

Insights, News & Events

# THE FP VISA BULLETIN FOR FEBRUARY: FINAL ACTION CHART 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 February's 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. Read on to ensure you follow compliant processes that address your critical workforce needs in a timely manner.*

## February Dates: 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.

## Retrogression from Dates of Filing to Final Action

USCIS announced that it will follow the [State Department's Final Action Chart](#), published in the February Visa Bulletin to determine whether candidates are eligible to submit an employment-based Adjustment of Status application for that month. This is a considerable change from the last few

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months where USCIS relied on the Dates of Filing chart, which permitted Adjustment of Status applications to be filed at an earlier date.

To determine potential eligibility for filing of an employment-based Adjustment of Status application, dates that appear in this chart must be compared 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. By relying on the Final Action chart, most immigrant visa categories will have a several months delay in when an application may be filed.

As most categories will retrogress in February, employers should promptly review employees' priority dates and ensure all eligible adjustment of status applications are prepared and filed before the chart change takes effect. Employers should also communicate with affected employees, coordinate with immigration counsel, and gather necessary documentation, such as Form I-485, medical exams, and supporting evidence, to avoid processing delays. Proactive planning is essential to maximize filing opportunities and minimize disruptions.

## **Retrogression Summary**

### **For Indian Nationals:**

- EB-1 Date for Filing will regress two months under the Final Action date.
- EB-2 Date for Filing will regress six months under the Final Action date.
- EB-3 Date for Filing will regress four months under the Final Action date.

### **For Chinese Nationals:**

- EB-1 Date for Filing will regress two months under the Final Action date.
- EB-2 Date for Filing will regress three months under the Final Action date.
- EB-3 Date for Filing will regress six months under the Final Action date.

## All Other Nationals:

- EB-2 Date for Filing will regress four months under the Final Action date.
- EB-3 Date for Filing will regress three months under the Final Action date.

## Final Action Chart

The recently announced Final Action Chart 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
1st	Current	08 NOV 22	01 FEB 22	Current	Cu
2nd	01 APR 23	22 APR 20	15 OCT 12	01 APR 23	01 .
3rd	01 DEC 22	01 JUL 20	15 DEC 12	01 DEC 22	01

## What Should You Do? Your Action Plan

For February, USCIS is using the “Final Action” chart in accepting new applications for Adjustment of Status to Lawful Permanent Residence. This means an application may be filed and processed for a candidate with an immigration priority date that is earlier than the listed cutoff date for their 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 February, you should reach out to your immigration attorney to prepare and submit their Adjustment of Status Application in February.

## **Conclusion**

We will continue to monitor developments from immigration officials and provide similar guidance on a monthly basis. 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 authors of this Insight, or any attorney in our [Immigration Practice Group](#).