

**(C)** A Form I-485, Application for Adjustment to that of Permanent Residence, based on a Form I-130 described in § 214.2(k)(10)(i);

**(ii) "Good Cause" showing.** Aliens may file for an extension of stay as a K-3/K-4 nonimmigrant after a Form I-130 filed on their behalf has been approved, without filing either an application for adjustment of status or an immigrant visa upon a showing of "good cause." A showing of "good cause" may include an illness, a job loss, or some other catastrophic event that has prevented the filing of an adjustment of status application by the K-3/K-4 alien. The event or events must have taken place since the alien entered the United States as a K-3/K-4 nonimmigrant. The burden of establishing "good cause" rests solely with the applicant. Whether the applicant has shown "good cause" is a purely discretionary decision by the Service from which there is no appeal.

**(11) Termination of K-3/K-4 status.** The status of an alien admitted to the United States as a K-3/K-4 under section 101(a)(15)(K)(ii) or (iii) of the Act, shall be automatically terminated 30 days following the occurrence of any of the following:

**(i)** The denial or revocation of the Form I-130 filed on behalf of that alien;

**(ii)** The denial or revocation of the immigrant visa application filed by that alien;

**(iii)** The denial or revocation of the alien's application for adjustment of status to that of lawful permanent residence;

**(iv)** The K-3 spouse's divorce from the U.S. citizen becomes final;

**(v)** The marriage of an alien in K-4 status.

**(vi)** The denial of any of these petitions or applications to a K-3 also results in termination of a dependent K-4's status. For purposes of this section, there is no denial or revocation of a petition or application until the administrative appeal applicable to that application or petition has been exhausted.

## **(I) Intracompany transferees -**

### **(1) Admission of intracompany transferees -**

**(i) General.** Under section 101(a)(15)(L) of the Act, an alien who within the preceding three years has been employed abroad for one continuous year by a qualifying organization may be admitted temporarily to the United States to be employed by a parent, branch,

affiliate, or subsidiary of that employer in a managerial or executive capacity, or in a position requiring specialized knowledge. An alien transferred to the United States under this nonimmigrant classification is referred to as an intracompany transferee and the organization which seeks the classification of an alien as an intracompany transferee is referred to as the petitioner. The Service has responsibility for determining whether the alien is eligible for admission and whether the petitioner is a qualifying organization. These regulations set forth the standards applicable to these classifications. They also set forth procedures for admission of intracompany transferees and appeal of adverse decisions. **Certain petitioners seeking the classification of aliens as intracompany transferees may file blanket petitions with the Service. Under the blanket petition process, the Service is responsible for determining whether the petitioner and its parent, branches, affiliates, or subsidiaries specified are qualifying organizations. The Department of State or, in certain cases, the Service is responsible for determining the classification of the alien.**

#### **(ii) Definitions -**

**(A) *Intracompany transferee*** means an alien who, within three years preceding the time of his or her application for admission into the United States, has been employed abroad continuously for one year by a firm or corporation or other legal entity or parent, branch, affiliate, or subsidiary thereof, and who seeks to enter the United States temporarily in order to render his or her services to a branch of the same employer or a parent, affiliate, or subsidiary thereof in a capacity that is managerial, executive, or involves specialized knowledge. Periods spent in the United States in lawful status for a branch of the same employer or a parent, affiliate, or subsidiary thereof and brief trips to the United States for business or pleasure shall not be interruptive of the one year of continuous employment abroad but such periods shall not be counted toward fulfillment of that requirement.

**(B) *Managerial capacity*** means an assignment within an organization in which the employee primarily:

- (1)** Manages the organization, or a department, subdivision, function, or component of the organization;

**(2)** Supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;

**(3)** Has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization) if another employee or other employees are directly supervised; if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

**(4)** Exercises discretion over the day-to-day operations of the activity or function for which the employee has authority. A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

**(C) *Executive capacity*** means an assignment within an organization in which the employee primarily:

**(1)** Directs the management of the organization or a major component or function of the organization;

**(2)** Establishes the goals and policies of the organization, component, or function;

**(3)** Exercises wide latitude in discretionary decision-making; and

**(4)** Receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

**(D) *Specialized knowledge*** means special knowledge possessed by an individual of the petitioning organization's product, service, research, equipment, techniques, management, or other interests and its application in international markets, or an advanced level of knowledge or expertise in the organization's processes and procedures.

