



L1 OVERVIEW

L1 nonimmigrant visa classification applies to intracompany transferees who, within the three preceding years, have been employed abroad continuously for one year, and who will be employed by a branch, parent, affiliate, or subsidiary of that same employer in the U.S. in a managerial, executive, or specialized knowledge capacity.

The below overview addresses:

- Summary and Scope of L1 Nonimmigrant Visa
 - Managers & Executives
 - Specialized Knowledge Professionals
- Younossi Law's Processing Steps for L1 Petitions
 - USCIS Filing
 - Blanket L Application
- Permanent Residency Strategies for L1 Employees

SUMMARY AND SCOPE OF L1 NONIMMIGRANT VISA

ELIGIBILITY:

The L1 category is designated for foreign national employees coming to the United States to perform services in either a managerial or executive capacity or in a specialized knowledge professional capacity. To be eligible for L1 status, a candidate must have been employed for 1 continuous year (out of the 3 year period preceding admission in L status) with a branch, parent, affiliate, or subsidiary of the U.S. petitioner. The two types of L1 visas are L1A which are designated for managers and executives and L1B which are designated for specialized knowledge professionals.

- **L1A Manager:** The regulations define managerial capacity to mean 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, 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.

- **L1A Executive:** The regulations define executive capacity to mean 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.

- **L1B Specialized Knowledge Professional:** The regulations define specialized knowledge professionals to be individuals who possess special knowledge 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. Some characteristics of an employee who has specialized knowledge are that he or she:
 - Possesses knowledge that is valuable to the employer's competitiveness in the market place;
 - Is qualified to contribute to the United States employer's knowledge of foreign operating conditions as a result of special knowledge not generally found in the industry;

- Has been utilized abroad in a capacity involving significant assignments which have enhanced the employers productivity, competitiveness, image, or financial position;
- Possesses knowledge which can be gained only through prior experience with that employer;
- Possesses knowledge of a product or process which cannot be easily transferred or taught to another individual.
- An alien beneficiary has knowledge of a process or a product which is of a sophisticated nature, although not unique to the foreign firm, which is not generally known in the United States.

In recent years, there has been increased scrutiny on the L1B category and USCIS has requested extensive documentation and justification regarding the candidate's qualifications for L1B status. USCIS will often request the following information/documentation prior to adjudicating the L1B petition. In certain cases, Younossi Law may advise petitioning employers to submit some or all of this documentation with the initial petition filing to help alleviate further USCIS requests for information.

- Foreign Organizational Chart: Submit a copy of the foreign organizational structure, and show the location of the beneficiary's current position in the organization's staffing pattern. Include the levels of supervision and the number and types of positions the alien supervises.
- Employees abroad: Indicate the total number of employees at foreign locations where beneficiary is employed.
- U.S. Company's Organizational Chart: Submit a copy of the U.S. company's organizational structure, and show the location of the proposed position in the organization's staffing pattern. Include levels of supervision and number and types of positions the alien will supervise.
- Employees in the U.S.: Indicate the total number of employees at U.S. location where the beneficiary will be employed.
- Foreign National Employees: Indicate the number of foreign nationals employed at U.S. location where beneficiary will be employed, and include the following:
 - the title of each foreign national's position;
 - the type of visa held by each
 - the number of specialized knowledge L-1's transferred to the U.S. location in the last five years, by year, with the position description and title of each; and
 - the number of L-1's transferred within the last 12 months who are still at the U.S. location, with the position description and title of each.

