



RDC-EMEA's Quarterly Newsletter

Spring Issue – March 2016

Editor's Note

Dear Members,

On behalf of the chapter's executive committee, I am delighted to publish this Spring issue of the chapter newsletter. We are grateful to all those who contributed to the current issue and we would love to receive more submissions for our Summer 2016 issue. We encourage you to send us ideas on topics or other pieces of information for consideration on or before April 15, 2016. The due date for the final submissions is May 16, 2016. Once again, we welcome any of the following:

- *Substantive contributions:* These may focus on immigration law or practice management. They could be practice pointers, success stories, commentaries or summaries of changing laws and trends, etc. You may submit your prior writings, such as commentaries, briefs, letters, blog posts, or articles published elsewhere. Author guidelines are available and will be provided on request.
- *Firm or personal news:* Brief write-ups on personal or firm news (with or without photographs) are welcome. We'd like to know about new jobs, a promotion, addition to your family, winning an award, published articles, pro bono contributions, speaking engagements etc.

Also, do let us know if you have comments and/or suggestions that could help enhance the newsletter or would like to volunteer to help publish the next issue.

Poorvi Chothani
Editor

Chapter Leadership

Chair



Magdale Linda Labbe
Henke

Immediate Past Chair

Sal Savaterra

Vice Chair

Paul L. Samartin

Treasurer

Amanda Shipley

Secretary

Charlotte Slocombe

Upcoming Events

1. RDC-EMEA Spring Conference

May 3 - May 5, 2016

The Ritz-Carlton, Vienna



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Chapter Chair's Message

Welcome everyone to our Spring Newsletter. The Spring Conference Planning Committee has planned an excellent Program in Vienna, including two tracks, a consular tour, government participation, and world-class cultural activities. We have even invited the Austrian Chancellor to participate to speak on the current refugee crisis. We hope that you (and he) will join us for this very insightful, innovative program.

We aim to announce the location of our Fall 2016 Conference while in Vienna, so stay tuned. For Spring 2017, we welcome your input during these early planning stages. In particular, we would love to hear from you, our members, regarding locations in the Middle East and Africa where you would like to see us host a conference. As previously mentioned, we are the RDC - Europe Middle East and Africa Chapter, and now more than ever -- in light of the current refugee crisis impacting the Middle East and beyond, and visa restrictions affecting nationals of and visitors to these countries -- consular processing and other issues in these areas are of particular interest. Therefore, please feel free to contact me or any member of the ExComm with your suggestions for potential conference locations in these areas.

Finally, the refugee crisis here in Europe and family detention issues in the U.S. should give us pause and cause us to reflect on the state of humanity at the moment. I therefore urge our members to consider engaging in pro bono work in this area -- whether it's spending time in Dilley, taking on case work remotely where possible for these causes, or volunteering at a refugee center abroad. I commend our members who have been involved in this work already and encourage the rest to do the same. The immigration bar can have such a tremendous impact on these issues, demonstrating to lay persons and public officials that, no matter what, these individuals should be treated with dignity and respect. As Margaret Mead aptly stated, *Never believe that a few caring people can't change the world. For, indeed, that's all who ever have.*

Magdale Linda Labbe Henke
Chapter Chair
(MLH Consular Consulting, Germany)



<http://bit.ly/1QIPvgi>

Member Updates

Janice Flynn, Principal Lawyer of US Visa Solutions would like to announce that Nazneen Jafferi has joined her firm. As an experienced immigration attorney, she handles all types of U.S. immigration matters. Nazneen regularly advises small-to-mid-sized companies with their U.S. expansion. She also helps individuals with a criminal record to secure waivers of inadmissibility, advises Americans with the renunciation of their U.S. citizenship and helps couples to secure marriage-based immigrant visas. Prior to joining US Visa Solutions, Nazneen was a partner at a niche London immigration firm. Her work experience also includes serving as an associate for the Law Offices of Richard S. Goldstein in London, Tindall & Foster P.C. (now called Foster) and Jones Day in Houston, Texas. For more information see our firm web site at: <http://www.usvisasolutions.co.uk/firm-profile/>



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Schengen Visas - Frequently Asked Questions

By Marco Mazzeschi

(Mazzeschi Corporate Immigration & Citizenship Law, Italy)

What is Schengen?