**(E) *Specialized knowledge professional*** means an individual who has specialized knowledge as defined in paragraph (I)(1)(ii)(D) of this section and is a member of the professions as defined in section 101(a)(32) of the Immigration and Nationality Act.

**(F) *New office*** means an organization which has been doing business in the United States through a parent, branch, affiliate, or subsidiary for less than one year.

**(G) *Qualifying organization*** means a United States or foreign firm, corporation, or other legal entity which:

**(1)** Meets exactly one of the qualifying relationships specified in the definitions of a parent, branch, affiliate or subsidiary specified in paragraph (I)(1)(ii) of this section;

**(2)** Is or will be doing business (engaging in international trade is not required) as an employer in the United States and in at least one other country directly or through a parent, branch, affiliate, or subsidiary for the duration of the alien's stay in the United States as an intracompany transferee; and

**(3)** Otherwise meets the requirements of section 101(a)(15)(L) of the Act.

**(H) *Doing business*** means the regular, systematic, and continuous provision of goods and/or services by a qualifying organization and does not include the mere presence of an agent or office of the qualifying organization in the United States and abroad.

**(I) *Parent*** means a firm, corporation, or other legal entity which has subsidiaries.

**(J) *Branch*** means an operating division or office of the same organization housed in a different location.

**(K) *Subsidiary*** means a firm, corporation, or other legal entity of which a parent owns, directly or indirectly, more than half of the entity and controls the entity; or owns, directly or indirectly, half of the entity and controls the entity; or owns, directly or indirectly, 50 percent of a 50-50 joint venture and has equal control and veto power over the entity; or owns, directly or indirectly, less than half of the entity, but in fact controls the entity.

**(L) *Affiliate*** means (1) One of two subsidiaries both of which are owned and controlled by the same parent or individual, or

**(2)** One of two legal entities owned and controlled by the same group of individuals, each individual owning and controlling approximately the same share or proportion of each entity, or

**(3)** In the case of a partnership that is organized in the United States to provide accounting services along with managerial and/or consulting services and that markets its accounting services under an internationally recognized name under an agreement with a worldwide coordinating organization that is owned and controlled by the member accounting firms, a partnership (or similar organization) that is organized outside the United States to provide accounting services shall be considered to be an affiliate of the United States partnership if it markets its accounting services under the same internationally recognized name under the agreement with the worldwide coordinating organization of which the United States partnership is also a member.

**(M) Director** means a Service Center director with delegated authority at 8 CFR 103.1.

## **(2) Filing of petitions.**

**(i)** Except as provided in paragraph (I)(2)(ii) and (I)(17) of this section, a petitioner seeking to classify an alien as an intracompany transferee must file a petition on the form prescribed by USCIS. The petitioner shall advise USCIS whether a previous petition for the same beneficiary has been filed, and certify that another petition for the same beneficiary will not be filed unless the circumstances and conditions in the initial petition have changed. Failure to make a full disclosure of previous petitions filed may result in a denial of the petition.

**(ii)** A United States petitioner which meets the requirements of paragraph (I)(4) of this section and seeks continuing approval of itself and its parent, branches, specified subsidiaries and affiliates as qualifying organizations and, later, classification under section 101(a)(15)(L) of the Act multiple numbers of aliens employed by itself, its parent, or those branches, subsidiaries, or affiliates may file a **blanket petition** on the form prescribed by USCIS. The blanket petition shall be maintained at the adjudicating office. The petitioner shall be the single representative for the qualifying organizations with which USCIS will deal regarding the blanket petition.

**(3) Evidence for individual petitions.** An individual petition filed on the form prescribed by USCIS shall be accompanied by:

**(i)** Evidence that the petitioner and the organization which employed or will employ the alien are qualifying organizations as defined in paragraph (I)(1)(ii)(G) of this section.

