



Dear Ambassador Susaia:

We are writing to provide documentation of important information about the immigration status in the United States of citizens of the Federated States of Micronesia (FSM). The purpose of this letter, and the appended fact sheet, is to ensure eligible FSM citizens and relevant U.S. government agencies and officials at the federal, state, and local levels have appropriate information about the special immigration privileges enjoyed by citizens of the FSM.

In 1986, President Reagan signed Presidential Proclamation 5564, announcing the entry into force of the Compact of Free Association between the United States and the FSM. This international agreement was incorporated into U.S. law by Public Law 99-239, which, after subsequent amendments to the Compact, was superseded by Public Law 108-188.

Under the Compact, eligible FSM citizens enjoy special immigration privileges. They may work, study, and reside in the United States in nonimmigrant status without a U.S. visa. Eligible FSM citizens may remain in the United States indefinitely.

Citizens of the FSM arriving in the United States are required to possess appropriate travel documentation, and are given passport stamps at the U.S. port of entry. These stamps do not indicate an end date, as FSM citizens are currently granted an unlimited length of stay. For citizens of the FSM admitted under the Compact, U.S. Customs and Border Protection issues the Form I-94, but this is now an automated process rather than a paper form provided at the port of entry (a copy of the Form I-94 can be accessed online). Citizens of the FSM working in the United States must obtain a Social Security number and, therefore, should possess and be able to produce a Social Security card. Citizens of the FSM admitted under the Compact may present a valid passport and Form I-94 as evidence of identity and work authorization for employment eligibility verification purposes (the Form I-9), or other acceptable Form I-9 documentation if available (a full list of acceptable documentation is available online). Additionally, citizens of the FSM admitted under the Compact are not required to obtain a Form I-20 should they choose to enroll in a U.S. institution of higher education.

As lawful nonimmigrants, FSM citizens admitted under the Compact are eligible (if otherwise qualified under state law) to be issued state drivers' licenses compliant with the REAL ID Act of 2005. The Department of Homeland Security (DHS) has provided guidance to state motor vehicle authorities advising them that an FSM citizen presenting a U.S. Citizenship and Immigration Services Employment Authorization Document (EAD) may be issued a REAL ID-compliant driver's license valid until the expiration date of the EAD, rather than limiting the validity period of the driver's license to one year for nonimmigrants with no defined end of authorized stay.

Please do not hesitate to contact DHS or the U.S. Department of State with further questions.

Sincerely,



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Enclosure: Department of Homeland Security Factsheet



# Fact Sheet

July 23, 2018

## **Status of Citizens of the Freely Associated States of the Federated States of Micronesia and the Republic of the Marshall Islands**

### **Background**

The Compact of Free Association (COFA) Act of 1985 (Public Law 99-239) approved a joint resolution between the United States, the Republic of the Marshall Islands (RMI) and the Federated States of Micronesia (FSM) which terminated U.S. trusteeship over the former Trust Territory of the Pacific Islands (TTPI). The resolution also established the FSM and the RMI as independent nations, and established a special relationship between the United States and these nations. The COFA between the United States and the RMI took effect on Oct. 21, 1986, and the COFA between the United States and the FSM took effect on Nov. 3, 1986.

The COFA Amendments Act of 2003 (Public Law 108-188) amended the Compacts in a number of significant ways, including changing the immigration provisions. The Compacts, as amended, became effective for the RMI on May 1, 2004, and for the FSM on June 30, 2004.

Note: The United States also established a Compact of Free Association with the Republic of Palau effective on October 1, 1994. As the Compact with Palau has not been amended, this Fact Sheet applies *only* to the RMI and the FSM, and should not be used for any informational purpose regarding citizens of Palau. For information on Palau, see the U.S. Citizenship and Immigration Services (USCIS) Fact Sheet entitled "Status of Citizens of the Republic of Palau" (Nov. 03, 2015).

