Public Comment on the Temporary Final Rule: Schedule of Fees for Consular Services (NIV Appointment Expedite Fee)

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To the Bureau of Consular Affairs, U.S. Department of State:

Summary of request: The Department should extend this expedited interview appointment option to E-1 and E-2 treaty investors, the one nonimmigrant category that commits capital and creates American jobs before the interview ever occurs. Limiting paid expedites to tourists and business visitors, while treaty investors wait six months or more at the busiest posts, inverts the economic priorities and can push investors even further back in the queue. I ask the Department to (1) extend the expedited appointment to E-1 and E-2 applicants on a twenty-business-day track that preserves time for document review, (2) ensure that paid B1/B2 expedites do not crowd treaty investors out of shared interview capacity, and (3) close the administrative processing gap so that a paid expedite delivers a timely decision, not just a timely interview.

I write in support of the logic behind this temporary final rule, and to ask the Department to extend it. The rule creates a $750 cost-based fee that lets a B1/B2 applicant secure an interview appointment within ten business days at selected posts. That is a sound, market-based way to allocate scarce consular capacity, and it relieves consular officers of the resource-intensive work of reviewing individual expedite requests. My single request is that the Department apply the same logic to the one nonimmigrant category where interview timing carries the highest economic stakes for the United States itself: the E-1 and E-2 treaty trader and treaty investor classifications.

Background on the commenter

Visa Franchise is a Miami-based advisory firm I co-founded in 2015. We have assisted more than 1,200 families from over 80 countries in identifying and acquiring U.S. businesses and franchises that qualify for E-2 treaty investor status, working alongside the independent licensed immigration counsel our clients engage directly. Our clients are predominantly nationals of treaty countries including Canada, the United Kingdom, France, Germany, Japan, Thailand, Costa Rica, and Mongolia. I am the author of two books on this subject, ***Own Your American Dream: 8 Proven Paths to Start a Business and Secure a U.S. Visa*** and ***How to Buy a Franchise: Employee to Entrepreneur in 12 Weeks***, and I observe the practical operation of E visa consular processing across many posts on a weekly basis. I offer this comment as a practitioner who watches committed American capital and prospective American jobs sit idle while applicants wait for an interview slot.

Across our more than 1,200 client families, individual E-2 investments have typically ranged from $100,000 to $300,000, representing more than $100 million committed to U.S. businesses, and the enterprises they fund commonly project 5 to 20+ American jobs each over a five-year period.

The rule's pricing logic applies with greater force to E visa applicants

This rule reasons that some applicants place a high value on interview timing, that a cost-based fee lets the Department serve those applicants while funding additional capacity, and that capping availability protects

everyone else's wait times. We agree with all three points. Our request is simply that the Department apply them consistently, because no nonimmigrant category values interview timing more than the E-2 treaty investor, for three reasons.

First, the capital is committed before the interview. Under longstanding adjudication standards, an E-2 applicant must show that funds are irrevocably committed and at risk before classification can be granted. In practice, our clients have paid franchise fees, signed commercial leases, purchased equipment and inventory, and funded payroll accounts before they ever appear at a consular window. Across our client base, committed capital at the time of interview typically ranges from roughly $100,000 to $300,000. That capital sits substantially idle, and frequently depletes, during the wait.

Second, American jobs are waiting on the adjudication. By regulation, an E-2 enterprise must be more than marginal, meaning it has to generate employment beyond a living for the investor and family. Among our recent cases, five-year hiring plans commonly project 5 to 20+ U.S. employees per enterprise. When the principal investor waits months for an interview, those hiring plans slip, and in renewal cases the existing American employees operate without their owner-operator present.

Third, renewals involve businesses that are already operating on U.S. soil. A meaningful share of E visa interview demand comes from owners who already run U.S. enterprises with U.S. payroll, U.S. suppliers, and U.S. tax obligations. Interview wait times for E visa appointments vary dramatically by post, from roughly one week at the most efficient consulates to six months or more at the highest-volume posts, with administrative processing pushing some cases beyond nine months. A delay of that length for a renewal applicant means a functioning American business runs for the better part of a year with its principal stranded abroad and unable to travel freely.

The rule, as written, can deepen the E visa backlog it should relieve

As written, the rule lets a tourist pay $750 to resolve a scheduling delay, while a treaty investor who employs American workers has no expedite mechanism at any price. I do not believe the Department intended to rank the urgency of a vacation above the urgency of a payroll, but that is the practical effect of limiting the expedited appointment to the B1/B2 classification. The economic cost of an E visa delay falls substantially on U.S. workers, U.S. landlords, and U.S. counterparties, not only on the foreign applicant.

The deeper problem is competitive. At posts that do not operate a dedicated E visa unit, E and B1/B2 applicants draw from the same pool of consular officer interview capacity. In that setting, every B1/B2 applicant who pays to move to the front of the line consumes a slot that an E-1 or E-2 investor would otherwise have used. The rule, limited to B1/B2, therefore does not merely leave investors out. It can push them further back in the queue at precisely the posts where the E backlog is already worst. A dedicated E visa unit, such as the one in Toronto, partly insulates investor cases from this competition, but most posts do not have one. If the Department is going to let applicants buy scheduling priority, the category that most warrants that priority on U.S. economic-interest grounds is the treaty investor, not the tourist.

