

Immigration Newsflash

Additional security checks for Arab and Muslim men; 5,000 male foreigners to be interviewed; Bifurcation of INS; New Anti-Terrorism Act; Practical implications of 9-11 attack

State Department Announces Additional Security Checks for Certain Arab and Muslim Men

The State Department has announced additional security checks relevant to all men ages 16 to 45 from certain Arab and Muslim countries. In addition to requiring that these applicants complete new background questionnaires covering previous military service and weapons training, previous travels and whether additional passports have been held, the State Department has announced that affected applicants will be subject to an additional waiting period of up to 20 days with respect to visa applications.

Applicants from the following countries will be subject to these new waiting periods:

Afghanistan, Algeria, Bahrain, Djibouti, Egypt, Eritrea, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Malaysia, Morocco, Oman, Pakistan, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, Turkey, the United Arab Emirates and Yemen.

Secretary of State Colin Powell has indicated that he hopes these measures will be temporary.

Justice Department Announces that 5,000 Male Foreigners are to be Interviewed

The Justice Department has announced that the names of 5,000 male foreign nationals aged between 18 and 33 who sought entry into the U.S. since January 1, 2000 on student, tourist and business visas are on a list to be distributed to federal prosecutors. Federal prosecutors have been ordered to work with state and local law enforcement officials to conduct interviews with these men.

According to the Justice Department, these individuals are not suspects but may be helpful in assisting law enforcement officials with respect to their investigation into the September 11 attacks. The nationalities of these men are not confined to the Middle East and Muslim countries.

Bush Administration Announces Bifurcation of INS

The Bush Administration has announced that the INS will be separated into two units - one unit to be responsible for service and the other to be responsible for enforcement. Under the Bush Administration plan, to be completed by September 30,

2003, a new Bureau of Immigration Enforcement will be charged with managing intelligence, investigations, and issues related to illegal aliens. The new Bureau of Immigration Services will focus on processing applications for work authorization, naturalization, permanent residence, asylum and other benefits.

The New Anti-Terrorism Act: Immigration Consequences

The USA Patriot Act of 2001 (the "Act"), signed into law on Friday, October 26, 2001, is a direct result of the September 11 attacks. In addition to the jurisdictional, money laundering, off-shore banking, asset seizure and forfeitures, and other provisions, the Act contains several significant immigration provisions.

Expanded Definitions of Terrorism and Terrorist Activity for Purposes of Deportability and Inadmissibility. The Act retroactively broadens the definitions of terrorism and terrorist activity with respect to grounds of deportability and inadmissibility. Included in the Act are the following: expansion of the ground of inadmissibility for representatives of foreign terrorist organizations or any group

that publicly endorses acts of terrorist organizations, and spouses and children of aliens who are inadmissible on any of the terrorism-related grounds; authority given to the Secretary of State to designate any group, foreign or domestic, as a terrorist organization upon publication in the Federal Register; expansion of the grounds of deportability to include cases of fundraising, solicitation for membership, or material support (even for humanitarian projects) for groups that are designated terrorist organizations by the Secretary of State (acts need not have been in furtherance of actual terrorist activity); expansion of the grounds of deportability to include cases of the solicitation of funds or other material support for groups not officially designated as "terrorist organizations" unless it can be shown that the individual did not know, and should not reasonably have known, that the solicitation would further the organization's terrorist activity. The Act also provides for increased sharing of criminal background information between the FBI, INS and State Department.

Mandatory Detention of Suspected Terrorists. The Act mandates the detention of aliens, subject to certain time constraints and limited judicial review, for whom the Attorney General certifies that reasonable grounds exist to believe that they have or are engaged in terrorist activities or conduct endangering the national security.

Relief for Those Impacted by the September 11 Terrorist Attacks. The Act includes several provisions which preserve immigration benefits for family members of September 11 victims, which provide protection to individuals who have lost their jobs as a direct result of the attacks, and which give the INS flexibility to ameliorate certain other hardships resulting from disrup-

tions caused by the attacks, including the extension of filing or reentry deadlines.

Practical Immigration Implications of the September 11 Attacks, Including Additional Security Checks for Visa Applicants

No legal changes have been made that would affect the ultimate ability of foreign nationals to travel. As a practical matter, however, international travel may become more complicated due to increased levels of security at airports, including INS inspection. This heightened scrutiny is of particular importance in the case of those foreign nationals who need to apply for U.S. visas abroad. These individuals should anticipate additional questioning and scrutiny of immigration documents, and as noted above, further security checks for male foreign nationals from Arab and Muslim countries.

It should be noted also that several Consulates have made procedural changes with respect to visa applications, such as removing drop boxes and discontinuing in-person visa applications. It is important that procedures for visa applications be verified in advance so that travel arrangements can accommodate delayed visa processing.

Documentation to be Carried at All Times. There have been numerous reports of INS scrutiny of immigration documentation at airports where not only international, but also domestic travel, is involved. It is therefore recommended that all foreign nationals carry with them their immigration documentation while traveling domestically or internationally.

We suggest that all foreign nationals contact our office prior to traveling abroad in order that we may advise as to the appropriate documentation to be carried and as to

procedures regarding re-entry into the United States. However, the following provides general guidance concerning the appropriate documentation:

Nonimmigrants – It is advisable that all nonimmigrant workers carry the following documentation when traveling:

1. Passport, valid for at least 6 months;
2. Approval notice (Form I-797) [or other documentation evidencing status, such as IAP-66 or I-20, endorsed for travel, and EAD in the case of F-1 students]; and
3. Copies of documentation submitted to the INS or Consulate.

Please ensure that all visa stamps are valid and that a new Form I-94 card is completed upon entry to the U.S. from abroad.

Adjustment of status applicants:

1. Persons with valid H-1B, H-4, L-1 or L-2 visas may travel with valid passports and a receipt notice evidencing the filing of the adjustment of status application.
2. All other status holders are required to travel using advance paroles (specific permission from the INS to travel) to gain entry into the U.S. **Please contact Paul Hastings' attorneys to ensure that travel is allowed, and that the appropriate documentation has been obtained.**

Permanent residents – All "green card" holders should travel with valid passports and original "green cards." Those who do not have the actual "green card" should travel with valid passports which contain valid I-551 stamps.

It is also important that foreign nationals contact us with regard to proposed travel by family members so that we may advise as to the appropriate documentation to be carried.

Additional Proposed Changes to Current Immigration Laws. Several additional bills have been introduced in Congress following the September 11 attacks, which, if passed, will impact current immigration laws. These bills include provisions to enhance border security, to improve the monitoring of foreign students, to enhance security measures with respect to visa and immigration documents, and to heighten restrictions on the ability of

foreign nationals to handle certain chemical agents.

Paul Hastings' attorneys are working closely with the appropriate government agencies, the American Immigration Lawyers Association, members of the Bush Administration and Congress, as well as the employer community, with respect to proposed changes in the laws with the goal of enhancing national security while at the same time preventing the adop-

tion of laws which will needlessly have an adverse impact on the ability of the business community to utilize critical foreign talent.

*The information in this Alert is not intended to be legal advice. However, if you require legal assistance or would like additional information about immigration matters, please contact your local Paul Hastings representative or **Daryl Buffenstein** at 404-815-2232 or via email at darylbuffenstein@paulhastings.com.*

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