

GMS Flash Alert

Immigration Edition

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United States - Omicron Variant Spurs Travel Ban on Southern African Nations

On November 26, 2021, U.S. President Joseph R. Biden issued a proclamation suspending travel from the southern African nations of Botswana, Eswatini, Lesotho, Malawi, Mozambique, Namibia, South Africa,¹ and Zimbabwe to the United States due to the detection of the “omicron” variant of the SARS-COV-2 (“coronavirus”), the virus that causes the infectious disease, COVID-19, in southern Africa.²

The suspension applies to foreign nationals (non-U.S. citizens) who were present in these nations within the 14-day period preceding their entry into the United States. The restrictions took effect on November 29, 2021, and will remain in effect until further notice. As with the prior travel bans implemented by the Biden Administration, there are a list of exemptions largely focused on U.S. citizens and their immediate family members.

WHY THIS MATTERS

As the Biden Administration continues to evaluate its strategy to contain and address the coronavirus 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 United States to re-evaluate the necessity of their international trips, even to countries not currently impacted by the travel ban.

Individuals may be unable to re-enter the U.S. should the administration unexpectedly adopt additional measures to its travel suspension policies. Furthermore, there may be unforeseen circumstances making it difficult to comply with the present pre-departure requirement to present a negative coronavirus test prior to boarding. Given the fluidity of the circumstances, it may be prudent to remain in the U.S. and avoid international travel where possible.

Exemptions from COVID-19 Regional Travel Ban

The list below includes individuals that are not subject to the president’s new travel restrictions:

- 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 and unmarried;
- 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 coronavirus;
- 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.

All inbound U.S. air travelers must continue to comply with the international air travel requirements imposed by the Biden Administration on November 8, 2021. These include the pre-departure requirement to either test negative for coronavirus within three (3) calendar days of a flight to the U.S. if vaccinated (or within one (1) day if unvaccinated and entering under an exemption or exception), or provide documentation confirming recovery from COVID-19. (See, [GMS Flash Alert 2021-268](#), October 28, 2021.)

Looking Ahead

The Biden Administration has yet to provide the “national interest exceptions” (NIEs) to this new travel ban. An announcement providing the pertinent details is expected in the coming days. In the meantime, foreign nationals should not assume that the NIEs on prior regional travel bans (People’s Republic of China, India, Brazil, South Africa, Schengen Area, and the United Kingdom and Ireland) earlier this year will apply to this new Southern African travel ban.

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.

FOOTNOTES:

1 As an example of the announced restrictions, see the website of the [embassy of the United States in South Africa](#), in particular, the following webpages:

<https://za.usembassy.gov/health-alert-u-s-embassy-pretoria-south-africa/>

<https://za.usembassy.gov/covid-19-information-2/>

<https://za.usembassy.gov/a-proclamation-on-suspension-of-entry-as-immigrants-and-nonimmigrants-of-certain-additional-persons-who-pose-a-risk-of-transmitting-coronavirus/> .

2 See the White House, "[A Proclamation on Suspension of Entry as Immigrants and Nonimmigrants of Certain Additional Persons Who Pose a Risk of Transmitting Coronavirus Disease 2019](#)" (November 26, 2021).

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Contact us

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