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Questions & Answers: Filing Instructions for the E-2 CNMI Investor Classification

Background

On May 8, 2008, President Bush signed into law Public Law 110-229, the Consolidated Natural Resources Act of 2008 (CNRA). Title VII of this law amended Pub. L. 94-241, the Act approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands (CNMI) in Political Union with the United States. Title VII fully extends certain provisions of the immigration laws of the United States to the CNMI for the first time in history. The transition period for this change began November 28, 2009.

Under the CNRA, USCIS is establishing an E-2 CNMI Investor classification. This classification would allow foreign nationals who were admitted as long-term investors under the CNMI immigration laws a classification that allows them to remain in the CNMI through the transition period.

Questions and Answers

Q. Can I file for classification as an E-2 CNMI Investor now?

A. No. The E-2 CNMI Investor rule has not been finalized, so you cannot file for the E-2 CNMI Investor classification. All petitions filed seeking classification as an E-2 CNMI Investor will be returned to the petitioner until the final rule is published. The proposed rule was posted in the Federal Register on September 14, 2009 for a public comment period; that period is now closed.

Q. What is the purpose of the E-2 CNMI Investor Program?

A. The E-2 CNMI Investor Program will allow foreign nationals who were previously admitted to the CNMI under certain long-term CNMI investor classifications to obtain a transitional INA-based E-2 CNMI Investor classification. Thus, the E-2 CNMI Investor classification offers a lawful U.S. immigration status to foreign nationals who were previously admitted to the CNMI as long-term investors but are unable to establish eligibility for the regular E-2 investor classification.

Q. Will the E-2 CNMI Investor Program and classification be permanent?

A. No. The E-2 CNMI Investor Program is only in effect during the transition period which is currently scheduled to expire on December 31, 2014. E-2 CNMI Investor classification and visas will expire that day. The transition period may be extended by the Secretary of Homeland Security. Notification will be provided if that occurs.

Q. If I am in the CNMI now, do I have the option of filing for an E-2 Treaty Investor classification?

A. Yes. Federal immigration law took effect in the CNMI on November 28, 2009, so all nonimmigrant classifications available to nonimmigrants in the United States are now available for nonimmigrants in the CNMI. If you believe that you qualify for the E-2 Treaty Investor classification, you may proceed with the steps to obtain such classification. Please note: If you are currently present in the CNMI with a work permit based on CNMI law, you are required to process your E-2 classification at a consulate abroad as you do not currently have an INA-based classification from which you can change status.

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