

Immigrant Worker Visas: Understanding the Preference Categories and Filing a Permanent Immigrant Petition with the USCIS

A Practical Guidance® Practice Note by Marcela Bermudez, Greenspoon Marder LLP



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Obtaining lawful permanent residence through employment-based preference categories in the United States is generally a three-step process. This practice note addresses the second step of filing an immigrant petition with the U.S. Citizenship and Immigration Services (USCIS) to accord status as an intending immigrant. The practice note provides guidance on the preference categories for employment-based visas, as follows:

- **EB-1:** Individuals of extraordinary ability, outstanding professors/researchers, and multinational executives/managers.
- **EB-2:** Advanced-degree professionals, persons of exceptional ability, and National Interest Waiver applicants.

- **EB-3:** Skilled workers, professionals, and other (unskilled) workers.
- **EB-4:** Special immigrants, primarily religious workers.
- **EB-5:** Immigrant investors creating U.S. jobs.

Employers file Form I-140 (EB-1–EB-3), I-360 (EB-4), or I-526 (EB-5), with appropriate filing and premium processing fees where available. Most categories requiring an employment offer must include evidence of the employer's ability to pay the proffered wage through tax or financial documentation. Some categories—EB-1A, EB-2 National Interest Waiver, and EB-5—permit self-petitioning and do not require labor certification. Others first require a PERM labor certification from the Department of Labor. Dependents are listed on the petition and may apply for residence with or after the principal beneficiary.

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Marcela Bermudez is a partner in Greenspoon Marder LLP's Immigration and Naturalization practice group. Ms. Bermudez focuses her practice on business immigration, representing corporate and individual clients in connection with a variety of employment-based immigration, non-immigrant matters, visa processing, I-9 and E-Verify compliance issues, naturalization, and family-based benefits. Ms. Bermudez also represents foreign investors and multinational companies seeking visa status based on investment and start-up companies. She specializes in matters involving individuals in the arts, sports, business, researchers, scientists, and other professions seeking classification for extraordinary ability (O-1 and EB1) or National Interest Waivers. Ms. Bermudez works closely with these individuals to develop the best strategies for their immigration process in the U.S.

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