

Liberian Refugee Immigration Fairness: FAQs for Legal Practitioners

What is Liberian Refugee Immigration Fairness?

Liberian Refugee Immigration Fairness (LRIF) is a provision of the National Defense Authorization Act for Fiscal Year 2020, enacted by Congress on Dec. 20, 2019. The law allows certain Liberians – and eligible family members – to apply to adjust to lawful permanent resident (LPR) status. Initially, applicants had to apply within one year of the law’s enactment, but Congress subsequently extended the filing deadline to Dec. 20, 2021.¹

Where can I find the legal authority on LRIF?

The law itself is found in Section 7611 of the [National Defense Authorization Act for Fiscal Year 2020](#) (NDAA 2020). There are no implementing regulations. Current agency guidance is found in [Volume 7, Part P, Chapter 5](#) of the USCIS Policy Manual and on the U.S. Citizenship and Immigration Services (USCIS) [website](#).

Which Liberians are eligible to adjust status under LRIF?

In order to adjust status under LRIF, a principal applicant must meet the following eligibility requirements:²

- Be a national of Liberia;
- Show continuous physical presence³ in the United States from Nov. 20, 2014 through the date the Form I-485 adjustment application is filed;
- Be admissible to the United States (or eligible for an inadmissibility waiver or other form of relief), with the exception of the following four inadmissibility grounds which do not apply:
 - o Public charge – INA § 212(a)(4);
 - o Labor certification – INA § 212(a)(5);
 - o Present without admission or parole – INA § 212(a)(6)(A); and
 - o Documentation requirements – INA § 212(a)(7)(A);
- Not have an aggravated felony conviction; two or more convictions for a crime involving moral turpitude (other than a purely political offense); or have ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

¹ On Dec. 27, 2020 Congress extended the filing deadline through Section 901 of the Consolidated Appropriations Act of 2021, available at [congress.gov/116/bills/hr133/BILLS-116hr133enr.pdf](https://www.congress.gov/116/bills/hr133/BILLS-116hr133enr.pdf).

² USCIS Policy Manual, vol. 7, pt. P, ch. 5, § C, available at uscis.gov/policy-manual/volume-7-part-p-chapter-5.

³ The continuous physical presence standard is well-developed in the context of cancellation of removal for non-legal permanent residents.

- File an I-485 on or by Dec. 20, 2021.

While some Liberians eligible for LRIF adjustment may have been or continue to be covered by Deferred Enforced Departure (DED), having had DED is not a requirement to adjust under LRIF.

Which family members of qualifying Liberians may adjust status under LRIF?

The spouse and unmarried children, sons and daughters⁴ of an eligible Liberian principal applicant may also apply to adjust status. The qualifying relationship must exist at the time the qualifying family member files for adjustment and at the time his or her adjustment application is adjudicated. There is no minimum amount of time for which the relationship must have been in existence as long as the family member can show the relationship is bona fide and applies to adjust no later than Dec. 20, 2021.⁵ The marriage or birth creating the qualifying relationship may even occur after the Liberian principal has already adjusted status, so long as the other criteria are satisfied.⁶

Eligible family members are subject to the same inadmissibility requirements as principal applicants, in addition to the same ineligibility criteria pertaining to certain convictions and persecution of others. However, unlike principal applicants, they do not need to be Liberian nationals and are not required to show continuous physical presence since Nov. 20, 2014.⁷ In other words, a non-Liberian national who is married to a Liberian principal applicant may adjust under LRIF even if he or she did not enter the United States until after Nov. 20, 2014. Note that a qualifying spouse or child of a principal LRIF applicant must be in the United States to benefit from this adjustment program; there is no consular processing option.

When may an eligible family member file his or her an adjustment application?

As long as the qualifying family member of a LRIF-eligible principal applies to adjust on or by the Dec. 20, 2021 deadline, he or she may file the I-485 together with the principal's adjustment application or sometime after the principal applies.⁸ In the latter instance, the Liberian principal's I-485 may remain pending or may even have been approved. However, USCIS takes the position that a qualifying family member's adjustment application cannot be approved before the principal's application is granted.⁹ In other words, an eligible family member may not adjust independently of

⁴ A "child" is under 21 years of age while a "son" or "daughter" is 21 or older.

⁵ USCIS Policy Manual, vol. 7, pt. P, ch. 5, § C.4, available at uscis.gov/policy-manual/volume-7-part-p-chapter-5.

⁶ For example, Liberian national Joseph filed a LRIF adjustment application on April 1, 2020 and it was approved on October 1, 2020. Joseph (now an LPR) married Ellen on Oct. 5, 2020. As long as Ellen files her own LRIF adjustment application by the Dec. 20, 2021 deadline, assuming she meets the other eligibility criteria, she can still adjust under LRIF despite the fact that the marriage occurred after Joseph, the LRIF principal, adjusted status.

⁷ USCIS Policy Manual, vol. 7, pt. P, ch. 5, § C.4, available at uscis.gov/policy-manual/volume-7-part-p-chapter-5.

