

PRACTICE ALERT: WORK AUTHORIZATION FOR L-2 AND E-2 SPOUSES

U.S. Customs and Border Protection (“CBP”) has confirmed that it proactively went into the electronic I-94 card system to update all L-2 I-94s for L-2 spouses, 22 years of age or older, to add “S” to the status for those who entered prior to 1/31/22. Those entering 1/31/22 or later have had the “S” added upon entry to the U.S.

CBP did not add the “S” to L-2 I-94 cards for foreign nationals ages 18-21 at time of entry, due to uncertainty about whether they were dependent spouses or children. This subset of I-94s cannot be updated through Deferred Inspection either. The “S” will need to be added to applicable I-94s on next entry to the U.S., by presenting evidence of spousal relationship, or through the next filing with USCIS.

CBP was unable to make this adjustment for E-2 spouses as it is not possible to distinguish between an E-2 principal and an E-2 dependent spouse. To seek the “S,” E-2 spouses will need to follow the instruction immediately above.

USCIS is now issuing I-797 approval notices for L-2 and E-2 spouses that specifically state the notice may be used to document work authorization and for completion of Form I-9.