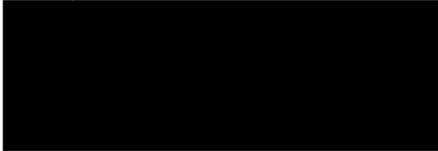




DA

U.S. Department of Justice
Immigration and Naturalization Service

Identifying data deleted to
prevent clearly unwarranted
invasion of personal privacy



OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

File: EAC-00-228-52793 Office: California Service Center

Date: 14 FEB 2002

IN RE: Petitioner:
Beneficiary:



Petition: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(H)(i)(b)

IN BEHALF OF PETITIONER:



PUBLIC COPY

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The nonimmigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be sustained and the petition will be approved.

The petitioner is an investment bank with 15,000 employees and an approximate gross annual income of \$13 billion. It seeks to employ the beneficiary as an analyst for a period of three years. The director determined the petitioner had not established that the proffered position is a specialty occupation or that the beneficiary qualifies to perform services in a specialty occupation.

On appeal, counsel argues that the proffered position is a specialty occupation and that the beneficiary is qualified to perform the duties of a specialty occupation.

Section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(H)(i)(b), provides in part for nonimmigrant classification to qualified aliens who are coming temporarily to the United States to perform services in a specialty occupation. Section 214(i)(1) of the Act, 8 U.S.C. 1184(i)(1), defines a "specialty occupation" as an occupation that requires theoretical and practical application of a body of highly specialized knowledge, and attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

Pursuant to section 214(i)(2) of the Act, 8 U.S.C. 1184(i)(2), to qualify as an alien coming to perform services in a specialty occupation the beneficiary must hold full state licensure to practice in the occupation, if such licensure is required to practice in the occupation. In addition, the beneficiary must have completed the degree required for the occupation, or have experience in the specialty equivalent to the completion of such degree and recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

Pursuant to 8 C.F.R. 214.2(h)(4)(iii)(C), to qualify to perform services in a specialty occupation, the alien must meet one of the following criteria:

1. Hold a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;
2. Hold a foreign degree determined to be equivalent to a United States baccalaureate or higher degree required by the specialty occupation from an accredited college or university;

3. Hold an unrestricted State license, registration, or certification which authorizes him or her to fully practice the specialty occupation and be immediately engaged in that specialty in the state of intended employment; or
4. Have education, specialized training, and/or progressively responsible experience that is equivalent to completion of a United States baccalaureate or higher degree in the specialty occupation and have recognition of expertise in the specialty through progressively responsible positions directly related to the specialty.

The beneficiary holds a Bachelor of Arts degree from Liverpool Hope University College, University of Liverpool, in England, as well as a CIREFE Diploma in French Language from the University of Rennes II in France. The beneficiary has also taken eight continuing professional education courses, training and seminars in business studies. A credentials evaluation service found the beneficiary's bachelor's degree and professional education courses to be equivalent to three years of business studies in an accredited college or university in the United States.

The beneficiary also has approximately four years of work experience for Citibank N.A from August 1996 to July 17, 2000, the date of filing of the petition. The beneficiary worked as European Settlements Manager with Citicorp, London, from August 1996 until November 1998. In this position, he was primarily responsible for European and Asian Trade settlements, as well as cash and stock reconciliations. One particular project in which the beneficiary was particularly instrumental was the relocation of the Global Settlements Department from London, England to Dublin, Ireland.

In November 1998, the beneficiary was transferred to Tampa, Florida, to assume the post of Global Custody Client Service Manager at Citibank, N.A. His duties include the day-to-day servicing of trading and investment activities, and related custody issues for several large mutual funds. In this capacity, he is responsible for domestic and international trade settlements, domestic and international corporate actions and dividends, foreign exchange booking, money movements, tax issues, and cash and stock reconciliations.

The record contains credentials evaluation reports from two credentials evaluators, both of whom are officials who have authority to grant college-level credit for training and/or experience at a university which has a program for granting such credit based on an individual's training and/or work experience. Both evaluators find that the beneficiary has attained the equivalent of a Bachelor of Business Administration degree, with a

concentration in Finance, from an accredited institution of higher education in the United States. In view of the foregoing, it is concluded that the petitioner has shown that the beneficiary qualifies to perform services in the specialty occupation.

The term "specialty occupation" is defined at 8 C.F.R. 214.2(h)(4)(ii) as:

an occupation which requires theoretical and practical application of a body of highly specialized knowledge in fields of human endeavor including, but not limited to, architecture, engineering, mathematics, physical sciences, social sciences, medicine and health, education, business specialties, accounting, law, theology, and the arts, and which requires the attainment of a bachelor's degree or higher in a specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.

The duties of the offered position are described as follows:

[The beneficiary] will be responsible for developing marketing techniques for equity products. He will learn and utilize the firm's basic selling skills and specific selling tools of the firm to acquire new clients for the firm's products, or to have existing clients expand upon the services they currently receive. The alien will be responsible for learning the specialty areas of the firm, and learning about all available services to existing and prospective clients. The alien will also be required to develop relationships with key personnel in each area of the firm, and to learn the firm's operations and their applications to common business practices. [The beneficiary] will be required to work with various departments within the firm to best serve the needs of the clients, and will also be required to prepare for registrations, as required.

Pursuant to 8 C.F.R. 214.2(h)(4)(iii)(A), to qualify as a specialty occupation, the position must meet one of the following criteria:

1. A baccalaureate or higher degree or its equivalent is normally the minimum requirement for entry into the particular position;
2. The degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, an employer may show that its particular position is so complex or unique that it can be performed only by an individual with a degree;

3. The employer normally requires a degree or its equivalent for the position; or
4. The nature of the specific duties is so specialized and complex that knowledge required to perform the duties is usually associated with the attainment of a baccalaureate or higher degree.

In response to a Service request for additional evidence, the petitioner stated that the proffered position is intended to bridge a gap between the firm's traders and its clients. The holder of the proffered position must, therefore, be well informed as to the various methods of client connectivity available, must have an in-depth knowledge of U.S. and international equities and futures markets, and must liaise with clients and traders extensively on various matters, including pre-trade and post-trade opening account and settlement information. Additionally, the holder of the proffered position will be required to develop relationships with key personnel in each area of the firm as he will frequently be required to work with various departments within the firm to best serve the needs of the clients. It is noted that the clients of the firm include broker dealers, banks, and administrators of pension funds and mutual funds which actively trade in United States and international equity securities. The proffered position requires an individual with a strong background in domestic and international equity securities. In view of the foregoing, it is concluded that the petitioner has shown that the duties of the proffered position are so specialized and complex that the knowledge required to perform the duties of the position is usually associated with the attainment of a bachelor's degree in finance.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. 1361. The petitioner has sustained that burden. Accordingly, the appeal will be sustained and the petition will be approved.

ORDER: The appeal is sustained.