

Legal update

Is your L-1 (intracompany transfer) status expiring soon? Then you *have to read this*

April 2019 Immigration law

Canadians with L-1 (intracompany transfer) status can no longer apply to renew their L-1 status at ports of entry along the Canada-US land border or at US Customs and Border Protection (USCBP) preclearance locations at Canadian airports.

USCBP officers are refusing to process renewal petitions and are advising Canadians to file their petitions directly with US Citizenship and Immigration Services (USCIS).

If an applicant still has time as an L-1 on his or her I-94 (record of admission), he or she will simply be readmitted for the time remaining. If the applicant's I-94 is already expired, he or she will be denied entry and advised to apply directly with USCIS.

It should be noted that the change in policy affects both individual and Blanket L petitions.

Until this change in policy (which some USCBP officers are claiming is not a change but a policy that has been in force since 2014), USCBP officers processed renewal petitions on the basis that a petition to renew, filed *outside* of the US, was not in fact a renewal petition but a new petition for admission to the US in L-1 status. Under 8 CFR 214 .2(l)(15)(i), a renewal petition can only be filed from *within* the United States and processed by USCIS. It can therefore be argued the USCBP's new policy violates current US immigration legislation.

Implications for employers

It is important to note it may take up to four months for USCIS to process the L-1 renewal petitions. However, please bear in mind that since all Canadian applicants must now file their renewal petitions at USCIS, processing times will most likely increase.

If time is of the essence, USCIS offers a premium processing service for an additional fee of US\$1,410. Premium processing means the L-1 petitions will be reviewed and a response issued within 15 calendar days. If USCIS issues a request for evidence, the 15-day clock will restart once USCIS receives the additional evidence.

It is imperative that you verify the expiration dates of your employees' or your own L-1 status, and we strongly suggest you consider filing renewals eight months in advance if you do not want to pay premium processing fees.

Norton Rose Fulbright will be closely following these policy changes and any legislative developments, and will provide further updates once any are available.

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