



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 19793307

Date: MAR. 24, 2022

Appeal of Texas Service Center Decision

Form I-129, Petition for L-1A Manager or Executive

The Petitioner, an asset fund management firm, seeks to continue the Beneficiary's employment as its "Head of North American Distribution"¹ under the L-1A nonimmigrant classification for intracompany transferees. *See* Immigration and Nationality Act section 101(a)(15)(L), 8 U.S.C. § 1101(a)(15)(L). The L-1A classification allows a corporation or other legal entity (including its affiliate or subsidiary) to transfer a qualifying foreign employee to the United States to work temporarily in a managerial or executive capacity.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish that it would employ the Beneficiary in the United States in a managerial or executive capacity. The matter is now before us on appeal. On appeal, the Petitioner contends that it met its burden to establish that the Beneficiary will be employed in an executive capacity and asserts that the Director did not give sufficient weight to the evidence submitted.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Chawathe*, 25 I&N Dec. 369, 375 (AAO 2010). The Administrative Appeals Office (AAO) reviews the questions in this matter *de novo*. *See Matter of Christo's Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon *de novo* review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

To establish eligibility for the L-1A nonimmigrant visa classification, a qualifying organization must have employed the beneficiary "in a capacity that is managerial, executive, or involves specialized knowledge," for one continuous year within three years preceding the beneficiary's application for admission into the United States. Section 101(a)(15)(L) of the Act. In addition, the beneficiary must seek to enter the United States temporarily to continue rendering his or her services to the same employer or a subsidiary or affiliate thereof in a managerial or executive capacity. *Id.*

¹ The Petitioner also refers to the offered U.S. position as "Head of North American Business Development" and uses these job titles interchangeably in the submitted company letters and organizational charts.

II. U.S. EMPLOYMENT IN AN EXECUTIVE CAPACITY

The issue to be addressed is whether the Petitioner established that it would employ the Beneficiary in an executive capacity. The Petitioner has consistently claimed that the proposed position satisfies the statutory definition of executive capacity and clarifies on appeal that it does not seek to establish, in the alternative, that the Beneficiary would be employed in a managerial capacity.

“Executive capacity” means an assignment within an organization in which the employee primarily directs the management of the organization or a major component or function of the organization; establishes the goals and policies of the organization, component, or function; exercises wide latitude in discretionary decision-making; and receives only general supervision or direction from higher-level executives, the board of directors, or stockholders of the organization. Section 101(a)(44)(B) of the Act.

To be eligible for L-1A nonimmigrant visa classification as an executive, a petitioner must show that the beneficiary will perform the high-level responsibilities set forth in the statutory definition at section 101(a)(44)(B)(i)-(iv) of the Act. If the petitioner establishes that the offered position meets all elements set forth in the statutory definition, it must prove that the beneficiary will be *primarily* engaged in executive duties, as opposed to ordinary operational activities alongside the petitioner’s other employees. *See Family Inc. v. USCIS*, 469 F.3d 1313, 1316 (9th Cir. 2006).

In determining whether a given beneficiary’s duties will be primarily executive, we consider the petitioner’s description of the job duties, the company’s organizational structure, the duties of a beneficiary’s subordinate employees, the presence of other employees to relieve the beneficiary from performing operational duties, the nature of the business, and any other factors that will contribute to understanding a beneficiary’s actual duties and role in a business. Accordingly, we will discuss evidence regarding the Beneficiary’s job duties along with evidence of the nature of the Petitioner’s business and its staffing levels.

A. Job Duties

The Petitioner stated that the Beneficiary, as Head of North American Business Development, “will continue to be primarily responsible for sourcing, structuring, and managing credit investment opportunities for [the Petitioner’s] clients as well as provide strategic leadership to support the expansion plans in the region, including building the appropriate team in the [United States].”

