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Office of Public Engagement
United States Citizenship and Immigration Services
20 Massachusetts Ave. NW
Washington, DC 20529

Via e-mail: scopsrfe@dhs.gov

**Re: AILA Comments on Draft RFE Template: I-129 L-1
Intracompany Transferees: Blanket Petition**

To Whom It May Concern:

The American Immigration Lawyers Association (AILA) submits the following comments on the USCIS RFE Template “I-129 L-1 Intracompany Transferees: Blanket Petition.”

AILA is a voluntary bar association of more than 11,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We appreciate the opportunity to comment on this RFE template and believe that our members’ collective expertise provides experience that makes us qualified to offer views that will benefit the public and the government.

AILA recognizes the Service’s efforts in creating RFE templates and sharing them with stakeholders for comment. This cooperative effort serves the entire stakeholder community and will hopefully provide both greater consistency in adjudication by the Service and better prepared petitions from the public. In that spirit, we commend the Service for the draft template addressing blanket L-1 petitions. The language of the template is generally clear and precise and effectively advises the petitioner as to what evidence is being requested and why. We particularly appreciate the opening explanatory section and its emphasis on the fact that the suggested evidence is merely exemplary and not exhaustive or mandatory. We suggest that the following additional language, at the end of the introductory section, will add further clarity to the eligibility requirements:

You must demonstrate this eligibility by the preponderance of the evidence, that is, the evidence must demonstrate that it is more likely than not that the eligibility requirements are met.

Request for Translations

We request a change to the “Request for Translations” section given the fact that many corporate documents are voluminous, replete with boilerplate language, and only small portions are generally relevant to the immigration benefit requested. We suggest that the template state that so long as the complete foreign language document is submitted, it is acceptable to translate only those portions of the document that are being relied upon by the petitioner to prove eligibility. For example, a 40-page contract establishing a joint venture may have multiple pages related to choice of law clauses, provisions for breach and remedies, and confidentiality clauses that extend for pages. These provisions, in most cases, do not bear upon whether the requisite qualifying relationship exists, or who has control of the entity. It may also contain appendices setting forth payment schedules or intellectual property transfer conditions that also bear no relationship to what the petitioner is required to prove under the terms of the template. Allowing for partial translations decreases the burden on both the petitioner and the examiner and more closely focuses the evidence on the facts to be proven.

Other Evidence

The “Note” under Other Evidence, which applies to the submission of evidence of at least 10 previous approvals for L-1 managers, executives, or specialized knowledge professionals during the last 12 months, provides an explanation of the term “member of the professions.” This should be amended to clarify that members of the professions are not strictly limited to architects, engineers, lawyers, physicians, surgeons, and teachers.

Changes in Relationships

To the list of suggested evidence of changes in previously approved relationships and additional qualifying organizations, we suggest adding the following bullet point:

- Evidence of any contributions of property or services in exchange for ownership interest.

Experience of AILA members has shown that certain items on the list of exemplary evidence are sometimes perceived as mandatory by adjudicators who may not be familiar with the details of every type of corporate transaction. Of the items listed, one that has proven troublesome is the request for evidence that stock has been purchased or capital contributed in the form of cash or other monetary transaction. This has led to an insistence that money be exchanged, and there is a disregard for evidence of alternative means of acquiring stock or capitalizing an entity, such as the contribution of labor, goods, or services in exchange for an ownership interest. This type of RFE, occasional

NOID, or outright denial has frustrated entities which have used alternative means to distribute ownership or capitalize an entity.

In addition, we suggest that the following items also be added to the list of suggested evidence to show changes in previously approved relationships and additional qualifying organizations:

- The most recent Securities and Exchange Commission Form 10-K, which lists all affiliates, subsidiaries, and branch offices, and percentage of ownership.
- The U.S. entity's most recent federal income tax returns which demonstrate qualifying relationships to the foreign entities.
- Evidence that the foreign entity has been authorized to operate as a branch office in the state of [STATE] by the appropriate state agency.
- The franchise purchase agreement and documentation as evidence of the right and authority to direct the management and operation of the foreign entity.

Conclusion

We fully understand that a template by its very nature cannot and should not attempt to list every item of potentially acceptable evidence, but we believe the above suggestions will assist stakeholders in better understanding the types of evidence that may be sufficient to prove eligibility for a blanket L petition.

We appreciate the opportunity to comment on this RFE template look forward to a continuing dialogue with USCIS on issues concerning this important matter.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION