

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

## DEPARTMENT OF HOMELAND SECURITY

### 8 CFR Part 217

#### Hungary Electronic System for Travel Authorization Validity Period

**AGENCY:** Office of Strategy, Policy, and Plans; DHS.

**ACTION:** Announcement of ESTA validity period.

**SUMMARY:** This document announces that the U.S. Department of Homeland Security (DHS) is reducing Hungary's Electronic System for Travel Authorization (ESTA) travel authorization validity period for travel by citizens or nationals of Hungary under the Visa Waiver Program (VWP) to the United States from two years from the date of issuance to one year and also limiting the validity of an ESTA for citizens or nationals of Hungary to a single use for ESTA applications received after the date of publication of this document. DHS is making these changes based on the Government of Hungary's inability to satisfy a number of VWP requirements.

**DATES:** This announcement is effective on August 1, 2023.

**FOR FURTHER INFORMATION CONTACT:** Anjum Agarwala, Visa Waiver Program Office, Office of Strategy, Policy, and Plans, Department of Homeland Security, 2707 Martin Luther King Jr Ave. SE, Washington, DC 20528.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

###### A. The Visa Waiver Program

Pursuant to section 217 of the Immigration and Nationality Act (INA), 8 U.S.C. 1187, the Secretary of Homeland Security (the Secretary),<sup>1</sup> in

<sup>1</sup> The Secretary of Homeland Security has delegated this authority to the Under Secretary for Strategy, Policy, and Plans pursuant to DHS Delegation 23000, Delegation to the Under Secretary for Strategy, Policy, and Plans, Sec. I.L.4.

consultation with the Secretary of State, may designate certain countries for participation in the Visa Waiver Program (VWP) if certain requirements are met. Those requirements include, among others:

- (1) a rate of nonimmigrant visitor visa refusals for citizens or nationals of the country below the statutorily established threshold;
- (2) certification by the government seeking designation for VWP participation that it issues machine-readable passports that comply with internationally accepted standards;
- (3) a determination by the Secretary, in consultation with the Secretary of State, that the country's designation would not negatively affect U.S. law enforcement and security interests;
- (4) an agreement to report, or make available through INTERPOL or other designated means authorized by the Secretary, information about the theft or loss of passports to the U.S. government within the designated timeframe;
- (5) the country's government's acceptance for repatriation of any citizen, former citizen, or national not later than three weeks after the issuance of a final order of removal; and
- (6) an agreement with the United States to share information regarding whether citizens and nationals of the country traveling to the United States represent a threat to the security or welfare of the United States or its citizens.

See INA section 217(c)(2)(A)–(F), 8 U.S.C. 1187(c)(2)(A)–(F).

The INA also sets forth requirements for countries' continued VWP eligibility and, where appropriate, probation, suspension, or termination of program countries. See INA section 217(c)–(f), 8 U.S.C. 1187(c)–(f).

Citizens and nationals of VWP countries may apply for admission to the United States at U.S. ports of entry as nonimmigrant visitors for business or pleasure for a period of ninety days or less without first obtaining a nonimmigrant visa, provided they are otherwise eligible for admission under applicable statutory and regulatory requirements. To travel to the United States under the VWP, a noncitizen must, without limitation:

- (1) be seeking entry as a visitor for business or pleasure for ninety days or less;
- (2) be a citizen or national of a VWP country;
- (3) present a valid unexpired electronic and machine-readable passport that meets program requirements and is issued by a designated VWP country to the air or vessel carrier before departure;

- (4) execute the required immigration forms;
- (5) if arriving at a port of entry into the U.S. by air or sea, arrive on an authorized carrier;
- (6) not represent a threat to the welfare, health, safety or security of the United States;
- (7) not have failed to comply with the conditions of any previous admission as a nonimmigrant visitor;
- (8) possess a round-trip transportation ticket;
- (9) obtain an approved travel authorization via Electronic System for Travel Authorization (ESTA);
- (10) waive the right to review or appeal a decision regarding admissibility at the port of entry or to contest, other than on the basis of an application for asylum, any action for removal; and
- (11) meet other program requirements.

See INA section 217(a)–(b); 8 U.S.C. 1187(a)–(b). See also 8 CFR part 217.

Hungary was designated for participation in the VWP on November 17, 2008. See 73 FR 67711.

##### B. ESTA Validity Period

Typically, pursuant to DHS regulations, a travel authorization issued under ESTA is valid for a period of two years from the date of issuance. See 8 CFR 217.5(d)(1). However, the Secretary, in consultation with the Secretary of State, may decrease the ESTA travel authorization validity period for a designated VWP country. See 8 CFR 217.5(d)(3).<sup>2</sup> DHS publishes notice of any changes to ESTA travel authorization validity periods in the **Federal Register**. See 8 CFR 217.5(d)(3).

##### II. Reduction of Hungary's ESTA Validity Period

DHS conducts the statutorily required review of each VWP country at least once every two years to evaluate the effects that continuing the country's designation in the program will have on U.S. national security, law enforcement, and immigration enforcement interests. See INA section 217(c)(5)(A), 8 U.S.C. 1187(c)(5)(A).

