

such an alien, may file a petition with the Attorney General for such classification.

(F) Any employer desiring and intending to employ within the United States an alien entitled to classification under section 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), or 203(b)(3) may file a petition with the Attorney General for such classification.

(G)(i) Any alien (other than a special immigrant under section 101(a)(27)(D)) desiring to be classified under section 203(b)(4), or any person on behalf of such an alien, may file a petition with the Attorney General for such classification.

(ii) Aliens claiming status as a special immigrant under section 101(a)(27)(D) may file a petition only with the Secretary of State and only after notification by the Secretary that such status has been recommended and approved pursuant to such section.

(H)(i)<sup>41</sup> Any alien seeking classification under section 203(b)(5) may file a petition for such classification with the Secretary of Homeland Security. An alien seeking to pool his or her investment with 1 or more additional aliens seeking classification under section 203(b)(5) shall file for such classification in accordance with section 203(b)(5)(E), or before the date of the enactment<sup>42</sup> of the EB-5 Reform and Integrity Act of 2022, in accordance with section 203(b)(5). An alien petitioning for classification under section 203(b)(5)(E) may file a petition with the Secretary after a regional center has filed an application for approval of an investment under section 203(b)(5)(F).

(ii) A petitioner described in clause (i) shall establish eligibility at the time he or she files a petition for classification under section 203(b)(5). A petitioner who was eligible for such classification at the time of such filing shall be deemed eligible for such classification at the time such petition is adjudicated, subject to the approval of the petitioner's associated application under section 203(b)(5)(F), if applicable.

(I)(i) Any alien desiring to be provided an immigrant visa under section 203(c) may file a petition at the place and time determined by the Secretary of State by regulation. Only one such petition may be filed by an alien with respect to any petitioning period established. If more than one petition is submitted all such petitions submitted for such period by the alien shall be voided.

(ii)(I) The Secretary of State shall designate a period for the filing of petitions with respect to visas which may be issued under section 203(c) for the fiscal year beginning after the end of the period.

(II) Aliens who qualify, through random selection, for a visa under section 203(c) shall remain eligible to receive such visa only through the end of the specific fiscal year for which they were selected.

(III) The Secretary of State shall prescribe such regulations as may be necessary to carry out this clause.

(iii) A petition under this subparagraph shall be in such form as the Secretary of State may by regulation prescribe and shall contain such information and be supported by such documentary evidence as the Secretary of State may require.

(J) In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) or clause (ii) or (iii) of subparagraph (B), or in making determinations under subparagraphs (C) and (D), the Attorney General shall consider any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.

(K) Upon the approval of a petition as a VAWA self-petitioner, the alien—

(i) is eligible for work authorization; and

(ii) may be provided an “employment authorized” endorsement or appropriate work permit incidental to such approval.

(L) Notwithstanding the previous provisions of this paragraph, an individual who was a VAWA

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<sup>41</sup> Section 204(a)(1)(H)(i), as added by the EB-5 Reform and Integrity Act of 2022, P.L. 117-103, div. BB, §105(a), applies to any petition for classification pursuant to INA §203(b)(5)(E) that is filed with the DHS Secretary

on or after the date of the enactment of the Act (3/15/22).  
<sup>42</sup> March 15, 2022.