Schengen is a little town in Luxembourg that gave name to the agreement that was signed there on 14 June 1985 by five of the ten member states of the then European Economic Community. The Schengen area represents a territory where the free movement of persons is guaranteed. Citizens from certain countries are allowed to travel within the Schengen area for up to 90 days every 180 days without requiring a visa. Any period of stay longer than 90 days requires a visa to be issued before travelling to any of the Schengen member states.

Which are the "Schengen countries"?

Today, the Schengen area is comprised of 26 countries: Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and Switzerland.

What is a Schengen visa?

A Schengen visa is a short stay visa which allows its holder to circulate in the Schengen area with a view to transit through or an intended stay in the territory of the Schengen States of a duration of no more than 90 days in any 180 days period ("short stay visa") or transit through the international transit areas of airports of the Schengen States ("airport transit visa").

Where to apply for a Schengen visa?

As a general rule, one needs to apply for a Schengen visa at the Consulate of the country that the applicant intends to visit with jurisdiction in the country in which the applicant legally resides. If the applicant intends to visit more than one Schengen State, the application should be filed at the Consulate of the country of the primary destination (i.e. main purpose of stay or longest stay).

When to apply for a visa?

A Schengen visa application can be filed no more than three

Update from the Practice Management Committee

The AILA RDC Law Practice Management Committee has produced two exciting podcasts since this year's committee came together in Fall 2015, with two additional podcasts currently in the works. The first podcast, recorded in November 2015, was titled 'Using technology in law practice management: Running a law firm on the go'. Aiming to get us closer to the dream of working from a desert island, speakers Lee Rosen and Tom Mighells, both lawyers with a keen interest in technology, walk us through how we can craft a mobile strategy, cloud storage, Internet and physical security considerations, favorite apps, and many more gripping topics. Our second and most recent podcast, recorded in February 2016, was held with 'productivity guru' David Allen, author of 'Getting Things Done'. We were a bit star-struck at the opportunity to interview the man who speaks around the world on productivity issues (including several TED talks) and who has built a global empire training CEOs and high powered individuals on his method. If you are seeking enhanced productivity at work or even at home, this is a podcast well worth listened to during your lunch break as David breaks down his methodology and gives us practical tips we can begin implementing straight away. These and many other podcasts are available on AILA RDC's website at <http://www.aila-rdc.org/podcasts>. The 2015-2016 AILA RDC Law Practice Management Committee is made up of: Cindy Azoulay,



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months before the start of the intended date of the trip. Also, it would be best to apply at least 15 calendar days before the intended visit. Generally, a Schengen business visa takes around 15 calendar days or 10 working days to be issued. However, the visa process can take up to 30 days or 60 days if there are any complications in the case, or if a political situation is underway.

Which are the possible grounds for denial?

An applicant could be refused a Schengen visa if he/she does not have the correct documents for his/her application or if he/she is considered to be a threat to the security or if he/she has been flagged in the security alert system. Questions about criminal convictions are generally not asked when applying for a Schengen visitor/business visas, and border agent don't ask this either. However, if any officer or form asks the applicant about past criminal record, it must be answered truthfully and if the previous crimes have been petty in nature then the officers will generally not refuse entry/visa on those grounds.

What should I do when crossing the Schengen border?

Upon entry into a Schengen area, the applicant will need to present his/her passport for entry purposes. An immigration official will determine if the applicant qualifies entry into the Schengen area. It must be demonstrated to the immigration officials that the applicant is entitled to the stay or visa he/she was issued. Even if the applicant possesses a valid visa, actual entry may still be denied/refused if he/she is unable to satisfy the border officer's questions and/or requests to see documents.

What can I do after entering the Schengen area?

Once in the Schengen area, the applicant can travel to any member state without having to accomplish any particular procedures. However, in certain circumstances, some countries may require foreign nationals to declare their presence to relevant local authorities even if they arrived from another Schengen member state. In addition, one can also expect random passport checks when crossing borders at any time, as well as when boarding a plane at the airport, therefore the applicant must carry his/her passport at all times. Also, the travel documents may be examined during routine identity checks even while you are within a Schengen country.