The Petitioner’s initial supporting letter included a list of 17 job duties. The Petitioner highlighted 14 of those duties and indicated that the highlighted tasks, accounting for 90% of the Beneficiary’s time, are executive in nature. The claimed executive duties included:

- Develop, refine, implement, and direct a strategic business development plan covering territory-channel coverage and be responsible for all aspects of its implementation, including expanding and deepening relationships with existing clients as well as developing new business initiatives with prospective clients.
- Using knowledge of [] investment teams, identify potential recruits for specialist investment capability to be based locally in [] office . . .

- Lead the Business Development team as a “player/coach” to grow assets under management by identifying and closing new business opportunities and cultivating relationships with existing clients.
- As the FINRA registered Supervising Principal ensure that [the company] acts in accordance with the spirit and letter of both SEC and FINRA authorities.
- Associated Person with National Futures Association.
- Accredited with series 63, 7, 3 and 30 exams, series 30 being assigned “Branch Office Manager” status.
- Effectively communicate the investment philosophies, processes, strategies, and performance to prospective clients. . .
- Direct the investment philosophies, processes, strategies, and performance in North America
- Provide input into strategic product development and management as well as [the company’s] broader thinking on distribution.
- Leverage industry knowledge to identify and capitalize on emerging sales trends and provide strategic direction and leadership to accelerate [the company’s] asset growth across North America.
- Help formulate and drive the brand awareness of [the company] and its investment capabilities.
- Contribute to the design and content of appropriate marketing materials to support the North American sales effort.
- Create and maintain a strong working relationship with both external service providers . . . as well as internal support teams including Finance, Legal and Compliance.
- Prepare and present sales reports to the Global Head of Distribution and the Board of [the company] as needed.

The Petitioner’s initial letter included an explanation in which it addressed how the offered position meets all four prongs of the statutory definition of “executive capacity” at section 101(a)(44)(B) of the Act. The Director subsequently issued a request for evidence (RFE) and a notice of intent to deny (NOID), which provided additional opportunities for the Petitioner to provide supplemental information and evidence relating to the Beneficiary’s duties and the amount of time he allocates to qualifying executive tasks.

In response to the NOID, the Petitioner provided a list of 11 duties with the approximate percentage of time the Beneficiary allocates to each duty and reiterated that all listed duties (requiring 90% of his time) are executive in nature. These duties included:

1. Develop, refine, implement, and direct a strategic business development plan, including investment philosophies, processes, strategies, and performance, for [the company’s] North American initiatives. (15%)
2. Oversee and take responsibility for all aspects of the business development plan’s implementation, including expanding and deepening relationships with existing clients as well as developing new business initiatives with prospective clients. (15%)

3. Direct each and every aspect of the Sales and Business Development component as well as the Business Development Team function . . . Develop, implement and direct the “go to market” plan for North America, utilizing industry knowledge and licensure to ensure these plans are in line with company and industry standards. These tasks require accreditation with series 63, 7, 3 and 30 exams. (15%)
4. Lead the Business Development Team to grow assets under management by identifying and closing new business opportunities and cultivating relationships with existing clients in all aspects of the investment process. (10%)

The Petitioner indicated that each of the remaining duties would each require 5% of the Beneficiary’s time and include: creating and maintaining working relationships with external providers and internal teams (finance, legal, and compliance); contributing to the design and content of marketing materials; helping to formulate and implement brand awareness; effectively communicating the firm’s investment philosophies, strategies and performance to prospective clients; preparing and presenting sales reports to the Global Head of Distribution; serving as the Associated Person with the National Futures Association (NFA); and, in his role as FINRA registered Supervising Principal, ensuring that the firm executes its business development processes in accordance with SEC and FINRA regulations.

In denying the petition, the Director determined that the Beneficiary’s position description includes several non-executive tasks related to marketing and selling the Petitioner’s services to clients, as well as some tasks that were not sufficiently explained. The Director also emphasized that the submitted descriptions only account for 90% of the Beneficiary’s time and therefore USCIS is unable to conclude that the remaining 10% would be allocated to executive-level duties. As discussed further below, the Director did not deny the petition solely on the basis the Beneficiary’s position description, but rather considered the submitted job descriptions in reviewing the evidence in its totality.