- (ii)** Evidence that the alien will be employed in an executive, managerial, or specialized knowledge capacity, including a detailed description of the services to be performed.
- (iii)** Evidence that the alien has at least one continuous year of full-time employment abroad with a qualifying organization within the three years preceding the filing of the petition.
- (iv)** Evidence that the alien's prior year of employment abroad was in a position that was managerial, executive, or involved specialized knowledge and that the alien's prior education, training, and employment qualifies him/her to perform the intended services in the United States; however, the work in the United States need not be the same work which the alien performed abroad.
- (v)** If the petition indicates that the beneficiary is coming to the United States as a manager or executive to open or to be employed in a new office in the United States, the petitioner shall submit evidence that:
- (A)** Sufficient physical premises to house the new office have been secured;
  - (B)** The beneficiary has been employed for one continuous year in the three year period preceding the filing of the petition in an executive or managerial capacity and that the proposed employment involved executive or managerial authority over the new operation; and
  - (C)** The intended United States operation, within one year of the approval of the petition, will support an executive or managerial position as defined in paragraphs (I)(1)(ii) (B) or (C) of this section, supported by information regarding:
    - (1)** The proposed nature of the office describing the scope of the entity, its organizational structure, and its financial goals;
    - (2)** The size of the United States investment and the financial ability of the foreign entity to remunerate the beneficiary and to commence doing business in the United States; and
    - (3)** The organizational structure of the foreign entity.
- (vi)** If the petition indicates that the beneficiary is coming to the United States in a specialized knowledge capacity to open or to be employed in a new office, the petitioner shall submit evidence that:
- (A)** Sufficient physical premises to house the new office have been secured;

**(B)** The business entity in the United States is or will be a qualifying organization as defined in paragraph (I)(1)(ii)(G) of this section; and

**(C)** The petitioner has the financial ability to remunerate the beneficiary and to commence doing business in the United States.

**(vii)** If the beneficiary is an owner or major stockholder of the company, the petition must be accompanied by evidence that the beneficiary's services are to be used for a temporary period and evidence that the beneficiary will be transferred to an assignment abroad upon the completion of the temporary services in the United States.

**(viii)** Such other evidence as the director, in his or her discretion, may deem necessary.

#### **(4) *Blanket petitions.***

**(i)** A petitioner which meets the following requirements may file a blanket petition seeking continuing approval of itself and some or all of its parent, branches, subsidiaries, and affiliates as qualifying organizations if:

**(A)** The petitioner and each of those entities are engaged in commercial trade or services;

**(B)** The petitioner has an office in the United States that has been doing business for one year or more;

**(C)** The petitioner has three or more domestic and foreign branches, subsidiaries, or affiliates; and

**(D)** The petitioner and the other qualifying organizations have obtained approval of petitions for at least ten "L" managers, executives, or specialized knowledge professionals during the previous 12 months; or have U.S. subsidiaries or affiliates with combined annual sales of at least \$25 million; or have a United States work force of at least 1,000 employees.

**(ii)** Managers, executives, and specialized knowledge professionals employed by firms, corporations, or other entities which have been found to be qualifying organizations pursuant to an approved blanket petition may be classified as intracompany transferees and admitted to the United States as provided in paragraphs (I) (5) and (11) of this section.

**(iii)** When applying for a blanket petition, the petitioner shall include in the blanket petition all of its branches, subsidiaries, and affiliates which plan to seek to transfer aliens to the United States under the blanket petition. An individual petition may be filed by the petitioner or organizations in lieu of using the blanket petition procedure. However, the petitioner and other qualifying organizations may not seek L classification for the same alien under both procedures, unless a consular officer first denies eligibility. Whenever a petitioner which has blanket L approval files an individual petition to seek L classification for a manager, executive, or specialized knowledge professional, the petitioner shall advise the Service that it has blanket L approval and certify that the beneficiary has not and will not apply to a consular officer for L classification under the approved blanket petition.

**(iv) Evidence.** A blanket petition filed on the form prescribed by USCIS shall be accompanied by:

**(A)** Evidence that the petitioner meets the requirements of paragraph (l)(4)(i) of this section.

**(B)** Evidence that all entities for which approval is sought are qualifying organizations as defined in subparagraph (l)(1)(ii)(G) of this section.

**(C)** Such other evidence as the director, in his or her discretion, deems necessary in a particular case.

#### **(5) Certification and admission procedures for beneficiaries under blanket petition -**

**(i) Jurisdiction.** United States consular officers shall have authority to determine eligibility of individual beneficiaries outside the United States seeking L classification under blanket petitions, except for visa-exempt nonimmigrants. An application for a visa-exempt nonimmigrant seeking L classification under a blanket petition or by an alien in the United States applying for change of status to L classification under a blanket petition shall be filed with the Service office at which the blanket petition was filed.

