E-2 Treaty Investors | USCIS

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The E-2 nonimmigrant classification allows a national of a treaty country (a country with which the United States maintains a treaty of commerce and navigation) to be admitted to the United States when investing a substantial amount of capital in a U.S. business. Certain employees of such a person or of a qualifying organization may also be eligible for this classification. (For dependent family members, see "Family of E-2 Treaty Investors and Employees" below.)

Who May File for Change of Status to E-2 Classification

If the treaty investor is currently in the United States in a lawful nonimmigrant status, he or she may file Form I-129 to request a change of status to E-2 classification. If the desired employee is currently in the United States in a lawful nonimmigrant status, the qualifying employer may file Form I-129 on the employee's behalf.

How to Obtain E-2 Classification if Outside the United States

A request for E-2 classification may not be made on Form I-129 if the person being filed for is physically outside the United States. Interested parties should refer to the U.S. Department of State website for further information about applying for an E-2 nonimmigrant visa abroad. Upon issuance of a visa, the person may then apply to a DHS immigration officer at a U.S. port of entry for admission as an E-2 nonimmigrant.

General Qualifications of a Treaty Investor

To qualify for E-2 classification, the treaty investor must:

- Be a national of a country with which the United States maintains a treaty of commerce and navigation
- Have invested, or be actively in the process of investing, a substantial amount of capital in a bona fide enterprise in the United States
- Be seeking to enter the United States solely to develop and direct the investment enterprise. This is established by showing at least 50% ownership of the enterprise or possession of operational control through a managerial position or other corporate device.

An *investment* is the treaty investor's placing of capital, including funds and/or other assets, at risk in the commercial sense with the objective of generating a profit. The capital must be subject to partial or total loss if the investment fails. The treaty investor must show that the funds have not been obtained, directly or indirectly, from criminal activity. See 8 CFR 214.2(e)(12) for more information.

A *substantial amount of capital* is:

- Substantial in relationship to the total cost of either purchasing an established enterprise or establishing a new one
- Sufficient to ensure the treaty investor's financial commitment to the successful operation of the enterprise
- Of a magnitude to support the likelihood that the treaty investor will successfully develop and direct the enterprise. The lower the cost of the enterprise, the higher, proportionately, the investment must be to be considered substantial.

A *bona fide enterprise* refers to a real, active and operating commercial or entrepreneurial undertaking which produces services or goods for profit. It must meet applicable legal requirements for doing business within its jurisdiction.

Marginal Enterprises

The investment enterprise may not be marginal. A marginal enterprise is one that does not have the present or future capacity to generate more than enough income to provide a minimal living for the treaty investor and his or her family. Depending on the facts, a new enterprise might not be considered marginal even if it lacks the current capacity to generate such income. In such cases, however, the enterprise should have the capacity to generate such income within five years from the date that the treaty investor's E-2 classification begins. See 8 CFR 214.2(e)(15).

General Qualifications of the Employee of a Treaty Investor

To qualify for E-2 classification, the employee of a treaty investor must:

- Be the same nationality of the principal alien employer (who must have the nationality of the treaty country)
- Meet the definition of "employee" under relevant law
- Either be engaging in duties of an executive or supervisory character, or if employed in a lesser capacity, have special qualifications.

If the principal alien employer is not an individual, it must be an enterprise or organization at least 50% owned by persons in the United States who have the nationality of the treaty country. These owners must be maintaining nonimmigrant treaty investor status. If the owners are not in the United States, they must be, if they were to seek admission to this country, classifiable as nonimmigrant treaty investors. See 8 CFR 214.2(e)(3)(ii).

Duties which are of an *executive or supervisory character* are those which primarily provide the employee ultimate control and responsibility for the organization's overall operation, or a major component of it. See 8 CFR 214.2(e)(17) for a more complete definition.

Special qualifications are skills which make the employee's services essential to the efficient operation of the business. There are several qualities or circumstances which could, depending on the facts, meet this requirement. These include, but are not limited to:

- The degree of proven expertise in the employee's area of operations
- Whether others possess the employee's specific skills
- The salary that the special qualifications can command
- Whether the skills and qualifications are readily available in the United States.

Knowledge of a foreign language and culture does not, by itself, meet this requirement. Note that in some cases a skill that is essential at one point in time may become commonplace, and therefore no longer qualifying, at a later date. See 8 CFR 214.2(e)(18) for a more complete definition.