- **Similar Positions:** Specify the number of persons holding the same or similar position as the beneficiary at U.S. location where beneficiary will be employed and include the following:
 - if the U.S. location has been in business for more than 1 year, explain how the beneficiary's asserted duties were performed prior to this petition and by whom;
 - indicate whether any other employees at the company's U.S. locations perform the duties stated in the beneficiary's proposed position; and
 - if there is such an employee, explain why that employee is not being used by the petitioner's organization.
- **Special or Advanced Duties:** Explain how the duties the alien performed abroad and those he or she will perform in the United States are different or unique from those of other workers employed by the petitioner or other U.S. employers in this type of position.
- **Petitioner's Product:** Explain, in more detail, exactly what is the equipment, system, product, technique, or service of which the beneficiary of this petition has specialized knowledge, and indicate if it is used or produced by other employers in the United States and abroad.
- **Beneficiary's Training:** Explain how the beneficiary's training is exclusive and significantly unique in comparison to that of others employed by the petitioner or another person in this particular field.
- **Training Beneficiary Will Provide:** If the petitioner is seeking to bring the beneficiary to the U.S. to provide training in the area of his or her claimed specialized knowledge, describe in detail the training which the beneficiary will give other workers.
- **Impact on Petitioner's Business:** Describe the impact upon the petitioner's business if the petitioner is unable to obtain the alien's services, and what alternative action will be taken to fill the responsibilities.

AUTHORIZED PERIODS OF STAY:

The L1A category has a 7 year maximum period of stay. The L1B category has a 5 year maximum period of stay. L1 visas are granted initially for a 3 year period of time and can be extended in 2 year increments. Periods of time spent in L status count towards the H1B 6 year limit should the L1 employee change to H1B status at a later point.

- **Intermittent L-1:** Individuals are not subject to the 5 or 7 year maximum limitations of stay if:

- They do not reside continually in United States and whose employment is seasonal, intermittent, or consists of an aggregate of six months or less per year.

OR

- They reside abroad and regularly commute to the United States to engage in part-time employment.

DUAL INTENT:

The L1 nonimmigrant visa is a dual intent visa. As such, L1 employees are allowed to pursue permanent residency in the United States while they hold nonimmigrant L1 status.

SPOUSES AND DEPENDENT CHILDREN UNDER AGE 21:

The spouses and dependent children under age 21 are eligible for dependent L2 status. L2 spouses are also eligible to apply for an Employment Authorization Document (EAD) card based on their L2 status. This work authorization eligibility does not apply to L2 children.

TYPES OF L1 PETITIONS/APPLICATIONS:

The manner in which an L1 petition or application is prepared depends on whether the company has a Blanket L Petition Approval, the type of L1 employee and the employee's educational qualifications.

- **USCIS L1 Petition Filing:** For some L1 candidates, the U.S. petitioning employer is required to submit a L petition filing with the USCIS and obtain an L1 approval notice. The L1 candidate will then need to apply for an L1 visa stamp to be placed in their passport at a U.S. consulate. The L1 visa stamp application process will vary per consulate, but typically entails an appointment be made with the consulate, submission of Form 160 (or Form DS 156 and DS 157 for consulates that still use these versions of the forms---applicants should check directly with the consulate as to which form is required by the particular consulate) as well as an in-person interview. Photo requirements, payment of visa fees, as well as passport validity requirements will also apply as with any visa stamp application. Visa issuance timeframes also vary by consulate.

Once the L1 visa stamp is issued in the passport, the L1 candidate may use the same to enter the U.S. in valid L1 status and commence employment. At entry, the port-of-entry officer will issue the L1 applicant a Form I-94 Arrival and Departure Record (I-94 card) which indicates L1 status, the date of entry, and the

date of expiration of the L1 status. It is key that the L1 applicant forward Younossi Law a copy of the I-94 card after each entry or at least advise Younossi Law of each re-entry into the U.S. so that status and expiration dates may be accurately tracked for employment authorization and status purposes.

