



# Fact Sheet

February 11, 2005

## **STATUS OF THE 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 Act of 1985 (Public Law 99-239) set forth a joint resolution between the United States and the Republic of the Marshall Islands and the Federated States of Micronesia (RMI/FSM) regarding the termination of the U.S. trusteeship over the former Trust Territory of the Pacific Islands (TTPI). The resolution further established the FSM and the RMI as independent nations, and established a special relationship between the United States and these nations. The Compact of Free Association between the United States and the RMI took effect on October 21, 1986, and the Compact of Free Association between the United States and the FSM took effect on November 3, 1986.

The Compact of Free Association Amendments Act of 2003 (Public Law 108-188) amended the Compacts in a number of significant ways, including changes to 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 has a Compact of Free Association with the Republic of Palau. 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.*

### **CITIZENSHIP STATUS**

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

### **TRAVEL OF FSM OR RMI CITIZENS TO THE UNITED STATES**

- Citizens of the FSM and the 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. At the present time, they are granted an unlimited length of stay, also referred to as “D/S” or “duration of status.”

## **CLASSES OF CITIZEN WHO MAY EXERCISE COMPACT PRIVILEGES**

- In addition to birth citizens and former TTPI citizens, the following citizens of the FSM or the RMI may exercise privileges under the Compacts.
  - An immediate relative (spouse or unmarried son/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 with a certificate of actual residence, and (if 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 in order to obtain immigration benefits under the Compacts.
  - A naturalized citizen of the FSM or the RMI whose name is included on a list furnished by the FSM or the RMI governments of residents for five years as of April 30, 2003, and who continues to be an actual resident with certificate of actual residence.
  - *Note that any person who obtained an FSM or RMI passport pursuant to any investment, passport sale, or similar program is NOT entitled to any immigration privileges under the Compacts.*
- It is important also to note that the rights and responsibilities while in the United States of persons admitted under the Compacts do not differ depending upon their specific basis of eligibility for admission. In other words, once a person is admitted it does not matter for employment eligibility or other purposes whether the person is a birth citizen, 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 (bona fide spouse or unmarried son or daughter under 21 years of age) of one of the classes 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.*

## **ADOPTIONS – BAR ON ADMISSION**

- Any FSM or RMI citizen who is coming to the United States pursuant to an adoption outside the United States, or for the purpose of adoption in the United States, is ineligible for admission under the Compacts.
- This bar on visa-free admission applies to FSM or RMI citizens who are seeking to come to the United States for the purpose of giving up an unborn child for adoption in the United States, as well as to children being brought to the United States for the purpose of adoption.
- This bar applies to any person who is or was an applicant for admission to the United States on or after March 1, 2003. Persons in the United States wishing to adopt an FSM or RMI citizen, or FSM or RMI citizens considering coming to the United States for any adoption-related purpose, should seek further information on the applicable requirements of U.S. immigration law from a U.S. embassy and/or U.S. Citizenship and Immigration Services (USCIS).

## **TRAVEL DOCUMENTATION**

- In order to seek admission to the United States under the amended Compacts, a *citizen of the FSM or the RMI must possess a valid, unexpired FSM or RMI passport*. This is a new requirement, which did not apply under the original Compact. An FSM or RMI citizen applying for admission under the Compacts does 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) are advised, however, to bring copies of any additional relevant documentation or other available evidence (such as marriage certificate, certificate of residency, spouse's military orders, etc.) that may assist them in demonstrating to the immigration officer at the port of entry their eligibility for admission under the Compacts.

## **DOCUMENTATION OF ADMISSION TO THE UNITED STATES**

- Upon admission at a U.S. Port of Entry, FSM and RMI citizens (and non-FSM/RMI citizen military family members) will receive a Form I-94 (Arrival/Departure Card) issued by the Bureau of Customs and Border Protection (CBP), U.S. Department of Homeland Security. On the I-94, a CBP inspector will make a notation reflecting that the person's admission is pursuant to the Compacts.
- The exact notation may vary and is subject to change, but at the present time typically states "CFA/MIS" for an RMI citizen, and "CFA/FSM" for an FSM citizen. Currently, CBP will also notate the I-94 with the letters "D/S," which stands for "duration of status" (meaning that the authorized length of stay is not limited).
- Persons issued an I-94 should take care not to lose the card, as it may be used, together with a valid passport, to establish employment authorization in the United States. In addition, the I-94 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.
- In response to authorized requests for an alien registration number, a person admitted under the Compacts should provide the 11-digit printed admission/departure number which appears on the I-94 issued to the person at the time of entry. This will take the place of the alien registration number for those admitted under the Compacts who are not otherwise assigned an alien registration number.

