

Mobility: immigration alert

March 2021

United States

National interest exemptions for certain travellers from the Schengen Area, United Kingdom, and Ireland

Executive summary

On 2 March 2021, the U.S. Department of State issued updated requirements to apply for a national interest exemption (NIE) under President Biden's 25 January 2021 Proclamation on *The Suspension of Entry as Immigrants and Non-Immigrants of Certain Additional Persons Who Pose a Risk of Transmitting Coronavirus Disease*.

Background and analysis

Originally issued on 25 January 2021, the Proclamation limits entry to the United States by persons who have been in the Schengen area, United Kingdom, Ireland, Brazil and South Africa during the 14-day period prior to entering the United States. These restrictions were put in place to protect public health, and to combat the spread of COVID-19 and its variants in the U.S., by limiting inbound travel from specific countries.

On 2 March 2021, the Secretary of State removed national interest exceptions carved out for certain technical experts and specialists, senior-level managers and executives, treaty-traders and investors, professional athletes, and their dependents, who were seeking admission to the U.S. from the countries listed above.

Going forward, U.S. Consular Posts will now only recognize a national interest determination covering

travelers seeking to provide vital support for critical infrastructure. Critical infrastructure sectors include chemical, communications, dams, defense industrial base, emergency services, energy, financial services, food and agriculture, government facilities, healthcare and public health, information technology, nuclear reactors, transportation, and water systems.

Travelers seeking admission to the U.S. for purposes of offering vital support to critical infrastructure, as well as academics, J-1 students, amongst others, continue to qualify for NIEs.

Travelers or their employers who believe their entry to the U.S. is humanitarian in nature, related to a U.S. public health response, national security, or otherwise is in the national interest, may contact us and/or review the website of the nearest U.S. consulate for further information.

The Department of State has confirmed that NIE waivers previously granted will remain valid. However, please note that NIEs are valid only for one entry and 30 days.

What this means

This development restricts eligible categories for individuals seeking NIEs, and effectively reduces the number and quality of NIEs that will be issued.



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Pursuant to the change, the following categories of travelers, no longer qualify for NIEs under the new guidance:

- ▶ Technical experts and specialists
- ▶ Senior-level managers and executives
- ▶ Treaty-traders and investors
- ▶ Professional athletes
- ▶ Any dependents of the above categories

Notably, E-1 and E-2 Treaty Traders and Investors will no longer automatically qualify for NIEs granted at post and must meet the updated NIE standards during the application process.

The following categories of travelers may continue to qualify for a NIE:

- ▶ Travelers offering vital support to critical infrastructure
- ▶ Academics
- ▶ J-1 students
- ▶ Journalists with a valid visa in the appropriate class, with an ESTA authorization, or who are seeking to apply for the appropriate visa

The following Visa categories do not need to apply for NIE Waivers:

- ▶ Diplomats (A/G Visas)
- ▶ Air and Ship Crew (C1/D Visas)
- ▶ Students (F/M Visas)

Furthermore, United States citizens (USC), Legal Permanent Residents (LPR - Green-card holders), spouses of USCs and LPRs, minor children of USCs and LPRs, and parents of minor USCs and LPRs continue to remain exempt.

EY Law will continue to monitor these developments. Should you have any questions, we encourage you to contact one of our U.S. immigration professionals.

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