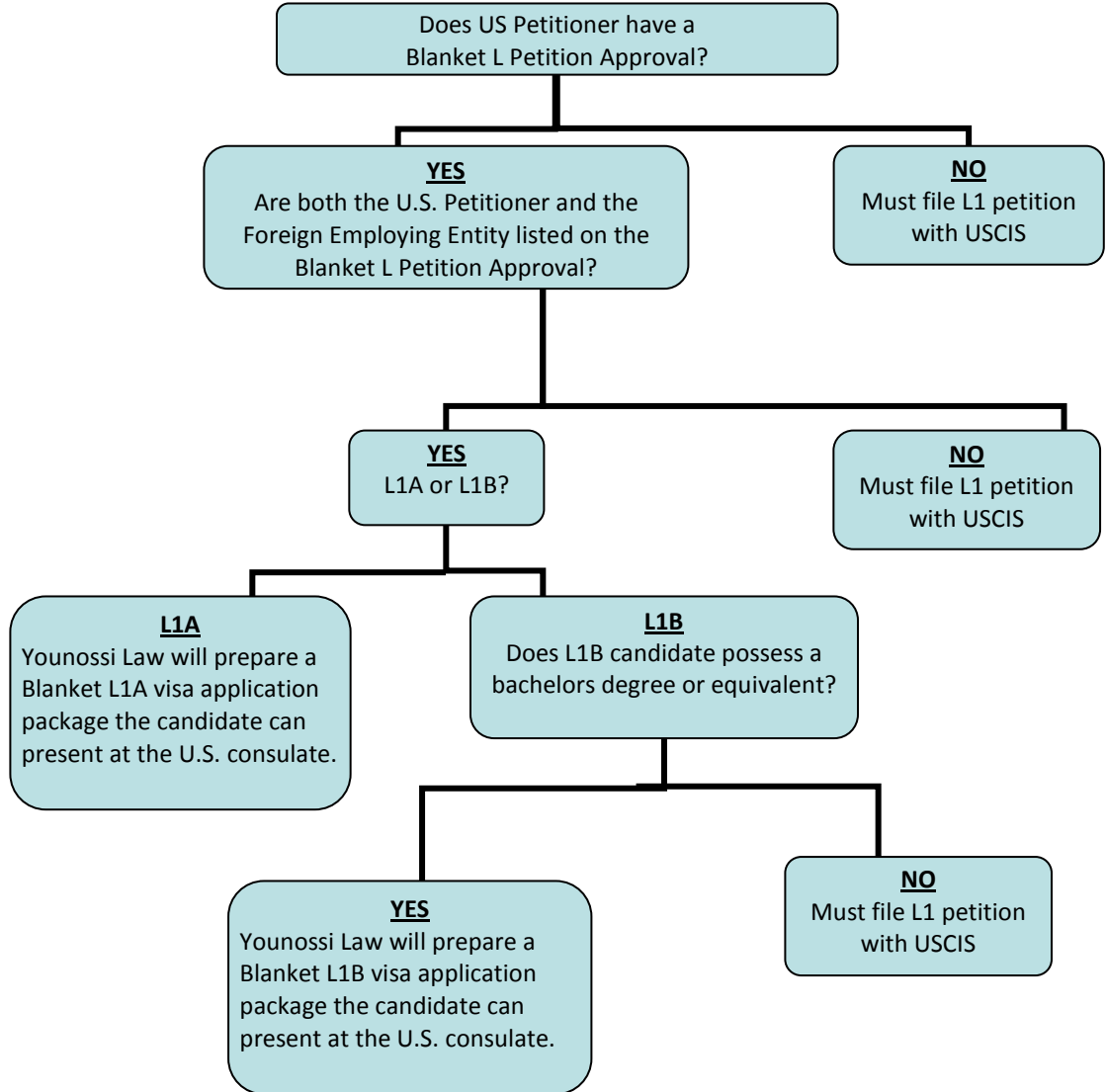
- **Blanket L Application at U.S. Consulate:** The L1 visa regulations allow U.S. petitioners who frequently use the L1 visa category for intracompany transfers to apply for and obtain a Blanket L Petition Approval. The advantage of a Blanket L Petition Approval is that instead of waiting for a USCIS petition approval, L1 candidates can apply directly for the L visa stamp at a U.S. consulate based on a Blanket L Visa Application package prepared by Younossi Law.

To secure a Blanket L Petition Approval, the U.S. petitioning employer must demonstrate: (1) that all qualifying organizations of the company (parent, subsidiaries, branches, affiliates) are engaged in commercial trade or services; (2) that the U.S. petitioner has an office in the U.S. that has been doing business for at least one year; and (3) that the U.S. petitioner has at least three or more domestic and foreign branches, subsidiaries, or affiliates. The U.S. petitioner must also demonstrate at least one of the following:

- (1) The petitioner and other qualifying organizations have obtained approval of petitions for at least 10 L1 employees in the previous 12 months;
- (2) The U.S. subsidiaries or affiliates possess a combined annual sales of at least \$25 million;
- (3) The U.S. employer has a workforce of at least 1000 employees.

