

**21ST CENTURY IMMIGRATION:
ARE YOU AN ENTREPRENEUR?
THE U.S. HAS GOT A DEAL FOR YOU**

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**E-1 & E-2 TREATY TRADER AND INVESTOR:
CALLING (SOME) INVESTORS, THE U.S. WANTS YOU**

E-1 Treaty Trader and E-2 Investor visas are for a foreign company or individual who wishes to come to the U.S. to work in the areas of trade or investment. An **E-1** is a national of a country with which the U.S. has a treaty of friendship, commerce, and navigation. The applicant must be coming to the U.S. to engage in **substantial trade** between the U.S. and his home country. Trading activities with the U.S. must comprise **more than 50%** of the company's total volume of business transactions in the U.S. and the company must sustain a **continued course of international trade**.

An **E-2** is a national of a country with which the U.S. has a bilateral investment treaty or agreement, who is coming to the U.S. to **direct and develop the operations** of an enterprise in which he has invested or is in the process of **investing substantially**. The investor must put her personal funds at risk in a real operating enterprise that generates services or goods. The investor must show that she has control over the business. The investor must also demonstrate that the investment is not her main source of income.

Some countries may have only E-1 treaties with the U.S., while others have only E-2, and a select set has both.

Capitalization could be as low as \$30,000 to \$50,000, depending on the type of business someone wants to create. The law does not set a specific threshold, only that the funds at risk are commensurate with the capital typically required to establish the enterprise.



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An E-1 or E-2 may also be the employee of such a qualified alien or company. **The employee must be an executive or manager, an individual with specialized qualifications** that are essential to the efficient operation of the business, a highly trained technician, or start-up personnel (E-2 only).

Qualifying countries include:

- Canada and Mexico
- Many European countries
- Australia
- Argentina, Chile and Colombia (but not Brazil)
- Cameroon, Egypt, Morocco
- Taiwan (not China)
- Japan, South Korea, Philippines
- Jordan and Pakistan

Initial validity is for 2 years, with extensions in 2-year increments as long as the business continues to grow.

Key Points to remember:

- ☞ *Canadians DO need visas for the E-1 and E-2*
- ☞ *Origin of investment funds must be clean & clear*
- ☞ *Applicant must have control over funds*
- ☞ *Spouse of E-2 can work, unlike the H-1B*

It takes money to make money, and the immigration world is no different; if you have the resources and a solid business that will generate jobs, then the U.S. government may just grant you a visa.

TRUE OR FALSE: An investor has \$300,000 in a bank account available to invest as soon as she gets her E-2 visa. This is a slam dunk: with so much money in the bank, they will approve her case.

ANSWER TO LAST WEEK'S QUIZ: FALSE. ICE investigates and audits all companies. Your company's entire workforce could be U.S. citizens, and you are still subject to investigation and audit. Be prepared.

DeFranco Law Group offers this free Email Alert service to provide information on recent developments in immigration law. Questions? Please email us at mdefranco@yourimmigrationcenter.com.

About the Author

Marisa DeFranco is an immigration attorney with 17 years of experience. In 2011, she was honored as a **Top Woman of Law** by Massachusetts Lawyers Weekly. Attorney DeFranco is also a **National Award Winner**, receiving the National Legal Aid & Defenders Association's Beacon of Justice Award for her Pro Bono Service (300+ hours of service in 15 months) in 2010.

Attorney DeFranco recently had an [Opinion column published in the Boston Herald](#), and was previously published in the ABA's book, *The Road to Independence: 101 Women's Journeys to Starting Their Own Law Firms*. She has authored several scholarly articles, including [Gender Asylum: Bringing the Law into the 21st Century](#). In 2011-2012, Ms. DeFranco was a candidate for U.S. Senate in Massachusetts. Ms. DeFranco is a [frequent contributor on WGBH](#) and [CBS Nightside with Dan Rea](#).

DeFranco Law Group specializes in all aspects of immigration and nationality law, including litigation in Federal Court, business and family-based cases, asylum and naturalization. The firm's business-based immigration practice includes hands-on experience in a wide range of industries, from small businesses to Fortune 500, including healthcare, IT, biotechnology, construction, restaurant and service industries and entrepreneurs.

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