On appeal, the Petitioner emphasizes that the Beneficiary’s “primary duty” is to establish a framework for the Regional Business Development team, including policies, procedures, processes and protocols needed for the company to operate in the region. The Petitioner maintains that it is not required to establish that 100% of the Beneficiary’s time would be allocated to executive-level duties and asserts its submission of a description that accounts for only 90% of his time does not prevent a determination that his duties are primarily executive in nature. Further, the Petitioner contends that the Director “ignored” the submitted job descriptions and did not explain why those descriptions were insufficient to meet the preponderance of the evidence standard of proof applicable in this matter.

The Petitioner has the burden of establishing that the Beneficiary will perform the high-level responsibilities set forth in the statutory definition at section 101(a)(44)(B)(i)-(iv) of the Act, and that the Beneficiary will *primarily* engage in executive duties as opposed to performing operational activities alongside other employees. Here, the Petitioner submitted a probative explanation of how the Beneficiary’s U.S. position satisfies the elements of the statutory definition of “executive capacity.” The record establishes that the Beneficiary was initially transferred to the Petitioner’s new office in 2018 with authority to set up, structure, and develop its business development or “distribution” component, a role that involves the appropriate level of authority. However, the Petitioner has also described the position as one expected to serve as a “player-coach,” with the Beneficiary spending some of his time performing the same operational duties as members of the

business development team he leads. For example, at the time of filing, the Petitioner stated that he will “continue to be primarily responsible for sourcing, structuring, and managing credit investment opportunities for [the Petitioner’s] clients as well as provide strategic leadership to support the expansion plans in the region, including building the appropriate team in the U.S.” While we do not question the Beneficiary’s authority to provide strategic leadership within his area of authority, the Director raised valid questions regarding the amount of time he would spend directly performing client-related activities and other tasks that fall outside the definition of “executive capacity.”

Therefore, although the Petitioner continues to maintain that 90% of the Beneficiary’s time is allocated to executive duties, we agree with the Director’s determination that his stated responsibilities for “expanding and deepening relationships with existing clients,” “developing new business initiatives with prospective clients,” “identifying and closing new business opportunities and cultivating relationships with existing clients,” and communicating “investment philosophies, processes, strategies, and performance to prospective clients” indicate that he would be performing the operational activities associated with the business development component, rather than delegating these activities to other staff. The Petitioner has also indicated in its letters that he would be overseeing “sales, marketing and business development” subdivisions within his component but has not identified these separate subdivisions (or any current marketing or sales staff) on the submitted organizational charts. With respect to marketing activities specifically, the Petitioner states that the Beneficiary personally contributes to the design and content of marketing materials and helps to implement brand awareness, duties which the Director identified as non-executive tasks. Finally, we agree with the Director that some of the Beneficiary’s duties are not well-defined. For example, we cannot determine what, if any, executive-level tasks, are associated with serving as “an Associated Person” with NFA or maintaining working relationships with external service providers and internal support teams. Based on the percentages assigned by the Petitioner, the non-executive duties discussed above may account for up to 45% of the Beneficiary’s time, while 10% of his time remains unaccounted for. If the Beneficiary may be spending more than half of his time on non-executive duties, the Petitioner has not established that the position is primarily executive in nature.

The Director’s decision does not include a lengthy discussion of the job Beneficiary’s job description, but, as discussed above, it identifies numerous duties as non-qualifying and does not reflect that the Director “ignored” the job description, as alleged by the Petitioner. On appeal, the Petitioner continues to claim that the Beneficiary allocates 90% of his time to executive duties, and correctly observes that it need only establish that he primarily performs such duties. However, it does not specifically contest the Director’s determination that the description includes numerous non-executive duties and that such duties require a significant portion of the Beneficiary’s time, a determination that is supported by the record.

