



News & Types: Client Advisories

Record Number of Green Cards Available in 2022

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Practices: Immigration

The U.S. Department of State (DOS) recently announced that a record number of employment-based immigrant visas (aka green cards) will be available in Fiscal Year 2022 (October 1, 2021 to September 30, 2022).

Each year, a total of 140,000 green cards are available in the employment-based categories and no single country can use more than 7% of the total. However, if all of the family-based green cards are not used, the excess of the family-based green cards are then available to the employment-based categories. A majority of the family-based green card applications are processed through the U.S. consulates abroad whereas a majority of the employment-based green card applications are processed in the United States through the U.S. Citizenship and Immigration Services (USCIS). Due to the COVID-19 pandemic which caused the temporary closure of U.S. consulates abroad and prevented the consulates from processing visa applications, many family-based green cards have not been used and thus the excess has been assigned to the employment-based categories. In Fiscal Year 2021, this excess was approximately 122,000 green cards which allowed for more than 262,000 employment-based green cards to be available. In Fiscal Year 2022, it is estimated that the excess will be 150,000 green cards which will allow for more than 290,000 employment-based green cards to be available, which is a record.

Each month, the DOS releases a Visa Bulletin which provides for immigrant visa availability in the various family-based and employment-based categories. The monthly Visa Bulletin is available at [link](#). The Visa Bulletin provides Filing Priority Dates and Final Action Priority Dates for each category. A green card application cannot be approved until an applicant's Final Action Priority Date is available. After the Visa Bulletin is released, the USCIS then decides whether it will allow qualified applicants in the United States to use the Filing Priority Dates or Final Action Priority Dates to file for adjustment of status (AOS). The USCIS AOS Filing Charts are available at [link](#). Priority dates are determined based upon projected usage in each category and may advance or retrogress each month.

In the October 2021 Visa Bulletin, there was minimal (if any) movement in the employment-based categories that are currently backlogged, even though there will be record numbers of employment-based green cards available in Fiscal Year 2022. In the EB-2 and EB-3 categories, India and China are currently backlogged because demand in the India and China EB-2 and EB-3 categories exceeds the 7% per country limit on green card availability.

In the October 2021 Visa Bulletin, the DOS also predicted that there may be retrogression in all of the EB-3 categories as early as November 2021 and that a priority date cut-off may have to be established for the other EB-3 categories (including the World category), not just the India and China categories. If a priority date cut off is established in the Final Action Priority Dates, only applicants with priority dates earlier than the cut-off date will be eligible to complete the green card process. During a stakeholder session, DOS indicated that although a record number of employment-based green cards are available in Fiscal Year 2022, the USCIS has indicated that it has already received a sufficient number of AOS applications to use all of these numbers. Therefore, the DOS said that it will continue to monitor usage of the numbers but that if retrogression occurs, it does not expect movement in the EB-3 category until at least some time in 2022.

Additional information about priority date movement in the employment-based green card categories will be posted on the Masuda Funai website as it becomes available.