

September 21, 2020

## Immigration Updates: Visa Processing, Travel Bans and the New USCIS Fee Schedule

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Read on for an overview of updates on immigration and global mobility issues, including those involving visa processing at U.S. embassies and consulates, restrictions on travel and the new U.S. Citizenship and Immigration Services (USCIS) fee schedule.

### Visa Processing at U.S. Embassies and Consulates

While some consulates are reopening to provide visa services, many are still closed for routine visa processing or are only offering limited services. For example, the U.S. Embassy in Buenos Aires, Argentina started accepting applications for F, M and J visas on August 24, but remains closed for other visa processing. Applicants with urgent travel needs or who believe they qualify for one of the National Interest Exceptions generally must apply for an expedited or emergency visa appointment. Up-to-date information about visa processing can be found [here](#).

### The 14-Day COVID-19-Related Entry Bans on China, the United Kingdom, Ireland, Iran, Brazil and the Schengen Countries

Numerous travel bans and restrictions on visa issuance remain in place. This includes restrictions on entry to the United States for certain foreign nationals who are traveling from certain countries, regardless of visa status. These restrictions are still in place as of this publication date and will remain in place until they are explicitly terminated by the president. The list of countries includes China, the United Kingdom (U.K.), Ireland, Iran, Brazil and the Schengen countries. Foreign nationals who have been in one of these countries within the 14 days prior to the date of their U.S. entry will not be admitted unless they have received an exemption.

# The September 15, 2020 U.S. Customs and Border Protection Notice of Termination of Travel Restrictions

There have been a number of questions concerning the September 15, 2020 U.S. Customs and Border Protection (CBP) [notice](#) announcing a termination of travel restrictions and whether it eliminated the 14-day arrival bans imposed on foreign nationals who were physically present in China, Iran, the Schengen countries, the U.K., Ireland or Brazil during the 14-day period just prior to seeking entry to the U.S. The short answer is no.

In response to presidential proclamations [9984](#), [9992](#), [9993](#), [9996](#), [10041](#) and [10042](#) banning the entry of foreign nationals to the United States if they had been physically present in China, the U.K., Ireland, Iran, Brazil or the Schengen countries, CBP issued a series of corresponding notices announcing that flights carrying people (i.e., U.S. citizens or others exempt from the bans) who departed from, or who were otherwise present, in one of the entry-banned countries within 14 days of arrival in the United States could only land at one of 13, later expanded to 15, U.S. airports. Focused public health resources were put in place at these airports, allowing for enhanced entry screening.

Effective September 14, 2020 at 12:01 a.m. ET, CBP's arrival restrictions were terminated. This reopened airports across the U.S. to international flights and allowed the government to reallocate public health resources to other priorities. The [notice](#) stated that, "Terminating this effort will allow public health resources to be more effectively reprioritized for other containment and mitigation efforts and will stimulate air travel. Continuing activities will include an illness reporting system and a passenger education process carried out in tandem with other enhanced public health measures implemented within the passenger air transportation system in collaboration with industry."

While this notice references the 14-day entry bans imposed by the presidential proclamations, it did not eliminate them. They remain firmly in place.

## Restrictions on Visa Issuance and Travel

The restrictions put in place by presidential proclamations [10014](#) and [10052](#) are also still in effect. These proclamations suspend the entry of certain immigrants and nonimmigrants to the United States until December 31, 2020. As we discussed in our [August 27, 2020 legal update](#), the U.S. Department of State (DOS) issued some exceptions to these restrictions. However, implementation and interpretation has been inconsistent across consulates. Applicants are urged to review specific consulate procedures before making any travel plans.

# Significant Increases to Certain USCIS Filing Fees

In August 2020, USCIS published a [final rule](#) that significantly increases the filing fees for certain immigration and naturalization benefits. These new fees are effective as of October 2, 2020, and all immigration applications and petitions postmarked on or after this date must include the new fees indicated in the rule.