The fact that a beneficiary will direct a component of a business and exercise discretionary authority over that component does not necessarily establish eligibility for classification as an intracompany transferee in an executive capacity. By statute, eligibility for this classification requires that the duties of a position be “primarily” executive in nature. Section 101(A)(44)(B) of the Act. Here, based on submitted breakdown of the Beneficiary’s position, the Director raised valid reasons for questioning whether the Beneficiary would, more likely than not, spend his time primarily engaged in executive duties. In addition, as discussed further below, the Director observed that the record did not sufficiently document the domestic and international staff who are claimed to support the North

American business development component (and the Beneficiary's position) by performing operational, administrative, and other non-executive tasks associated with the day-to-day operations of this component.

B. Staffing and Organizational Structure

If staffing levels are used as a factor in determining whether an individual is acting in an executive capacity, we take into account the reasonable needs of the organization, in light of the overall purpose and stage of development of the organization. *See* section 101(a)(44)(C) of the Act. In making this determination, we will consider claims that employees working for related entities within the same qualifying organization directly or indirectly support the needs of the petitioning entity. However, if a petitioner makes such a claim, it bears the burden to provide probative and relevant evidence demonstrating the existence of such staff and the nature of the services they provide. *See Matter of Z-A-, Inc.*, Adopted Decision 2016-02 (AAO Apr. 14, 2016).

The Petitioner was incorporated in 2018 as the subsidiary of a [redacted] company that is described as “one of the largest international asset managers in Europe.” The Petitioner indicates that it was established to meet the demands of existing and prospective U.S. clients who prefer a local presence and to improve the firm’s ability to develop these client relationships while raising awareness of its brand and products in North America. At the time it filed this petition in July 2020, the Petitioner stated that it had 10 employees in the United States (based in its [redacted] and [redacted] offices) and a planned location in [redacted] that was expected to hire up to 35 additional employees.

The Petitioner has consistently claimed that “its organizational complexity and staffing size warrants and is capable of supporting the beneficiary in a qualifying executive capacity.” It explained that its business model requires a “global approach” to handling the needs of its clients and that this approach “includes staff (both professional and non-professional), supervisors, managers, and other executives operating as one unit, one Department, one organization, even if those members of the team are positioned throughout the globe.” Therefore, while the Petitioner acknowledged that “there are only a few employees in the United States,” it emphasized that “the employees in the Beneficiary’s Department globally . . . handle the non-executive duties of his position” and provide “administrative and professional support . . . on a daily basis.”

As discussed above, the list of proposed job duties in the Petitioner’s initial supporting letter indicates that the Beneficiary will be leading a “business development team” and maintaining a “working relationship” with internal teams such as finance, legal and compliance. In the same letter, the Petitioner also stated that the Beneficiary would be overseeing “the sales and marketing managers and staff” and referred to separate “Sales, Marketing and Business Development” subdivisions within the North American Business Development component. The Petitioner further mentioned that the Beneficiary would be “supporting the oversight and management” of personnel in the [redacted] office once it is opened and staffed. Finally, the Petitioner stated that the Beneficiary will be “directly supported” by two employees: Director, Institutional Client Strategy – North America and an Associate Director, North American Business Development.

In support of its assertions, the Petitioner submitted organizational charts, an offer letter for one of the Beneficiary's direct subordinates, and a copy of its IRS Form 941, Employer's Quarterly Federal Tax Return, for the first quarter of 2020 which indicates that the company employed a total of seven employees in its two U.S. offices as of March 2020.

Although the Petitioner submitted nine organizational charts at the time of filing, only two of them included the Beneficiary's U.S. position. One chart shows that he reports to the "CDO Americas," based in Spain, who also supervises the [redacted]-based Sales Director for Latin America. The other chart depicts the Beneficiary's supervision of two [redacted]-based employees (the Director of Institutional Client Strategy for North America and an Associate Director).² The Petitioner did not submit a chart that supported its statements that the Beneficiary supervises "sales and marketing managers and staff" and separate sales, marketing and business development subdivisions within the North American Business Development component, nor do the charts identify any staff outside of the [redacted] office who work within this component.