If an employer is able to obtain Blanket L Petition Approval, it will be valid for an initial period of 3 years. Employers can extend the Blanket L Petition Approval for an indefinite period as long as the above criteria continue to be met.

- USCIS Filing or Blanket Application?:** If a U.S. petitioning employer does not have a Blanket L Petition Approval, they must file USCIS L1 petitions for their L1 candidates. For U.S. petitioner employers who do have a Blanket L Petition Approval, the below chart outlines the circumstances in which a USCIS L1 Petition may be required for L1A and L1B candidates, even if the U.S. Employer has a Blanket L Petition Approval.



EMPLOYER SPONSORSHIP:

L1 status requires a sponsoring U.S. employer. Once an employer indicates they wish to pursue sponsorship of a L1 petition on behalf of a candidate, the employer should notify Younossi Law so that relevant fact gathering information may be sent both to the employer and the L1 candidate.

YOUNOSSI LAW'S PROCESSING STEPS FOR L1 PETITION FILINGS

For L1 USCIS Petition filings and Blanket L Applications, below is an outline of Younossi Law's processing of the application.

Step 1-- Initiation & Fact Gathering: Upon employer's request to initiate an L1 petition, Younossi Law will send out fact gathering information to the employer and L1 candidate.

Step 2-- Preparation of and Sending Documents to Employer for Signature: Younossi Law will assess the fact gathering information and supporting documentation and apprise the employer of any issues or concerns.

- **USCIS L1 Petition Filing:** For L1 candidates that are not eligible to apply for an L visa stamp with a Blanket L Petition Approval, Younossi Law will prepare L1 petition documentation and send it to the employer for signature. Upon receipt of signed documents, Younossi Law will file the L1 petition with USCIS. USCIS processing time is approximately 2-3 months. However, the USCIS also allows premium processing of the petition which entails the submission of a \$1000 premium processing fee (in addition to regular L1 fees) in order to obtain an adjudication within 15 days of USCIS' receipt of the petition filing. L1 employers often opt for premium processing when submitting USCIS petitions for L1 candidates.

Once the L1 petition is approved, the L1 candidate will then need to apply for an L1 visa stamp to be placed in their passport at a U.S. consulate. The L1 visa stamp application process will vary per consulate, but typically entails an appointment be made with the consulate, submission of Form 160 (or Form DS 156 and DS 157 for consulates that still use these versions of the forms--- applicants should check directly with the consulate as to which form is required by the particular consulate) as well as an in-person interview. Photo requirements, payment of visa fees, as well as passport validity requirements will

also apply as with any visa stamp application. Visa issuance timeframes also vary by consulate.

Upon issuance of the L1 visa stamp, the L1 candidate can enter the United States in L1 status and commence employment with the U.S. petitioning employer. At entry, the port-of-entry officer will issue the L1 applicant a Form I-94 Arrival and Departure Record (I-94 card) which indicates L1 status, the date of entry, and the date of expiration of the L1 status. It is key that the L1 applicant forward Younossi Law a copy of the I-94 card after each entry or at least advise Younossi Law of each re-entry into the U.S. so that status and expiration dates may be accurately tracked for employment authorization and status purposes.

- **Blanket L Application at U.S. Consulate:** For L1 candidates that are eligible to use the Blanket L Petition Approval, Younossi Law will prepare a Blanket L1 Visa Application package and forward the package to the employer for signature. The Blanket L Visa Application package is prepared in triplicate and includes the required government forms, company support letter, a copy of the Blanket L Petition Approval, and other company information. Once the employer signs the documentation, the Blanket L1 Visa Application package can be sent to the L1 candidate.