### **Citizenship Status**

Citizens of the RMI or FSM are not citizens or nationals of the United States.

### **Travel of Citizens of FSM OR RMI to the United States**

Citizens of the FSM and RMI by birth and those citizens of the former TTPI who acquired FSM or RMI citizenship in 1986 are entitled under the Compacts to travel and apply for admission to the United States as nonimmigrants without visas. However, admission is not guaranteed. Most grounds of inadmissibility under U.S. immigration laws, such as criminal convictions, are applicable.



If determined admissible under the Compacts, an FSM or RMI citizen may live, study and work in the United States. The United States has the right to set terms and conditions on the nonimmigrant stay of FSM and RMI citizens. Currently, they are granted an unlimited length of stay.

### **Types of Citizens Who May Exercise Compact Privileges**

In addition to citizens born in the FSM or RMI (birth citizen) and former TTPI citizens, the following citizens of the FSM or RMI may exercise privileges under the Compacts:

An immediate relative (spouse or unmarried son or daughter under 21 years of age) of a birth citizen or former TTPI citizen provided that the immediate relative:

- Is a naturalized FSM or RMI citizen,
- Has been an actual resident of the FSM or RMI (as applicable) for at least five years after naturalization and has a certificate of actual residence, and
- In the case of a spouse, has been married to the birth citizen or former TTPI citizen for at least five years and did not enter into the marriage primarily to obtain immigration benefits under the Compacts;

or

A naturalized citizen of the FSM or RMI whose name is included on a list provided by the FSM or RMI governments that names people who have been residents for five years as of April 30, 2003, and who continues to be an actual resident with a certificate of actual residence.

Note that any person who obtained an FSM or RMI passport under any investment, passport sale, or similar program is *not* entitled to any immigration privileges under the Compacts.

For employment eligibility and other purposes, once admitted into the United States, it does not matter whether the person is a birth citizen, a former TTPI citizen, or has another basis of eligibility under the Compacts.

### **Special Provision for Certain Family Members of RMI or FSM Citizens Serving in the Armed Forces or Active Reserves**

An immediate relative (spouse or unmarried son or daughter under 21 years of age) of one of the types of FSM and RMI citizens listed above is admissible to the United States, provided the FSM or RMI citizen is serving on active duty in any branch of the U.S. armed forces, or in the active reserves.

Note that this provision may apply to qualifying family members even if they are not citizens of the RMI or FSM. References in this Fact Sheet to FSM or RMI citizens admitted under the Compacts include these individuals.

### **Adoptions – Bar on Admission**

Any FSM or RMI citizen who is coming to the United States based on an adoption outside the United States, or for the purpose of adoption in the United States, is ineligible for visa-free admission as a nonimmigrant under the Compacts.

This bar on visa-free admission as a nonimmigrant applies to FSM or RMI citizens who are seeking to come to the United States for the purpose of placing a child for adoption in the United States. This restriction applies whether or not the child has already been born when the FSM or RMI citizen seeks visa-free admission as a nonimmigrant.

U.S. residents wishing to adopt an FSM or RMI citizen, or FSM or RMI citizens thinking of coming to the United States for any adoption-related purpose, should seek more information on the requirements of U.S. immigration law from a U.S. Embassy and U.S. Citizenship and Immigration Services (USCIS).

Anyone seeking to adopt a child abroad can find more information about the intercountry adoption process for particular countries at the Department of State's adoption website at [www.adoption.state.gov](http://www.adoption.state.gov).

### **Travel Documentation**

To gain admission to the United States under the Compacts, a citizen of the FSM or the RMI must possess a valid, unexpired FSM or RMI passport. Those applying for admission under the Compacts do not need a U.S. visa, or any other travel documentation.

Individuals seeking admission under the Compacts (particularly those who are not birth citizens or former TTPI citizens) should bring copies of a marriage certificate, certificate of residency, spouse's military orders or other documents to demonstrate eligibility at the port of entry.

