



Blaneys on Immigration

EDITOR:

Henry J. Chang
416.597.4883
hchang@blaney.com

This newsletter is designed to highlight new issues of importance in immigration related law. We hope you will find it interesting, and welcome your comments.

Feel free to contact any of the lawyers who wrote or are quoted in these articles for more information, or call the head of our Immigration Law Group, Ian Epstein at 416.593.3915 or iepstein@blaney.com.

“[T]he Canada-United States Perimeter Security and Economic Competitiveness Action Plan ... requires Canada and the United States to establish a common approach to screening visa-exempt foreign nationals, in order to identify threats before they arrive in the North American perimeter.”

CANADIAN ELECTRONIC TRAVEL AUTHORIZATION (eTA) REGULATIONS EFFECTIVE AS OF AUGUST 1, 2015

Henry J. Chang

On January 12, 2014, I [previously reported](#) that Citizenship and Immigration Canada ("CIC") had published a [Notice of Intent](#) in the *Canada Gazette*. This Notice of Intent indicated CIC's intention to introduce an Electronic Travel Authorization ("eTA") Program in Canada.

The eTA program is a result of the *Canada-United States Perimeter Security and Economic Competitiveness Action Plan* (the "Action Plan"). The Action Plan requires Canada and the United States to establish a common approach to screening visa-exempt foreign nationals, in order to identify threats before they arrive in the North American perimeter. The eTA Program will be similar to the Electronic System for Travel Authorization ("ESTA") Program, which currently applies to foreign nationals who enter the United States under the Visa Waiver Program.

On April 1, 2015, CIC [published regulations](#) (the "eTA Regulations") in the *Canada Gazette*. These eTA Regulations will come into force at 12:00 p.m. Eastern time, on August 1, 2015.

At that time, the online application will be available and eTA processing will begin. However, in order to

minimize impacts on the travelling public, travelers will be exempted from the eTA requirement until March 15, 2016. In other words, CIC will begin accepting online eTA applications on August 1, 2015, but travelers will not actually be barred from entering Canada until March 15, 2016.

The normal procedure to apply for an eTA will be through the online application form. However, persons with physical or mental disabilities will be allowed to submit an application by another means that is made available for that purpose, such as a paper application form.

As the eTA Program is only intended to apply to visa-exempt applicants, a foreign national who holds a temporary resident visa is not required to also obtain an eTA. Further, in order to reduce the duplication of information to be provided by visa-exempt foreign nationals, the eTA Regulations consider a visa-exempt foreign national's application for a work permit or a study permit to constitute an application for an eTA. As a result, visa-exempt applicants who apply for a work permit or study permit will not need to obtain an eTA.

Applicants will pay a \$7.00 CAD processing fee electronically in connection with their online eTA application. In circumstances where another application process is used, the fee will be paid when they submit their application. Visa-exempt foreign

“An eTA will be valid for five years from the day on which it is issued or until the applicant’s passport or travel document expires, whichever comes first.”



Henry J. Chang is a partner in the firm’s Immigration Law group. He is admitted to the practice of law in the Province of Ontario and the State of California. Henry is also an Executive Member of the Canadian Bar Association National Citizenship & Immigration Law Section. A recognized authority in the field of United States and Canadian immigration law, he lectures extensively on the subject in both the United States and Canada.

Henry may be reached directly at 416.597.4883 or hchang@blaney.com.

nationals who are applying for a work permit or study permit will be exempted from this fee.

An eTA will be valid for five years from the day on which it is issued or until the applicant’s passport or travel document expires, whichever comes first. The eTA Regulations also provide an officer with the ability to cancel an eTA that was issued to a foreign national if the officer determines that the foreign national is inadmissible or if the foreign national became subject to a declaration made by the Minister under the *Immigration and Refugee Protection Act*.

According to the new **R7.1(3)**, the following individuals will be exempt from the requirement to obtain an eTA before applying for admission to Canada:

- Her Majesty in right of Canada and any member of the Royal Family
- A national of the United States;
- A foreign national referred to in **R190(2)(a)** [*a foreign national who holds a passport that contains a diplomatic acceptance, a consular acceptance or an official acceptance issued by the Chief of Protocol for the Department of Foreign Affairs and International Trade on behalf of the Government of Canada and are a properly accredited diplomat, consular officer, representative or official of a country other than Canada, of the United Nations or any of its agencies, or of any international organization of which Canada is a member*];
- A foreign national seeking to enter and remain in Canada solely: (i) as a member of a crew of a means of transportation that may be used for transportation by air or to become a member of such a crew, or (ii) to transit through Canada after working, or to work, as a member of a crew of a means of transportation that may be used for transportation by air, if they possess a

ticket for departure from Canada within 24 hours after their arrival in Canada;