This is also where the rule's own stated purpose cuts in our favor. The Department frames this pilot as a way to gather demand data ahead of major events and to support secure, legitimate, and timely travel to the United States. Treaty investor travel is precisely the kind of travel that advances U.S. economic interests, and the E-2 program exists to attract foreign capital that creates American jobs. Extending the expedite option to E visa applicants would generate exactly the demand data the Department says it wants, on the population whose delays do the most measurable damage to the U.S. economy.

A faster interview is not a faster answer: close the administrative processing gap

The rule is candid that the expedite fee buys a faster interview and nothing more. It states that the service will not expedite any processing step, including administrative processing. That leaves a gap that affects both B1/B2 and E visa applicants, and the Department should close it as part of this pilot.

Administrative processing is, from the applicant's side, a closed box. A case can be deferred at the window with no stated reason, no timeline, and no channel for an update. I have watched E-2 investors sit in administrative processing for months after their interview while lease payments, insurance, equipment financing, and U.S. payroll accrued every week, with the post unresponsive to follow-up. An applicant who pays $750 for predictability and then lands in an open-ended hold has not received the certainty the fee implies.

The compressed timeline can make this worse rather than better. The rule offers an interview within ten business days, but it does not add ten business days of research capacity for the staff preparing the case. An officer who reaches the window before the file has been reviewed is more likely to defer the case to administrative processing than to decide it. The remedy already exists at the Department's best-run posts: a pre-interview E visa unit that registers and reviews the documentation before the interview is scheduled, which is what allows the officer to decide at the window. The Toronto E visa unit is the clearest model. The expedite fee should be paired with that kind of advance review, and the schedule should leave room for it.

This argues for a slightly longer clock for E visa cases than for B1/B2, and the longer clock is a feature, not a cost. Rather than the ten business days the rule sets for B1/B2 appointments, the Department should schedule expedited E-1 and E-2 interviews within twenty business days. That is still a dramatic improvement over the multi-month waits at the busiest posts, and the additional days are what let the post review the package in advance and, where the file is not yet sufficient for the officer to decide, request specific documents from the investor before the interview. For example, an investor who pays the fee and submits on July 1 could be scheduled for an interview on July 24, comfortably within the twenty-business-day window. In the interim, the staffer reviewing the file could ask the investor for a missing item, such as the fully executed commercial lease, so that the officer has a complete record at the window. This matters most at posts that cap the E-2 package with a page limit, where an applicant cannot fit every supporting document into the initial submission and a short pre-interview request closes the gap. The payoff is a decision at the interview instead of a deferral into administrative processing, which is the outcome both the investor and the post want.

For any expedited case that is nonetheless placed in administrative processing, the Department should commit to a basic standard of communication: written acknowledgment, an estimated timeframe, and a named point of contact. An applicant who paid for predictability should not be left guessing.

Requested action

I respectfully request that the Department:

1. Extend the expedited interview appointment option to applicants for E-1 and E-2 classification, including dependents appearing concurrently with the principal applicant. For these cases, schedule the expedited interview within twenty business days rather than ten, which preserves time for the pre-interview document review described below. The fee can match the $750 B1/B2 fee or be set higher if the Department's cost-of-service study supports one, given the added review step.

2. At posts that do not operate a dedicated E visa unit, ensure that B1/B2 expedited appointments do not consume interview capacity that would otherwise serve E-1 and E-2 applicants. The Department could reserve a share of expedited capacity for treaty investors, or extend the dedicated-unit model that already works at posts such as Toronto.

3. Prioritize renewal applicants who can document an operating U.S. enterprise with U.S. employees. These cases involve the most immediate harm from scheduling delays, and they are also typically among the fastest adjudications given the company registration already on file.

4. Direct the resulting fee revenue toward additional consular officer capacity at the posts with the longest E visa interview backlogs, consistent with the rationale of this rule.

5. Use the twenty-business-day window to enable a pre-interview document review, so that consular staff can request any missing supporting document, such as a fully executed lease, before the interview and the officer can decide at the window rather than defer the case. For any expedited case that is still placed in administrative processing, provide the applicant with written acknowledgment, an estimated timeframe, and a point of contact. This communication standard should apply to B1/B2 expedite cases as well as E visa cases.

E visa applicants and their counsel routinely report willingness to pay several multiples of $750 for scheduling predictability. A cost-based expedite fee for this population would be heavily subscribed, would generate revenue well in excess of marginal cost, and would shorten queues for non-paying applicants as capacity expands. That is precisely the outcome this rule anticipates for the B1/B2 category.

Conclusion

The E-1 and E-2 classifications exist to implement treaties of commerce and navigation whose purpose is to encourage cross-border investment and trade. Each principal E-2 applicant represents committed foreign capital and prospective American jobs. Extending the expedited appointment option to these classifications would align the Department's fee schedule with the economic logic of this very rule and with the purpose of the treaties themselves.

Thank you for the opportunity to comment. I am available to provide aggregate, anonymized data on E-2 investment levels, job creation projections, and consular processing timelines observed across our client base if that would assist the Department.

Respectfully submitted,

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