### **Documentation of Admission to the United States**

After arriving at a U.S. port of entry, FSM and RMI citizens will receive admission stamps in their passports upon admission by U.S. Customs and Border Protection (CBP) to the United States under the Compacts. The admission stamp will reflect that the admission relates to the Compacts.

The exact notation may vary and is subject to change, but at the present time it typically states "CFA/FSM" for an FSM citizen and "CFA/MIS" for an RMI citizen. Some older versions may be marked "CFA/RMI" for an RMI citizen.

CBP also issues Form I-94, Arrival/Departure Record, to nonimmigrants, such as FSM and RMI citizens, upon their admission to the United States effective April 30, 2013; CBP began automating Form I-94 for travelers arriving in the United States through air and sea ports of entry. Form I-94 is now created electronically upon arrival. This means that CBP will no longer automatically hand paper Forms I-94 to FSM and RMI citizens upon admission at air and sea ports of entry. Instead, FSM and RMI travelers can obtain a paper version of their Form I-94 by logging on to CBP's website ([www.cbp.gov/I94](http://www.cbp.gov/I94)) using identifying information and then printing the form. Both initial and replacement Forms may be obtained through CBP's website.

CBP will still issue paper versions of Form I-94 at air and sea ports of entry to those travelers who request paper versions at the time of their arrival to the United States. These paper Forms I-94 will contain an admission stamp, but will not have an "admit until" date. However, Forms I-94 printed from the CBP website will show an "admitted until" date of D/S (duration of status).



The 11-digit admission/departure number on Form I-94 takes the place of the alien registration number (A-number) for those admitted under the Compacts who are not otherwise assigned an A-number. A person admitted under the Compacts should provide this Form I-94 number in place of an A-number in response to any official requests.

Either a printed Form I-94 or the admission stamp in the FSM or RMI passport is evidence of alien registration. All foreign visitors to the United States over the age of 18 (including FSM and RMI citizens) are required under penalty of law to have this evidence in their personal possession at all times.

### **Terms and Conditions of Admission**

Persons admitted under the Compacts must abide by any terms and conditions of admission prescribed by the Department of Homeland Security, and must obey the laws of the United States and of the state and locality in which they reside or are present.

People who, following admission to the United States under the Compacts, cannot show that they have sufficient means of support in the United States may be deportable. Other grounds of deportability, such as conviction for an aggravated felony, also apply to persons admitted under the Compacts.

### **Admission Under the INA and Lawful Permanent Residence**

FSM and RMI citizens admitted to the United States under the Compacts may reside, work and study in the United States. They do not have the status of lawful permanent residents (also known as Green Card holders) under the Immigration and Nationality Act (INA).

FSM and RMI citizens admitted to the United States under the Compacts may become lawful permanent residents, however, if they are otherwise eligible under immigration laws, either through the immigrant visa process or by adjustment of status within the United States. People generally must be granted lawful permanent resident status in the United States before they can apply for naturalization as a U.S. citizen.

In certain circumstances, FSM and RMI citizens or residents who are not eligible for admission without a visa as nonimmigrants under the Compacts may be able to apply for a nonimmigrant or immigrant visa under the immigration laws generally applicable to all foreign nationals. A U.S. Embassy or U.S. Consulate can provide visa information. Visa information is also available from the U.S. Department of State at <http://travel.state.gov/content/visas/english.html>.

### **Employment Authorization – Documentation**

FSM and RMI citizens admitted under the Compacts may freely seek employment in the United States. However, like other employees working in the United States, they will be required by their employers at the time of hire to complete an attestation regarding their employment authorization and present document(s) showing identity and employment authorization for completing Form I-9, Employment Eligibility Verification. To satisfy the document presentation requirement, employees may choose a document or combination of documents listed on Form I-9, in the section “Lists of Acceptable Documents.”