Period of Stay

Qualified treaty investors and employees will be allowed a maximum initial stay of two years. Requests for extension of stay may be granted in increments of up to two years each. There is no maximum limit to the number of extensions an E-2 nonimmigrant may be granted. All E-2 nonimmigrants, however, must maintain an intention to depart the United States when their status expires or is terminated.

An E-2 nonimmigrant who travels abroad may generally be granted an automatic two-year period of readmission when returning to the United States. It is generally not necessary to file a new Form I-129 with USCIS in this situation.

Terms and Conditions of E-2 Status

A treaty investor or employee may only work in the activity for which he or she was approved at the time the classification was granted. An E-2 employee, however, may also work for the treaty organization's parent company or one of its subsidiaries as long as the:

- Relationship between the organizations is established
- Subsidiary employment requires executive, supervisory, or essential skills
- Terms and conditions of employment have not otherwise changed.

See 8 CFR 214.2(e)(8)(ii) for details.

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USCIS must approve any substantive change in the terms or conditions of E-2 status. A "substantive change" is defined as a fundamental change in the employer's basic characteristics, such as, but not limited to, a merger, acquisition, or major event which affects the treaty investor or employee's previously approved relationship with the organization. The treaty investor or enterprise must notify USCIS by filing a new Form I-129 with fee, and may simultaneously request an extension of stay for the treaty investor or affected employee. The Form I-129 must include evidence to show that the treaty investor or affected employee continues to qualify for E-2 classification.

It is not required to file a new Form I-129 to notify USCIS about non-substantive changes. A treaty investor or organization may seek advice from USCIS, however, to determine whether a change is considered substantive. To request advice, the treaty investor or organization must file Form I-129 with fee and a complete description of the change.

See 8 CFR 214.2(e)(8) for more information on terms and conditions of E-2 treaty investor status.

A strike or other labor dispute involving a work stoppage at the intended place of employment may affect a Canadian or Mexican treaty investor or employee's ability to obtain E-2 status. See 8 CFR 214.2(e)(22) for details.

Family of E-2 Treaty Investors and Employees

Treaty investors and employees may be accompanied or followed by spouses and unmarried children who are under 21 years of age. Their nationalities need not be the same as the treaty investor or employee. These family members may seek E-2 nonimmigrant classification as dependents and, if approved, generally will be granted the same period of stay as the employee. If the family members are already in the United States and are seeking change of status to or extension of stay in an E-2 dependent classification, they may apply by filing a single Form I-539 with fee. Spouses of E-2 workers may apply for work authorization by filing Form I-765 with fee. If approved, there is no specific restriction as to where the E-2 spouse may work.

As discussed above, the E-2 treaty investor or employee may travel abroad and will generally be granted an automatic two-year period of readmission when returning to the United States. Unless the family members are accompanying the E-2 treaty investor or employee at the time the latter seeks readmission to the United States, the new readmission period will not apply to the family members. To remain lawfully in the United States, family members must carefully note the period of stay they have been granted in E-2 status, and apply for an extension of stay before their own validity expires.

Treaty Countries

Country	Classification	Effective Date
Albania	E-2	January 4, 1998
Argentina	E-1	October 20, 1994
Argentina	E-2	October 20, 1994
Armenia	E-2	March 29, 1996
Australia	E-1	December 16, 1991
Australia	E-2	December 27, 1991
Australia 12	E-3	September 2, 2005
Austria	E-1	May 27, 1931
Austria	E-2	May 27, 1931
Azerbaijan	E-2	August 2, 2001
Bahrain	E-2	May 30, 2001
Bangladesh	E-2	July 25, 1989
Belgium	E-1	October 3, 1963
Belgium	E-2	October 3, 1963
Bolivia	E-1	November 09, 1862
Bolivia 13	E-2	June 6, 2001
Bosnia and Herzegovina 11	E-1	November 15, 1882
Bosnia and Herzegovina 11	E-2	November 15, 1882
Brunei	E-1	July 11, 1853
Bulgaria	E-2	June 2, 1994
Cameroon	E-2	April 6, 1989
Canada	E-1	January 1, 1993
Canada	E-2	January 1, 1993
Chile	E-1	January 1, 2004

