



## ESTA Travel Warning Update – Approval Revoked for Travelers who are Nationals of Iran, Iraq, Syria or Sudan

Teri A. Simmons and Jay I. Solomon

This is an update to our [previous Alert](#)<sup>1</sup>.

The Department of State announced that travelers who currently have valid Electronic System for Travel Authorizations (ESTAs) and who have previously indicated holding dual nationality with Iran, Iraq, Sudan or Syria on their ESTA applications **will have their current ESTAs revoked**.

Other travelers, regardless of nationality\*, who have traveled to Iran, Iraq, Syria or Sudan after February 2011 may not use the Visa Waiver Program.

This is the result of provisions in the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015 which was signed into law on December 18, 2015 and is now being implemented.

The current ESTA application does not ask about travel to Iran, Iraq, Syria or Sudan. An updated ESTA application is scheduled to be released next month and will ask about travel to these countries. We expect ESTA authorization will be denied for those who have traveled during the restricted period.

A waiver of the ESTA restrictions is available for some who have engaged in “legitimate business travel” to these countries. All travelers who are restricted from using the Visa Waiver Program are still eligible to apply for B1/B2 visas.

### What this means:

- If you hold dual nationality with Iran, Iraq, Sudan or Syria and have an approved ESTA, you may expect that the ESTA authorization has been or will be electronically cancelled. You may be denied boarding, even with the ESTA authorization as a result.
- If you have traveled to Iran, Iraq, Syria or Sudan and travel to the U.S. with ESTA authorization, you may be referred to a secondary inspection and questioned about your travel. Our experience has been that business travelers are being admitted after secondary inspection, but that may change.
- Currently valid ESTA authorization may be cancelled for travelers who are identified as having traveled to Iran, Iraq, Syria or Sudan.
- Wait times for appointments at many U.S. Consulates may increase as the demand for B1/B2 visas increases for travelers previously using ESTA.

### What you should do:

- If you are a dual national with Iran, Iraq, Sudan or Syria, obtain an appropriate visa from a U.S. Consulate and do NOT rely on ESTA.
- We recommend that all ESTA travelers who have traveled to Iran, Iraq, Syria or Sudan (and all those who may travel to any of these countries in the future) schedule an appointment with a U.S. Consulate and apply for a B visa for purposes of US Travel. ESTA travelers should not rely on obtaining a waiver to continue using ESTA if they have or will travel to these countries.
- If you hold a valid ESTA and have traveled to one of these countries, be prepared to

<sup>1</sup> <http://www.agg.com/Warning--New-Restrictions-on-Visa-Waiver-Travel-12-18-2015/>

document that any such travel has been for a legitimate business purpose and expect delays in entering the United States. Unless precluded by urgent needs, apply for a U.S. visa before your next trip to the U.S.

- If questioned about previous travel by a U.S. Consul or at a Customs and Border inspection, answer all questions fully and truthfully. Making a false statement for the purpose of gaining entry to the United States is a crime and may result in your being barred from returning to the U.S.

## What's next?

We anticipate that the ESTA application will specifically require information about travel to Iran, Iraq, Sudan and Syria, and will not be approved for those who have traveled to those countries after February 2011 or who hold dual nationality with any of those countries.

People who have traveled to these countries – or other countries “of interest” to Customs and Border Protection – may expect additional questioning and delay at entry, even if traveling with valid visas.

There may be additional delays at U.S. consuls, particularly in Europe, if demand for visas increases as a result of the ESTA restrictions.

The attorneys in the AGG Immigration and Global Migration Group are ready to assist you with your visa applications, or answer any questions you may have.

Please contact Partners [Teri Simmons](#) and [Jay Solomon](#) with any questions regarding travel to the US and B visa applications.

Join AGG Partner Teri A. Simmons, who will be providing an in-depth analysis of the fundamentals as well as updates of the significant issues on Cap-Subject H-1B Petitions, in a [webcast](#)<sup>2</sup> on February 2, 2016.

*\*This alert only concerns travel on ESTA and the Visa Waiver Program. These restrictions do not apply to other travelers, travelers with visas, U.S. citizens and Permanent Residents, or travelers otherwise exempt from visa requirements.*

<sup>2</sup> <http://www.agg.com/Emerging-Issues-on-Cap-Subject-H-1B-Petitions-in-2016-02-02-2016/>

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