

I-140 Premium Processing, July Visa Bulletin, and Two-Year EADs for Pending AOS Applicants

June 13, 2008

I-140 Premium Processing

U.S. Citizenship & Immigration Services (USCIS) announced that on June 16 it will reinstate premium processing for a small group of I-140 petitions filed on behalf of nonimmigrants who are nearing the end of their sixth year in H-1B status.

Accordingly, USCIS will provide premium processing service for I-140 petitions on behalf of nonimmigrants in H-1B status

- Whose sixth year will end within 60 days;
- Who are not eligible for a one-year H-1B extension; and
- Who are only eligible for a further H-1B extension under section 104(c) of the American Competitiveness in the Twenty-First Century Act of 2000 (AC21) upon approval of the I-140 petition.

Section 104(c) permits an H-1B nonimmigrant who is affected by immigrant visa backlogs to extend his or her stay in H-1B status in three-year increments provided that he or she is the beneficiary of an approved I-140 petition.

July Visa Bulletin

The United States Department of State (DOS) has released its July 2008 Visa Bulletin. The Visa Bulletin sets out per-country priority date cutoffs that regulate the flow of adjustment of status and consular immigrant visa applications. Foreign nationals may file applications to adjust status to permanent resident or obtain approval of an immigrant visa application at an American embassy or consulate abroad, provided their priority dates are before the cutoff dates specified by the DOS.

For July 2008:

- All EB-1 categories are current
- All EB-2 categories are current, except for Chinese and Indian nationals for whom the relevant priority date is April 1, 2004
- All EB-3 categories are unavailable

All EB-3 categories are expected to remain unavailable for the remainder of the fiscal year.

Priority date cutoffs are assessed on a monthly basis by DOS based on anticipated demand. Cutoff dates can move forward, backward, or remain static. Employers and employees should take the immigrant visa backlogs into account in their long-term planning and take measures to mitigate their effects. To see the July 2008 Visa

Bulletin in its entirety, please visit the U.S. Department of State website at http://travel.state.gov/visa/frvi/bulletin/bulletin_4252.html.

Two-Year Employment Authorization Documents

USCIS has announced that it will begin issuing Employment Authorization Documents (EADs) with a two-year validity date for certain adjustment of status applicants beginning June 30, 2008. The two-year EADs will be limited to those foreign nationals who:

- Have a pending adjustment of status application; and
- Are unable to adjust their status because their priority dates are not current per the Visa Bulletin.

Adjustment of status applicants with a current priority date will continue to receive EADs with a one-year validity.

Morgan, Lewis & Bockius will continue to monitor the situation and will update you with any new information. If you have any questions about any of the issues raised in this Morgan Lewis Immigration Alert, please contact:

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