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## **EB-2 INDIA AND EB-3 CHINA CUT-OFF DATES ADVANCE SIGNIFICANTLY IN FEBRUARY – FURTHER ADVANCES LIKELY IN COMING MONTHS**

The U.S. Department of State has published the Monthly [Visa Bulletin for February 2015](#), announcing significant advances in visa availability under the EB-2 preference category for applicants born in India, the EB-3 preference category for applicants born in China, and the EB-3 preference category for applicants born in all countries other than India and China.

Beginning February 1, 2015, EB-2 applicants born in India with a priority date earlier than September 1, 2005, may file Applications to Adjust Status with U.S. Citizenship & Immigration Services (CIS), or have their pending applications approved. Applicants seeking to apply for their immigrant visas through an appropriate U.S. consulate abroad should also see their pending cases move forward through the National Visa Center and the designated consular post. The advance to a September 1, 2005 “cut-off date” is an advance of six months from the cut-off date posted in the January Visa Bulletin.

Also beginning February 1<sup>st</sup>, EB-3 applicants born in China with a priority date earlier than September 1, 2011, may proceed with their applications. This represents a six-month advance in the cut-off date. EB-3 applicants born in countries other than India and China may now proceed with their applications if their priority date is earlier than January 1, 2014, which represents a full one-year advance in the cut-off date.

### EB-2 and EB-3 China Forecast

EB-2 China advanced six weeks under the February Visa Bulletin, with a new cut-off date of March 15, 2010. The modest advance for EB-2 China in comparison to EB-3 China creates the opportunity for EB-2 China applicants to potentially reduce their wait for permanent residency by filing an Immigrant Visa Petition under the EB-3 category.

The Department of State has indicated that the more rapid movement under the EB-3 China category could continue for the next few months. However, the prospect of “down-grades” to EB-3 would likely increase the demand under the EB-3 China category while simultaneously reducing the demand under the EB-2 China category, as applicants formerly in the EB-2 line ultimately file applications and gain permanent residency under the EB-3 line.

This simultaneous and opposite shift in demand under the EB-2 and EB-3 categories should work to even out the demand under the two categories over a period of time, which may mean there is a *relatively short window of opportunity* to take full advantage of the “EB-3 down-grade” option.

According to the Department of State, the EB-3 China category may reach a cut-off date well into 2012, before the demand under EB-2 and EB-3 finally even off. *This means that applicants with priority dates in 2012 may wish to proceed with EB-3 petition filings at this time* in order to position themselves to file Applications to Adjust Status in the coming months should their priority dates become current under the scenarios currently anticipated by the Department of State.

### EB-2 India Forecast

The Department of State has also indicated that visa availability will likely advance significantly under the EB-2 India category in the coming months, possibly even 4-6 months in each Monthly Visa Bulletin, until likely reaching a date in 2009, by the end of the fiscal year. Applicants with priority dates before May 2009, who have not already begun to collect documents such as birth certificates or affidavits of birth should do so now in anticipation of potentially being able to file Applications to Adjust Status this spring or summer.

### EB-5 China Forecast

Due to the significant volume of Chinese investor applications, the Department of State expects to establish a cut-off date under the EB-5 China category in the coming months, no later than the summer. It is possible that the retrogression could be up to two years, meaning applicants would need a priority date earlier than summer 2013 in order to file or be approved for permanent residency.

Contact your Foster immigration attorney now to discuss the potential advantages and timeline of an “EB-3 down-grade” petition for Chinese applicants, or to initiate applications for employees whose priority dates will become current in February. For additional information, please visit the Foster website at [www.fosterglobal.com](http://www.fosterglobal.com).