Upon receipt of the Blanket L1 Visa Application package, the L1 candidate will need to apply for an L1 visa stamp to be placed in his passport at a U.S. consulate. The L1 visa stamp application process will vary per consulate, but typically entails an appointment be made with the consulate, submission of Form 160 (or Form DS 156 and DS 157 for consulates that still use these versions of the forms---applicants should check directly with the consulate as to which form is required by the particular consulate) as well as an in-person interview. Photo requirements, payment of visa fees, as well as passport validity requirements will also apply as with any visa stamp application. Visa issuance timeframes also vary by consulate.

Upon issuance of the L1 visa stamp, the L1 candidate can enter the United States in L1 status and commence employment with the U.S. petitioning employer. At entry, the port-of-entry officer will issue the L1 applicant a Form I-94 Arrival and Departure Record (I-94 card) which indicates L1 status, the date of entry, and the date of expiration of the L1 status. It is key that the L1 applicant forward Younossi Law a copy of the I-94 card after each entry or at least advise Younossi Law of each re-entry into the U.S. so that status and expiration dates may be accurately tracked for employment authorization and status purposes.

L1 EXTENSION OF STAY PETITIONS FILED WITH USCIS: L1 Extension Petitions are filed with the USCIS. In order for the L1 extension to be considered a timely filing, the extension petition must be received by USCIS prior to the expiration date of the current status. Even if the L1 Extension petition is not approved prior to the current L1 expiration date, the L1 employee has 240 days of work authorized stay in the United States by virtue of the timely extension petition filing taking place.

Upon employer's request to initiate a L1 Extension petition, Younossi Law will send out fact gathering information to the employer and L1 candidate. Upon receipt of completed fact gathering documents, Younossi Law will prepare L1 extension documentation and send it to the employer for signature. Upon receipt of signed documents, Younossi Law will file the L1 Extension petition with USCIS. USCIS processing time is approximately 2-3 months. However, the USCIS also allows premium processing of the petition which entails the submission of a \$1000 premium processing fee (in addition to regular L1 fees) in order to obtain an adjudication within 15 days of USCIS' receipt of the petition filing.

PERMANENT RESIDENCY STRATEGIES FOR L1 EMPLOYEES

Unlike the H1B, which allows for post-6th year H1B extensions to take place if certain steps in the permanent residency process have taken place, the L1 visa has no such extension measures beyond the maximum period of authorized stay. As such, of L1 employers wish to maintain the employment of L1 employees, it is key to strategize the timing of the permanent residency process accordingly. If certain steps in the permanent residency process have not been established within these timeframes, it is possible that the L1 employee has to depart the United States at the conclusion of their L1 maximum stay.

- **L1A:** For most employees, the typical permanent residency process involves 3 steps: PERM Labor Certification, I-140 Petition, and I-485 Application. However, for some L1A managers/executives, it is possible they may qualify for a shorter green card process that enables the L1 employer to skip the PERM Labor Certification step and immediately file the I-140 Petition. If the L1A's qualifying overseas employment was managerial/executive in nature **AND** the prospective permanent residency position is managerial/executive in nature, the L1A employee may be eligible for multinational manager/executive classification. The L1 petitioning employer would be able to file the I-140 Petition with USCIS requesting this classification for the L1A employee. The ability to secure this classification not only saves costs for the employer, but ultimately could take years off the permanent residency process as there are typically no backlogs in these visa classifications.

- **L1B:** Employers must be particularly mindful of the permanent residency timing issues for L1B employees. Not only do L1Bs have a 5 year maximum period of stay, L1Bs often do not have degrees which means that they fall into permanent residency visa categories that are typically more backlogged. As such, even if the employer begins the permanent residency process immediately for an L1B employee, it is possible that the employer may not be able to achieve all three steps of the process before the 5 year maximum stay in L1B status.

Some L1 employers strategize a Change of Status from L1B to L1A if the employee is assigned managerial duties. The L1A status would allow the employee to stay in the U.S. for a maximum period of 7 years. Some L1 employers strategize a Change of Status from L1B to H1B if the employee qualifies for the status. The H1B status would allow the employee to stay in the U.S. for a maximum of 6 years but could possibly facilitate post-6th year H1B extensions until the green card was approved.

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Should further questions arise regarding L1 classification, please contact the immigration professional at Younossi Law with whom you usually work to discuss.