- A citizen of France who is a resident of St. Pierre and Miquelon who seeks to enter Canada directly from St. Pierre and Miquelon; and
- A foreign national referred to in **R190(3)(b)** [*a foreign national who seeks to transit through Canada as a passenger on a flight stopping in Canada for the sole purpose of refuelling and: (i) they are in possession of the documents required in order to enter the United States and their flight is bound for that country, or (ii) they were lawfully admitted to the United States and their flight originated in that country*], **R190(3)(b.1)** [*a foreign national who seeks to transit through Canada as a passenger on a flight that, owing to an emergency or other unforeseen circumstances, makes an unscheduled stop in Canada*], **R190(3)(c)** [*a foreign national who seeks to transit through Canada as a passenger on a flight if the foreign national: (i) is transported by a commercial transporter and there is a memorandum of understanding in effect between the Minister and the commercial transporter concerning the transit of passengers through Canada without a Canadian visa, (ii) holds a passport or travel document that was issued by the country of which the foreign national is a citizen or national and that country is listed in the memorandum of understanding, and (iii) is in possession of any visa required to enter the country of destination*], **R190(3)(d)** [*a foreign national who seeks to carry out official duties as a member of the armed forces of a country that is a designated state for the purposes of the Visiting Forces Act, unless they have been designated under that Act as a civilian component of those armed forces*], **R190(3)(f)** [*a foreign national who seeks to re-enter Canada following a visit solely to the United States or St. Pierre and Miquelon, if they: (i) held a study permit or a work permit that was issued before they left Canada on such a visit or were authorized to enter and remain in Canada as a temporary resident, and; (ii) return to Canada by the end of the period initially authorized for their stay or*

BLANEYS ON IMMIGRATION

“A new eTA exemption has been added for foreign nationals transiting through Canada under Government of Canada transit programs...”

any extension to it], **R190(3)(g)** [a foreign national who seeks to conduct inspections of the flight operation procedures or cabin safety of a commercial air carrier operating international flights, if they are a civil aviation inspector of a national aeronautical authority and possess valid documentation to that effect], or **190(3)(h)** [a foreign national who seeks to participate as an accredited representative or as an adviser to an aviation accident or incident investigation conducted under the Canadian Transportation Accident Investigation and Safety Board Act, if they possess valid documentation to that effect].

This final list of eTA exemptions differs from the proposed list initially contained in the Notice of Intent as follows:

- A new temporary resident visa exemption [**R190(3)(b.1)**] and corresponding eTA exemption has been added for foreign nationals who arrive on-board flights that stop in Canada unexpectedly owing to an emergency or other unforeseen circumstances.
- A new eTA exemption has been added for foreign nationals transiting through Canada under Government of Canada transit programs (i.e. the Transit Without Visa Program and the China Transit Program) and who are currently visa-exempt under **R190(3)(c)**.

In response to stakeholder requests to leverage the eTA to liberalize visa requirements, the eTA Regulations also eliminate the requirement that nationals from Lithuania or Poland obtain a temporary resident visa if they do not hold a machine-readable passport that contains a contactless integrated circuit chip. As a result, Lithuania and Poland have now been added to the list of visa-exempt countries that appear in **R190(1)(a)**; they will instead be subject to eTA requirements.

The eTA Regulations also eliminate **R190(3)(e)**, which provided a visa-exemption to foreign nationals seeking to enter Canada from the United States for a U.S. immigrant visa interview, if they could establish that they would be re-admitted to the United States. ■

BLANEYS BLOGS

Blaney McMurtry LLP

Be sure to follow our regularly updated blogs, published by the Firm and individual lawyers, covering a variety of topics:

Henry J. Chang's Canada-US Immigration Blog covers recent decisions, legislative changes and news related to Canada and US immigration. [www.americanlaw.com/immigrationblog/]

Blaneys Ontario Court of Appeal Summaries (Blaneys OCA Blog) offers weekly summaries of all decisions released by the Court of Appeal for Ontario (other than criminal law decisions). [blaneyscourtsummaries.com]

Blaneys@Work examines recent events and decisions in the world of labour and employment law. [blaneysatwork.com]

Blaneys Fidelity Blog provides updates on recent developments in fidelity insurance in Canada and the United States, and covers other topics of interest to fidelity insurers. [blaneysfidelityblog.com]

Blaneys on Target provides general information to creditors and other persons interested in the Target insolvency and its CCAA proceedings. [blaneystargetccaa.com/updates/] ■

BLANEYS PODCAST

Blaney McMurtry LLP

Blaneys Podcasts are available for download at www.blaney.com/podcast. Topics to date include Powers of Attorney, Canada's Anti-Spam Legislation, Termination of Employment, Workplace Harassment, Family Law and Succession Planning. In the newest podcast, Lou Brzezinski answers questions about the firm's involvement in the Target insolvency proceeding on behalf of unsecured creditors.

New podcasts continue to be posted so check back regularly for the latest topic. Podcasts are also available for download on [iTunes](#). ■

EXPECT THE BEST

**Blaney
McMurtry**
BARRISTERS & SOLICITORS LLP

2 Queen St. East, Suite 1500
Toronto, Canada M5C 3G5
416.593.1221 TEL
416.593.5437 FAX
www.blaney.com

Blaneys on Immigration is a publication of the Immigration Law Group of Blaney McMurtry LLP. The information contained in this newsletter is intended to provide information and comment, in a general fashion, about recent cases and related practice points of interest. The view and comments contained in this newsletter are those of the author alone and do not necessarily reflect the views of Blaney McMurtry LLP or other members of the firm. The information and views expressed are not intended to provide legal advice. For specific legal advice, please contact us.

We welcome your comments. Address changes, mailing instructions or requests for additional copies should be directed to Kelly MacNeil at 416 593.7221 ext. 3600 or by email to kmacneil@blaney.com. Legal questions should be addressed to the specified author.