



IMMIGRATION

Special Report

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Expedited E-1 and E-2 Visas for French Companies and Investors

French citizens and French-owned companies could benefit by enrolling in the new E-1/E-2 Expedited Visa Program. The U.S. Consulate in Paris began an initial trial of the Program in June 2008, involving as many as 64 regular users of the E-1 (Treaty Trader) and E-2 (Treaty Investor) Visa categories. Under the Expedited Program, applicants whose companies pre-qualify can call the U.S. Consulate directly to schedule visa appointments and need only fill in one application form. This new “blanket” procedure cuts down on the paperwork involved and reduces processing times from 6-7 to 1-3 weeks, depending upon appointment availability. Given the many advantages of Treaty Investor (E-2) and Treaty Trader (E-1) Visas, more consideration should be given to using this visa category than in years past.

Frequently Asked Questions

What are E-1 and E-2 Visas?

E-1/E-2 Visas are nonimmigrant visas issued by the U.S. Consulate in Paris to French nationals working for French-owned companies; or to French investors starting and directing/developing their own companies in the United States. Because these visas are initially issued for up to five years and can be renewed in five-year increments for 10, 20 or even 30 years or longer, they remain excellent options for many French businessmen.

What is the difference between an E-1 and E-2 Visa?

The E-1 is based upon proof of substantial trade between the French-owned U.S. company and France. The E-2 is based upon proof of a substantial investment by the French investor or by a French-owned company.

What are the nationality rules for E-1 and E-2 Visas?

The applicant must be a French citizen. He must be employed by a company

which is at least 50 percent owned by French citizens. This 50 percent rule permits joint ventures between U.S. and French investors to qualify for E-1/E-2 Visas for French employees, provided the French owners can exercise “negative-veto control” over U.S. operations.

All companies traded on the Paris Stock Exchange are considered to be French-owned companies, without proof of the nationality of their shareholders. However, the nationality of privately-owned companies is determined by the citizenship of their ultimate stockholders. Thus, even if the company headquarters are in Paris, the company cannot qualify for E-1/E-2 Visas for its French employees if the ultimate shareholders are Italian. The U.S. Consulate will require private companies to produce proof of at least 50 percent French ownership before issuing the visas.

What are the basic criteria for qualifying for an E-1 Visa?

The French-owned U.S. company must import at least 50 percent of its products or services from France; or export at least

50 percent of its products or services to France. Further, this must be substantial, whether measured by the number of transactions or its dollar value. For example, if a French-owned perfume company based in Chicago imports more than 60 percent of its fragrances and other raw ingredients from its parent company in Cannes, France, its French nationals can qualify for E-1 Visas. Note: if the company is not at least 50 percent French-owned or the level of its imports or exports between

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the United States and France drops below 50 percent of its trade, its French citizen employees cannot qualify for E-1 Visa treatment.

What are the basic criteria for qualifying for an E-2 Visa?

The French company or investor must make or be in the process of making a substantial investment in a U.S. company. There is no fixed, minimum investment. The funds must be at risk, proportional to the needs of the business, and cannot be used just to provide a living for the investor or his family. Again, as with E-1 Visas, an E-2 Visa can be issued to a joint venture, which is at least 50 percent French-owned.

Which types of employees can qualify for E-1/E-2 Visas?

Any French citizen who either has “essential skills” or will be a manager or executive with the French-owned U.S. enterprise can qualify for an E-1 or E-2 Visa. He need not have worked for a French affiliate overseas before applying and need not be a university graduate.

What are some strategy tips in using E-1 Visas?

E-1 trading companies can be small and family-owned and run. Frequent and continuous trade in goods and services, even of small dollar value, may be sufficient for E-1 Visa issuance. Of course, large qualifying French companies can also use the E-1.

What are some strategy tips in using E-2 Visas?

French firms or individual investors may consider that the E-2 Visa is not limited to businesses involved in international commerce. Purely local businesses, such as franchises, retail sales, construction,

service industries or manufacturing can qualify. For larger companies, the E-2 should be the first choice for transferring key French employees. There are a number of other technical requirements associated with E-1 and E-2 Visas, requiring consultation with an attorney with expertise in this area of immigration law.

What were the disadvantages of using E-1/E-2 Visas prior to June 2008?

Two major disadvantages under the old E-1/E-2 Program were the processing times for the visas and the amount of documentation required. Applicants had to wait 6-8 weeks to be notified of interview dates, complicating travel arrangements to and from France. The Consulate also required voluminous and repetitive documentation with each application.

How has the Expedited E-2/E-1 Visa Program improved procedures at the U.S. Consulate?

The E-2 Expedited Visa Program has eliminated the filing of 100-200 pages of exhibits with each application. Instead, the chief financial officer files a letter each June confirming the basic company information required for E Visa issuance. The company then receives

official notice accepting the company in the Program. Thereafter, each applicant books his appointment by telephone or on the web site and then hand carries his visa application form to the U.S. Consulate on the day of his interview, along with proof of qualification for the position. These procedures eliminate the uncertainties associated with qualifying the company and not knowing the date of the appointment.

How can we help?

Working closely with our corresponding counsel in Paris, Williams Mullen can arrange to qualify your company for the E Visa Expedited Program, assure annual renewals of the company’s participation, and prepare individual E-1/E-1 Visa applications.

De plus, nous parlons français.



The Williams Mullen Immigration Team provides worldwide visa services to U.S. and foreign companies, including processing of temporary and permanent work visas and advice and training on compliance with I-9 regulations and worksite enforcement rules.

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