Mackie Barham, Ioana Hyde (Chair), Sal Savaterri (Executive Committee Member), Susanne Turner, Tasha Wiesman and Wendy Whitt.

Ioana Hyde

(American Immigration Law Office Ltd., UK)

Update from the USCIS Committee

The RDC-EMEA USCIS/CBP Committee had recent meetings with USCIS, ICE and CBP in London, following on the Fall Conference there. These Q&As are available for your reference under the following AILA Nos.:

1. Meeting with USCIS London, 2 December 2015. Meeting minutes posted on aila.org, AILA Doc. No. 16022205
2. Questions posed to ICE Attache London, January 2016. Responses posted on aila.org, AILA Doc. No. 16022209
3. Questions posed to CBP Attache London February 2016. Responses posted on aila.org, AILA Doc. No. 16022207

The Committee is also hoping to have a discussion with USCIS Frankfurt and some possible practice pointers before the end of the year. Regarding CBP efforts - the Committee has been in discussions with CBP Pre-Clearance and have approval for a meeting in Abu Dhabi in Fall 2016. We will issue a report of that visit, once it concludes.



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What happens in case of overstay?

An applicant will be fined even if he overstays for one day. If the overstay period is significant, then the applicant may be banned from travelling within the Schengen area for a brief period of time. Also, the applicant runs the risk of having his/her name listed in the security alert system within the Schengen Information System shared by all Schengen authorities for overstaying.

What is the SIS – Schengen Information System?

The Schengen Information System (SIS) is an information system that supports external border control and law enforcement cooperation in the Schengen States. It enables authorities to enter and consult alerts on certain categories of wanted or missing persons and objects. An SIS alert not only contains information about a particular person or object but also provides instructions on what to do when the person or object has been found. The main purpose of the SIS is to help preserving internal security in the Schengen States in the absence of internal border checks.

What can I do if I am denied entry because I am “flagged” in the SIS?

The state that entered the alert in the SIS is responsible for its content. An individual has the right to request access to data and make sure that the data entered is accurate. If this is not the case, the individual has the right to request correction or deletion. If an individual believes that his/her personal information has been misused, needs to be corrected or deleted, he/she can request access to and rectification of the data. Guidelines on the national procedures for access requests have been set by each nation Data Protection Authorities.

Extended Work Authorization for Science Graduates in the U.S.

Poorvi Chothani
(LawQuest, Mumbai)

A recent change in the immigration rules will allow certain foreign students studying in the United States to work in the U.S. on their student visa for as long as three years after graduating from qualifying courses at accredited schools. The rule only

Global Entry Expanded to United Kingdom Citizens

US Customs and Border Protection opened the Global Entry program to applications from all UK citizens in December 2015, following initial trial and invitation-only periods. UK citizens travelling on non-immigrant visas or the Visa Waiver Program must first apply through a dedicated UK government website (<https://global-entry.beta.homeoffice.gov.uk/register-to-apply>) for an initial background check; US Legal Permanent Residents are exempt from this initial background check. Applicants may then proceed with applying online through the US Global Online Enrolment System (GOES). Following approval of the GOES application, applicants must schedule and attend an in-person interview at a Global Entry Enrollment Center to complete the application process.

By Katie Fitchett
Fragomen LLP, UK



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applies to students studying science, technology, engineering, and math (STEM).

The post-graduation, work period is called “optional practical training,” or OPT and all students who graduated from a qualifying 12-month program are granted OPT work authorization for 12 months, post graduation. Students on OPT extensions of student visas frequently use this time to find a job in the U.S. and apply for an H1-B visa.

Earlier regulations had extended OPT for STEM students for an additional 17 months, allowing them to gain work experience for a total of 29 months. Though this extended period allowed students to enter the H-1B lottery at least twice in the 29-month period, due to a strict cap on the number of H-1B visas that are issued each year, many foreign students could not continue to work once their OPT had expired as their petition was not selected in the lottery and they were forced to leave the U.S. immediately.

