regional COVID-19 travel restrictions further eliminates the need for U.S.-bound travelers to navigate the complex web of national interest exceptions (NIEs) to the travel bans. Travelers should be aware that pre-entry requirements such as the negative COVID-19 test result prior to departure or medical documentation of recent recovery from COVID-19 will remain in place (see, [GMS Flash Alert 2021-026](#) (January 15, 2021)). All international travelers should remain informed as to the developing rules and requirements for entry to the U.S. that will be released by the Centers for Disease Control and Prevention (CDC) in the coming days and weeks leading up to the November reversal and policy change.

Foreign nationals requiring travel visas should also remain vigilant that backlogs and delays at U.S. consulates and embassies worldwide because of the pandemic continue. Non-immigrant visa processing is prioritized below U.S. citizen and immigrant services by the State Department. U.S. workers on visas are reminded to continue to make flexible travel plans and provide ample time to complete their paperwork due to the reduced capacity of consular operations and ever-changing eligibility criteria.<sup>3</sup> Visa appointments may be cancelled with little to no notice due to pandemic-related staffing issues.

## Existing Rules and Procedures

On January 25, 2021, U.S. President Joseph R. Biden reinstated travel restrictions for certain travelers from the Schengen Area, Ireland, the United Kingdom, Brazil, and added South Africa, to aid in curbing the ongoing transmission of COVID-19. This executive order reversed the actions taken in the waning days of the Trump Administration to lift travel restrictions on those countries, from a list including China and Iran. On April 30, 2021, India was added to the list and travel restrictions were placed on those who had been physically present in India during the fourteen (14) days prior to their entry into the United States. (For more details on existing U.S. travel restrictions please see, [GMS Flash Alert 2021-039](#) (January 26, 2021) and [GMS Flash Alert 2021-131](#) (May 4, 2021).)

Notwithstanding the restrictions, an initial list of NIEs was provided, exempting certain travelers from the regional travel bans. The following exceptions to the travel restrictions continue to remain applicable until the new policy comes into effect in November:

- U.S. citizens and U.S. lawful permanent residents (green card holders);
- Spouses of U.S. citizens and lawful permanent residents;
- A non-citizen who is the parent or legal guardian of an unmarried U.S. citizen or lawful permanent resident under the age of 21;
- A non-citizen who is the sibling of a U.S. citizen or lawful permanent resident, provided they are both unmarried and under 21;
- A non-citizen 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 non-citizen 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 non-immigrants;
- Non-citizen members of the U.S. Armed Forces, and their spouse and children;
- A non-citizen whose entry would further U.S. law enforcement objectives; and
- A non-citizen whose entry would be in the national interest.

Exempted travelers – those who do not require admission under an NIE – include students with valid F or M visas and a valid I-20 form, government officials and diplomats travelling with A or G visas.<sup>4</sup>

## Looking Ahead

The CDC will provide updates in the coming days and weeks as to which vaccines will be accepted and further implementation rules. There will be limited exceptions to the policy, such as for children, COVID-19 vaccine clinical trial participants and travelers who lack access to vaccination in a timely manner prior to departure. However, these exempted travelers, including all other unvaccinated travelers, regardless of nationality and citizenship, will be required to have a negative test administered within 1 (one) day prior to departure and provide a receipt of purchase for a test kit to be administered after their entry into the United States.<sup>5</sup>

It was also announced that the new policy will include a contact-tracing mechanism for implementation by airlines with respect to their passengers. Airlines will request phone numbers and email addresses which will be held for thirty (30) days, and will assist in tracing and following up with passengers possibly exposed to COVID-19.<sup>6</sup> This policy announcement does not apply to non-essential travel crossings at U.S. land borders shared with Canada and Mexico, which will remain restricted through October 21, 2021.<sup>7</sup>

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## KPMG NOTE

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.

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## FOOTNOTES:

1 See [Press Briefing by Press Secretary Jen Psaki, September 20, 2021 | The White House](#).

2 See, [GMS Flash Alert 2021-026](#) (January 15, 2021).

3 To review the eligibility criteria for obtaining NIEs, see "[National Interest Exceptions for Certain Travelers from China, Iran, India, Brazil, South Africa, Schengen Area, United Kingdom, and Ireland](#)" (state.gov).

4 To review exemptions not requiring NIEs, see "[Presidential Proclamation on the Suspension of Entry as Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting Coronavirus Disease 2019](#)" (state.gov).

5 See [Press Briefing by Press Secretary Jen Psaki, September 20, 2021 | The White House](#).

6 See "US opens doors to fully vaccinated visitors from November," *TTN* (online) (September 2021) at: <https://ttnworldwide.com/Article/324766/US-opens-doors-to-fully-vaccinated-visitors-from-November> . *By clicking on this link, you are leaving the KPMG website for an external site, that KPMG is not affiliated nor is KPMG endorsing its content. The use of the external site and its content may be subject to the terms of use and/or privacy policies of its owner or operator.*

7 D. Shepardson and A. Shalal, "U.S. to relax travel restrictions for vaccinated foreign air travelers in November," *Reuters* (online) (September 21, 2021). See: <https://www.reuters.com/world/uk/us-relax-travel-restrictions-passengers-uk-eu-november-source-2021-09-20/> . *By clicking on this link, you are leaving the KPMG website for an external site, that KPMG is not affiliated nor is KPMG endorsing its content. The use of the external site and its content may be subject to the terms of use and/or privacy policies of its owner or operator.*

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