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BASICS OF THE UNITED STATES IMMIGRATION SYSTEM

U.S. immigration law is very complex, and there is much confusion as to how it works. The Immigration and Naturalization Act (INA), the body of law governing current immigration policy, provides for an annual worldwide limit of 675,000¹ permanent immigrants, with certain exceptions for close family members. Congress and the President determine a separate number for refugee admissions. Immigration to the United States is based upon the following principles: the reunification of families, admitting immigrants with skills that are valuable to the U.S. economy, protecting refugees, and promoting diversity. This fact sheet provides basic information about how the U.S. legal immigration system is designed.

I. Family-Based Immigration

Family unification is an important principle governing immigration policy. The family-based immigration category allows U.S. citizens and lawful permanent residents (LPRs) to bring certain family members to the United States. There are 480,000 family-based visas available every year.² Family-based immigrants are admitted to the U.S. either as *immediate relatives* of U.S. citizens or through the *family preference system*.

There is no numerical limit on visas available for immediate relatives, but petitioners must meet certain age and financial requirements. Immediate relatives are:

- spouses of U.S. citizens.
- unmarried minor children of U.S. citizens (under 21 years old).
- parents of U.S. citizens (petitioner must be at least 21 years old to petition for a parent).

There are a limited number of visas available every year under the family preference system, and petitioners must meet certain age and financial requirements. The preference system includes:

- adult children (married and unmarried) and brothers and sisters of U.S. citizens (petitioner must be at least 21 years old to petition for a sibling).
- spouses and unmarried children (minor and adult) of LPRs.

In order to balance the overall number of immigrants arriving based on family relationships, Congress established a complicated system for calculating the available number of family preference visas for any given year. The number of family preference visas is determined by subtracting from [480,000](#) the number of immediate relative visas issued during the previous year and the number of aliens “paroled” into the U.S. during the previous year.³ Any unused employment preference immigrant numbers from the preceding year are then added to this sum to establish the number of visas that remain for allocation through the preference system. By law,

however, the number of family-based visas allocated through the preference system may not be lower than 226,000.⁴ Consequently, the total number of family-based visas often exceeds 480,000.

Below is a table summarizing the family-based immigration system:

Family-Based Immigration System			
Category	U.S. Sponsor	Relationship	Numerical Limit
Immediate Relatives (IRs)	U.S. Citizen adults	Spouses, unmarried minor children, and parents	Unlimited
Preference allocation			
1	U.S. citizen	Unmarried adult children	23,400*
2A	LPR	Spouses and minor children	87,900
2B	LPR	Unmarried adult children	26,300
3	U.S. citizen	Married adult children	23,400**
4	U.S. citizen	Brothers and Sisters	65,000***
* Plus any unused visas from the 4 th preference. ** Plus any unused visas from 1st and 2 nd preference. ***Plus any unused visas from the all other family-based preferences.			
Worldwide level of family preference allocation: 480,000 minus visas issued to IRs and parolees, plus unused employment-visas from previous fiscal year. Floor for preference categories: 226,000.			

In order to be admitted through the family preference system, a U.S. citizen or LPR sponsor must petition for an individual relative (and establish the legitimacy of the relationship), meet minimum income requirements, and sign an affidavit of support stating that they will be financially responsible for their family member(s) upon arrival in the United States.

II. Employment-Based Immigration

Temporary Visas

The United States provides various ways for immigrants with valuable skills to come to the United States on either a permanent or a temporary basis. There are more than 20 types of visas for temporary nonimmigrant workers. These include L visas for intracompany transfers, P visas for athletes, entertainers and skilled performers, R visas for religious workers, A visas for diplomatic employees, O visas for workers of extraordinary ability, and a variety of H visas for both highly-skilled and lesser-skilled employment. Many of the temporary worker categories are for highly skilled workers, and immigrants with a temporary work visa are normally sponsored by a specific employer for a specific job offer. Many of the temporary visa categories have

numerical limitations as well. The [U.S. Citizenship and Immigration Services \(USCIS\) website](#) contains a more complete list of temporary worker categories.

Permanent Immigration

Permanent employment-based immigration is set at a rate of [140,000](#) visas per year, and these are divided into 5 preferences, each subject to numerical limitations.⁵ Below is a table summarizing the employment-based preference system:

Permanent Employment-Based Preference System		
Preference Category	Eligibility	Yearly Numerical Limit
1	“Persons of extraordinary ability” in the arts, science, education, business, or athletics; outstanding professors and researchers, some multinational executives.	40,000*
2	Members of the professions holding advanced degrees, or persons of exceptional abilities in the arts, science, or business.	40,000**
3	Skilled workers with at least two years of training or experience, professionals with college degrees, or “other” workers for unskilled labor that is not temporary or seasonal.	40,000*** “Other” unskilled laborers restricted to 5,000
4	Certain “special immigrants” including religious workers, employees of U.S. foreign service posts, former U.S. government employees and other classes of aliens.	10,000
5	Persons who will invest \$500,000 to \$1 million in a job-creating enterprise that employs at least 10 full time U.S. workers.	10,000
*Plus any unused visas from the 4 th and 5 th preferences.		
**Plus any unused visas from the 1 st preference.		
***Plus any unused visas the 1 st and 2 nd preference.		
Worldwide level of employment-based immigrants: 140,000 for principal applicants and their dependents.		

