

Immigration Considerations for Foreign Property Developers Looking to Enter U.S. Market: L-1 Route

By Minnie Fu

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Meet the Authors



Minnie Fu

Principal
703-483-8311
Minnie.Fu@jacksonlewis.com

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The average American may not know that some of the largest real estate developments in recent history were completed by foreign real estate companies, such as Hong Kong- and London-based Swire Properties, Toronto-based Oxford Properties, and South Korea-based Hanjin Group.

When embarking on multimillion dollar (and sometimes multi-billion dollar) deals, it is generally critical that real estate development companies have their projects led by individuals who are both familiar with the developer's proprietary business practices and able to utilize long-held business relationships with builders, contractors, and other key partners in the development life cycle. Therefore, foreign developers often bring high-level executives and managers to the United States from the company's overseas operations to guide the company in its nascent stages of U.S. development and ensure successful project execution and that quality standards and timelines are consistent with the reputation of the foreign company. For multinational corporations, to attract talent to perform cross-border work by transferring existing experts to the United States while providing the multinational corporation executive, manager, or specialized knowledge employee visa would be appealing to their existing employees willing to relocate to the United States, which also ultimately could lead to the employees' and their families' U.S. permanent residence status, commonly known as "green card."

The L-1 visa is a nonimmigrant (*i.e.*, temporary) visa for intracompany transfers. Companies can utilize the L-1A visa (for managerial or executive employees) or the L-1B visa (for "specialized knowledge" employees). The foreign national must have worked for the corporate group's foreign entity in a managerial, executive, or specialized knowledge capacity for one out of the three years preceding their entry into the United States. The qualifying multinational corporate relationship can include parent, branch, subsidiary, and affiliate, including a potential joint venture relationship. If the U.S. entity is a new company, the U.S. Citizenship and Immigration Services will grant an initial validity period of one year, and the company can then apply for additional extensions at two-year increments for up to seven years for managerial and executive employees or up to five years for specialized knowledge employees. Green card pathways also may be available later through the employment-based EB-1C visa or other traditional route of green card application through the sponsorship of the U.S. entity.

Consider this example: A large developer in Singapore that wishes to build residential high rises in Miami opens a subsidiary LLC in the state of Florida. The LLC is wholly owned by the company in Singapore. The company in Singapore wants to bring its executives and managers who have played a crucial role in the company's growth in Singapore to Florida to oversee the growth of the company. The company can file L-1A visa applications for the managers and executives and bring them over for one year. In that year, the U.S. company can begin hiring lower level employees and acquiring land. At that point, the company

should have sufficient evidence to apply for an extension of the L-1A visas, which will allow the foreign national executives and managers to extend their stay in the United States and ensure that the organization and operations of the U.S. company align with the Singaporean company's business model.

As there also are potentially other visa options available for interested investors or developers to enter the U.S. market, Jackson Lewis attorneys are available to answer questions about these immigration pathways and to assist foreign developers entering the U.S. market with visa applications for foreign national employees.

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