

Insights, News & Events

THE FP VISA BULLETIN FOR MAY: DATES FOR FILING AND AN EMPLOYER'S IMMIGRATION ACTION PLAN

Insights
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Each month, federal immigration authorities publish a list of dates informing immigrant visa applicants when they should expect to be notified to assemble and submit required documentation to government officials. This Insight reviews May's Visa Bulletin release to help employers determine whether and when you should provide corresponding notifications to any of your foreign-national employees to assist their efforts. You'll also find a specific action plan so you can adapt your immigration strategy given this month's information. If you want to ensure you follow compliant processes to address your critical workforce needs in a timely manner, read on.

May Dates for Employment-Based Adjustment of Status: An Overview

The Visa Bulletin includes a list of dates informing overseas immigrant visa applicants when they should expect to be notified to assemble and submit required documentation to move forward with the consular stamping process. These dates are also used to determine eligibility for Adjustment of Status to Lawful Permanent Residence with U.S. Citizenship and Immigration Services (USCIS) for applicants who are already physically present in the U.S.

Similar to last month, USCIS announced that it will follow the Department of State's "Final Action Dates" chart, published in the May Visa Bulletin, to determine whether candidates are eligible to submit an employment-based Adjustment of Status application for that month. To determine potential eligibility, dates that appear in this chart must be compared

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with an employee's Immigration Priority Date, as shown on their earliest available I-797 Notice of Action (Receipt Notice) issued by USCIS, for any EB-1, EB-2, or EB-3 (I-140) Immigrant Petition filed on their behalf by a sponsoring employer.

No Movement in Cutoff Dates for Nearly All Employment-Based Visa Categories

There was no cutoff date movement in any of the most common Employment-Based Preferences Classes, including EB-1, EB-2, or EB-3. The dates posted for May in those three categories are identical to cutoff dates posted for April.

Final Action Dates Chart for Employment-Based Cases

The recently announced Final Action Dates for EB-1, EB-2, and EB-3 appear in the table below. Please note this table can always change, [so check here for the most accurate and updated information](#) before acting on these dates.

Preference	All Chargeability Areas Except Those Listed	CHINA-mainland born	INDIA	MEXICO	PH
EB-1	Current	9/1/22	3/1/21	Current	Cu
EB-2	1/15/23	2/1/20	4/15/12	1/15/23	1/15/23
EB-3	11/22/22	9/1/20	8/15/12	11/22/22	11/22/22

What Should You Do? Your Action Plan

For May, USCIS is using the "Final Action Dates" chart in accepting new applications for Adjustment of Status to Lawful Permanent Residence. This means an application may be filed by a candidate with an immigration priority date that is earlier than the listed cutoff date for their particular preference category and country of chargeability, or whose category is otherwise listed as current.

For Adjustment of Status cases that are already pending and were filed in a category that has since fallen behind in its cutoff date, USCIS will not begin processing until the Final

Action Date has surpassed the individual immigration priority date or is otherwise deemed current. While overall processing may be delayed, a duly filed application will remain in good standing in the government's queue, and USCIS will process related requests for EAD cards and Advanced Parole.

If you have employees who have priority dates that will be (or remain) current in May, you should reach out to your immigration attorney to prepare and submit their Adjustment of Status Application in May.

Conclusion

We will continue to monitor developments from immigration officials and provide similar guidance monthly. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information – including next month's FP Visa Bulletin. If you have any questions, please contact your Fisher Phillips attorney, the author of this Insight, or any attorney in our [Immigration Practice Group](#).