

TRAVEL AND VISA APPLICATION TIPS AFTER ATTEMPTED BOMBING OF U.S. AIRLINER ON DEC. 25, 2009

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Practices & Industries

Immigration

As a result of the December 25, 2009, attempted bombing of the U.S. airliner bound for Detroit, the U.S. government has announced a wide-ranging review of security procedures that will likely lead to tougher travel and U.S. visa issuance policies and procedures. U.S. and international airports have already begun implementing increased security screening. Due to these stricter security measures, travelers who need to apply for visas before their entry to the United States need to be prepared for possible background checks and longer application processing times at U.S. consular offices. In addition, travelers must prepare themselves for possible additional delays at U.S. ports-of-entry upon travel back to the United States.

If you need to apply for a new nonimmigrant visa at a U.S. consular office when you are overseas, please contact a Hodgson Russ immigration attorney prior to your departure to ensure that you have the appropriate consular appointment information and to make sure you have the necessary documentation to apply for the visa. In addition, you can check the State Department's consular Web site at www.travel.state.gov for additional information about visa application processes.

Visa Application Process

All applicants for any immigration-based benefit are required to have their names checked against the National Security and Law Enforcement databases. Consular officers will also screen visa applicants through the State Department's security databases and lookout/watch lists. Based on (i) the appearance of one's name in security databases, (ii) one's citizenship, nationality, or country of birth, and (iii) one's background and/or nature of the work one will be performing in the United States (fields listed on the Technology Alert List), some applicants could be subject to further government security clearances. In these situations, the U.S. consular post will not issue a visa stamp until the clearance has been completed by the State Department in Washington, D.C. These additional security and background checks are referred to as "administrative processing." Generally, if one is the subject of a security clearance because one will receive a notice from the consular office indicating the visa application requires additional "administrative processing."

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From a timing perspective, some security clearances clear in days, but most can take days and in some cases months to complete. Kindly note, the State Department will not expedite security clearances except in very rare cases, such as a medical emergency. As a result of additional clearances, visa applications may be delayed or refused. Furthermore, upon re-entry to the United States, travelers must be prepared for more detailed questioning and searches at airports and other U.S. ports-of-entry. If U.S. Customs and Border Protection has a significant security concern about an applicant for admission, it can make the decision to revoke an already-issued U.S. visa.

Foreign Nationals Required to Go Through Additional Screening

Since the attempted bombing of the U.S. airliner on Christmas Day, the Transportation Security Administration (TSA) has required additional airport security screening for citizens and nationals of 14 countries: Afghanistan, Algeria, Cuba, Iran, Iraq, Lebanon, Libya, Nigeria, Pakistan, Saudi Arabia, Somalia, Sudan, Syria, and Yemen. As discussed above, citizens of these countries should also expect heightened scrutiny at U.S. consular posts and at U.S. ports-of-entry on arrival.

Citizens of several other countries previously designated for heightened security screening will likely also be affected. These countries include Algeria, Bahrain, Bangladesh, Djibouti, Egypt, Eritrea, Indonesia, Jordan, Kuwait, Malaysia, Morocco, Oman, Qatar, Tunisia, and the United Arab Emirates.

Re-Entry to the United States

When re-entering the United States after international travel, the first rule of thumb is to be patient. Please be respectful of the inspecting officer even if you are treated in a curt fashion. Answer all questions truthfully and succinctly.

You might be subject to in-depth questioning regarding your status, your job, or the purposes of your overseas trip. You will likely be fingerprinted and photographed pursuant to the US-VISIT rules. Furthermore, the inspecting officer will check your identity against law enforcement databases. If you plan ahead to give yourself ample time to go through security and customs, and you remain patient and polite, your international travel should proceed smoothly.