

Does U.S. Facilitate Canadian Investment and Trade?



By [Eileen M. Martin](#)

September 30, 2022 | **IMMIGRATION**

Twenty years ago, the answer to the title question would have been “No” — and an emphatic “No” at that.

When Canadians invested in the U.S. or were engaged in substantial trade and applied for visas to facilitate travel to direct their investment or maintain and enhance their trade, the process to an E-1 or E-2 visa took an unconscionably and inexcusably long time, possibly as long as a year. That is a long time to let an investment languish or prevent trade expansion. The offices that adjudicated applications took a long time to review applications and threw obstacles in the way that were extra-regulatory and obstructionist.

Fifteen years ago, the answer to the title question changed to an unequivocal “Yes!” It felt as though the U.S. woke up one morning and decided that trade and investment were good for America, and it should be encouraged. Consular officials in Canada facilitated E visa issuance in many ways, including reaching out to counsel to encourage applications. The process was streamlined to ensure that investors could direct investments and bring in key specialist employees. Traders and their employees were able to work in the U.S. to enhance the trade relationship between the U.S. and Canada. There were some challenges as new officers joined the program and wanted to exercise their denial power, but generally the program was a success.

In 2020, the pandemic hit and E visa processing stopped as the U.S. Department of State — along with countless businesses — shuttered its operations in the interest of safety. But while private businesses pivoted to online conferencing technologies to make progress on their directives and meet goals and obligations despite the pandemic, the E visa program — by then concentrated at the U.S. consulate in Toronto — showed little evidence of activity.

Despite continuing to accept E visa applications electronically, it was unclear that any review was taking place for months. Lawyers were told the long-established interview waiver program was promptly ended, just as the pandemic began. With no more transparency, this seemed very counterintuitive. When the city of Toronto went into lockdown, E visa applicants had to reschedule appointments, many only finding available appointment times nine months later. Many of these later, changed appointments were subsequently cancelled as well, requiring rescheduling again as the pandemic continued.

The challenges with obtaining appointments have continued for the past two years, with very few appointments waived, even for renewal applicants. Some days no appointment times to schedule are available at all. A nine-month wait time has become standard. As a program to facilitate investment and trade, the E visa program seems to be failing in its mission, and just when heightened U.S. government spending means extra dollars injected into the U.S. economy are badly needed.

The most recent obstacle is the long delays before visa issuance *after* the interview. For many years, U.S. diplomatic posts issuing visas did so within a few days of the interview, for receipt by the visa applicant via Canada Post between three and seven days after the interview.

More recently, applicants receive notice of the approval of their visa process at interview, pay the fee and leave their passport behind — only to later be informed that more information is required, or even simply not receive their visas and passports back for weeks or months, without explanation. Since the electronic process for E visa submission gives the Toronto consulate all the information and documentation needed to assess and request what it needs for approval *before* the visa applicant appears for their interview, it seems a more efficient system would have *all* issues addressed at once, together, in advance.

While it may not be accurate to report that the U.S. government discourages Canadian trade and investment, because of all the reasons above, applicants should know that the U.S. does not appear to be focused on facilitating investment and trade. Applications are still being approved, but the length of time it takes for approval is prohibitive as a short- or medium-term strategy for most businesses and qualifying individuals due to the continuous and increasing delays applicants experience.

Investors and traders may have other options to work in the U.S., and it is recommended that they speak with U.S. immigration counsel to determine if other types of work permits may meet their needs. E visa applicants can sometimes chart a different short-term solution to obtaining work authorization in the U.S., with the E visa serving as a long-term strategy. In addition, most immigration lawyers can advise on strategies to help investors, traders and their employees achieve E visa status more quickly.

Eileen Martin is a partner with [Lippes Mathias LLP](#) and the firm's immigration practice team co-leader with over 25 years of experience assisting clients from around the world with various matters including work permits, employment-based immigration, port-of-entry issues, visa issuance, family-based immigration, immigrant and

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