

March 14, 2020

Ban on Travel from Europe: Additional Details Are Released; the UK and Ireland Are Added to the List

On March 11, President Trump signed a proclamation (available [here](#)) that restricts and suspends the entry into the United States of foreign nationals¹ (subject to certain exceptions) that have been physically present within the Schengen Area² during the 14-day period preceding their entry or attempted entry into the United States. The Schengen Area covers much of Europe, but excludes Bulgaria, Croatia, Cyprus, Ireland, Romania and the United Kingdom, among others. This afternoon, at a press conference, Vice President Pence announced that the United Kingdom and Ireland would be added to the list, effective as of midnight EDT, Monday night (March 15), bringing the total number of countries covered to 28.

While the United States cannot bar U.S. citizens from returning to the United States, it can subject U.S. citizens and any others who are not covered by the ban to screening or quarantine procedures. U.S. citizens and others exempt from the ban will be directed to a limited number of airports where screening can take place, as set out in a Notice of Arrival Restrictions (the “Notice”) issued by the Department of Homeland Security (“DHS”) (press release available [here](#) and fact sheet available [here](#)).

Similar proclamations issued earlier in the year restricted and suspended the entry into the United States of persons who were physically present in China³ and Iran⁴ during the 14-day period preceding their entry or attempted entry into the United States, subject to certain exceptions.

The ban is now in effect and will remain so until terminated by the President. In a televised address delivered by the President on March 11 announcing the ban, the President indicated that the travel ban will be in effect for a period of 30 days. The ban does not cover travel from the United States, although with

¹ The proclamations use the term “alien,” which is defined in the U.S. Code (8 U.S. Code §1101) as any person not a citizen or national of the United States.

² The Schengen Area countries 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.

³ Proclamation on Suspension of Entry as Immigrants and Nonimmigrants of Persons who Pose a Risk of Transmitting 2019 Novel Coronavirus, January 31, 2020 (available [here](#)).

⁴ Proclamation on Suspension of Entry as Immigrants and Nonimmigrants of Persons who Pose a Risk of Transmitting 2019 Novel Coronavirus, February 29, 2020 (available [here](#)).

many wishing to avoid international travel and with the likely drastic reduction in transatlantic flights, those seeking to return to Schengen Area countries may face significant challenges.

Exceptions

The ban does not apply, in addition to U.S. citizens, to the following persons:

- any foreign national who is a lawful permanent resident of the United States;
- any foreign national who is the spouse of a U.S. citizen or lawful permanent resident;
- any foreign national who is the parent or legal guardian of a U.S. citizen or lawful permanent resident, provided that the U.S. citizen or lawful permanent resident is unmarried and under the age of 21;
- any foreign national who is the sibling of a U.S. citizen or lawful permanent resident, provided that both are unmarried and under the age of 21;
- any foreign national who is the child, foster child or ward of a U.S. citizen or lawful permanent resident, or who is a prospective adoptee seeking to enter the United States pursuant to the IR-4 or IH-4 visa classifications;
- any foreign national traveling at the invitation of the U.S. Government for a purpose related to containment or mitigation of the virus;
- any foreign national traveling as a nonimmigrant pursuant to a C-1, D or C-1/D nonimmigrant visa as a crewmember or any foreign national otherwise traveling to the United States as air or sea crew;
- any foreign national (A) seeking entry into or transiting the United States pursuant to one of the following visas: A-1, A-2, C-2, C-3 (as a foreign government official or immediate family member of an official), E-1 (as an employee of TECRO or TECO or the employee's immediate family members), G-1, G-2, G-3, G-4, NATO-1 through NATO-4 or NATO-6 (or seeking to enter as a nonimmigrant in one of those NATO categories); or (B) whose travel falls within the scope of section 11 of the United Nations Headquarters Agreement;
- any foreign national whose entry would not pose a significant risk of introducing, transmitting or spreading the virus, as determined by the Secretary of Health and Human Services, through the CDC Director or his designee;
- any foreign national whose entry would further important United States law enforcement objectives, as determined by the Secretary of State, the Secretary of Homeland Security or their respective designees, based on a recommendation of the Attorney General or his designee;
- any foreign national whose entry would be in the national interest, as determined by the Secretary of State, the Secretary of Homeland Security or their designees; or
- members of the U.S. Armed Forces and spouses and children of members of the U.S. Armed Forces.

Arrival Procedures

The Notice states that U.S. citizens (and presumably others exempted from the ban) travelling (or returning) to the United States will be required to travel to one of 13 airports.⁵ The Notice contemplates that the Transportation Safety Administration, Customs and Border Protection (“CBP”) and air carriers are working together to identify qualifying passengers before their scheduled flights; they are to be rerouted (according to the Notice, at no cost to them).

Upon arrival, following standard customs processing, arriving passengers will go through enhanced CBP screening with a medical interview, which includes “contact information for local health officials.” Thereafter, passengers will be expected to self-quarantine for 14 days, while those who are symptomatic (according to a schematic embedded in the Notice) will be “referred to” the Centers for Disease Control and Prevention for medical evaluation. It is unclear what that referral entails.

The Notice states that local and State public health officials will contact individuals in the days and weeks following arrival, presumably based on the information provided as part of the screening. It is unclear how expatriates or others who are not returning to a known community will be able to provide this information. Although it is clear from the proclamation that all Americans are exempt from the ban (and therefore go through the screening procedures), the DHS press release speaks in terms of Americans “who are returning home after recently visiting” countries covered by the ban.

We are continuing to monitor the situation and will update this alert as more details become available.

* * *

This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

⁵ BOS (Boston), ORD (Chicago), DFW (Dallas), DTW (Detroit), HNL (Hawaii), ATL (Atlanta), JFK (New York), LAX (Los Angeles), MIA (Miami), EWR (Newark), SFO (San Francisco), SEA (Seattle) and IAD (Washington, D.C.).

Mark S. Bergman
+44-20-7367-1601

mbergman@paulweiss.com

Roberto J. Gonzalez
+1-202-223-7316

rgonzalez@paulweiss.com

Brad S. Karp
+1-212-373-3316

bkarp@paulweiss.com

Jeh C. Johnson
+1-212-373-3093

jjohnson@paulweiss.com

David K. Lakhdhir
+44-20-7367-1602

dlakhdhir@paulweiss.com

Loretta E. Lynch
+1-212-373-3000

Securities practice management attorney Monika G. Kislowska contributed to this Client Memorandum.