## **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.
- *Note - a person who, following admission to the United States under the Compacts, cannot show that he or she has sufficient means of support in the United States may be deportable. Other grounds of deportability generally applicable to aliens in the United States, such as conviction for an aggravated felony, apply to persons admitted under the Compacts.*

## **ADMISSION UNDER THE IMMIGRATION AND NATIONALITY ACT 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, but they are not "lawful permanent residents" (also known as "green card holders") under the Immigration and Nationality Act. They are not precluded, however, from becoming lawful permanent residents if otherwise eligible

under the immigration laws, either through the immigrant visa process or by adjustment of status within the United States. A person must be granted lawful permanent resident status in the United States if he or she eventually wishes to apply for naturalization as a U. S. citizen.

- FSM and RMI citizens or residents who are not eligible for admission without visa as nonimmigrants under the Compacts may in certain circumstances be able to apply for a nonimmigrant or immigrant visa for admission to the United States under the immigration laws generally applicable to all aliens. A U.S. Embassy or Consulate can provide visa information to such individuals. Visa information is also available from the U.S. Department of State at <http://UnitedStatesVisas.gov>.

#### **EMPLOYMENT AUTHORIZATION – DOCUMENTATION**

- FSM and RMI citizens admitted under the Compacts may freely seek employment in the United States. Under the Compacts, citizens of the RMI and the FSM no longer need to apply for, possess, or renew a U.S. Government-issued “Employment Authorization Document” (Form I-766 or “EAD”). An unexpired FSM or RMI passport with an unexpired Form I-94 (or other U.S. Government issued evidence of lawful admission under the Compacts) shall establish identity and employment authorization for the purposes of employment eligibility verification (the Form I-9). Note that FSM and RMI citizens may continue, if they wish, to apply for an EAD by filing Form I-765 with USCIS. All other requirements and procedures relating to the Form I-9 and the employer sanctions laws apply to RMI and FSM citizens in the same manner as to other individuals in the United States.

#### **SOCIAL SECURITY CARD**

- A person admitted under the Compacts may obtain a Social Security number (SSN) and SSN card from the nearest Social Security Administration (SSA) office. Such persons must present evidence of age, identity, and FSM or RMI citizenship (or that they are eligible for Compact privileges as the family member of an FSM or RMI citizen serving on active duty in the U.S. Armed Forces), such as a passport and properly notated Form I-94, as the SSA may require. An FSM or RMI citizen who has been admitted under the Compacts is issued an SSN card WITHOUT the legend, “Valid for Work Only With DHS Authorization,” or any other legend. The SSN card must be obtained in the United States from the SSA. It cannot be issued by the U.S. Embassy in the FSM or RMI.

#### **RIGHTS OF PERSONS SEEKING TO COME TO THE UNITED STATES PURSUANT TO A LABOR RECRUITMENT ARRANGEMENT**

- The Compacts and related agreements provide FSM or RMI citizens who are seeking to come to the United States pursuant to a labor recruitment arrangement with certain rights, including a full disclosure of the terms and conditions of the arrangement. Any person seeking to come to the United States pursuant to a labor recruitment arrangement should contact his or her respective Embassy (or other appropriate FSM or RMI Government office) for information as to his or her rights to full disclosure of the terms of such agreements prior to 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.

## **U.S. IMMIGRATION REQUIREMENTS FOR FSM AND RMI DIPLOMATS**

- Although it is not a requirement of immigration law, the Department of State requires that FSM and RMI citizens coming to the United States to take up diplomatic duties or to work at an international organization 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 coming to the United States to engage in official activities on behalf of their government to have a visa.

## **U.S. CONSULAR ASSISTANCE ABROAD**

- Section 126 of the Compacts provides that at the request of the Government of the FSM or the RMI and subject to the consent of the foreign country, the United States shall extend consular assistance on the same basis as for U.S. citizens to citizens of the FSM and the RMI outside the United States. Formal requests from the FSM and the RMI to the Secretary of State were made on November 20, 1986 and January 5, 1987 respectively for assistance on a worldwide basis. All foreign embassies in Washington, D.C. were notified of this obligation on December 19, 1986 in a Diplomatic Note from the Secretary of State, in accordance with Article 8 of the Vienna Convention on Consular Relations. U.S. Consular officers also provide assistance to FSM and RMI citizens in connection with extension and renewal of FSM and RMI passports. These services are available when the FSM or RMI has no diplomatic or consular representation in a foreign country.

– USCIS –

On March 1, 2003, U.S. Citizenship and Immigration Services became one of three legacy INS components to join the U.S. Department of Homeland Security. USCIS is charged with fundamentally transforming and improving the delivery of immigration and citizenship services, while enhancing the integrity of our nation's security.