

Publications

Immigration Alert: Significant Movement in October Visa Bulletin Will Allow Many to File Adjustment Applications

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Last week, the Department of State released the [October Visa Bulletin](#). With October being the beginning of the federal government's new fiscal year, and with COVID-19 and associated visa and travel bans leading to a reduced usage of immigrant visa numbers, there was significant movement in the priority dates. Noteworthy among this movement was substantial jumps for Indian nationals in all employment-based categories, and in the EB-1 category for Chinese nationals.

This release of the new Visa Bulletin was quickly followed by U.S. Citizenship and Immigration Services' (USCIS) decision to accept adjustment of status applications (Form I-485) based on the "Dates for Filing of Employment-Based Visa Applications" chart. This was a departure from recent months, when USCIS required applicants to rely on the "Final Action Dates" chart to determine when they were eligible to submit their Form I-485 and initiate the final phase in the process of obtaining lawful permanent resident status.

The combination of the ability to use the "Dates for Filing" chart, as well as the significant movement in priority dates will allow many individuals and their dependent family members to file their adjustment applications in October.

For both Indian and Chinese nationals, the priority dates in the EB-3 category are currently more favorable than the EB-2 category. If an employee's Immigrant Visa Petition (Form I-140) was approved under the EB-2 category, but their priority date is current only under the EB-3 category, you may be able to "downgrade" the employee's I-140 to the EB-3 category. A number of considerations, both business and legal, should go into this process, including that these priority dates could retrogress or that USCIS could elect to revert back to the "Final Action Dates" chart for filing adjustment applications in the coming months, so you are encouraged to consult with your immigration counsel to determine the best course of action for your company.

Additional information regarding the basics of the Visa Bulletin can be found [here](#) in a flyer created by the American Immigration Lawyers Association.

Please contact your Vorys attorney if you have employees who may be eligible to file their adjustment of status applications, or if you have any questions regarding related issues.