

## **Check-in with DOS's Charlie Oppenheim: December 19, 2019**

**Member Question:** For FY2019, how many visa numbers were used for Special Immigrant Juveniles? Of those, how many were used by Special Immigrant Juveniles from Honduras, El Salvador, and Guatemala?

**Answer:** In FY2019 the per country limit for EB-4 was 705, which was exceeded by the following countries based on the availability of "otherwise unused" numbers:

- El Salvador: 1,709
- Guatemala: 1,295
- Honduras: 1,293
- Mexico: 801

Since 2016, Special Immigrant Juvenile cases averaged over 50% of the entire EB-4 limit each fiscal year.

## **Scheduled Expiration of EB-4 Certain Religious Workers (SR) and EB-5 Regional Centers (I5 & R5)**

The January 2019 Visa Bulletin lists all EB-4 Certain Religious Workers (SR) and all EB-5 Regional Centers (I5 & R5) as unavailable for January since these categories will expire on December 20, 2019 unless reauthorized by Congress. On Friday, December 20, 2019 President Trump signed legislation which continues these programs and keeps the government funded through FY2020.

In the likely event that these programs are reauthorized, the Final Action Dates for January will be as follows:

### **EB-4 Certain Religious Workers (SR)**

- El Salvador, Guatemala and Honduras: July 1, 2016
- Mexico: August 8, 2017
- Current for all other countries

### **EB-5 Regional Centers (I5 & R5)**

- China: November 22, 2014
- India: May 1, 2018
- Vietnam: December 8, 2016
- Current for all other countries

## **Family-based Preference Categories**

As noted in the Visa Bulletin's predictions, Charlie plans to impose a Final Action Date within the next few months across all **F2A** categories, which have been uncharacteristically current in recent months.

Members should expect a Rest of World (ROW) and China retrogression in **F4** Final Action Dates in February 2020, and per the visa bulletin(o)nce the retrogression occurs, that date is likely to be held for a period of time."

Additional predicted advancements include “up to six weeks” for **F1** categories, up to 3 weeks for **F2B**, and 1-3 weeks for **F3**.

## **Employment-based Preference Categories**

### **EB-1**

In January, the **EB-1 Worldwide (including El Salvador, Guatemala and Honduras, Mexico Philippines and Vietnam)** Final Action Date advances 2.5 months to October 1, 2018. The **EB-1 China** Final Action Date advances one week to May 22, 2017, and **EB-1 India’s** Final Action Date continues to hold at January 1, 2015.

While **EB-1 China** and **EB-1 India** demand remain high, rest of world demand has tapered off and is currently lower than Charlie’s monthly use target. If this trend continues, **EB-1 Worldwide (including El Salvador, Guatemala and Honduras, Mexico Philippines and Vietnam)** could potentially become current by the summer of 2020.

**EB-1 China** will continue to advance at a pace of up to three weeks, but members should not expect **EB-1 India** to advance in the near future. There continues to be sufficient demand in this category for applicants with priority dates that are earlier than January 1, 2015 to enable Charlie to reach his target without having to advance the Final Action Date.

### **EB-2 Worldwide & EB-3 Worldwide**

Last month’s Check-in warned of the possibility of retrogression in the **EB-2 Worldwide** and **EB-3 Worldwide** categories as early as January 2020. We were pleasantly surprised that these categories will remain current for January. Members should continue to monitor these categories closely moving forward, as Charlie has informed AILA that Final Action Dates will be imposed in these categories—it is merely a matter of when that will occur. He notes that **EB-3 Worldwide** will have a Final Action Date imposed no later than March 2020, with a strong possibility of that happening in February. **EB-2 Worldwide** is likely to remain current longer than **EB-3 Worldwide**, and hopefully no cut-off date will be required until after March 2020.

The longer these categories remain Current, the more likely it is that the retrogression will be more significant so as to severely limit the number usage for a period of time.

The **EB-2 China** Final Action Date advances one week in January to July 1, 2015, and **EB-2 India** advances 3 days to May 18, 2009. Over the coming months, Charlie expects **EB-2 China** to advance at a pace of up to one month, with **EB-2 India** advancing at a rate of up to one week. Charlie notes that **EB-2 China** demand has picked up at a steady pace, but still remains manageable for now.

The **EB-3 China** Final Action Date advances one month to December 1, 2015 in January, which positions **EB-3 China’s** Final Action Date five months ahead of **EB-2 China**, maintaining a climate favorable for downgrades. Charlie predicts that the **EB-3 China** Final Action Date will continue to advance at a rate of up to six weeks. **China EB-3 Other Worker** category will continue to have an earlier Final Action Date than **EB-3 China** due to excessive demand in this category.

The **EB-3 India** Final Action Date holds at January 1, 2009 for January, keeping it almost five months behind **EB-2 India**, maintaining a climate favorable for upgrades. Charlie predicts advancement of “up to” three weeks for **EB-3 India**, but notes that we should not expect to see any movement in this category until the demand begins to drop below his monthly target number usage.

**EB-3 Mexico** and **EB-3 Mexico Other Worker** demand was extremely heavy for the first two months of FY2020 but over the course of four months has averaged out to a manageable level. For now, Charlie expects these categories to continue to track the **EB-3 Worldwide** Final Action Date.

**EB-3 Philippines** demand started to increase slightly, but not at an alarming rate. Although there is an upward demand trend, it does not signal retrogression at this time. Charlie continues to predict monthly advancement of up to one month for this category.

**EB-3 Other Worker Worldwide** is likely to have a Final Action Date imposed in the coming months.

#### **EB-4**

Charlie expects to impose a Final Action Date for **EB-4 India** no later than July 2020 as the current demand level is high compared to past years. Additionally, there should be little forward movement for **EB-4 Mexico** and little if any movement through May 2020 for **EB-4 El Salvador, Guatemala and Honduras**.

Please see the above section titled, **Scheduled Expiration of EB-4 Certain Religious Workers (SR) and EB-5 Regional Centers (I5 & R5)** for information regarding **EB-4 Certain Religious Workers**.

#### **EB-5**

In terms of predictions over the coming months, **EB-5 China** could possibly advance at a “slightly faster pace,” while **EB-5 India** is likely to advance at a “very rapid pace” until higher levels of demand is generated. In contrast, **EB-5 Vietnam** is likely to experience only limited movement.

Please see the above section titled, **Scheduled Expiration of EB-4 Certain Religious Workers (SR) and EB-5 Regional Centers (I5 & R5)** for information concerning regarding **EB-5 Regional Centers (I5 & R5)**.

**Do you crave more immigrant visa data?** Did you know that the State Department’s website posts publicly available visa data on its website? The annual NVC “Waiting List” as of November 1, 2019 is listed under the [Hot Topics here](#).

**Questions for Charlie?** Please send your questions to [sreguerin@fragomen.com](mailto:sreguerin@fragomen.com) for inclusion in next month’s “Check-in with Charlie” column.