While FSM and RMI citizens may have been issued a number of documents that are in the section “Lists of Acceptable Documents,” one option is specific to FSM and RMI citizens: the combination of FSM or RMI passport and Form I-94 reflecting the FSM or RMI citizens’

admission under the Compacts. This document combination is a “List A” document that shows both identity and employment authorization and satisfies the document presentation requirement for Form I-9. An RMI or FSM passport with a passport stamp is not acceptable for Form I-9 purposes; the Form I-94 must be printed and presented with the passport.

Another document listed in the section “Lists of Acceptable Documents” that is available to citizens of the RMI and FSM upon request from USCIS is Form I-766, Employment Authorization Document (EAD). While under the Compacts, citizens of the RMI and the FSM do not need to apply for, possess or renew an EAD, though FSM and RMI citizens are strongly encouraged to apply for one by completing [Form I-765, Application for Employment Authorization](#). The EAD with a category code of A08 is issued to them free of charge. Applicants filing EAD renewal applications under category A08 may receive automatic extensions of expiring or expired EAD for up to 180 days. The extension begins on the date the EAD expires and continues for up to 180 days unless the renewal application is denied.

In addition to serving as evidence of both identity and employment authorization, the EAD is very useful in applying for a driver’s license or other situations where secure U.S. government-issued evidence of identity or immigration status may be requested.

While an unexpired FSM or RMI passport with an unexpired Form I-94 establishes identity and employment authorization for the purposes of Form I-9, this document combination does not have to be accepted for other purposes, such as applying for a driver’s license.

All other requirements and procedures relating to [Form I-9](#) and the employer sanctions laws apply to RMI and FSM citizens in the same manner as to other employees in the United States.

### **Study**

FSM and RMI citizens admitted under the Compacts may study at any school in the United States. Schools enrolling an FSM or RMI citizen admitted under the Compacts should not register the student with the Student and Exchange Visitor Program (SEVP), and the student does not need to present a Form I-20 or Form DS-2019.

### **Social Security Card**

A person admitted under the Compacts may obtain a Social Security number (SSN) and Social Security card from the Social Security Administration. An FSM or RMI citizen who has been admitted under the Compacts is issued a Social Security card without the statement, “Valid for Work Only with DHS Authorization.” For Form I-9 purposes, this is a “List C” document that an FSM or RMI citizen can show his or her employer as evidence of employment authorization (but not identity).

The Social Security card must be obtained in the United States from the Social Security Administration. It cannot be issued by the U.S. Embassy in the FSM or RMI.



### **Rights of Persons Seeking to Come to the United States Under a Labor Recruitment Arrangement**

The Compacts and related agreements provide FSM or RMI citizens who seek to come to the United States under a labor recruitment arrangement with certain rights, including a full disclosure of the terms and conditions of the arrangement. These individuals should contact their respective embassy or other appropriate FSM or RMI government office for information about their rights to full disclosure before entering into any such agreement and departing for the United States.

### **Military Service**

Under section 341 of the Compacts, FSM and RMI citizens entitled to admission to the United States under the Compacts are eligible to volunteer for service in the U.S. armed forces.

### **Visa Requirements for FSM And RMI Diplomats**

FSM and RMI citizens coming to the United States to assume diplomatic duties or to work at an international organization must obtain the appropriate nonimmigrant visa in "A" or "G" classification in order for their official status to be recognized by the United States. The Department of State also strongly encourages other FSM and RMI citizens to have a visa if they are coming to the United States to engage in official activities on behalf of their government.

### **U.S. Consular Assistance Abroad**

Under section 126 of the Compacts, the United States extends consular assistance to citizens of the FSM and RMI in foreign countries on the same basis as for U.S. citizens, subject to the consent of the foreign country.

U.S. Consular officers also help FSM and RMI citizens extend and renew their FSM and RMI passports. These services are available when the FSM or RMI has no diplomatic or consular representation in a foreign country.