



IMMIGRATION ISSUES

January 2024 · Volume II · G4 Visa & Green card



**This document serves as a summary of the insights shared by our staff regarding G-4 policies and cannot be construed as legal advice. For a thorough assessment of your individual circumstances, we strongly advise seeking guidance from an attorney.*

Background

In March 2023, the U.S. Department of State changed its interpretation regarding the allocation of green cards. Consequently, the EB4 category, which includes IMF retirees and eligible G4 visa holder children, is now facing a backlog of 152,743 applicants (as of September) that has grown by around 10,000 per month this year. Only 9,940 green cards are available annually via EB4.

Following this change and recent trends, staff retiring from the IMF, and dependents that are eligible for a green card via the EB-4 category, will likely lose eligibility. This is causing substantial hardship for Staff and significant enterprise risks for the Fund. It is critical to adjust to this new development and find possible solutions.

AILA suggests several possible administrative changes that would help EB-4 applicants. There are benefits and shortcomings for each. Discussion is needed regarding which approach would be best suited for Fund staff.

Useful Resources

- [AILA - AILA Sends Letter to DHS and DOS Urging EB-4 Administrative Action](#)
- American Immigration Lawyers Association Letter to Blinken and Mayorkas (proposes possible administrative remedies)
- [Immigration and Citizenship Data | USCIS](#) - Link to USCIS data on approved EB petitions awaiting Green Card availability (see table "Form I140, I360, and I526 Approved EB Petitions Awaiting Visa Final Priority Dates")
- [Employment-Based Immigration: Fourth Preference EB-4 | USCIS](#) - Link to USCIS website explaining EB-4
- [Immigration and Nationality Act | USCIS](#) - [Link to Immigration and Nationality Act](#) (establishes the legal basis for IMF staff eligibility for a Green Card, Green Card quotas, etc.)
- [The video recording of SAC's hybrid Townhall on Immigration Issues](#) - (the meeting itself starts around 17:46) held on October 31st
- [The presentation shared at the SAC's hybrid Townhall on Immigration Issues](#) - held on October 31st.
- [The immigration issues briefing note, Volume I](#) - distributed to staff in advance of the above mentioned townhall.
- [The HRD Information Session](#) – held on December 7th with [Fragomen presentation](#) and [video recording](#) now available

WHO IS IMPACTED

- All existing and future staff hoping for a green card via EB-4
- Retiring staff
- Staff with Non-US citizen dependents

SAC's Research on Potential Solutions

Proposal	Category	Action By:	Source	Pros	Cons	Comments
Clarification on Visa Availability	Legislation	USCIS / DOS	AILA/ Other	G-4 wouldn't be subject to visa availability and able to adjust status or at least file their applications regardless of backlog without losing eligibility		It is unclear whether G-4 are subject to visa availability as the regulations do not explicitly mention them. Additionally, an individual involved in the process leading to the 1986 Act confirmed lawmakers' intent to exempt G-4
Concurrent Filing (AKA parallel or one-step)	Admin	USCIS / DOS	AILA	G-4 would remain eligible for adjustment regardless of the waiting time and able to stay in the US.	Applicants would need work permits (EAD) and advance parole to travel abroad – wait time varies. Documented immigrants who lacked recognizable status have on occasion been denied entry.	Before the backlog, G-4 applicants would file their applications concurrently and stay in the US while waiting for their green cards. The main distinction in this situation is that the issuance of the green card would now take significantly longer.
Interpretation of the filing of an I-360 as 'the closing date for computing the residence and physical presence requirement'	Admin.	USCIS / DOS	AILA	G-4 would maintain their eligibility for adjustment of status regardless of timeline.	If applicants are unable to secure another visa to remain in the US, they would have to leave while waiting for a green card to become available.	There has been no statutory interpretation as to whether the filing of the I-360 petition certifies that applicants met the requirements to adjust status, namely residence and physical presence. USCIS should interpret the filing of an I-360 petition as the closing date. This would give international organization retirees and dependents the opportunity to become lawful permanent residents in the future.