The new regulations announced by the Department of Homeland Security increase the STEM work authorization period to two years. This extra time will allow students to enter the lottery for an H-1B visa for at least a third time, increasing their chances of being allowed to work in the U.S. for longer periods of time.

The rule, requires qualifying students to attend accredited universities in order to get the STEM OPT extension. Those who attend unaccredited schools can only stay in the U.S. for one year. This is an important change as earlier STEM students graduating from unaccredited schools could also avail of extended work authorization on a student visa.

RDC EMEA Spring Conference in Vienna and Member Relations Events

By Kelly Brackley
(B&A Immigration, UK)

The Member Relations Committee is delighted to discuss a couple of our upcoming new members events. One of our major events is going to be held on Wednesday, May 4th in Vienna, Austria. We are planning on hosting a networking breakfast immediately prior to registration of our Spring conference. The



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RDC EMEA Spring Conference also has a two-track agenda, which is specifically geared towards our newer members (see conference details below).

As Chair of the Member Relations Committee (RDC-EMEA NMD) and on behalf of the Spring Conference Committee, I invite our members to join us in Vienna, Austria, from May 3rd-5th, 2016 for a 2.5 day CLE, which incorporates an advanced and basic track. The networking breakfast will run from 7:30am until the conference starts at 8:30am at the conference venue, The Ritz Carlton. We expect that some of our more seasoned members will also be attending, so it is a fantastic opportunity to network with both new and seasoned AILA members.

Further details of the breakfast will be provided in the final conference agenda. We do ask that those that wish to attend, register via Event Brite. An email will be sent once registration is open.

Other proposed RDC EMEA New Members Events include a social networking event at AILA National in Las Vegas (June 22-25th). Further details will be provided shortly. We are also hoping to have a brown bag lunch event with speakers, as well as further educational events in London, where our new members presence is particularly high (outside the US). It is our intention to also organize future events stateside and in countries other than the UK, such as Israel.

Further details of the upcoming conference in Vienna, Austria below. We look forward to seeing as many of our new members there as possible! **Remember to make the early-bird deadline of April 1st.**

Conference Registration: You may register for the conference using the following link: <https://www.eventbrite.co.uk/e/aila-rdc-emea-spring-conference-vienna-austria-may-3-may-5-tickets-19500512558>. We have an exceptional **2.5-day** conference planned with exciting topics and speakers. We have also split the afternoon of Thursday the 5th to incorporate two tracks. There will be a 101 Track for our new members and a 201 Track for our more advanced practitioners. The fee for this **2.5-day** program for RDC members is £330 if you register before the **1st of April** and £380 thereafter. (£380 and £430 respectively for non-RDC members).



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Hotel Reservation: We are pleased to confirm that the venue will be at The Ritz-Carlton. Perhaps no other city celebrates its past quite like Vienna, and traveling back in time is as simple as an afternoon stroll when staying at the Ritz. The famous Stadtpark is adjacent to this luxury hotel on the Ringstrasse, and connects the city centre to the third district with highlights, including the Johann Strauss monument, along the way. With more than 27 castles and 150 palaces, Vienna is an architect's dream, and many of the beautiful buildings host concerts, operas and dance balls. We have arranged for a special rate at The Ritz-Carlton. The hotel rate of €265.00 per room, per night for single occupancy and €290.00 per room, per night for double occupancy, inclusive of VAT, breakfast and WiFi. **This rate is only valid for May 3, May 4 and May 5 ONLY. ALL ROOMS ARE CURRENTLY UNDER THIS RATE ARE BOOKED.** However, you can email **Boryana Georgieva** at rc.vierz.reservations@ritzcarlton.com or call her at 0043 131188113 and check if she is able to accommodate you for our negotiate RDC-EMEA rate.

Cocktail Reception (optional, pre-booked - RSVP by April 15): We will be having a cocktail reception (optional, pre-booked) in the "Atmosphere Rooftop and Bar" at the Ritz-Carlton at **6 pm on Tuesday, May 3rd**. The cocktail reception will be held on the 8th floor of Ritz-Carlton and offers a spectacular view of the city. The cocktail reception will allow delegates to chat and network over cocktails and canapes before the conference officially begins. However, you are requested to please register for the cocktail reception, if you choose to attend, so that we can get an accurate head count. If you wish to bring a guest to the cocktail reception, the price per guest is £50.

