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Immigration Fundamentals

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Key Definitions. Immigration to the United States is regulated by Federal law. The basic U.S. law, the Immigration and Nationality Act (INA), was enacted in 1952 and significantly amended since, most recently by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The INA defines an *alien* as “any person not a citizen or national of the United States,” and sets forth the conditions under which aliens may enter the United States. The term alien is synonymous with noncitizen. It includes aliens who are here legally, as well as aliens who are here illegally, in violation of the INA.

The two basic types of legal aliens are *immigrants* and *nonimmigrants*. Immigrants are persons admitted as permanent residents of the United States. Nonimmigrants are admitted temporarily as visitors for a specific purpose — for example, as tourists, foreign students, diplomats, temporary agricultural workers, exchange visitors, or intracompany business personnel. They are required to leave the country at the end of the time allotted them for this purpose. The conditions for the admission of immigrants are much more stringent, and fewer immigrants than nonimmigrants are admitted. Once admitted, immigrants are subject to few restrictions. They may accept and change employment, and may apply for U.S. citizenship through the *naturalization* process, generally after 5 years.

Key Statistics. In FY1996, about 916,000 *immigrants* were admitted for permanent residence. Approximately 1 million immigrants *naturalized* in FY1996. INS estimates the resident *illegal alien* population to be 5 million as of October 1996 with an annual growth of 275,000, compared to 3.9 million in October 1992.

Immigration: Numerical Limits and Preference Categories. Immigration admissions are subject to a complex set of numerical limits and preference categories giving priority for admission on the basis of family relationships, needed skills, and geographic diversity. These include a *flexible worldwide cap* of 675,000, not including refugees, and a *per-country ceiling*, which changes yearly and is currently about 25,620. Numerical limits on the *three preference tracks* are a 226,000 minimum for family-based, 140,000 for employment-based, and 55,000 for diversity immigrants. Unlike preference immigrants, the *immediate relatives of U.S. citizens* — their spouses and unmarried minor children, and the parents of adult U.S. citizens — are not subject to numerical limits.

The largest number of immigrants is admitted because of family relationship to a U.S. citizen or immigrant. Of the almost 916,000 immigrants in FY1996, 65% entered on the basis of family ties. *Immediate relatives of U.S. citizens* made up the single largest group of immigrants. *Family preference immigrants* — the spouses and children of immigrants, the adult children of U.S. citizens, and the siblings of adult U.S. citizens — were the second largest group. Other major immigrant groups in FY1996 were *refugees and asylees* adjusting to immigrant status, and *employment-based preference immigrants*, including their spouses and children, and *diversity immigrants*.

Total	915,900
Family-related	594,604
Immediate relatives of citizens	(300,430)
Family preference	(294,174)
Employment preference	117,499
Refugee and asylee adjustments	128,565
Diversity	58,790
Other	16,442

Other Entry Requirements. All aliens must satisfy State Department consular officers abroad and INS inspectors upon entry to the U.S. that they are not ineligible for visas or admission under the so-called “grounds for inadmissibility” of the INA. These include such criteria as criminal history, security and public health considerations, and the likelihood of becoming a public charge. Some provisions may be waived or are not applicable in the case of nonimmigrants, refugees (e.g., public charge), and other aliens. All family-based immigrants entering after 12/18/97 must have a new binding affidavit of support signed by a U.S. sponsor in order to meet the public charge requirement.

Refugees and Asylees. Refugee admissions are governed by different criteria and numerical limits than immigrant admissions. Refugee status requires a finding of persecution or a well-founded fear of persecution in situations of “special humanitarian concern” to the United States. The total annual number of refugee admissions and the allocation of these numbers among refugee groups are determined at the start of each fiscal year by the President after consultation with the Congress. The FY1998 refugee admissions ceiling is 83,000, led by Europe (51,000, mainly for the former Soviet Union—including 5,000 unfunded reserve numbers; and Eastern Europe) and East Asia (14,000). The INA also provides for the granting of *asylum* on a case-by-case basis to aliens who meet the definition of “refugee” and who are physically present in the United States or at a land border or port of entry. *Refugees*, in contrast, are admitted from abroad.

Eligibility for Federal Benefits. Aliens’ eligibility for major federal benefit programs depends on their immigration status and whether they arrived before or after enactment of P.L. 104-193, the new welfare law (as amended by P.L. 105-33 and P.L. 105-185). *Refugees* remain eligible for Supplemental Security Income (SSI), Medicaid, and food stamps for 7 years after arrival, and for other restricted programs for 5 years. Most *legal immigrants* are barred from food stamps and SSI until they naturalize or meet the 10-year work requirement. Immigrants receiving SSI (and SSI-related Medicaid) on 8/22/96, the enactment date of P.L. 104-193, continue to be eligible, as do those here then who subsequently become disabled. Immigrants here on 8/22/96 are eligible for food stamps if they were over 65, until they turn 18, and/or if they subsequently become disabled. Immigrants entering after 8/22/96 are barred from Temporary Assistance for Needy Families (TANF) and Medicaid for 5 years, after which their coverage becomes a state option. Also after the 5-year bar, the sponsor’s income is deemed to be available to new immigrants in determining their financial eligibility for designated federal means-

tested programs until they naturalize or meet the work requirement. (See *Alien Eligibility for Benefits under the New Welfare and Immigration Laws*, CRS Report 96-617.)