The Petitioner provided a copy of a signed offer letter issued to the Director of Institutional Client Strategy in May 2019, indicating that he would report to the Beneficiary in [redacted] but did not provide any current evidence of wages paid to this employee. Its initial evidence also included a May 2019 paystub for a [redacted]-based employee who, according to the submitted organizational charts, reports to the Sales Director for Latin America, rather than to the Beneficiary.

In the RFE, the Director advised the Petitioner that it did not submit sufficient documentation regarding the personnel the Beneficiary would directly or indirectly manage. The Director requested an organizational chart that shows the company's organizational structure and staffing levels, and the structure of the Beneficiary's immediate division or department, including the names, job titles, and summary of duties for his subordinates. The Director also listed evidence the Petitioner could provide to corroborate its staffing levels and employment of the Beneficiary's subordinates, including payroll summaries, IRS Forms W-2, and state quarterly wage reports.

In response, the Petitioner re-submitted the same organizational charts included with the initial filing and included one new chart depicting the "North American Business Development Team." The new chart depicts the Beneficiary as "Head of Distribution" with three direct reports, including the two staff identified previously and a third employee with the title "Institutional Client Strategy Director." The chart also depicts two proposed "Institutional Sales Support" positions that were not filled. The new chart indicates that the Beneficiary reports to the Head of Global Institutional Distribution, a London-based employee, rather than to the "CDO Americas" position depicted on the initial chart. The company letter accompanying the RFE response states that the Beneficiary reports to the "CCO," a position that does not appear on any of the submitted charts. The Petitioner did not explain any changes in its reporting structure that would account for these inconsistencies.

² The Petitioner did not explain the relevance of the other submitted organizational charts, two of which depict the "US Investment Organization Structure." The Beneficiary is not claimed to work within the U.S. Investment component of the petitioning organization and his position does not appear in either chart. Several other charts show proposed reporting relationships between the new [redacted] office staff and the [redacted] office and do not include the Beneficiary's position or any staff who appear to work within the North American Business Development component.

Although requested by the Director, the organizational charts did not include and were not accompanied by job descriptions for the Beneficiary's subordinate staff, nor do they identify any indirect reports, within the U.S. or within the global organization, that support the offered position or the North American Business Development component. Instead, the Petitioner reiterated that the Beneficiary would have "the full support of his international departments" and that "local staff and the Global operations team would relieve him from performing operational and administrative duties." The Petitioner did not provide any additional evidence in response to the Director's request that the company corroborate its claimed U.S. staffing levels and document the wages it has paid to the Beneficiary's subordinates.

After reviewing the Petitioner's response to the RFE, the Director issued a NOID in which he explained why the evidence was insufficient to establish how the Beneficiary would be relieved from performing operational duties and other non-executive duties associated with business development in North America.

Specifically, the Director advised the Petitioner that many of the submitted organizational charts did not depict the Beneficiary's position and therefore did not show his placement within the organization's hierarchy. Further the Director noted that while some of the organizational charts included the Beneficiary's position, they offered conflicting information regarding the number of direct subordinates he supervises. The Director also acknowledged the Petitioner's claim that other local and global employees within the organization would relieve the Beneficiary from performing non-executive tasks but emphasized that the Petitioner did not include any "global support staff" from "international departments" on the organizational charts or identify any additional staff (outside of the New York office) who report directly or indirectly to the Beneficiary. The Director acknowledged that having subordinates employed by a related company is not disqualifying but emphasized that the Petitioner bears the burden of explaining and documenting the reporting structure within the organization. Further, the Director advised the Petitioner that its response to the RFE did not include position descriptions for any U.S. employees or staff from "international organizations" to demonstrate that such employees relieve the Beneficiary from performing non-qualifying duties. Finally, the Director emphasized that, despite being given the opportunity, the Petitioner did not provide evidence of payments made to the Beneficiary's subordinate employees.