Per-Country Ceilings

In addition to the numerical limits placed upon the various immigration preferences, the INA also places a limit on how many immigrants can come to the United States from any one country. Currently, no group of permanent immigrants (family-based and employment-based) from a single country can exceed 7% of the total amount of people immigrating to the United States in a single year.⁶ This is not a quota that is set aside to ensure that certain nationalities make up 7% of

immigrants, but rather a limit that is set to prevent any immigrant group from dominating immigration patterns to the United States.

III. Refugees and Asylees

Protection of Refugees, Asylees, and other Vulnerable Populations

There are several categories of legal admission available to people who are fleeing persecution or are unable to return to their homeland due to life-threatening or extraordinary conditions.

Refugees are admitted to the United States based upon an inability to return to their home countries because of a “well-founded fear of persecution” due to their race, membership in a social group, political opinion, religion, or national origin. Refugees apply for admission from outside of the United States, generally from a “transition country” that is outside their home country. The admission of refugees turns on numerous factors such as the degree of risk they face, membership in a group that is of special concern to the United States (designated yearly by the President of the United States and Congress), and whether or not they have family members in the U.S.

Each year the President, in consultation with Congress, determines the numerical ceiling for refugee admissions. The total limit is broken down into limits for each region of the world as well. After September 11, 2011, the number of refugees admitted into the United States fell drastically, but annual admissions have steadily increased as more sophisticated means of conducting security checks have been put into place.

For Fiscal Year (FY) 2013, the President set the worldwide refugee ceiling at [70,000](#), and the regional allocation was as follows:

Africa	12,000
East Asia	17,000
Europe and Central Asia	2,000
Latin America/Caribbean	5,000
Near East/South Asia	31,000
Unallocated Reserve	3,000
TOTAL	70,000

Asylum. Persons already in the United States who were persecuted or fear persecution upon their return may apply for asylum within the United States or at a port of entry at the time they seek admission. They must petition within one year of arriving in the U.S. There is no limit on the number of individuals who may be granted asylum in a given year nor are there specific categories for determining who may seek asylum.

Refugees and asylees are eligible to become LPRs one year after admission to the United States as a refugee or one year after receiving asylum.

IV. The Diversity Visa Program

The Diversity Visa lottery was created by the Immigration Act of 1990 as a dedicated channel for immigrants from countries with low rates of immigration to the United States. Each year 55,000 visas are allocated randomly to nationals from countries that have sent less than 50,000 immigrants to the United States in the previous 5 years.⁷ Of the 55,000, up to 5,000 are made available for use under the NACARA program. This results in a reduction of the actual annual limit to 50,000.

Although originally intended to favor immigration from Ireland (during the first three years of the program at least 40 percent of the visas were exclusively allocated to Irish immigrants), the Diversity Visa program has become one of the only avenues for individuals from certain regions in the world to secure a green card.

To be eligible for a diversity visa an immigrant must have a high-school education (or its equivalent) or have, within the past five years, a minimum of two years working in a profession requiring at least two years of training or experience. A computer-generated random lottery drawing chooses selectees for diversity visas. The visas are distributed among six geographic regions with a greater number of visas going to regions with lower rates of immigration, and with no visas going to nationals of countries sending more than 50,000 immigrants to the U.S. over the last five years.

People from eligible countries in different continents may register for the lottery. However, because these visas are distributed on a regional basis, the program especially benefits Africans and Eastern Europeans. According to the last [Visa Bulletin](#) in FY 2014, the majority of Diversity Visas will go to aspiring immigrants from African countries. While supporters of the Diversity Visa system underscore the system's value as the only equal opportunity provider, opponents tend to emphasize the irrationality of a system that allocates immigrant visas randomly.

V. Other Forms of Humanitarian Relief

Temporary Protected Status (TPS) is granted to people who are in the United States but cannot return to their home country because of “natural disaster,” “extraordinary temporary conditions,” or “ongoing armed conflict.” TPS is granted to a country for six, 12, or 18 months and can be extended beyond that if unsafe conditions in the country persist.

Deferred Enforced Departure (DED) provides protection from deportation for individuals whose home countries are unstable, therefore making return dangerous. Unlike TPS, which is authorized by statute, DED is at the discretion of the executive branch.

Certain individuals may be allowed to enter the U.S. through **parole**, even though he or she may not meet the definition of a refugee and may not be eligible to immigrate through other channels. Parolees may be admitted temporarily for urgent humanitarian reasons or significant public benefit.

VI. U.S. Citizenship

In order to qualify for U.S. citizenship through naturalization, an individual must have had LPR status (a green card) for at least 5 years (or 3 years if he or she obtained the green card through a U.S.-citizen spouse or through the Violence Against Women Act, VAWA). There are other exceptions for members of the U.S. military who serve in a time of war or declared hostilities. Applicants for U.S. citizenship must be at least 18 years old, demonstrate continuous residency, demonstrate “good moral character,” pass English and U.S. history and civics exams, and pay an application fee, among other requirements.

Endnotes

¹ This number results from adding the family-based annual limit, the employment-based annual limit, and the diversity program annual limit.

² INA § 201(c).

³ INA § 201(c).

⁴ INA § 201(c)(1)(B)(ii).

⁵ INA § 201(d).

⁶ INA § 202(a)(2). There are exceptions to this limit, mainly in the area of family-based immigration. For example, 75% of the second family preference immigrants are exempt from the per-country limit. See Ruth Ellen Wasem, [U.S. Immigration Policy on Permanent Admissions](#) (Washington, DC: Congressional Research Service, March 13, 2012).

⁷ INA § 203(c).