

One Minute Memo®



USCIS Announces New System for Confirming Filing Eligibility for Adjustment of Status Applicants

By Gabriel Mozes, Jason Burritt, and Maura Travers

In accordance with [significant procedural revisions](#) announced in September and implemented by the Department of State (DOS) with the publication of the revised October 2015 *Visa Bulletin*, U.S. Citizenship and Immigration Services (USCIS) has confirmed a new system for determining when individuals may file Adjustment of Status applications each month.

Up until recently, the DOS *Visa Bulletin* contained just one set of dates to determine when an individual would be eligible to file his/her Adjustment of Status (or green card) application with USCIS. The category was titled “Application Final Action Date.” Once an individual’s priority date became “current” under the Application Final Action Date - meaning a green card number was available for the individual - the individual was permitted to file the green card application with USCIS, receive ancillary work authorization and travel benefits, and then wait for USCIS to adjudicate the green card application.

The recent procedural revisions have created a second set of dates called the “Dates for Filing Visa Applications.” The purpose of this second set of dates is to allow foreign nationals to file Adjustment of Status applications with USCIS *prior* to green card number availability. In theory, once an individual’s priority date becomes current under the “Dates for Filing Visa Applications” category, USCIS will adjudicate the ancillary applications for employment and travel documents and wait for the applicant’s “Application Final Action Date” to become current before adjudicating the Adjustment of Status application.

What’s new?

USCIS confirmed that, beginning with the November 2015 DOS *Visa Bulletin*, applicants will only be eligible to utilize the monthly “Dates for Filing Visa Applications” if USCIS determines there are more immigrant visas available for a fiscal year than there are known applications. USCIS anticipates making this determination uniquely each month and posting the relevant chart on its [website](#) within one week after DOS’ publication of that month’s *Visa Bulletin*. If USCIS does not provide additional information during a given month, applicants must follow the “Application Final Action Dates” for filing guidance.

How will this change impact applicants?

Typically, DOS releases the *Visa Bulletin* around the ninth day of each month. Because USCIS anticipates confirming the “Dates for Filing Visa Applications” within one week after the DOS’ *Visa Bulletin* announcement, applicants must wait until the middle of each month to determine whether Adjustment of Status applications may be filed during the upcoming month.

As both the “Application Final Action Dates” and the “Dates for Filing Visa Applications” are subject to change each month, applicants will have less time to gather the documents required to prepare and file Adjustment of Status applications each month.

According to USCIS’ recent announcement, applicants will be eligible to file Adjustment of Status applications from November 1st through November 30th pursuant to the “Dates for Filing Visa applications.” These dates are consistent with the filing dates enumerated in the revised October 2015 *Visa Bulletin*.

Seyfarth Shaw LLP’s Immigration Group closely monitors *Visa Bulletin* developments and will provide updates as necessary.

[Gabriel Mozes](#) is a partner in Seyfarth’s Boston and Atlanta offices, [Jason Burritt](#) is a partner in the firm’s New York and Washington, D.C. offices, and [Maura Travers](#) is an attorney in the firm’s Boston office. If you would like further information, please contact your Seyfarth attorney, Gabriel Mozes at gmozes@seyfarth.com, Jason Burritt at jburrirt@seyfarth.com, or Maura Travers at mtravers@seyfarth.com.

www.seyfarth.com



Attorney Advertising. This One Minute Memo is a periodical publication of Seyfarth Shaw LLP and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)

Seyfarth Shaw LLP One Minute Memo® | October 19, 2015

©2015 Seyfarth Shaw LLP. All rights reserved. “Seyfarth Shaw” refers to Seyfarth Shaw LLP (an Illinois limited liability partnership). Prior results do not guarantee a similar outcome.