**(ii) Procedures.**

**(A)** When one qualifying organization listed in an approved blanket petition wishes to transfer an alien outside the United States to a qualifying organization in the United States and the alien requires a visa to enter the United States, that organization shall complete Form



I-129S, Certificate of Eligibility for Intracompany Transferee under a Blanket Petition, in an original and three copies. The qualifying organization shall retain one copy for its records and send the original and two copies to the alien. A copy of the approved Form I-797 must be attached to the original and each copy of Form I-129S.

**(B)** After receipt of Form I-797 and Form I-129S, a qualified employee who is being transferred to the United States may use these documents to apply for visa issuance with the consular officer within six months of the date on Form I-129S.

**(C)** When the alien is a visa-exempt nonimmigrant seeking L classification under a blanket petition, or when the alien is in the United States and is seeking a change of status from another nonimmigrant classification to L classification under a blanket petition, the petitioner shall submit Form I-129S, Certificate of Eligibility, and a copy of the approval notice, Form I-797, to the USCIS office with which the blanket petition was filed.

**(D)** The consular or Service officer shall determine whether the position in which the alien will be employed in the United States is with an organization named in the approved petition and whether the specific job is for a manager, executive, or specialized knowledge professional. The consular or Service officer shall determine further whether the alien's immediate prior year of continuous employment abroad was with an organization named in the petition and was in a position as manager, executive, or specialized knowledge professional.

**(E)** Consular officers may grant "L" classification only in clearly approvable applications. If the consular officer determines that the alien is eligible for L classification, the consular officer may issue a nonimmigrant visa, noting the visa classification "Blanket L-1" for the principal alien and "Blanket L-2" for any accompanying or following to join spouse and children. The consular officer shall also endorse all copies of the alien's Form I-129S with the blanket L-1 visa classification and return the original and one copy to the alien. When the alien is inspected for entry into the United States, both copies of the Form I-129S shall be stamped to show a validity period not to exceed three years and the second copy collected and sent to the appropriate Regional Service Center for control purposes. Service officers who determine eligibility of aliens for L-1 classification under

blanket petitions shall endorse both copies of Form I-129S with the blanket L-1 classification and the validity period not to exceed three years and retain the second copy for Service records.

**(F)** If the consular officer determines that the alien is ineligible for L classification under a blanket petition, the consular officer's decision shall be final. The consular officer shall record the reasons for the denial on Form I-129S, retain one copy, return the original of I-129S to the USCIS office which approved the blanket petition, and provide a copy to the alien. In such a case, an individual petition may be filed for the alien on the form prescribed by USCIS. The petition shall state the reason the alien was denied L classification and specify the consular office which made the determination and the date of the determination.

**(G)** An alien admitted under an approved blanket petition may be reassigned to any organization listed in the approved petition without referral to the Service during his/her authorized stay if the alien will be performing virtually the same job duties. If the alien will be performing different job duties, the petitioner shall complete a new Certificate of Eligibility and send it for approval to the director who approved the blanket petition.

**(6) Copies of supporting documents.** The petitioner may submit a legible photocopy of a document in support of the visa petition, in lieu of the original document. However, the original document shall be submitted if requested by the Service.

**(7) Approval of petition -**

**(i) General.** The director shall notify the petitioner of the approval of an individual or a blanket petition within 30 days after the date a completed petition has been filed. If additional information is required from the petitioner, the 30 day processing period shall begin again upon receipt of the information. The original Form I-797 received from the USCIS with respect to an approved individual or blanket petition may be duplicated by the petitioner for the beneficiary's use as described in paragraph (I)(13) of this section.

**(A) Individual petition -**

**(1)** Form I-797 shall include the beneficiary's name and classification and the petition's period of validity.

**(2)** An individual petition approved under this paragraph shall be valid for the period of established need for the beneficiary's services, not to exceed three years, except where the beneficiary is coming to the United States to open or to be employed in a new office.

**(3)** If the beneficiary is coming to the United States to open or be employed in a new office, the petition may be approved for a period not to exceed one year, after which the petitioner shall demonstrate as required by paragraph (I)(14)(ii) of this section that it is doing business as defined in paragraph (I) (1)(ii)(H) of this section to extend the validity of the petition.

**(B) *Blanket petition.***

**(1)** Form I-797 shall identify the approved organizations included in the petition and the petition's period of validity.

**(2)** A blanket petition approved under this paragraph shall be valid initially for a period of three years and may be extended indefinitely thereafter if the qualifying organizations have complied with these regulations.