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Chile	E-2	January 1, 2004
China (Taiwan) 1	E-1	November 30, 1948
China (Taiwan) 1	E-2	November 30, 1948
Colombia	E-1	June 10, 1848
Colombia	E-2	June 10, 1848
Congo (Brazzaville)	E-2	August 13, 1994
Congo (Kinshasa)	E-2	July 28, 1989
Costa Rica	E-1	May 26, 1852
Costa Rica	E-2	May 26, 1852
Croatia 11	E-1	November 15, 1882
Croatia 11	E-2	November 15, 1882
Czech Republic 2	E-2	January 1, 1993
Denmark 3	E-1	July 30, 1961
Denmark	E-2	December 10, 2008
Ecuador 14	E-2	May 11, 1997
Egypt	E-2	June 27, 1992
Estonia	E-1	May 22, 1926
Estonia	E-2	February 16, 1997
Ethiopia	E-1	October 8, 1953
Ethiopia	E-2	October 8, 1953
Finland	E-1	August 10, 1934
Finland	E-2	December 1, 1992
France 4	E-1	December 21, 1960
France 4	E-2	December 21, 1960
Georgia	E-2	August 17, 1997

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Germany	E-1	July 14, 1956
Germany	E-2	July 14, 1956
Greece	E-1	October 13, 1954
Grenada	E-2	March 3, 1989
Honduras	E-1	July 19, 1928
Honduras	E-2	July 19, 1928
Iran	E-1	June 16, 1957
Iran	E-2	June 16, 1957
Ireland	E-1	September 14, 1950
Ireland	E-2	November 18, 1992
Israel	E-1	April 3, 1954
Italy	E-1	July 26, 1949
Italy	E-2	July 26, 1949
Jamaica	E-2	March 7, 1997
Japan 5	E-1	October 30, 1953
Japan 5	E-2	October 30, 1953
Jordan	E-1	December 17, 2001
Jordan	E-2	December 17, 2001
Kazakhstan	E-2	January 12, 1994
Korea (South)	E-1	November 7, 1957
Korea (South)	E-2	November 7, 1957
Kosovo 11	E-1	November 15, 1882
Kosovo 11	E-2	November 15, 1882
Kyrgyzstan	E-2	January 12, 1994
Latvia	E-1	July 25, 1928

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Latvia	E-2	December 26, 1996
Liberia	E-1	November 21, 1939
Liberia	E-2	November 21, 1939
Lithuania	E-2	November 22, 2001
Luxembourg	E-1	March 28, 1963
Luxembourg	E-2	March 28, 1963
Macedonia 11	E-1	November 15, 1882
Macedonia 11	E-2	November 15, 1882
Mexico	E-1	January 1, 1994
Mexico	E-2	January 1, 1994
Moldova	E-2	November 25, 1994
Mongolia	E-2	January 1, 1997
Montenegro 11	E-1	November 15, 1882
Montenegro 11	E-2	November 15, 1882
Morocco	E-2	May 29, 1991
Netherlands 6	E-1	December 5, 1957
Netherlands 6	E-2	December 5, 1957
Norway 7	E-1	January 18, 1928
Norway 7	E-2	January 18, 1928
Oman	E-1	June 11, 1960
Oman	E-2	June 11, 1960
Pakistan	E-1	February 12, 1961
Pakistan	E-2	February 12, 1961
Panama	E-2	May 30, 1991
Paraguay	E-1	March 07, 1860

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Paraguay	E-2	March 07, 1860
Philippines	E-1	September 6, 1955
Philippines	E-2	September 6, 1955
Poland	E-1	August 6, 1994
Poland	E-2	August 6, 1994
Romania	E-2	January 15, 1994
Senegal	E-2	October 25, 1990
Serbia 11	E-1	November 15,1882
Serbia 11	E-2	November 15,1882
Singapore	E-1	January 1, 2004
Singapore	E-2	January 1, 2004
Slovak Republic 2	E-2	January 1, 1993
Slovenia 11	E-1	November 15, 1882
Slovenia 11	E-2	November 15, 1882
Spain 8	E-1	April 14, 1903
Spain 8	E-2	April 14, 1903
Sri Lanka	E-2	May 1, 1993
Suriname 9	E-1	February 10, 1963
Suriname 9	E-2	February 10, 1963
Sweden	E-1	February 20, 1992
Sweden	E-2	February 20, 1992
Switzerland	E-1	November 08, 1855
Switzerland	E-2	November 08, 1855
Thailand	E-1	June 8, 1968
Thailand	E-2	June 8, 1968

