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## Welcome to the T&R Newsletter

June 2021

USCIS delays in processing times continue to increase, what you need to know if you are planning on traveling abroad for the summer, and the current state of national interest exceptions. Read our June newsletter to stay current on all immigration related matters.

### **USCIS Delays in Processing Times Continue to Increase**

Processing times at the U.S. Citizenship and Immigration Service (USCIS) have increased substantially for many types of cases, especially for those for which premium processing is not available. Not only have the processing times increased, but the “intake” time for the USCIS to process the case and issue a receipt notice has increased as well. The USCIS does not allow inquiries on cases for which the case is still within the “normal” processing time.

**How to check current processing times:** You can check the processing time of a case based upon its case number listed on the USCIS receipt notice. The receipt number starts with 3 letters that indicate at which service center the case is located:

- CSC for California Service Center,
- TSC for Texas Service Center,
- VSC for Vermont Service Center
- NSC for Nebraska Service Center
- PSC for Potomac Service Center

Once you identify the service center, you can check processing times at <https://egov.uscis.gov/processing-times/>.

This link provides the processing time for the form number and the service center. It also provides the date a person can make inquiries after a case is filed (“Receipt date for a case inquiry”); one cannot inquire about the status of a case unless it is outside the processing times listed. Please note: sometimes cases are transferred from one service center to another; the USCIS is supposed to notify the attorney in these cases but it does not always happen.

Here are some examples of current processing times listed on this website:

- **I-765:** Applications for Employment Authorization; the processing times can range from 2 to 6 months (Texas Service Center) to 6.5 – 13 months (California Service Center).
- **I-130:** For an immediate relative (spouse, parent or child of U.S. citizen), the processing times range from 8.5 to 10.5 months (Texas Service Center) to 30 to 39 months (Vermont Service Center).
- **N-400:** The processing times range from 12 to 36 months depending on the USCIS Service Center.
- **I-751:** Applications to remove conditions on permanent resident status, the processing times range from 13 months up to 28 months depending on the service center.
- **I-485:** Application to Adjust Status (for employment-based adjustment applications), processing times for the entire green card process to run its course range from 13 months up to 65.5 months depending on the service center.

<https://egov.uscis.gov/casestatus/landing.do>.

**Status inquiries:** Unfortunately, we are not able to make status inquiries on a case if it is still within the “normal” processing times indicated for the form type at each service center. Status inquiries can only be made once the case has been pending beyond the normal processing time.

**Expedite request:** Expedite requests can be made if there are facts and evidence to support one of the expedite criteria of the USCS:

- Severe financial loss to a company or a person;
- Urgent humanitarian reasons;
- Compelling U.S. government interests; or
- Clear USCIS error.

Please contact Trow & Rahal if you believe that you qualify for an expedite request.

### Summer Travel Abroad - Foreign Nationals Be Cautious!

As summer is approaching and people are vaccinated, people want to travel again. However, there are still many barriers for foreign nationals to travel abroad and be able to return to the United States. These include:

1. Most US Embassies and Consulates remain primarily closed for visa processing. Every U.S. Consulate has its own policies for issuing appointments and visas. Some consulates indicate “emergency appointments only” while others might indicate 60 days and up to 460 days for visa processing. And for some, if you get an appointment, it could get cancelled and postponed for up to 6 to 12 months. Therefore, if you do not have a valid visa in your passport, you should consult an attorney before traveling abroad.
2. National Interest Exceptions (NIE) are required if a foreign national has been in one of the countries with a COVID-19 travel ban in the 14 days before traveling back to the United States. See below for more details.
3. Quarantine is required for 14 days if you don't get an NIE. If a person cannot get an NIE but has a visa or ESTA, the person can quarantine in a country without a COVID-19 travel ban for 14 days prior to coming back to the United States. But a person cannot purchase the return ticket to the United States until after the 14-day quarantine has been completed

If you are a foreign national in the United States and need to travel abroad, please contact your attorney or one of the attorneys at Trow & Rahal before traveling.

### The Current State of National Interest Exceptions (NIEs)

The requirements and eligibility to obtain National Interest Exceptions (NIEs) to the travel bans under the Presidential Proclamations banning travel to the United States have been changing in the past couple of months and is more difficult now. Practitioners have been seeing increased numbers of denials of NIEs at US embassies.

Based upon four Presidential Proclamations, NIEs are required for foreign nationals to travel to the United States if they have been to the following countries in the 14 days prior to traveling to the United States:

- Brazil
- China
- Iran
- Ireland
- Schengen Area (Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania,

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- United Kingdom
- South Africa
- India (effective May 4, 2021)

**March 2d - Recession of NIEs for certain categories of business travelers:** On March 2, 2021, the U.S Department of State (DOS) issued a more restrictive policy for obtaining NIEs from the Schengen countries, the United Kingdom and Ireland. In announcing this new policy, the DOS rescinded NIEs for the following categories:

- certain technical experts and specialists,
- senior-level managers and executives,
- treaty traders and investors,
- professional athletes,
- and dependents of the above categories.

The prior standard generally permitted officers to approve NIEs for these foreign nationals if they were deemed to contribute substantially to the U.S. economy. The new policy instead indicates that the only people who would qualify for NIEs for business travel would be foreign nationals who would provide “vital support for critical infrastructure.”

**May 27th - Executives added back in for NIEs:** On May 27, 2021, the DOS issued another policy on NIEs for all Presidential Proclamations. This new policy applies to all travelers who have been in any of the above mentioned countries with a travel ban. Foreign nationals are eligible for NIEs if they are:

- seeking to provide vital support or executive direction for critical infrastructure, or
- traveling to provide vital support or executive direction for significant economic activity in the United States.

The inclusion of “executives” in this proclamation allows executives of companies to come if they support critical infrastructure or significant economic activity.

**F-1 and M-1 Students do not need to seek NIEs:** F-1 and M-1 students coming to continue or start an academic program do not need to contact a US embassy for an NIE, but some are limited to coming only after August 1, 2021. And of course, while students are not subject to the NIE, they will still need to apply for a visa in their passport if they do not have one already.

- **Only after August 1:** Students with valid F-1 visas may travel directly from Brazil, India, China, Iran, and South Africa to the U.S. to begin an academic program of study but cannot enter earlier than 30 days before the start date of the program and cannot enter earlier than August 1.
- **Anytime:** Students with valid F-1 visas may travel directly from Ireland, the Schengen area and the United Kingdom at any time (even prior to August 1st).

As the landscape for traveling to the United States from the countries subject to the Presidential Proclamations continues to evolve and change, please contact Trow & Rahal if you have questions about travel and the ability to obtain an NIE if required.

### **TROW & RAHAL WEBINARS – THIRD FRIDAY OF EVERY MONTH JUNE WEBINAR CANCELLED**

Trow & Rahal's monthly webinar from 2:00 pm - 3:00 pm EST on the third Friday of each month will be cancelled for the month of June. There will be no webinar on Friday, June 18.

Please join Trow & Rahal's monthly webinar when they resume on Friday, July 16. The format of these webinars will include a brief update of any changes in immigration policies, as well as an overview of one important immigration issue or visa category. Upcoming webinars include:

**July webinar:** Next month's webinar will be held on Friday, July 16 and will cover how to maintain permanent resident status. You can register for the webinar by [clicking here](#).

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