**(3)** A blanket petition may be approved in whole or in part and shall cover only qualifying organizations.

**(C) *Amendments.*** The petitioner must file an amended petition, with fee, at the USCIS office where the original petition was filed to reflect changes in approved relationships, additional qualifying organizations under a blanket petition, change in capacity of employment (*i.e.*, from a specialized knowledge position to a managerial position), or any information which would affect the beneficiary's eligibility under section 101(a)(15)(L) of the Act.

**(ii) *Spouse and dependents.*** The spouse and unmarried minor children of the beneficiary are entitled to L nonimmigrant classification, subject to the same period of admission and limits as the beneficiary, if the spouse and unmarried minor children are accompanying or following to join the beneficiary in the United States. Neither the spouse nor any child may accept employment unless he or she has been granted employment authorization.

**(8) *Denial of petition* -**

**(i) *Individual petition.*** If an individual is denied, the petitioner shall be notified within 30 days after the date a completed petition has been filed of the denial, the reasons for the denial, and the right to appeal the denial.

**(ii) *Blanket petition.*** If a blanket petition is denied in whole or in part, the petitioner shall be notified within 30 days after the date a completed petition has been filed of the denial, the reasons for the denial, and the right to appeal the denial. If the petition is denied in part, the USCIS office issuing the denial shall forward to the petitioner, along with the denial, a Form I-797 listing those organizations which were found to qualify. If the decision to deny is reversed on appeal, a new Form I-797 shall be sent to the petitioner to reflect the changes made as a result of the appeal.

**(9) *Revocation of approval of individual and blanket petitions -***

**(i) *General.*** The director may revoke a petition at any time, even after the expiration of the petition.

**(ii) *Automatic revocation.*** The approval of any individual or blanket petition is automatically revoked if the petitioner withdraws the petition or the petitioner fails to request indefinite validity of a blanket petition.

**(iii) *Revocation on notice.***

**(A)** The director shall send to the petitioner a notice of intent to revoke the petition in relevant part if he/she finds that:

**(1)** One or more entities are no longer qualifying organizations;

**(2)** The alien is no longer eligible under section 101(a)(15)(L) of the Act;

**(3)** A qualifying organization(s) violated requirements of section 101(a)(15)(L) and these regulations;

**(4)** The statement of facts contained in the petition was not true and correct; or

**(5)** Approval of the petition involved gross error; or

**(6)** None of the qualifying organizations in a blanket petition have used the blanket petition procedure for three consecutive years.

**(B)** The notice of intent to revoke shall contain a detailed statement of the grounds for the revocation and the time period allowed for the petitioner's rebuttal. Upon receipt of this notice, the petitioner may

submit evidence in rebuttal within 30 days of the notice. The director shall consider all relevant evidence presented in deciding whether to revoke the petition in whole or in part. If a blanket petition is revoked in part, the remainder of the petition shall remain approved, and a revised Form I-797 shall be sent to the petitioner with the revocation notice.

**(iv) Status of beneficiaries.** If an individual petition is revoked, the beneficiary shall be required to leave the United States, unless the beneficiary has obtained other work authorization from the Service. If a blanket petition is revoked and the petitioner and beneficiaries already in the United States are otherwise eligible for L classification, the director shall extend the blanket petition for a period necessary to support the stay of those blanket L beneficiaries. The approval notice, Form I-171C, shall include only the names of qualifying organizations and covered beneficiaries. No new beneficiaries may be classified or admitted under this limited extension.

**(10) Appeal of denial or revocation of individual or blanket petition.**

**(i)** A petition denied in whole or in part may be appealed under 8 CFR part 103. Since the determination on the Certificate of Eligibility, Form I-129S, is part of the petition process, a denial or revocation of approval of an I-129S is appealable in the same manner as the petition.

**(ii)** A petition that has been revoked on notice in whole or in part may be appealed under part 103 of this chapter. Automatic revocations may not be appealed.

**(11) Admission.** A beneficiary may apply for admission to the United States only while the individual or blanket petition is valid. The beneficiary of an individual petition shall not be admitted for a date past the validity period of the petition. The beneficiary of a blanket petition may be admitted for three years even though the initial validity period of the blanket petition may expire before the end of the three-year period. If the blanket petition will expire while the alien is in the United States, the burden is on the petitioner to file for indefinite validity of the blanket petition or to file an individual petition in the alien's behalf to support the alien's status in the United States. The admission period for any alien under section 101(a)(15)(L) shall not exceed three years unless an extension of stay is granted pursuant to paragraph (I)(15) of this section.