In response to the NOID, the Petitioner stated that the Beneficiary is relieved from performing non-qualifying duties because "[he] and the United States office rely on the global network of managers, supervisors and support staff within the [company's] network to perform these tasks" and because he leads the "high-ranking professionals" depicted on the submitted organizational charts. The Petitioner re-submitted the previously submitted organizational charts, one of which shows that the Beneficiary reports to the "CDO Americas" in Spain and has two direct reports, and one which shows that he reports to the "Head of Global Institutional Distribution" based in [redacted] and has three current and two proposed direct reports. The Petitioner did not further address the issues raised in the NOID with respect to the lack of information regarding the duties performed by the Beneficiary's subordinates, the inconsistencies in the submitted organizational charts, the lack of evidence related to the "global support staff" and "international teams" that are claimed to relieve the Beneficiary from performing non-qualifying tasks, and the lack of evidence of wages paid to the Beneficiary's direct subordinates and other U.S. staff.

In denying the petition, the Director noted that the Petitioner's response did not address the evidentiary deficiencies set forth in the NOID, and therefore did not overcome the Director's determination that it had not met its burden to establish how the Beneficiary would be relieved from spending a significant portion of his time on performing operational and other duties that do not fall within the statutory definition of executive capacity.

On appeal, the Petitioner contends that the previously submitted organizational charts highlight the Beneficiary's direct and indirect subordinates and maintains that he "leads a multi-disciplinary, cross-organizational team." Further, the Petitioner emphasizes that it submitted an annual report for the Petitioner's group which highlights the nature and scope of the business and demonstrates its "global presence." The Petitioner asserts that the USCIS *Adjudicator's Field Manual* states that the regulations do not require submission of extensive supporting evidence for an L-1 petition except in "marginal or doubtful cases."

The Petitioner also submits additional evidence, including a resume for one of the Beneficiary's claimed subordinates for whom no supporting documentation was previously provided, a new letter from human resources which provides salary and bonus information for the two []-based subordinates depicted on the initial organizational chart, and a list of job duties for an unidentified position. As discussed above, the Petitioner has had two opportunities to supplement the record with evidence related to the Beneficiary's subordinate staff. Where, as here, a Petitioner has been put on notice of a deficiency in the evidence and has been given an opportunity to respond to that deficiency, the AAO will not accept evidence offered for the first time on appeal. *Matter of Soriano*, 19 I&N Dec. 764 (BIA 1988); *Matter of Obaighena*, 19 I&N Dec. 533 (BIA 1988).

Based on the procedural history discussed above, we agree with the Director's determination that the Petitioner did not meet its burden to provide a consistent explanation and evidence of its organizational structure and staffing levels and did not explain the duties performed by the Beneficiary's subordinate staff. Further the record supports the Director's conclusion that there is insufficient evidence to support the company's claim that the Beneficiary would be "relieved of performing operational and administrative duties" by both local staff members and by a "global network of managers, supervisors and support staff."

As referenced above, the Petitioner contends that it is not obligated, based on the applicable regulations at 8 C.F.R. § 214.2(l)(3), to submit specific supporting evidence to substantiate its assertions regarding the proposed employment.

The adjudication requires that we determine whether the Petitioner has established that the Beneficiary will be employed in an executive capacity. The "preponderance of the evidence" standard requires that the evidence demonstrate that the claim is "probably true," where the determination of "truth" is made based on the factual circumstances of each individual case. *Chawathe*, 25 I&N Dec. at 376 (quoting *Matter of E-M-*, 20 I&N Dec. 77, 79-80 (Comm'r 1989)). The truth is to be determined not by the quantity of evidence alone but by its quality. Thus, in adjudicating the petition pursuant to the preponderance of the evidence standard, a director must examine each piece of evidence for relevance, probative value, and credibility, both individually and within the context of the totality of the evidence, to determine whether the fact to be proven is probably true. *Id.*

Consistent with determining whether a petitioner has established a beneficiary's eligibility by a preponderance of the evidence, a director may request additional evidence. The regulation states that a petitioner shall submit additional evidence as the director, in his or her discretion, may deem necessary. The purpose of the request for evidence is to elicit further information that clarifies whether eligibility for the benefit sought has been established, as of the time the petition is filed. *See* 8 C.F.R. § 103.2(b)(8) and (12). Therefore, the fact that certain sections of the regulations set forth more specific types of evidence that can be submitted to meet the petitioner's burden of proof does not preclude USCIS from reasonably requesting probative evidence and supporting documentation to substantiate a beneficiary's eligibility. Further, the regulation at 8 C.F.R. § 214.2(l)(3)(viii) provides that a petition shall be accompanied by "such other evidence as the director, in his or her discretion, may deem necessary."

