



PM-602-0153

November 20, 2017

Policy Memorandum

SUBJECT: *TN Nonimmigrant Economists Are Defined by Qualifying Business Activity*

I. Purpose

This policy memorandum (PM) clarifies that for an applicant to qualify for TN status based on work in the profession of economist, the applicant must engage in activities consistent with the profession of economist. Activities that constitute a broad range of other professions related to economics, such as activity performed by financial analysts, market research analysts, and marketing specialists do not qualify for TN status.

II. Scope

This PM applies to and is binding on all USCIS employees. The updated guidance is effective immediately.

III. Authorities

- Immigration and Nationality Act (INA) section 214(e), 8 U.S.C. 1184(e)
- Title 8 Code of Federal Regulations (CFR) section 214.6

IV. Background

The North American Free Trade Agreement (NAFTA) created special economic and trade relationships between the United States, Canada and Mexico. Under NAFTA, the TN nonimmigrant classification permits qualified Canadian and Mexican citizens to seek temporary entry into the United States to engage in business activities at a professional level.¹ The eligible

¹ Specifically, a beneficiary must show that: he or she is a citizen of Canada or Mexico; his or her profession qualifies under the regulations; the position in the United States requires a NAFTA professional; he or she has a prearranged full-time or part-time job with a U.S. employer; and he or she has the qualifications to practice in the profession in question. 8 CFR 214.6.

professions are set forth in NAFTA's Appendix 1603.D.1 to D.3 and the minimum requirements are codified at 8 CFR 214.6(c).

One of the professions listed is "Economist" and it requires a baccalaureate or licenciatura degree. See 8 CFR 214.6(c). However, NAFTA does not include an in-depth description of an economist. The lack of a description has raised questions and led to inconsistent adjudications about whether certain types of analysts, and persons engaged in other occupations, such as financial analysts, market research analysts and marketing specialists qualify under the economist profession.

IV. Policy

Whether a particular job is that of an economist is determined by the primary activity, not by the title. For purposes of the TN classification, the profession of economist must not primarily include the activity of other occupations, such as, but not limited to, those performed by financial analysts, market research analysts, and marketing specialists.

Economists generally specialize in either microeconomics (analyzing the behavior of individuals and firms with the aim of understanding the relationships between supply and demand) or macroeconomics (analyzing aggregated indicators to determine how different sectors of the economy relate to each other).² In addition to these two broad focus areas, economists may apply economic analysis to issues in a variety of fields, such as labor, international trade, development, econometrics, education, health, and industrial organization, among other fields. Further, the Department of Labor's Standard Occupational Classification (SOC) system defines economists as conducting research, preparing reports, or formulating plans to address economic problems related to the production and distribution of goods and services or monetary and fiscal policy.³ Economists may collect and process economic and statistical data using sampling techniques and econometric methods.⁴ Notably, the SOC's definition of the economist occupation specifically excludes the occupations market research analyst and marketing specialist (SOC #13-1161).⁵ Therefore, to be consistent with the SOC, USCIS is clarifying that persons who are engaged primarily in activities associated with market research analysts and marketing specialists, as described in the SOC and the Bureau of Labor Statistics' Occupational

² The Bureau of Labor Statistics (BLS) provides a formal description of the Economist occupation at its Occupational Outlook Handbook (OOH) information suite, at <https://www.bls.gov/ooh/life-physical-and-social-science/economists.htm#tab-2>.

³ The Standard Occupational Classification (SOC) system is used by Federal statistical agencies to classify workers into occupational categories. All workers are classified into one of 840 detailed occupations according to their occupational definition. To facilitate classification, detailed occupations are combined to form 461 broad occupations, 97 minor groups, and 23 major groups. Detailed occupations in the SOC with similar job duties, and in some cases skills, education, and/or training, are grouped together. Available at <https://www.bls.gov/soc/>.

⁴ The Bureau of Labor Statistics, Standard Occupational Classification system definition of Economist (#19-3011): <https://www.bls.gov/soc/2010/soc193011.htm>

⁵ Id.

Outlook Handbook (OOH), do not qualify for the TN nonimmigrant classification as an economist.⁶

With respect to the occupation of financial analyst, USCIS recognizes that economists and financial analysts are related occupations and that there may occasionally be some similarity in the activities of these two occupational categories. As differentiated from economists, however, financial analysts primarily conduct quantitative analyses of information affecting investment programs of public or private institutions.⁷ Recognizing that these types of positions are not the same, the SOC separates these occupations into two categories. Therefore, to be consistent with the SOC, USCIS is clarifying that economists and financial analysts are two separate occupations for the purposes of qualifying for TN nonimmigrant status pursuant to NAFTA.

V. Use

This PM is intended solely for the training and guidance of USCIS personnel in performing their duties relative to the adjudication of applications and petitions. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

VI. Contact Information

Questions or suggestions regarding this PM should be addressed through appropriate channels to the Office of Policy and Strategy.

⁶ As the OOH does not include the activities of market research analysts and marketing specialists within the definition of economist and does not provide specific details between the positions, USCIS refers to the SOC for a more specific definition.

⁷ The Bureau of Labor Statistics, Standard Occupational Classification system definition of Financial Analyst (#13-2051), Available at: <https://www.bls.gov/soc/2010/soc132051.htm>.