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## **FY-2012 EB-2 IMMIGRANT VISAS EXHAUSTED FOR INDIA & CHINA**

On Wednesday, May 9<sup>th</sup>, the Department of State published the June 2012 [Visa Bulletin](#), announcing that immigrant visa numbers are no longer available under the Employment-Based, Second Preference (EB-2) category for applicants born in India or China, and that visa numbers will not become available again under the EB-2 category for India and China until at least the beginning of Fiscal Year 2013, which begins on October 1, 2012.

The CIS will continue to accept I-485 Applications to Adjust Status filed during the month of May based on the “cut-off” date published in the May 2012 Visa Bulletin for applicants born in India or China. The May 2012 cut-off date for EB-2 India and China is August 15, 2007. This means that eligible EB-2 India and EB-2 China applicants with a priority date before August 15, 2007, should file their Applications to Adjust Status with U.S. Citizenship & Immigration Services (CIS) for receipt by the CIS before the end of May 2012.

The Department of State also announced that, based on the demand against the FY-2012 quota on immigrant visas, it may necessary to establish “cut-off” dates before the end of the fiscal year (September 30, 2012) under the EB-2 category for applicants born in ***countries other than India or China***. This means that eligible EB-2 applicants born in countries other than India and China should be prepared for a possible “retrogression” in EB-2 eligibility, and should file their I-485 Applications to Adjust Status as soon as possible.

Further, the Department of State has indicated the possibility that a “cut-off” date could be established under the Employment-Based, First Preference (EB-1) category in the next few months. The information provided did not reference a particular country of birth which may experience “retrogression” under the EB-1 category. Presumably applicants born in India or China would see a “cut-off” date; however, the Department of State has not stated that applicants born in other countries will not be subject to a “cut-off” date. Such retrogression is virtually unprecedented.

To initiate the preparation and filing of an Application to Adjust Status for individuals who have established priority dates before the “cut-off” dates published in the May 2012 Visa Bulletin, or during June before the “cut-off” dates established in the June 2012 Visa Bulletin, contact your FosterQuan immigration attorney. As always, FosterQuan will continue to monitor changes in immigrant visa availability under the annual immigrant quota system and will make future updates available via our firm’s website, and in future Immigration Updates®.