



## AN IMPORTANT OPTION FOR MULTINATIONAL BUSINESSES

L-1 visas can be used to bring key workers to the U.S.

By **ERIC FLEISCHMANN**

In the current global economy, multinational corporations trying to make effective use of their resources frequently need to bring foreign workers from operations abroad to work in the U.S.. Fortunately, the L-1 visa category is specially designed for this purpose.

L-1 visas permit multinationals to transfer key personnel to work in the U.S. on a short- or long-term basis. The visa has a number of advantages as compared to others: unlike the O-1 category for outstanding individuals, lengthy documentation is not needed, and unlike the H-1B visa category for professional workers, there is neither a cap on the number of L-1 visas available each year nor is there a prevailing wage requirement. As a result, the category has grown increasingly popular, and while new H-1B visas issuances have dropped in recent years, usage of the L-1 visa category has increased substantially since it was established in 1970.

To qualify as an intracompany transferee, an individual must have worked abroad for a qualifying affiliate for one full year during the three years prior to the filing of the visa petition. The transferee must be coming to the U.S. for an executive or managerial position (the L-1A category) or for work requiring specialized knowledge of the company's products, tools or processes (the L-1B category). The company must show that there is a qualifying relationship between the for-

eign and U.S. employers.

In recent years, the majority of L-1 visas have been issued to specialized knowledge workers who are approved in the L-1B subcategory. L-1B visas are initially granted for up to three years, and can be extended once, for a total duration of five years. During 2008 and 2009, L-1B candidates have come under closer scrutiny by adjudicators at U.S. Citizenship and Immigration Services (USCIS), an agency within the U.S. Department of Homeland Security. In part, this is due to enactment of the L-1B Reform Act (Section 412, Omnibus Appropriations Act of 2005), which required that employers of specialized knowledge workers being placed at the worksite of another company must show that the worker is needed because of his or her skills, and that the placement is not an arrangement to provide labor for hire. The specialized knowledge worker must also be under the direct supervision of the petitioning company.

The L-1A category for transferees who are coming to serve as U.S. managers or executives requires evidence regarding specific duties and responsibilities, such as details on any staff they oversee or on the specific function of the business they manage. Once approved, the visa is valid for up to three years initially, and can be

extended in two-year increments, for up to a total of seven years.

### Establishing A Foothold

When foreign company is opening a new office in the U.S., it may petition for one-year L-1 visas for workers who will be employed here. Established foreign corporations can thus establish a foothold in the U.S. with just a small initial staff. These petitions are approved for one year initially, to permit the USCIS to monitor their progress. At the end of one year, the company must file petitions to extend the L-1 visa status of the transferees,

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along with evidence of the financial status and staffing of the U.S. operations.

Dependents of an L-1 transferee can come to the U.S. on L-2 visas. The L-2 applications can be made at the consulate abroad concurrently with the L-1, or after the worker arrives in the U.S. Once the dependent spouse arrives in the U.S., he or she can apply to USCIS for an employment authorization document. The agency usually takes between one and three months to approve the document.

In most cases, the L-1 visa process consists of two steps. First, the company must

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file an I-129 petition with USCIS on behalf of the individual. The petition must detail the proposed U.S. position and the individual's qualifications. Once approved, the transferee must apply for a new visa at a U.S. consulate abroad. With the new visa, a full page document that is stamped into the passport, he or she can travel to the



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U.S. and start work here upon arrival.

Some well-established companies seek to expedite the L-1 visa application process. To do this, they apply for the "Blanket" exemption to the requirement for filing individual petitions with USCIS. Under the Blanket L Visa program, the company must file one overall petition with USCIS, listing all U.S. and foreign affiliates between which it expects to need to transfer workers. The company must show that it has: an office which has been doing business in the United States for one year or more; three or more domestic and foreign branches, subsidiaries, or affiliates; and U.S. operations with either 1,000

workers, annual sales of at least \$25 million, or approvals for at least ten L-1 transferees during the previous year.

Once a company obtains Blanket approval, it can send qualified workers directly to U.S. consulates to apply for L-1 visas. The applicants must file visa petitions based on the approved blanket with supporting documents directly to the consulate to confirm that they have at least one full year of continuous employment with the foreign affiliate prior to the transfer. This greatly speeds the visa application process, and in many cases permits transferees to come to the U.S. within just a few weeks. ■