Advance visa bulletin dates	Admin.	USCIS / DOS	AILA	Protect the rights of individuals in the process of adjusting status that were affected by the DOS failure to provide adequate notice.	Short-term solution only available for those in the process of adjustment when the new interpretation was enacted.	Return to the dates of the March Visa Bulletin to reopen the filing period until proper notice is given to the public. This will allow staff to adjust status.
Deferred Action	Legislation	USCIS / DOS	AILA	Humanitarian protection and right to obtain EAD.	Short-term solution.	For staff members unable to return to their home countries due to ongoing conflict or persecution. These individuals are at high risk of overstaying their G-4 visas and it's crucial to afford them protection on humanitarian grounds.
EB-2 NIW	Admin.	Staff / Family	Fragomen (HRD Townhall)	Alternative to EB-4 for staff with strong research background	Backlog greater than 1 year. Costly, involving substantial paperwork and time-consuming. No guarantee of approval.	NIW is meant for researchers. Thus, staff without research or a few publications are less likely to obtain approval. Moreover, changes in administration can significantly impact approval rates and processing speed. Additionally, IMF ethical considerations can affect issuance of required letters of recommendation by supervisors and peers.
Family based adjustment: children	Admin.	Staff/ Family	Fragomen (HRD Townhall)	Alternative to EB-4, only for those staff with US citizen children	Backlog greater than 2 years. Children must be over 21 with physical connection to the US and have their own income. Costly, involving substantial paperwork and time-consuming. Advance parole required to travel abroad, meaning mission travel could be halted.	Co-sponsorship is possible by a legal permanent resident or citizen. Child must ideally be based in the US at the time of application. Please be aware that only a few staff members will have the opportunity to explore alternative forms of adjustment.

Family based adjustment: spouse	Admin.	Staff/ Family	Fragomen (HRD Townhall)	Alternative to EB-4 only for those with a US citizen spouse.	Costly, involving substantial paperwork and is time-consuming. Advance parole required to travel abroad, meaning mission travel could be halted.	Please be aware that only a few staff members will have the opportunity to explore alternative forms of adjustment. G-4 spouses are at a disadvantage because they are tied to spouses' status and despite decades living, working, and paying taxes in the US at a higher rate, they have no rights.
Asylum	Admin.	Staff/ Family	Fragomen (HRD Townhall)	For those who can prove persecution may remain in the US and obtain status.	There are almost 1.6 million asylum-seekers waiting for an asylum hearing in the U.S. The process is costly, involving substantial paperwork and is time-consuming.	For those who can prove persecution (past or have a "well-founded fear" of future persecution in their home country) due to race, religion, nationality, membership in a particular social group or political opinion.
Legislative changes to increase Green Card availability for G4 retirees, or to return to pre-March situation	Legislation	US Congress	SAC WG	Would provide a permanent solution.	May be difficult to achieve in the near term.	Requires outreach to Departments of State and Homeland Security, USCIS, and certain Members of US Congress.
Out of Duty Station (ODS) Telework for adaptation period of future retirees	Admin.	HRD	SAC WG	Allows for an adaptation period.	Staff may lose G4 Status.	One-off ODS for 3 or 4 years (same as a RR assignment) to allow staff to acclimate to their repatriation destination, or secure permanent residence in another country.
Discontinue 365-Day Rule for use of repatriation benefits	Admin.	HRD	SAC WG	Allows for an adaptation period & early planning / logistics for repatriation to destination country.		Lift 365-Days Rule for use of Repatriation Benefits. (Rule states that a repatriation TA for benefits can only be issued within 365 days of actual retirement date).

What are Management and HRD doing?

- ❖ Hosted the first Information Session: G-4 Visa and Immigration Issues on December 7th;
- ❖ Increased staff's free consultation time with Fragomen;
- ❖ Designing follow-up Information Sessions on specific subtopics for those staff that are impacted;
- ❖ Updated the information available on the Intranet to reflect status;
- ❖ Establishing an IMF Working Group to address the issue and brainstorm short-term and long-term solutions; and
- ❖ Consulting with other IFIs for a joint effort and action plan.

SAC will continue to:

- ❖ Inform staff;
- ❖ Recommend to Management to actively engage with US authorities with a specific request for reform;
- ❖ Conduct independent research and brainstorm solutions;
- ❖ Address staff concerns with Management & HRD including other immigration issues;
- ❖ Create space to discuss these issues openly and encourage HRD to do the same;
- ❖ Join forces with other IFIs;
- ❖ Recommend to Management to join forces with WB, laDB and other IFIs;
- ❖ Recommend to Management to hire independent legal counsel, free of conflicts of interest, and with robust lobbying capabilities;
- ❖ Actively participate on the Working Group to be established by HRD;
- ❖ Engage directly with EDs.



Staff Survey

Be on the lookout for a SAC survey. The survey will allow us to collect data from staff directly, gauging the urgency and size of the impacted population to help us design appropriate mitigation action. Some of the data points we will be collecting:

- Planned Retirement Date
- Number of Dependents Affected
- Family Separation
- Restricted Travel
- Employment Authorization

Join your voice to ours and empower staff!

For more information about the SAC and what it can do for you, please visit [SAC Home \(imf.org\)](https://imf.org).



Your 2023/24 SAC