**(12) L-1 limitation on period of stay -**

**(i) *Limits.*** An alien who has spent five years in the United States in a specialized knowledge capacity or seven years in the United States in a managerial or executive capacity under section 101(a)(15) (L) and/or (H) of the Act may not be readmitted to the United States under section 101(a)(15) (L) or (H) of the Act unless the alien has resided and been physically present outside the United States, except for brief visits for business or pleasure, for the immediate prior year. Such visits do not interrupt the one year abroad, but do not count towards fulfillment of that requirement. In view of this restriction, a new individual petition may not be approved for an alien who has spent the maximum time period in the United States under section 101(a)(15) (L) and/or (H) of the Act, unless the alien has resided and been physically present outside the United States, except for brief visits for business or pleasure, for the immediate prior year. The petitioner shall provide information about the alien's employment, place of residence, and the dates and purpose of any trips to the United States for the previous year. A consular or Service officer may not grant L classification under a blanket petition to an alien who has spent five years in the United States as a professional with specialized knowledge or seven years in the United States as a manager or executive, unless the alien has met the requirements contained in this paragraph.

**(ii) *Exceptions.*** The limitations of paragraph (l)(12)(i) of this section shall not apply to aliens who do not reside continually in the United States and whose employment in the United States is seasonal, intermittent, or consists of an aggregate of six months or less per year. In addition, the limitations will not apply to aliens who reside abroad and regularly commute to the United States to engage in part-time employment. The petitioner and the alien must provide clear and convincing proof that the alien qualifies for an exception. Clear and convincing proof shall consist of evidence such as arrival and departure records, copies of tax returns, and records of employment abroad.

### **(13) *Beneficiary's use of Form I-797 and Form I-129S -***

**(i) *Beneficiary of an individual petition.*** The beneficiary of an individual petition who does not require a nonimmigrant visa may present a copy of Form I-797 at a port of entry to facilitate entry into the United States. The copy of Form I-797 shall be retained by the beneficiary and presented during the validity of the petition (provided that the beneficiary is entering or reentering the United States) for entry and reentry to resume the same employment with the same

petitioner (within the validity period of the petition) and to apply for an extension of stay. A beneficiary who is required to present a visa for admission and whose visa will have expired before the date of his or her intended return may use an original Form I-797 to apply for a new or revalidated visa during the validity period of the petition and to apply for an extension of stay.

**(ii) *Beneficiary of a blanket petition.*** Each alien seeking L classification and admission under a blanket petition shall present a copy of Form I-797 and a Form I-129S from the petitioner which identifies the position and organization from which the employee is transferring, the new organization and position to which the employee is destined, a description of the employee's actual duties for both the new and former positions, and the positions, dates, and locations of previous L stays in the United States. A current copy of Form I-797 and Form I-129S should be retained by the beneficiary and used for leaving and reentering the United States to resume employment with a qualifying organization during his/her authorized period of stay, for applying for a new or revalidated visa, and for applying for readmission at a port of entry. The alien may be readmitted even though reassigned to a different organization named on the Form I-797 than the one shown on Form I-129S if the job duties are virtually the same.

#### **(14) *Extension of visa petition validity* -**

**(i) *Individual petition.*** The petitioner shall file a petition extension on Form I-129 to extend an individual petition under section 101(a)(15)(L) of the Act. Except in those petitions involving new offices, supporting documentation is not required, unless requested by the director. A petition extension may be filed only if the validity of the original petition has not expired.

**(ii) *New offices.*** A visa petition under section 101(a)(15)(L) which involved the opening of a new office may be extended by filing a new application or petition, accompanied by the following:

**(A)** Evidence that the United States and foreign entities are still qualifying organizations as defined in paragraph (I)(1)(ii)(G) of this section;

**(B)** Evidence that the United States entity has been doing business as defined in paragraph (I)(1)(ii)(H) of this section for the previous year;

(C) A statement of the duties performed by the beneficiary for the previous year and the duties the beneficiary will perform under the extended petition;

(D) A statement describing the staffing of the new operation, including the number of employees and types of positions held accompanied by evidence of wages paid to employees when the beneficiary will be employed in a managerial or executive capacity; and

(E) Evidence of the financial status of the United States operation.

