

# US Immigration Alert - Changes to COVID Travel Ban NIE Eligibility

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Very recently, amidst a reported increase in COVID-19 cases in the US and around the world, it has become increasingly more difficult for US companies to bring key personnel from certain countries to the US due to ongoing travel bans and narrowing exceptions to these travel bans.

## Which countries are included in the travel ban?

Beginning with former [President Trump's January 30, 2020 Proclamation](#), as well as subsequent Proclamations under the Trump administration, and continued by the current [President Biden's January 25, 2021 Proclamation](#), the US barred the entry of most immigrants and nonimmigrants who had been physically present in one of the following countries within the 14-day period preceding their planned entry to the US:

- China;
- Iran;
- Schengen Region (*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, Switzerland, Monaco, San Marino, Vatican City*);
- United Kingdom (*England, Scotland, Wales, Northern Ireland*);
- Republic of Ireland;
- Brazil; and
- Republic of South Africa.

## Who is exempt from the travel ban?

The travel ban does not apply generally to the following individuals:

- Lawful Permanent Residents (*also known as "green card holders"*) of the US;
- Noncitizen nationals of the US (*those born or who have connections to US outlying possessions, including Swains Island and American Samoa*);
- Noncitizen spouses of US citizens or US lawful permanent residents;
- Noncitizen parents or legal guardians of US citizens or US lawful permanent residents, provided that the US citizen or US lawful permanent resident is unmarried and under the age of 21;
- Noncitizen siblings of US citizens or US lawful permanent residents, provided that both are under the age of 21;
- Noncitizens who are the child, foster child, or ward of a US citizen or US lawful permanent resident, or who are a prospective adoptee seeking to enter the US pursuant to the IR-4 or IH-4 visa classifications;
- Noncitizens traveling at the invitation of the US government for a purpose related to containment of mitigation of COVID-19; and

- [Various other narrow exceptions.](#)

## What is an NIE?

A National Interest Exception (**NIE**) is an approval, sometimes in the form of a letter or email from a US Consulate or Embassy that previously allowed certain technical experts and specialists, senior-level manager and executives, treaty traders and investors, professional athletes, and their dependents to enter the US, even if they are traveling from one of the travel ban countries listed above.

## Who is no longer eligible for an NIE?

Under the [new NIE guidance](#), the following travelers do NOT qualify for an NIE:

- Senior executives traveling to observe operations, hold regular meetings, or conduct routine operational travel; and
- Senior-level employees and treaty traders and investors whose travel does not provide vital support of critical infrastructure sectors or critical infrastructure linked supply chain.

## Who is eligible for an NIE?

Under the [new NIE guidance](#), the following travelers do qualify for an NIE:

- Individuals who provide vital support of critical infrastructure sectors as defined by the Department of Homeland Security or critical infrastructure related supply chain;
- Public health professionals;
- Individuals with travel based on a request from a US government agency or entity to meet foreign policy objectives or to satisfy treaty or contractual obligations;
- H-1B, L-1A, and L-1B applications seeking to resume ongoing employment in the US in the same position with the same employer and visa classification;
- Certain new applications for H-1B visas (specific criteria related to individual's expected contribution to the recovery of the US economy);
- Journalists;
- Certain new applications for L-1A visas for senior-level executives and managers filling critical business needs for an employer meeting a critical infrastructure need;
- Certain L-1B visa holders for technical experts or specialists meeting a critical infrastructure need; and
- Spouses and/or children who will accompany or follow a principal applicant who is exempted from or not subject to the travel ban(s).

The current state of play in the US immigration system is changing even more rapidly than ever before. Stay tuned for the latest from the Moodys immigration team as we closely monitor this legislation and other significant changes in US and Canadian immigration.