

## INTERNATIONAL BUSINESS TRAVEL ALERT

### U.S. DEPARTMENT OF HOMELAND SECURITY ANNOUNCES PRE-TRAVEL AUTHORIZATION REQUIREMENTS FOR TRAVELERS TO THE UNITED STATES UNDER VISA WAIVER PROGRAM

Today, U.S. Customs and Border Protection (CBP) and the U.S. Department of Homeland Security (DHS) published in the Federal Register a new rule that will impose additional compliance obligations for business travelers from Visa Waiver Program (VWP) countries. As of January 12, 2009, travelers entering the United States without a visa under the VWP must obtain electronic authorization through the CBP's Electronic System for Travel Authorization (ESTA). ESTA has been established to allow CBP and DHS opportunities to conduct pre-screening of travelers to the United States for law enforcement and homeland security purposes.

Companies and business travelers from VWP countries, many of which are major U.S. trading partners, are encouraged to bear in mind that these new travel procedures are mandatory as of January 12, 2009. Business travelers should coordinate their commercial travel accordingly. After the rule's effective date, business officials traveling to the United States under the VWP will not be allowed to depart for the United States unless they have been pre-approved under ESTA.

Accessing and completing the ESTA is a straight-forward process. Travelers, or those completing the ESTA information on the traveler's behalf, access the ESTA at the following Web site: <https://esta.cbp.dhs.gov/>. VWP-eligible travelers approved under ESTA may enter and remain in the United States without visas for up to 90 days. A traveler's ESTA approval is generally valid for two years and may cover repeated travel to the United States.

#### WHICH COUNTRIES ARE AFFECTED BY THE VWP?

Under the VWP, nonimmigrant aliens from participating countries may be allowed to enter the United States without a visa for up to 90 days. Currently, the following are VWP participating countries—

Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland and the United Kingdom.

As of November 17, 2008, the United States will extend VWP benefits to travelers from the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovakia and South Korea. DHS has announced that eligible business travelers and tourists from these seven countries can travel to the United States for up to 90 days without a visa if they have a biometric passport and have obtained prior ESTA approval.

#### **WHO MUST OBTAIN PRIOR ESTA TRAVEL AUTHORIZATION AND WHAT COMPRISES ESTA?**

ESTA authorizations will be required for all eligible VWP nonimmigrant aliens—whether traveling to the United States for business or pleasure—who are citizens of the VWP participating countries listed above and who are traveling under the VWP. The ESTA application requires that travelers certify information related to their personal backgrounds, as well as issues that may raise concerns with regard to their admissibility to the United States. Such concerns include (1) prior disease and drug abuse history; (2) criminal history; (3) terrorist activities; and (4) history of deportation from the United States or attempts to fraudulently enter the United States. If a traveler's ESTA application is denied, the traveler must obtain a visa from the appropriate U.S. embassy or consulate in order to travel to the United States.

Travelers should keep in mind that an approved ESTA application under the VWP does not constitute eligibility to enter the United States. CBP officers at the U.S. ports of entry are responsible for determining whether VWP travelers are admissible to the United States. While information provided on a traveler's ESTA application may be considered, CBP officials may rely on various factors—including admissibility interviews—to determine whether to allow a traveler to enter the United States.

#### **CONTACT INFORMATION**

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