### (iii) **Blanket petitions** -

(A) **Extension procedure.** A blanket petition may only be extended indefinitely by filing a new Form I-129 with a copy of the previous approval notice and a report of admissions during the preceding three years. The report of admissions shall include a list of the aliens admitted under the blanket petition during the preceding three years, including positions held during that period, the employing entity, and the dates of initial admission and final departure of each alien. The petitioner shall state whether it still meets the criteria for filing a blanket petition and shall document any changes in approved relationships and additional qualifying organizations.

(B) **Other conditions.** If the petitioner in an approved blanket petition fails to request indefinite validity or if indefinite validity is denied, the petitioner and its other qualifying organizations shall seek L classification by filing individual petitions until another three years have expired; after which the petitioner may seek approval of a new blanket petition.

### (15) **Extension of stay.**

(i) In individual petitions, the petitioner must apply for the petition extension and the alien's extension of stay concurrently on Form I-129. When the alien is a beneficiary under a **blanket petition**, a new certificate of eligibility, accompanied by a copy of the previous approved certificate of eligibility, shall be filed by the petitioner to request an extension of the alien's stay. The petitioner must also request a petition extension. The dates of extension shall be the same for the petition and the beneficiary's extension of stay. The beneficiary must be physically present in the United States at the time the extension of stay is filed. Even though the requests to extend the visa petition and the alien's



stay are combined on the petition, the director shall make a separate determination on each. If the alien is required to leave the United States for business or personal reasons while the extension requests are pending, the petitioner may request the director to cable notification of approval of the petition extension to the consular office abroad where the alien will apply for a visa.

**(ii)** An extension of stay may be authorized in increments of up to two years for beneficiaries of individual and blanket petitions. The total period of stay may not exceed five years for aliens employed in a specialized knowledge capacity. The total period of stay for an alien employed in a managerial or executive capacity may not exceed seven years. No further extensions may be granted. **When an alien was initially admitted to the United States in a specialized knowledge capacity and is later promoted to a managerial or executive position, he or she must have been employed in the managerial or executive position for at least six months to be eligible for the total period of stay of seven years. The change to managerial or executive capacity must have been approved by the Service in an amended, new, or extended petition at the time that the change occurred.**

**(16) *Effect of filing an application for or approval of a permanent labor certification, preference petition, or filing of an application for adjustment of status on L-1 classification.*** An alien may legitimately come to the United States for a temporary period as an L-1 nonimmigrant and, at the same time, lawfully seek to become a permanent resident of the United States provided he or she intends to depart voluntarily at the end of his or her authorized stay. The filing of an application for or approval of a permanent labor certification, an immigrant visa preference petition, or the filing of an application of readjustment of status for an L-1 nonimmigrant shall not be the basis for denying:

- (i)** An L-1 petition filed on behalf of the alien,
- (ii)** A request to extend an L-1 petition which had previously been filed on behalf of the alien;
- (iii)** An application for admission as an L-1 nonimmigrant by the alien, or as an L-2 nonimmigrant by the spouse or child of such alien;
- (iv)** An application for change of status to H-1 or L-2 nonimmigrant filed by the alien, or to H-1, H-4, or L-1 status filed by the L-2 spouse or child of such alien;

(v) An application for change of status to H-4 nonimmigrant filed by the L-1 nonimmigrant, if his or her spouse has been approved for classification as an H-1; or

(vi) An application for extension of stay filed by the alien, or by the L-2 spouse or child of such alien.

**(17) Filing of individual petitions and certifications under blanket petitions for citizens of Canada under the North American Free Trade Agreement (NAFTA) -**

**(i) Individual petitions.** Except as provided in paragraph (1)(2)(ii) of this section (filing of blanket petitions), a United States or foreign employer seeking to classify a citizen of Canada as an intracompany transferee may file an individual petition in duplicate on the form prescribed by USCIS in conjunction with an application for admission of the citizen of Canada. Such filing may be made with an immigration officer at a Class A port of entry located on the United States-Canada land border or at a United States pre-clearance/pre-flight station in Canada. The petitioning employer need not appear, but the form prescribed by USCIS must bear the authorized signature of the petitioner.

