

## **Navigating the Executive Category EB-13 Visa: Obtaining Permanent Residency Through the Multinational Manager Pathway**

The EB-13 visa category is a sought-after pathway for foreign nationals seeking permanent residency in the United States based on their qualification as multinational executives or managers. The qualifications and considerations for both individuals and the petitioning company can be complex. In this article, we'll delve into some of the key nuances, focusing on the basic qualifications. This information is also outlined in a punch list available to download here: [Click Here!](#)

### **Basic Qualifications:**

Holding an L-1A visa is not enough. The EB-13 visa stands distinct from the L-1A visa. Key differentiators include:

- **Managerial or Executive Role Abroad:** To qualify, the individual must have served as a manager or executive abroad for at least one year within the 3 year term prior to transferring to the United States. Persons who served in a “specialized knowledge” role abroad prior to transfer to the U.S. can obtain an L-1A executive or manager visa to work in the U.S., but do not meet the EB-13 requirement.
- The U.S. petitioner cannot be a "new office." The reason is that the green card is “permanent,” not temporary, and can only be supported by a well established office that has been actively doing business for more than one year.
- The U.S. petitioner must be a U.S. entity, and not just a "representative office" of a foreign entity.

### **Understanding Executive and Managerial Capacities:**

A clear understanding of executive and managerial capacities is pivotal in EB-13 visa adjudication:

- **Executive Capacity:** involves directing the management of an organization; establishing goals and policies; exercising a wide latitude in discretionary decision making; and receiving only general supervision from higher level executives, the board of directors, or shareholders.
- **Managerial Capacity:** involves managing a specific department, function, or subdivision of the organization; supervising the work of other supervisory, professional, or managerial employees; possessing the authority over personnel actions including the ability to hire, fire, promote, or approve/deny leave; exercising

discretion over day-to-day operations or the function managed. Notably, frontline workers are excluded from this definition.

Additional Points to Keep in Mind:

- Staffing levels are a factor that the adjudicator may consider.
- Persons managing essential functions should not also be performing those functions. For instance, a CFO manages work performed by in-house team members or external vendors, while a General Counsel oversees legal matters handled by internal or external legal teams.

These are some of the key considerations for the Executive Category of EB-13. With careful planning, this can provide an expedited path to obtaining lawful permanent residence status for key executive and managerial team members as well as their dependent family members. To contact us at Nadalin Law, please fill out the contact form on our website or email us at [Robert@NadalinLaw.com](mailto:Robert@NadalinLaw.com).