Family-Based Green Cards

Persons with a US green card (Immigrant visa), and also called permanent resident and resident alien) or US citizenship can apply for a US green card for their close family members, as listed below.

**Immediate Relatives of US Citizens**: US citizens can sponsor a spouse, minor children (under 21 years of age), and parents for US green cards (Immigrant Visa). No numerical limitation exists for this category, and so the priority date is always “current” or available. See below for a discussion on processing options. The US citizen sponsor must reside in the US, or intend to reside in the US, to sponsor his/her relative(s). Relatives in this category may still be able to apply for permanent residence even if "out of status."

**Adult Children of US Citizens**: US citizens can sponsor adult sons and daughters (over 21 years of age) for US green cards (Immigrant Visa). However, there is a significant backlog in the "priority date" for this category. A "priority date" is the date an Alien Relative petition (see below) is filed. It can be several years, due to the high demand for these visas, from the time that an Immigrant Relative petition is filed, until the green card can be approved. See below for a discussion on processing options. If a foreign national has been in the US without status for more than six months, a family based green card is generally not available. This category falls under an FB-1 classification (see the Clark Hill website for a discussion of priority dates).

**Brother and Sisters of US Citizens**: A foreign national brother or sister may be sponsored by a US Citizen. However, there is a significant backlog in the "priority date" for this category. A "priority date" is the date an Alien Relative petition (see below) is filed. It can be several years, due to the high demand for these Visas, from the time that an Alien Relative petition is filed, until the green card is finally approved. See below for a discussion on processing options. If a foreign national has been in the US without status for more than six months, a family based green card is generally not available. This category falls under an FB-4 classification (see the Clark Hill website for a discussion of priority dates).

**Relatives of Green Card Holders**: US green card holders (also called resident aliens, permanent residents, etc.) can sponsor a spouse, minor children (under 21 years of age), and adult sons and daughters (over 21 years of age) for US green cards. However, there is a significant backlog in the priority dates for these categories. A priority date is the date an Alien Relative petition is filed, until the green card can be approved. The wait time can be twelve years or more. During that waiting time, there is no US work or travel authorization permitted. If a foreign national has been in the US without status for more than six months, a family based green card is generally not available. This category falls under an FB-2 classification (see the Clark Hill website for a discussion of priority dates).

Below is a description of the processing options.

**Step 1. Immigrant Relative Petition:**
An Alien Relative petition must be filed for ALL family-based green card cases. The petition is usually filed at a USCIS Regional Service Center. When the petition is received a priority date is established. The petitions for Immediate Relatives of US citizens may, in some situations be filed directly at a US consulate outside the US, which ensures much faster processing times. In general, the US citizen sponsor must reside in the relative's country of citizenship, AND the US consulate must have a USCIS office. As described above, Step 2 cannot be filed until the priority date is available (see the Clark Hill website for more on priority dates).

**Step 2. Green Card Application:**
The Green Card application is the final stage in the family-based green card process. Applicants may select either Adjustment of Status or Consular Processing as the mechanism to complete the process.

A) **Adjustment of Status**: Generally, foreign nationals who are currently residing and physically present in the US in lawful status may apply for Adjustment of Status (AOS). The AOS application is filed at the USCIS National Benefits Center. Immediate relatives of US citizens can file Step 1 and Step 2 at the same time (“concurrently”). These concurrent filings allow for work and international travel authorization while they are pending, and help reduce processing times. Generally, all family members must have legal US status to apply for Adjustment of Status, unless they are an “immediate relative” described above (but they must not have entered the US without inspection). NOTE: The sponsoring US citizen or green card holder MUST be residing, or intend to reside in the US, in order to complete this process.

B) **Consular Processing**: Consular Processing is an alternate way to complete the green card process, after the Alien Relative petition is approved. A personal interview is required of each foreign national at the appropriate US consulate outside the US. No interim work or travel authorization for the US is provided while this remains pending, unless the family member has an independent visa to come to the US (K-3, L-1, H-1B, etc.). Moreover, given the need to prove the temporary nature of the travel to the US on a visitor or student visa (B-2, J-1, TN or F-1), family members may be stopped from entering the US in one of these categories, while this process is pending. NOTE: The sponsoring US citizen or green card holder MUST be residing, or intend to reside in the US, in the US in order to complete this process.