The fee increases come after a comprehensive USCIS fee review determined that the current fees do not recover the full cost of providing its services. USCIS is adjusting its fees by a weighted average of 20% through various mechanisms, including adding new fees for certain immigration benefits, establishing multiple fees for nonimmigrant worker petitions and limiting the number of beneficiaries for certain forms. The stated intention of the rule is to ensure USCIS has the necessary resources to provide adequate service to petitioners and applicants.

The following highlights some of the key changes in the rule:

- **Nonimmigrant Petitions**

The rule calls for separate fees and forms for each visa classification field on the Form I-129, including H-1B, L-1A/L-1B and O-1. Currently, the Form I-129 is used for many visa classifications, including those listed above, and has a single filing fee — \$460 — regardless of the visa classification.

As of October 2, 2020, an H-1B petition will have a filing fee of \$555, an L-1A/L-1B will have a filing fee of \$805 and an O-1 will have a filing fee of \$705. While the rule states that new Forms I-129 will be published 30 days before the new fees go into effect, as of the publishing of this update, USCIS has not released any new forms.

- **Adjustment of Status**

As of October 2, 2020, USCIS will no longer have a reduced Form I-485 filing fee for children under the age of 14. Instead, there will be one filing fee — \$1,130 — that applies to all applicants.

Additionally, adjustment of status applicants who wish to also file the Form I-765 for work authorization and the Form I-131 for the advance parole travel document will now need to file additional filing fees for those applications. Currently, USCIS is not charging an extra filing fee for these applications when they are filed in connection with the Form I-485 (Adjustment of Status). The Form I-765 will have a filing fee of \$550, while the Form I-131 will have a filing fee of \$590. This brings the total filing fees to \$2,270 for applicants filing the Forms I-485, I-765 and I-131 concurrently, which is nearly double the current fees.

Notably, adjustment of status applicants who filed the Form I-485 on or after July 30, 2007 and before October 2, 2020, and paid the Form I-485 fee are exempt from paying filing fees for the Form I-765 and Form I-131, including renewals.

- **Biometrics**

The rule removes the \$85 biometrics fee for most applications, including the Form I-485. It also creates a \$30 fee for temporary protected status (TPS) initial applicants and re-registrants, asylum applicants and long-term Commonwealth of Northern Mariana Islands (CNMI) residents filing a Form I-765.

- **Premium Processing**

The premium process fee is not increasing. However, the final rule does make changes to the service. First, it lengthens the timeframe for USCIS to take an adjudicative action on petitions filed with a premium processing request from 15 calendar days to 15 operational business days. Second, the rule allows USCIS to automatically increase annually without notice and comment rulemaking if the fee increase will only be in accordance with the increase in the Consumer Price Index.

- **Naturalization**

The rule increases the fee for the Form N-400 by 83% from \$640 to \$1,170.

On August 20, 2020, the American Immigration Lawyers Association and eight other organizations sued USCIS over the final fee rule. This litigation is ongoing.

The USCIS Ombudsman held a phone call on September 17, 2020, regarding the new fee rule. Due to the volume of questions, the Ombudsman was unable to answer all the questions. Many of the questions related to new forms that have yet to be released by USCIS; however, the Ombudsman did not have any update regarding their release.

## MEET THE AUTHORS



**Sarah R. Kilibarda**

Counsel

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+1 612 766 6929

Minneapolis

[sarah.kilibarda@faegredrinker.com](mailto:sarah.kilibarda@faegredrinker.com)



Elaine M. Kumpula

Partner

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+1 612 766 8967

Minneapolis

[elaine.kumpula@faegredrinker.com](mailto:elaine.kumpula@faegredrinker.com)



Rob J. Rooney

Associate

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+1 612 766 7809

Minneapolis

[rob.rooney@faegredrinker.com](mailto:rob.rooney@faegredrinker.com)

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