Classic Vienna Walking Tour (optional, pre-booked - RSVP by April 15): Activities will commence on Tuesday, May 3rd, a day before the conference proper. We have planned for a Classic Vienna Walking tour (optional, pre-booked) to start from the Ritz-Carlton at **8:30 am on Tuesday, May 3rd**. The tour will last four hours and includes a coffee break (you will need to purchase your own coffee and cake) which will start at the Ritz and end at the Ritz. The tour will cover the following places: St. Augustin Church, Hofburgkapelle, the Imperial treasury, Kohlmark, St. Peters church and the majestic Saint Stephen's Cathedral. The price for this walking tour is £24 and includes gratuity.

Dinner at Zum Schwarzen Kameel (optional, pre-booked - RSVP by April 15): Following the CLE program on Wednesday evening the 4th of May, we will be having a RDC-EMEA dinner



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(optional, pre-booked) for members and their guests at Zum Schwarzen Kameel restaurant. The menu will offer a 3 course traditional Viennese Meal with wine for each course. We have also secured transportation to and from the Ritz for our dinner. A vegetarian option will also be provided for those individuals who have requested one ahead of time. The cost for the dinner is £85 and is being partly funded by the RDC-EMEA Executive committee (from non dues) because they are aware of the higher prices in Vienna.

Concert and Tour Schoenbrunn Palace (optional, pre-booked RSVP by April 1): To conclude the conference, we have arranged to attend a Concert and tour at Schoenbrunn Palace (optional, pre-booked) on Thursday, May 5th. You have two options for this event. **OPTION ONE** (tour and concert) - You will be picked up at the Ritz at 6:30 pm and be taken to the Schoenbrunn Palace for your guided tour. After the tour, you will be able to enter the concert hall at 8:00 pm and the concert will start at 8:30 pm. We have reserved Category A seating. At the end of the concert, you will be provided transportation back to the Ritz. Please note that in this option, you will have to grab a quick bite to eat in-between the end of the tour and before the beginning of the concert. There are multiple restaurants at the concert hall for you to get something to eat. The price for the tour and concert is £85. **OPTION TWO** (concert only) - you will have to arrive on your own to the concert hall by 8 pm. You will be provided your Category A seating tickets. At the end of the concert, you will be provided transportation back to the Ritz. The cost for the concert only is £60.

New Member's Networking Breakfast: RDC-EMEA's New Member's Division will be hosting a Networking Breakfast on **Wednesday, May 4th at 7:30 am** at the Conference Venue. If you are interested, please register using the above link. For any questions, please contact **Kelly Brackley** at kelly.brackley@baimmigrationlaw.com

US Embassy Tour in Bratislava, Slovakia: I am delighted to confirm that on **Friday, May 6th** we will have tour of the US Embassy in Bratislava at **3 pm**. Unfortunately, we will only be able to accommodate the **first 20 people** that register for the tour. Please register using the link above. If you need further information regarding this tour or if you are interested, please contact **Cory Caouette** at ccaouette@bsis.com.



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Notes from the US Consulate Meeting March 21, 2016

By Poorvi Chothani
(LawQuest, Mumbai)

On March 21, 2016 the Indo American Chamber of Commerce in conjunction with the American Consulate of Mumbai (the Mumbai Consulate) arranged a seminar on consular processes for non-immigrant visas. About 70 individuals representing the travel industry, Indian businesses and education consultants among others attended this event that was hosted by the Consulate in its seminar room. Three officers namely Michael Evans, (Consular Chief), Daniel Fenech (Deputy ACS/CIU Chief) and Cheryl Collins (Vice Consul) were present at the event and Consular Officer Daniel Fenech made the formal presentation. Some of the points he shared are listed below:

