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U.S. Citizenship
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Services

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AUG 15 2007

FILE: EAC 06 134 50506 Office: VERMONT SERVICE CENTER Date:

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)

ON BEHALF OF PETITIONER:



INSTRUCTIONS:

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

James Blazinger, for

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The director of the service center denied the nonimmigrant visa petition and the matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be sustained. The petition will be approved.

The petitioner is a financial and investment management company. It seeks to employ the beneficiary as an assistant investment analyst. The petitioner, therefore, endeavors to classify the beneficiary as a nonimmigrant worker in a specialty occupation pursuant to 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).

The director denied the petition on the basis of his finding that the petitioner had failed to establish that the proposed position qualifies for classification as a specialty occupation.

The record of proceeding before the AAO contains (1) the Form I-129 and supporting documentation; (2) the director's request for additional evidence; (3) the petitioner's response to the director's request; (4) the director's denial letter; and (5) the Form I-290B. The AAO reviewed the record in its entirety before issuing its decision.

Section 214(i)(1) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1184(i)(1), defines the term "specialty occupation" as an occupation that requires:

- (A) theoretical and practical application of a body of highly specialized knowledge, and
- (B) 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.

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

[A]n 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.

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.

Citizenship and Immigration Services (CIS) interprets the term "degree" in the criteria at 8 C.F.R. § 214.2(h)(4)(iii)(A) to mean not just any baccalaureate or higher degree, but one in a specific specialty that is directly related to the proposed position.

In its response to the request for evidence dated May 1, 2006, the petitioner indicated that the company is a large financial management and investment organization, which manages assets of approximately \$10 billion for approximately 400,000 investors. The petitioner further stated that the Equities Department of the petitioner, the department in which the proposed position would be working, oversees 15 funds and approximately \$4.5 billion dollars.

The petitioner stated that the position of assistant investment analyst is a new position created to allow more senior analysts to perform work requiring more experience. The petitioner also indicated that the duties of the assistant investment analyst were previously performed by the senior analysts.

In a letter dated March 24, 2006, the petitioner described the proposed duties of the position of assistant investment analyst as follows:

[The petitioner] requests permission to continue employing [the beneficiary], in the position of Assistant Investment Analyst to support the Vice President, Equities in all compliance matters to ensure adherence to legal and regulatory guidelines. She will also create, design and produce monthly reports on factors driving equity market and stock returns. She will assure integrity of all data used generating the department's reports. She will produce attribution and characteristic reports each month, quarter and calendar year. She will assist investment analysts in design and production of customized analysis and reports. She will also work with department to develop and generate new reports that will enhance equity oversight. She will assist analysts with the production of reports for funds boards. She will support department in the provision of information for marketing and sales for RFP's and client requests. She will assist in internal evaluation of departmental analytical tools. She will also produce reports for soft-dollar committee.

On appeal, the petitioner submits several reports authored by the beneficiary. In addition, the petitioner submits an affidavit from the Senior Vice President and Chief Investment Officer, Equities for the petitioner whereby he indicated that "the duties listed for the position of Assistant Investment Analyst require very specialized knowledge of a wide range of concepts, that can generally be learned only in a university bachelor's or higher program."

The director denied the petition, finding that the petitioner had satisfied none of the criteria set forth at 8 C.F.R. § 214.2(h)(4)(iii)(A), and therefore had not established that the proposed position qualifies for classification as a specialty occupation. The director found that the duties of the proposed position were not those of a financial analyst and accountant but were in fact actually those of securities, commodities and financial services sales agents.

The AAO will first address the director's characterization of the proposed duties as those typically performed by securities, commodities, and financial services sales agents, as such positions are described in the Department of Labor's *Occupational Outlook Handbook* (the *Handbook*). The AAO disagrees with the director as the proposed position will not include the sale of commodities, but will rather pertain to the analysis of investments in mutual funds. Thus, the proposed duties are closely related to those of a financial analyst, as indicated by the petitioner. The AAO notes that, according to the *Handbook*, most financial analysts are required to have at least a bachelor's degree in business administration, accounting, statistics, or finance. The totality of the evidence in this proceeding, including detailed information and documentation regarding the proposed duties, the petitioner's business operations, and the petitioner's organizational structure, establishes that the proposed position is that of a financial analyst as described in the *Handbook*. Therefore, the proposed position qualifies as a specialty occupation under 8 C.F.R. § 214.2(h)(4)(iii)(A)(1).

The AAO notes that the beneficiary earned a bachelor's degree in business administration, with a specialization in finance, from American University in 2005. She is therefore qualified to perform the duties of this specialty occupation.

The petitioner has established that the position qualifies for classification as a specialty occupation and that the beneficiary is qualified to perform the duties of that specialty occupation. As such, the appeal will be sustained and the petition approved.

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.

ORDER: The appeal is sustained. The petition is approved.