

Mobility: Immigration alert

March 2023

United States

March 2023 COVID-related updates

Executive summary

On 23 March 2023, U.S. Citizenship and Immigration Services (USCIS) announced the end of the COVID-19 flexibilities for responding to requests, notices, and decisions issued in connection with certain immigration benefits and programs.

Under this announcement, for requests, notices, and decisions issued after 23 March, USCIS will consider a response as timely received by the deadline listed in the notice or request. For requests, notices, and decisions issued in connection with certain immigration benefits and programs that were issued on or before 23 March, USCIS will consider a response as timely received if the following conditions are met:

- ▶ The request or notice was issued by USCIS between 1 March 2020 and 23 March 2023 (inclusive); and
- ▶ The response was received by USCIS within 60 calendar days after the due date set forth in the request or notice.

Also, on 10 March 2023, the Centers for Disease Control and Prevention (CDC) announced termination of the following Order: "Requirements for Negative Pre-Departure COVID-19 Test Result or Documentation of Recovery from COVID-19 for Aircraft Passengers Traveling to the United States from the People's Republic of China."

U.S. Customs and Border Protection announced this termination via its Carrier Liaison Program, which provides guidance and training to international airlines on U.S. entry requirements, on 14 March 2023, confirming that the

requirements no longer apply to travellers coming from People's Republic of China, Hong Kong, and Macau.

Background and analysis

Since 27 March 2020, USCIS has allowed additional time for petitioners and applicants to respond to certain requests and notices from the agency. The policy was meant to account for barriers to obtaining information and documentation caused by the COVID-19 pandemic, and it has been extended periodically since its inception. The last announcement, made on 24 January 2023, extended that flexibility until 23 March 2023 and indicated that the agency expected this to be the final extension, which has now been confirmed.

In the news affecting travelers from China mentioned above, the CDC Order had only been in effect since 5 January 2023, and was issued in response to concerns that COVID-19 cases were surging in that country. Based on current available epidemiologic data through global datasets and modeling results, the CDC concluded that this surge has returned to a baseline level.

The CDC therefore rescinded the Order effective 10 March 2023.

What this means

Petitioners, applicants, and representatives who are responding to one of the following requests, notices, or decisions issued by USCIS on or before 23 March 2023, may continue to take advantage of the COVID-19 flexibilities that have been in place since 2020:



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- ▶ Requests for Evidence;
- ▶ Continuations to Request Evidence (N-14);
- ▶ Notices of Intent to Deny;
- ▶ Notices of Intent to Revoke;
- ▶ Notices of Intent to Rescind;
- ▶ Notices of Intent to Terminate regional centers;
- ▶ Notices of Intent to Withdraw Temporary Protected Status; and
- ▶ Motions to Reopen an N-400 Pursuant to 8 CFR 335.5, Receipt of Derogatory Information After Grant.

Responses to requests, notices, or decisions issued after 23 March must be received by the deadline listed in the notice or request. This loss of the additional 60 days to prepare a successful response makes it all the more critical for a case to be properly strategized from the outset, with all required evidence and information provided to USCIS in the initial filing for an immigration benefit to clearly demonstrate eligibility.

As of 10 March 2023, air passengers are no longer required to be tested and show the negative COVID-19 test result (or evidence of recovery from COVID-19) prior to boarding a flight to the U.S. from the People's Republic of China, Hong Kong, and Macau, or through the following designated airports: Incheon International Airport in Seoul, Republic of Korea; Toronto Pearson International Airport in Canada; and Vancouver International Airport in Canada. The CDC continues to recommend all travelers remain up to date with vaccination against COVID-19 and test both before and after travel.

We will continue to monitor and review future developments. For additional information, or if you wish to discuss this further, please contact your EY Law LLP professional.

George Reis, Managing Partner
+1 416 943 2535
george.reis@ca.ey.com

Batia Stein, Partner
+1 416 943 3593
batia.j.stein@ca.ey.com

Roxanne Israel, Partner
+1 403 206 5086
roxanne.n.israel@ca.ey.com

Marwah Serag, Partner
+1 416 943 2944
marwah.serag@ca.ey.com

Authored by:
Dharam Dhami, Manager
+1 604 891 8352
dharam.dhami@ca.ey.com

Alex Israel, Partner
+1 416 943 2698
alex.d.israel@ca.ey.com

Christopher Gordon, Partner
+1 416 943 2544
christopher.d.gordon@ca.ey.com

Nadia Allibhai, Partner
+1 613 598 4866
nadia.allibhai@ca.ey.com

Jonathan Leebosh, Partner
+1 604 899 3560
jonathan.e.leebosh@ca.ey.com

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EYG no. 002891-23GbI

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