- A total of more than 1 million visas were processed by Mission India in the last year of which about 360,000 were processed by the Mumbai Consulate
- 110,000 H-1 B visas were issued in India of which the Mumbai Consulate issued 26,000
- About 70% of the worldwide H-1Bs are issued in India
- About 30% of the worldwide L visas are issued in India
- People traveling in large groups may request group appointments for visa interviews and same day biometrics appointments
- All other applicants should generally expect to provide their biometrics one to three days prior to the date of the visa interview. In any event the biometrics should not be older than 15 days on the date of the interview.
- Qualifying individuals who wish to reapply for a B-1/B-2 visa within 48 months of their last B-1/B-2 visa may qualify for an interview waiver provided their last visa was issued post 2008.
- An interview waiver is also available for certain other categories including H and L categories provided the request for the new visa is in the same category of the last issued visa and the request is made within 12 months of the expiration of the last visa provided it was issued post 2008.
- When they interview L-1B applicants officer need to be convinced that the specialized knowledge is beyond basic knowledge. Knowledge of proprietary products, processes, etc. alone does not qualify one for an L-1B visa. L-1B



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workers must show that they are professional, i.e. they have at least a bachelor's degree.

- Please note that the Mumbai Consulate does not process blanket L applications.
- Requests for emergency visa interviews are only granted when there is a very urgent business need or if there is a life and death medical situation or if it involves the death of a relative or similar. Emergency appointments are not granted to students who would like to travel to the U.S. at short notice to evaluate universities prior to accepting admission in any of them.

New Visa Waiver Program Restrictions based on Dual Nationality and Past Travel

By Katie Fitchett

(Fragomen LLP, UK)

The 2016 appropriations regulations introduced revisions to the Visa Waiver Program (VWP) that prohibit citizens of VWP countries from traveling visa-free to the US if they either hold dual nationality with or have travelled to certain “countries of concern,” unless they qualify for an exemption or waiver. When the restrictions were first implemented in January, the “countries of concern” included Iran, Iraq, Syria and Sudan. The list of “countries of concern” was expanded in February to include Libya, Somalia, and Yemen, but only in regards to past travel to these countries.

Currently, citizens of VWP countries who are dual nationals of Iran, Iraq, Syria or Sudan, or who have travelled to Iran, Iraq, Syria, Sudan, Libya, Somalia, or Yemen since March 1, 2011, are no longer eligible to travel to the US visa-free unless exempt or eligible for a waiver. The Electronic System for Travel Authorization (ESTA) application has been updated to add questions regarding dual nationality and travel to Iran, Iraq, Syria, and Sudan. A question regarding travel to Libya, Somalia, or Yemen is expected to be added soon. Further, there have been reports of individuals who have previously disclosed dual nationality with Iran, Iraq, Syria, or Sudan receiving email notification from the ESTA system that their ESTA approval has been revoked.



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Exemptions apply to individuals who travelled to these countries as part of diplomatic or military service on behalf of a VWP country. Customs and Border Protection (CBP) has not yet implemented a formal process for the exemption, but has advised travellers to carry evidence for review during the admissions process.

CBP advises that waivers will be assessed on a case-by-case basis as part of the ESTA application process. There is not a separate waiver application process. Individuals eligible for a waiver may include, but not necessarily limited to: individuals who travelled to the “countries of concern” as part of an international or government organization, journalists, or individuals that travelled to Iran or Iraq for certain business purposes. There is no waiver available for dual nationals of Iran, Iraq, Syria, or Sudan. Further, individuals no longer eligible to travel visa-free based on past travel to Libya, Somalia, or Yemen cannot be assessed for a waiver until the question regarding travel to these countries is added to the ESTA application.

Individuals who are no longer eligible to travel visa-free on the VWP will need to apply for the appropriate visa before travel. CBP advises that the Department of State has additional resources to handle an increased volume of B-1/B-2 visa applications. Recent feedback on B-1/B-2 applications based on these new travel restrictions suggests that such applications may be, but are not automatically, subject to additional administrative processing. The CBP FAQs, which continue to be updated, on the new VWP restrictions can be found here: <https://www.cbp.gov/travel/international-visitors/visa-waiver-program/visa-waiver-program-improvement-and-terrorist-travel-prevention-act-faq>.

Disclaimer:

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