



## EXCEPTIONS TO RESTRICTIONS - Using the Visa Waiver Program (VWP)

02.05.2016

In our last post, we discussed the *Visa Waiver Program Improvement and Terrorist Prevention Act of 2015* (the “Act”). It prevents a citizen of one of 38 VWP countries (Australia, Italy, Japan, Switzerland, etc.) who is also a national of or who has traveled to Iran, Iraq, Sudan or Syria any time after March 1, 2011 from using the VWP to visit the USA without a visa. However, as with every rule, **there is an exception or two.**

The Act does permit the Department of Homeland Security (DHS) to grant a waiver to these new restrictions on a case-by-case basis under certain circumstances. Factors that the DHS will consider are: the law enforcement and national security interests of the U.S., the purpose of the travel, the timing of the travel and the country traveled to.

Citizens of a VWP country who are also (a) members of the military in a VWP country or (b) full-time employees of the federal government of a VWP country who have traveled to Iran, Iraq, Sudan or Syria on an official order are also excepted from the new VWP restrictions, and thus, may still use the VWP to enter the U.S. without a visa. **Customs and Border Protection (CBP) has just published a useful set of FAQ [HERE](#) discussing these exceptions and other VWP topics.** As of this writing, we do not know if it will be faster to apply for a waiver or to apply instead for a B1/B2 visa. Stay tuned for further developments.

For a complete list of the VWP countries, [CLICK HERE](#). For questions about these VWP changes, exceptions and waivers, you may wish to email me at [habouhasira@williamsmullen.com](mailto:habouhasira@williamsmullen.com) or Eliot Norman at [enorman@williamsmullen.com](mailto:enorman@williamsmullen.com).

### Related People

- Hadeel Abouhasira – 804.420.6452 – [habouhasira@williamsmullen.com](mailto:habouhasira@williamsmullen.com)

### Related Services

- Foreign Direct Investment (FDI)
- Immigration
- International