



- In a small business, the equity invested may need to be 100% of the value of the enterprise, or of the amount normally necessary to establish a viable enterprise of that nature.
- In a larger enterprise, an equity investment of half the value of the enterprise or less may be sufficient. In all cases, loans secured by the assets or stock of the enterprise are not counted as investment capital, even if the investor is fully liable for repayment of the loan.

Duration

E -1 and E-2 visa holders have U.S. visas that are valid for 5 years and can be renewed for an indefinite amount of time. This is an especially good route to take if the investor is not interested in receiving permanent resident status.

Family

Family members obtain derivative E visa status, and the spouses of investors (but not children) can apply for work authorization once they are in the United States.

L-1 Visa (New Office / Start Ups)

The new office L-1 visa is an effective way to enter the United States to direct a new venture from a pre-existing foreign-based company. This is a great opportunity for workers to live in the United States and for companies to expand their business.

Benefits

- The new office L-1 visa recipient receives a one year temporary visa that can be extended for up to 5-7 years depending on the position in the U.S. enterprise.
- Spouses receive derivative L-2 visa status. The spouse can apply for work authorization in the United States.

Basic Requirements

- The parent foreign company must prove it has existed for more than one year. The applicant for the new office L-1 visa must have proof that s/he has worked for the parent company for at least one of the last three years, and that the business abroad will continue while the applicant is in the U.S.
- The new office L-1 visa applicant should be either an owner in the company, a high-level manager, or another individual with a very specialized skill set. While a new office L-1 visa applicant may initially perform tasks that fall below that of a managerial position, it is expected that by the end of the first year this will not be the case.
- New office L-1 visa applicants must show they have a detailed business plan for the new U.S. office; acquired adequate premises for their U.S.-based business; acquired licenses to conduct



business and incorporation documents; and other evidence of opening a new office in the United States. It is expected that workers and investment will increase during the first year.

- Near the end of the first year, the company must file an extension to the L-1 visa petition for the foreign national showing that the business has increased, the U.S. company has hired U.S. workers, and other factors showing the U.S. company's business will continue.

IMMIGRANT VISAS (Permanent Resident/Green Cards)

Multinational Executives and Managers (EB-1 Visa)



To obtain permanent resident (green card) status, a foreign national can avoid the labor certification (PERM) process if he or she can qualify for an EB-1 Visa (referred to as “Employment First Preference” category).

The foreign national must be employed or be seeking employment in the U.S. as an executive or manager with the same company (or a parent, subsidiary or affiliate) that employed him outside the U.S. as an executive or manager for at least one year during the past three years (or for at least one year during the three years prior to entry if already in the U.S.). This category corresponds to the L-1 temporary visa category, except that “specialized knowledge” workers are not included, and the sponsoring company must show that it has been doing business in the U.S. for at least one year before commencing the application.

If a person first came to the U.S. in L-1 visa status for a new office / start-up L-1 then this immigrant visa petition as a multinational manager cannot be filed until the U.S. company has been in business for at least one year.

Foreign Investors (EB-5 Visa)

The EB-5 investor visa program allows foreign investors to make an investment in a U.S. business to obtain green cards and become lawful permanent residents of the United States.

- These green cards allow investors and their families to work in the United States but do not require them to work. Investors do not need a U.S. employer or U.S. family member to sponsor them for green cards.
- There is a three step process to obtain a permanent green card based on investment. After completion of step two, the investor will receive a conditional green card valid for two years. After completion of step three, the investor will receive a permanent green card.



STEP ONE – Filing Proof of the Qualifying Investment and Source of Investment Funds

In order to qualify for a green card through investment, an investor must file Form I-526 (Immigrant Petition by Alien Entrepreneur) with the USCIS with evidence that he or she has invested or is actively in the process of investing at least \$1,000,000 of equity capital into a commercial enterprise in the United States. The minimum investment amount is reduced to \$500,000 if the commercial enterprise is located in a rural area or a high unemployment area. The investor must show that he or she obtained the investment funds lawfully through employment, investment, gift, inheritance or other means. The investor must also show that the investment will create or preserve at least ten full-time jobs for U.S. workers.

STEP TWO – Obtaining the Two Year Conditional Green Card

Once USCIS has approved the Form I-526 petition, the investor moves on to the second step in the green card process. The second step allows the investor (and the investor's spouse and any unmarried children under the age of 21) to obtain the conditional green card.

STEP THREE – Obtaining Permanent Resident Status

Prior to the end of the two year period of the conditional green card, the investor must apply for permanent residence by submitting Form I-829 (Petition by Entrepreneur to Remove Conditions) to the USCIS along with evidence that the investor has invested the appropriate amount of capital in a commercial enterprise; that the investment was sustained for a two-year period; and that the enterprise created or preserved at least ten full-time jobs for U.S. workers.

After approval of this step, the investor and family are granted permanent resident status.

Contact Trow & Rahal to schedule a consultation

If you have any questions or wish to schedule a consultation to review and assess your immigration options, please call at 202-537-4830 or contact either:

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