As discussed above, the current adjudication requires a review of the totality of the evidence when examining the Beneficiary's employment in an executive capacity, including the Beneficiary's job description, the company's organizational structure, the duties of the Beneficiary's subordinate employees, the presence of other employees to relieve the Beneficiary from performing operational duties, the nature of the business, and any other factors that will contribute to understanding a beneficiary's actual duties and role in a business.

The Petitioner emphasizes that it described the Beneficiary's job duties, provided organizational charts, and submitted the company's annual report as evidence of its "global presence." The Petitioner maintains that this evidence should have been deemed sufficient to establish, by a preponderance of the evidence, that the Beneficiary would be employed in an executive capacity. However, as discussed, the job descriptions included in the supporting letters indicate that the Beneficiary spends a significant amount of his time of non-executive duties to the extent that it is unclear that his duties, as of the date of filing, were primarily executive in nature. The organizational charts that include the Beneficiary's position do not consistently identify his placement within the company's overall hierarchy or the number of employees who report directly to him and were not accompanied by evidence documenting who the Petitioner employed at the time of filing and what duties those employees performed. Finally, while we will consider claims that other employees within the Petitioner's international organization perform duties that directly or indirectly support the Beneficiary's position and relieve him from performing non-executive duties, it is the Petitioner's burden to provide relevant and probative evidence to support its claim; simply establishing that the company has a "global presence" as evidenced by its annual report is not sufficient to meet this burden. As such, the Director's requests for additional evidence were reasonable and within the discretionary authority that the regulations expressly allow.

The Petitioner consistently asserts that the Beneficiary will have executive authority over business development activities for its newly established U.S. operations and will continue to oversee the growth of these activities. However, the issue here is not the extent of the Beneficiary's authority but rather whether all relevant factors, taken together show that the Beneficiary will primarily perform executive duties. For the reasons discussed above, we conclude that the Petitioner has not demonstrated the Beneficiary's eligibility. Accordingly, the appeal will be dismissed.

III. PRIOR APPROVAL

As acknowledged by the Director, the Beneficiary was previously granted L-1A status that authorized him to work for the Petitioner in the offered position. Although there is a previous finding of eligibility, the burden of proof in the request for an extension of petition validity remains on the petitioner. *See* Section 291 of the Act. Each nonimmigrant petition filing is a separate proceeding with a separate record. In making a determination of statutory eligibility, USCIS is limited to the information contained in that individual record of proceeding. 8 C.F.R. § 103.2(b)(16)(ii). Further, the previous determination of eligibility was made by the U.S. Consulate in Amsterdam, which granted the Beneficiary an L-1 visa under the Petitioner's approved blanket L petition in October 2019. USCIS officers consider but do not defer to previous eligibility determinations made by the U.S. Department of State.³

IV. CONCLUSION

For the reasons discussed, the Petitioner has not established that it will employ the Beneficiary in an executive capacity.

ORDER: The appeal is dismissed.

³ We also acknowledge that USCIS previously approved an L-1A "new office" petition filed on the Beneficiary's behalf. A "new office" petition may be approved for a period not to exceed one year and may be extended pursuant to the regulation at 8 C.F.R. § 214.2(l)(14)(ii), which requires that a petitioner establish that it has been doing business and has developed to the point where it can support a managerial or executive position. In June 2019, USCIS denied the Petitioner's request to extend the Beneficiary's L-1A status at the end of the one-year "new office" period [REDACTED].