**(ii) Certification of eligibility for intracompany transferee under the blanket petition.** An immigration officer at a location identified in paragraph (1)(17)(i) of this section may determine eligibility of individual citizens of Canada seeking L classification under approved blanket petitions. At these locations, such citizens of Canada shall present the original and two copies of Form I-129S, Intracompany Transferee Certificate of Eligibility, prepared by the approved organization, as well as three copies of Form I-797, Notice of Approval of Nonimmigrant Visa Petition.

**(iii)** Nothing in this section shall preclude or discourage the advance filing of petitions and certificates of eligibility in accordance with paragraph (1)(2) of this section.

**(iv) Deficient or deniable petitions or certificates of eligibility.** If a petition or certificate of eligibility submitted concurrently with an application for admission is lacking necessary supporting documentation or is otherwise deficient, the inspecting immigration officer shall return it to the applicant for admission in order to obtain the necessary documentation from the petitioner or for the deficiency to be overcome. The fee to file the petition will be remitted at such time as the

documentary or other deficiency is overcome. If the petition or certificate of eligibility is clearly deniable, the immigration officer will accept the petition (with fee) and the petitioner shall be notified of the denial, the reasons for denial, and the right of appeal. If a formal denial order cannot be issued by the port of entry, the petition with a recommendation for denial shall be forwarded to the appropriate Service Center for final action. For the purposes of this provision, the appropriate Service Center will be the one within the same Service region as the location where the application for admission is made.

**(v) Spouse and dependent minor children accompanying or following to join.**

**(A)** The Canadian citizen spouse and Canadian citizen unmarried minor children of a Canadian citizen admitted under this paragraph shall be entitled to the same nonimmigrant classification and same length of stay subject to the same limits as the principal alien. They shall not be required to present visas, and they shall be admitted under the classification symbol L-2.

**(B)** A non-Canadian citizen spouse or non-Canadian citizen unmarried minor child shall be entitled to the same nonimmigrant classification and the same length of stay subject to the same limits as the principal, but shall be required to present a visa upon application for admission as an L-2 unless otherwise exempt under § 212.1 of this chapter.

**(C)** The spouse and dependent minor children shall not accept employment in the United States unless otherwise authorized under the Act.

**(18) Denial of intracompany transferee status to citizens of Canada or Mexico in the case of certain labor disputes.**

**(i)** If the Secretary of Labor certifies to or otherwise informs the Commissioner that a strike or other labor dispute involving a work stoppage of workers is in progress where the beneficiary is to be employed, and the temporary entry of the beneficiary may affect adversely the settlement of such labor dispute or the employment of any person who is involved in such dispute, a petition to classify a citizen of Mexico or Canada as an L-1 intracompany transferee may be denied. If a petition has already been approved, but the alien has not yet entered the United States, or has entered the United States but not

yet commenced employment, the approval of the petition may be suspended, and an application for admission on the basis of the petition may be denied.

**(ii)** If there is a strike or other labor dispute involving a work stoppage of workers in progress, but such strike or other labor dispute is not certified under paragraph (l)(18)(i) of this section, or the Service has not otherwise been informed by the Secretary that such a strike or labor dispute is in progress, the Commissioner shall not deny a petition or suspend an approved petition.

**(iii)** If the alien has already commenced employment in the United States under an approved petition and is participating in a strike or other labor dispute involving a work stoppage of workers, whether or not such strike or other labor dispute has been certified by the Department of Labor, the alien shall not be deemed to be failing to maintain his or her status solely on account of past, present, or future participation in a strike or other labor dispute involving a work stoppage of workers, but is subject to the following terms and conditions.

**(A)** The alien shall remain subject to all applicable provisions of the Immigration and Nationality Act, and regulations promulgated in the same manner as all other L nonimmigrants;

**(B)** The status and authorized period of stay of such an alien is not modified or extended in any way by virtue of his or her participation in a strike or other labor dispute involving work stoppage of workers; and

**(C)** Although participation by an L nonimmigrant alien in a strike or other labor dispute involving a work stoppage of workers will not constitute a ground for deportation, any alien who violates his or her status or who remains in the United States after his or her authorized period of stay has expired will be subject to deportation.

**(m) *Students in established vocational or other recognized nonacademic institutions, other than in language training programs***

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**(1) *Admission of student*** -

**(i) *Eligibility for admission.*** A nonimmigrant student may be admitted into the United States in nonimmigrant status under section 101(a)(15)(M) of the Act, if: