

# OVERVIEW OF EB-1C GREEN CARD



**MELTZER HELLRUNG**  
IMMIGRATION SOLUTIONS

## OVERVIEW OF EB-1C GREEN CARD

The EB-1C classification is for multinational managers and executives who have worked with a qualifying organization abroad (parent company, branch, subsidiary, or affiliate) for one continuous year within the last three years, prior to entering the United States. This green card category does not require a labor market test.

### TO QUALIFY FOR EB-1C CLASSIFICATION IN THIS CATEGORY, THE EMPLOYER MUST:

- Have a qualifying relationship with a foreign company (parent company, branch, subsidiary, or affiliate, collectively referred to as qualifying organizations); and
- Currently be, or will be, doing business as an employer in the United States and in at least one other country directly or through a qualifying organization for the duration of the Employee's stay in the United States. While the business must be viable, there is no requirement that it be engaged in international trade.

Doing business means the regular, systematic, and continuous provision of goods and/or services by a qualifying organization and does not include the mere presence of an agent or office of the qualifying organization in the United States and abroad. Passive investment alone, such as stock or land purchases, will not suffice as doing business for the purpose of the EB-1C.

### IN ORDER TO QUALIFY, INDIVIDUALS MUST DEMONSTRATE THAT THE POSITION HELD ABROAD AND THE SPONSORED POSITION IN THE U.S. ARE EITHER MANAGERIAL OR EXECUTIVE.

**Executive capacity:** Generally, executive capacity refers to the employee's ability to make decisions of wide latitude without much oversight. Employees in executive roles typically receive only general supervision from higher-level executives, the board of directors, or stockholders of the organization. Executive employees are responsible for establishing the goals and policies of the organization, department, or function. Executive roles typically include C-Suite individuals, such as a chief executive officer, chief technology officer, etc.

**Managerial capacity:** Generally, managerial capacity can refer to two types of managers—staff managers and functional managers.

**Staff Managers:** Staff managers supervise and control the work of professional employees and manage the organization, department, subdivision, function, or component of the organization. Subordinates of a staff manager must be professionals (possessing at least a bachelor's degree) or managers themselves. There is not a statutory number of subordinates that is required, but it is based on the size of the company. For example, in a company with 500 employees, having 2 subordinates would likely not be sufficient. However, in a company of 6 employees, it would be. Subordinates can be in the U.S. or abroad. However, it is difficult to get approval of the EB-1C if all subordinates for the U.S. position are abroad.

**Functional Managers:** Functional managers oversee an essential function of the organization at a high level, without direct supervision of others. Functional managers have discretion over the day-to-day operations of their function but are relieved from non-qualifying operational duties. These employees manage an area of the organization that is critical to the overall operations of the entity. Examples of a functional manager include a chief financial officer who oversees outside accountants and book keepers but does not have any direct reports within the organization, or a procurement director who does not have any direct reports, but rather delegates portions of the function to other teams and outside vendors.

## EB-1C APPLICATION PROCESS OVERVIEW

### 1 Company opens a case with Meltzer Hellrung



IN ORDER TO OPEN A CASE, WE NEED THE FOLLOWING INFORMATION:

- Name of candidate
- Email address
- Job title and job description both at the U.S entity and foreign entity
- Information regarding subordinates and projects
- Offered salary at the U.S. location and current salary at the foreign entity
- Work location, including name of client if location is a third-party work site
- Resume

### 2 Meltzer Hellrung reaches out to the individual to complete an online questionnaire and provide the required documentation



We will email the individual with instructions to complete this step.

### 3 Meltzer Hellrung drafts all necessary forms and letters to file the I-140 petition



We will forward these forms and letters to the employer for review. The employer may choose to share these draft documents with the employee. This step may require multiple rounds of document edits depending on the complexity of the case. This step represents one of the most time-consuming portions of the process.

### 4 Once all forms and letters have been finalized and all required documentation provided, Meltzer Hellrung will ship the completed petition to USCIS



## 5 USCIS review of the I-140 petition

Generally, USCIS takes several months to process I-140 petitions. Premium processing is not available for EB-1C I-140 petitions. Once filed USCIS may not immediately approve a petition. USCIS may first issue a Request for Evidence (“RFE”). Should an RFE be issued, USCIS provides about three months to respond. If we receive an RFE, we will analyze the RFE and reach out to the respective parties with a list of documents needed. Once received, we will draft the response and submit to USCIS. Once submitted, USCIS typically issues a decision within 60–90 days.



## 6 Post filing outcomes

### Approval

USCIS will approve I-140 petition and will issue an I-797 approval notice.



### Denial

USCIS can determine that the I-140 petition is not approvable. Typically, an RFE is issued prior to a denial. If USCIS denies the I-140 petition, a written decision is issued outlining the reasons for denial. If a denial is received, Meltzer Hellrung, individual, and employer (if not self-sponsored) will have a post-decision call to determine if there were any deficiencies in the application and the recommended next steps for moving forward.



## 7 Application for physical green card

When an individual’s priority date, which is the date that the I-140 was filed, becomes current, that person can file an application to get the physical green card. There are two ways to file for the green card: first, by adjusting status inside the United States, and second, by filing for an immigrant visa at a consulate outside the U.S. and second, by filing for an immigrant visa at the consulate outside the United States. The first option is more common, but some employees choose to pursue the second option as it can be faster.



If the priority date is current when filing the I-140, the I-485 to adjust status can typically be filed concurrently with the I-140. Individuals who were previously sponsored for an I-140 and have a priority date that can be recaptured may also be current at the time of the I-140 filing. There may be an additional wait time for applicants depending on the dates listed on the visa bulletin in any given month.

## EB-1C APPLICATION DOCUMENT REQUEST OVERVIEW



### DOCUMENTS TO BE PROVIDED BY INDIVIDUAL:

- Non-blank pages of passport
- Documentation of any previous U.S. immigration status (I-797 approval notices, electronic I-94 if already in the U.S.)
- Diplomas and Transcripts (consolidated mark sheets preferred), if available
- Resume
- Certifications or awards, technical training in company's process and technologies
- Manager letter signed by foreign manager (template will be provided)
- Organizational chart showing employee's foreign position
  - It should specifically identify where the employee is, who they manage (by name, position title, and education level), and who they report to. This chart should include the C-suite executive of the function/dept.
- 1 year of the employee's foreign pay stubs to prove tenure at the foreign entity
- Emails/proof of communication from employee to direct/indirect reports showing managerial authority; may also show recommendations on salary, vacation, termination
- U.S. Manager letter detailing the managerial or executive nature of the position (template will be provided)
- Organizational chart of the employee's proposed position in the U.S.
  - It should specifically identify where the employee is, who they manage (by name, position title, and education level), and who they report to. This chart should include the C-suite executive of the function/dept

## EB-1C APPLICATION DOCUMENT REQUEST OVERVIEW (continued)



### DOCUMENTS TO BE PROVIDED BY COMPANY:

- Diplomas/resumes of direct and indirect reports of U.S. entity (if available)
- Diplomas/resumes of direct and indirect reports of foreign entity
- 3 most recent redacted pay stubs, most recent W-2, and/or signed employment contract or offer letter for reports of U.S. and foreign entity
- Documents regarding contracts, purchase orders, MSAs
- Documents regarding marketing materials, presentations, press releases, pitch slide decks, brochures, process outlines, etc.
- Documents about the company/proprietary product in journals and technical publications, white papers
- Patents for proprietary products
- Documents about company financials, corporate structure, and Blanket L Approval Notice (if available)