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Togo	E-1	February 5, 1967
Togo	E-2	February 5, 1967
Trinidad & Tobago	E-2	December 26, 1996
Tunisia	E-2	February 7, 1993
Turkey	E-1	February 15, 1933
Turkey	E-2	May 18, 1990
Ukraine	E-2	November 16, 1996
United Kingdom 10	E-1	July 03, 1815
United Kingdom 10	E-2	July 03, 1815
Yugoslavia 11	E-1	November 15, 1882
Yugoslavia 11	E-2	November 15, 1882

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Country Specific Footnotes

1. **China (Taiwan)** - Pursuant to Section 6 of the Taiwan Relations Act, (TRA) Public Law 96-8, 93 Stat, 14, and Executive Order 12143, 44 F.R. 37191, this agreement which was concluded with the Taiwan authorities prior to January 01, 1979, is administered on a nongovernmental basis by the American Institute in Taiwan, a nonprofit District of Columbia corporation, and constitutes neither recognition of the Taiwan authorities nor the continuation of any official relationship with Taiwan.
2. **Czech Republic and Slovak Republic** - The Treaty with the Czech and Slovak Federal Republic entered into force on December 19, 1992; entered into force for the Czech Republic and Slovak Republic as separate states on January 01, 1993.
3. **Denmark** - The Treaty which entered into force on July 30, 1961, does not apply to Greenland.
4. **France** - The Treaty which entered into force on December 21, 1960, applies to the departments of Martinique, Guadeloupe, French Guiana and Reunion.
5. **Japan** - The Treaty which entered into force on October 30, 1953, was made applicable to the Bonin Islands on June 26, 1968, and to the Ryukyu Islands on May 15, 1972.
6. **Netherlands** - The Treaty which entered into force on December 05, 1957, is applicable to Aruba and Netherlands Antilles.
7. **Norway** - The Treaty which entered into force on September 13, 1932, does not apply to Svalbard (Spitzbergen and certain lesser islands).
8. **Spain** - The Treaty which entered into force on April 14, 1903, is applicable to all territories.
9. **Suriname** - The Treaty with the Netherlands which entered into force December 05, 1957, was made applicable to Suriname on February 10, 1963.

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10. **United Kingdom** - The Convention which entered into force on July 03, 1815, applies only to British territory in Europe (the British Isles (except the Republic of Ireland), the Channel Islands and Gibraltar) and to "inhabitants" of such territory. This term, as used in the Convention, means "one who resides actually and permanently in a given place, and has his domicile there." Also, in order to qualify for treaty trader or treaty investor status under this treaty, the alien must be a national of the United Kingdom. Individuals having the nationality of members of the Commonwealth other than the United Kingdom do not qualify for treaty trader or treaty investor status under this treaty.
11. **Yugoslavia** - The U.S. view is that the Socialist Federal Republic of Yugoslavia (SFRY) has dissolved and that the successors that formerly made up the SFRY - Bosnia and Herzegovina, Croatia, the Republic of Macedonia, Slovenia, Montenegro, Serbia, and Kosovo a continue to be bound by the treaty in force with the SFRY and the time of dissolution.
12. The E-3 visa is for nationals of the Commonwealth of Australia who wish to enter the United States to perform services in a "specialty occupation." The term "specialty occupation" means an occupation that requires theoretical and practical application of a body of highly specialized knowledge, and attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States. The definition is the same as the Immigration and Nationality Act definition of an H-1B specialty occupation.

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13. **Bolivia** - Bolivian nationals with qualifying investments in place in the United States by June 10, 2012 continue to be entitled to E-2 classification until June 10, 2022. The only nationals of Bolivia (other than those qualifying for derivative status based on a familial relationship to an E-2 principal alien) who may qualify for E-2 visas at this time are those applicants who are coming to the United States to engage in E-2 activity in furtherance of covered investments established or acquired prior to June 10, 2012.
14. *Ecuadorian nationals with qualifying investments in place in the United States by May 18, 2018 continue to be entitled to E-2 classification until May 18, 2028. The only nationals of Ecuador (other than those qualifying for derivative status based on a familial relationship to an E-2 principal alien) who may qualify for E-2 visas at this time are those applicants who are coming to the United States to engage in E-2 activity in furtherance of covered investments established or acquired prior to May 18, 2018.*

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