



EB-2 IMMIGRANT VISA AVAILABILITY FOR INDIA AND CHINA SET TO RETROGRESS SIGNIFICANTLY IN MAY 2012

The Department of State (DOS) recently published the [April 2012 Visa Bulletin](#) announcing that immigrant visa availability under the India and China employment-based second preference (EB-2) immigrant categories remained steady for the month of April, with a current “priority date” of May 1, 2010. EB-2 applicants born in India or China with priority dates earlier than May 1, 2010, are encouraged to file Applications to Adjust Status as soon as possible before the end of April 2012, as visa availability will retrogress again in May 2012.

EB-2 India & China to Retrogress to August 15, 2007

The Department of State has reported to the American Immigration Lawyers Association (AILA) that in May 2012, the EB-2 category for persons born in India and China will retrogress significantly, to August 15, 2007. This means that during the remainder of March and April 2012, applicants who are otherwise eligible for permanent residency and who had PERM Applications filed earlier than May 1, 2010, will be eligible to file Applications to Adjust Status (“green card” applications). Beginning in May 2012, applicants must have the much earlier priority date of August 15, 2007, in order to file their “green card” applications.

What is the Priority Date?

The “priority date”, or “place in line” under the backlogged immigrant quota system for employment-based immigrant visas, is normally the date on which a PERM Application for Permanent Employment Certification (labor certification application) was filed. In limited cases, for individuals who are exempt from the labor certification process, the priority date is the date that an I-140 Immigrant Visa Petition (e.g. National Interest Waiver petition) was filed on his or her behalf.

Benefits of Filing “Green Card” Application as Soon as Eligible

Filing an Application to Adjust Status typically affords eligibility for certain benefits, such as employment authorization and travel documents, for the principal applicant and dependent family members, and can in some cases help preserve eligibility for dependent children who otherwise may be “aging out” of dependent status under immigration law (turning 21). For this reason, it is important for applicants to file their Applications to Adjust Status as soon as they become eligible.

While there is no firm prediction concerning EB-2 visa availability for the remainder of the fiscal year, it is possible that EB-2 India and China priority dates will not approach May 2010

again for many months. For this reason, applicants with current priority dates, or priority dates that will become current in April 2012, should contact their FosterQuan immigration attorney as soon as possible for additional information regarding application for an immigrant visa at a U.S. Embassy/Consulate abroad, or application for Adjustment of Status with USCIS in the United States.