In April 2017, DHS learned that individuals had fraudulently procured legitimate Hungarian passports by falsely assuming the identities of citizens who naturalized through a "simplified process." This simplified naturalization process, created in 2011, extends citizenship to ethnic Hungarians living outside Hungary and waives the standard naturalization

<sup>2</sup> As noted above, this authority is delegated to the Under Secretary for Strategy, Policy, and Plans.

requirement for an applicant to be a Hungarian resident for five years. This simplified process also eliminated identity management protocols that are conditions of the Government of Hungary's standard naturalization procedure, including the collection of fingerprints and a facial image of the applicant. Without complete biometric data, including an image of the recently-naturalized citizen from the simplified naturalization process, the Government of Hungary's passport application process became susceptible to imposter fraud. Additionally, the Government of Hungary identified corrupt officials who sold Hungarian passports.

In October 2017, the Secretary notified the Government of Hungary by letter that it had been placed on provisional VWP status (pursuant to which Hungary is subject to an annual assessment, rather than an assessment every two years) due to its noncooperation with earlier U.S. Government requests for information and collaboration in the investigation of passport fraud. The letter outlined steps necessary for Hungary to return to normalized status as a participating country in the VWP.

Despite engagement by U.S. ambassadors and DHS up to the Secretary level since 2017, the Government of Hungary has made only limited progress in addressing vulnerabilities created by its "simplified" naturalization process. Its failure to address the large volume of identities that continue to be at risk of being exploited for *mala fide* purposes and its lack of investigative cooperation with U.S. law enforcement presents an elevated level of risk to the national security, law enforcement, and immigration enforcement interests of the United States.

DHS is publishing this document announcing that effective August 1, 2023, DHS is decreasing Hungary's ESTA validity period for travel to the United States from two years from the date of issuance to one year and limiting the validity of an ESTA for citizens or nationals of Hungary to a single use for ESTA applications received after the effective date of this document. This will have the dual effect of (1) sending a public signal regarding Hungary's non-compliance with VWP requirements, and (2) in the case of those with regular travel to the United States, creating an opportunity to obtain updated application and travel history information of Hungarian VWP travelers for vetting purposes. This is necessary due to Hungary's inability to fully satisfy its obligations under the VWP. Should Hungary's non-compliance with

VWP requirements continue, DHS, in consultation with State, may make further adjustments to Hungary's VWP designation at any time, including suspension or termination from the program.

**Robert Silvers,**

*Under Secretary for Strategy, Policy, and Plans Department of Homeland Security.*

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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 201

[Docket No. R-1811; RIN 7100 AG62]

#### Regulation A: Extensions of Credit by Federal Reserve Banks

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Final rule.

**SUMMARY:** The Board of Governors of the Federal Reserve System ("Board") has adopted final amendments to its Regulation A to reflect the Board's approval of an increase in the rate for primary credit at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically increased by formula as a result of the Board's primary credit rate action.

**DATES:** *Effective date:* This rule is effective August 2, 2023.

*Applicability date:* The rate changes for primary and secondary credit were applicable on July 27, 2023.

**FOR FURTHER INFORMATION CONTACT:** M. Benjamin Snodgrass, Senior Counsel (202-263-4877), Legal Division, or Kristen Payne, Lead Financial Institution & Policy Analyst (202-452-2872), Division of Monetary Affairs; for users of telephone systems via text telephone (TTY) or any TTY-based Telecommunications Relay Services, please call 711 from any telephone, anywhere in the United States; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:** The Federal Reserve Banks make primary and secondary credit available to depository institutions as a backup source of funding on a short-term basis, usually overnight. The primary and secondary credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. In accordance with the Federal Reserve Act, the primary and secondary credit rates are established by the boards of directors of

the Federal Reserve Banks, subject to review and determination of the Board.

On July 26, 2023, the Board voted to approve a 0.25 percentage point increase in the primary credit rate, thereby increasing the primary credit rate from 5.25 percent to 5.5 percent. In addition, the Board had previously approved the renewal of the secondary credit rate formula, the primary credit rate plus 50 basis points. Under the formula, the secondary credit rate increased by 0.25 percentage points as a result of the Board's primary credit rate action, thereby increasing the secondary credit rate from 5.75 percent to 6.0 percent. The amendments to Regulation A reflect these rate changes.

The 0.25 percentage point increase in the primary credit rate was associated with 0.25 percentage point increase in the target range for the Federal funds rate (from a target range of 5 percent to 5¼ percent to a target range of 5¼ percent to 5½ percent) announced by the Federal Open Market Committee on July 26, 2023, as described in the Board's amendment of its Regulation D published elsewhere in this issue of the **Federal Register**.

#### Administrative Procedure Act

In general, the Administrative Procedure Act ("APA")<sup>1</sup> imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to Congressionally-delegated authority): (1) publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule's content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be "unnecessary, impracticable, or contrary to the public interest."<sup>2</sup> Section 553(d) of the APA also provides that publication at least 30 days prior to a rule's effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) a rule for which the agency finds good cause for shortened notice and publishes its reasoning with the rule.<sup>3</sup> The APA further provides that the notice, public comment, and delayed effective date requirements of 5 U.S.C. 553 do not apply "to the extent that there is involved . . . a matter relating to agency management or personnel or to public

<sup>1</sup> 5 U.S.C. 551 *et seq.*

<sup>2</sup> 5 U.S.C. 553(b)(3)(A).

<sup>3</sup> 5 U.S.C. 553(d).