

Required Vaccinations to Replace U.S. COVID-19 Travel Bans

Expert recommends scheduling visa appointments now

By Roy Maurer
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The Biden administration plans to rescind the COVID-19 travel bans imposed in 2020 and replace them with vaccination and testing requirements to enter the U.S., beginning in November.

Claire Nilson, head of the global mobility and immigration team in the London office of Faegre Drinker, explained that since early in the pandemic, travelers who had been in Brazil, China, the European Schengen countries, India, Iran, Ireland, South Africa and the United Kingdom during the preceding 14 days were banned from flying directly into the United States unless they were either a U.S. citizen or green card holder, or they first applied for and received an exception waiver.

The Schengen Area countries covered by the COVID-19 ban include Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and Switzerland.

The Biden administration's COVID-19 response coordinator Jeff Zients said that fully vaccinated travelers will need to complete pre-departure testing within three days prior to their departure to the U.S., but that they will not be required to quarantine upon their arrival.

He said the Centers for Disease Control and Prevention (CDC) will determine the definition of "fully vaccinated" and what vaccines qualify for the policy.

"So far, the U.S. government has not clarified what will constitute suitable evidence of vaccination and which COVID-19 vaccines will be recognized beyond the three already authorized in the United States [Pfizer, Moderna and Johnson & Johnson]," Nilson said.

Notably, hundreds of millions of people worldwide received the AstraZeneca vaccine, which has been recognized by the World Health Organization but has not won approval from U.S. regulators.

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The CDC will also issue a contact tracing order requiring airlines to collect contact information from each U.S.-bound traveler. "This will enable the CDC and state and local public health officials to follow up with inbound travelers and those around them if someone has potentially been exposed to COVID-19," Zients said.

Alka Bahal, a partner in the Morristown, N.J., office of Fox Rothschild, said it's not just leisure travelers who are happy with the Biden administration's announcement; the move will have a significant positive impact on U.S. business immigration.

"Many foreign nationals in the U.S. on work visas have remained restricted to the U.S. due to the travel bans, having been unable to visit home due to fears of being unable to return," Bahal said. "Hopefully, the lifting of the bans will be soon followed by the resumption of normal visa processing at U.S. consulates and embassies worldwide. This will further increase visa processing by enabling foreign nationals

who have been unable to obtain their first U.S. work visas to now obtain them and come to the U.S. to work."

For the past 18 months, virtually all visitors from the banned countries have been prohibited from traveling directly to the United States. Some resorted to workarounds such as spending two weeks in an intermediate country such as Mexico or the Dominican Republic before obtaining a negative coronavirus test and then entering the U.S.

For foreign nationals not currently subject to any of the existing travel bans, the forthcoming policy sets forth an additional requirement to international travel—those individuals will need to provide proof of vaccination in addition to COVID-19 testing.

"All of this information is subject to change between now and November, as the White House has only announced its plans to lift the travel bans but has not yet actually done so," said Matthew Gunn, a partner in the Louisville, Ky., office of Dinsmore. "No specific date in November for lifting the bans has been announced, nor do we have any detailed information regarding how the new policies are going to be implemented."

Expect Delays

The new policy is expected to ease travel, but processing backlogs at U.S. consulates are likely to increase, which will delay travel for those who need a U.S. visa.

"The fact that the travel bans are going to be lifted does not mean that visa issuance is suddenly going to return to pre-travel-ban processing rates," Gunn said.

"U.S. consulates around the world are currently operating at reduced staffing levels, under stringent COVID-19 restrictions, and facing mounting case backlogs, while complying with Department of State directives to prioritize [green card] visa petitions over [temporary work visas]. The consulates will continue to struggle for quite some time, which means there will continue to be substantial delays in visa appointment scheduling."

Gunn recommended anyone in need of a visa to the U.S. schedule a consular appointment as soon as possible. "While they will probably not be able to submit an expedite request until after the bans have been lifted, they will at least have an appointment in place for the purposes of an expedite request when possible," he said.

"Even if the expedite request is ultimately denied, these applicants will still have an appointment in place, which will take place much sooner than if they had waited until November to schedule it. In November, many are going to realize for the first time that the bans on travel no longer exist, and having an appointment scheduled now should put you in front of the flood of appointment requests the consulates will see as a result."

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