⁸ *Id.*

⁹ According to the USCIS Policy Manual: "An eligible family member may not adjust status before the qualifying Liberian principal applicant. Adjustment of family members must be concurrent with or subsequent to the Liberian principal

the principal. In addition, according to USCIS, once the principal has naturalized (or loses LPR status), a qualifying family member may no longer adjust status.¹⁰ Thus, in the event that a Liberian principal's I-485 is approved before the Dec. 20, 2021 filing deadline, he or she may wish to delay applying to naturalize until any qualifying family members have also obtained LPR status.

How can my Liberian client prove continuous physical presence since Nov. 20, 2014?

Liberian principal applicants — but not qualifying family members — are required to show continuous physical presence in the United States from Nov. 20, 2014 through the date the I-485 is filed.¹¹ According to USCIS, an applicant cannot meet this requirement if he or she has one or more absences from the United States after Nov. 20, 2014 that add up to more than 180 days in the aggregate.¹² The agency's guidance does not address whether any exceptions will be recognized, for example, if the absence(s) exceeding 180 days resulted from circumstances beyond the applicant's control.

The USCIS Policy Manual lists the following non-exhaustive examples of the types of evidence that may be submitted to demonstrate continuous physical presence: passport pages showing visa, admission, or parole stamps; Form I-94 arrival/departure records; income tax records; utility bills; mortgage deeds or leases; insurance premiums and policies; birth, marriage and death certificates for immediate family members; medical records; bank records; school records; receipts that contain identifying information about the applicant; census records; Social Security records; employment records; military or draft records; car registrations; and union membership records.¹³ Applicants must document all absences from the United States during the continuous residence period.¹⁴ CLINIC recommends providing a physical presence document for at least every three to four-month period during the relevant timeframe.

applicant's adjustment to LPR status." It then cites to the National Defense Authorization Act for Fiscal Year 2020 and asserts that, because Section 7611(c)(1)(B) refers to "the spouse, child, or unmarried son or daughter of an alien described in Section 7611(c)(1)(A)" and because Section 7611(c)(1)(A)(ii) requires that the Liberian national submit a LRIF adjustment application, "the most reasonable interpretation is that the application filed by the Liberian national alien must meet all of the requirements of Section 7611(b) in its entirety." This seems to be a mischaracterization of the language of Section 7611(c)(1)(a)(A) which references only that the principal applicant be (i) a Liberian national and (ii) continuously present in the United States from Nov. 20, 2014 through the date the LRIF adjustment application is submitted. The language of the statute does not suggest that the principal must be admissible or not ineligible based on certain convictions or persecution in order for his or her family members to qualify to adjust. USCIS Policy Manual, vol. 7, pt. P, ch. 5, § C.4, available at uscis.gov/policy-manual/volume-7-part-p-chapter-5.

¹⁰ USCIS Policy Manual, vol. 7, pt. P, ch. 5, § C.4, available at uscis.gov/policy-manual/volume-7-part-p-chapter-5.

¹¹ Section 7611(c)(1)(A)(ii) of NDAA 2020, Pub. L. 116-92 (PDF) (Dec. 20, 2019), available at congress.gov/116/bills/s1790/BILLS-116s1790enr.pdf.

¹² USCIS Policy Manual, vol. 7, pt. P, ch. 5, § C.2, available at uscis.gov/policy-manual/volume-7-part-p-chapter-5.

¹³ *Id.* at § D.2.

¹⁴ *Id.* at §§ D.3 and 4.

What evidence is acceptable to prove Liberian nationality?

Principal applicants — but not qualifying family members — must submit evidence of Liberian nationality. USCIS lists two examples of primary evidence of nationality: an unexpired Liberian passport and a Liberian certificate of naturalization. However, it also indicates that acceptable primary evidence is not limited to those two types of documents. If primary evidence is unavailable, USCIS instructs applicants to provide secondary evidence, with proof that primary evidence is unavailable or does not exist. Examples of secondary evidence that “would generally be insufficient on their own” but may demonstrate Liberian nationality “as part of the totality of evidence” include: an expired Liberian passport; baptismal records or other religious documents; school records; and medical records.¹⁵ Generally, when secondary evidence is unavailable, USCIS provides that I-485 applicants may submit two or more affidavits from individuals with direct personal knowledge of the event and circumstances, and an explanation of why primary and secondary evidence are unavailable.¹⁶

Information about applying for a Liberian passport with the Liberian Embassy in Washington D.C. of the Consulate General in New York or Minnesota is available at: liberiapassports.com. If your client is unable to obtain a valid passport, consider including copies of any expired Liberian passports, along with proof of efforts made to obtain a new passport unsuccessfully (i.e. any communication with the Liberian consulate, proof the consulate is operating with limited functionality due to COVID-19, etc.), or other official documents issued by Liberian authorities prior to arrival in the United States. An expired passport on its own is unlikely to be considered sufficient proof of Liberian nationality and should be accompanied by other secondary evidence.

Are LRIF adjustment applicants who entered without inspection eligible to adjust?

As explained above, LRIF adjustment applicants are exempt from inadmissibility under INA § 212(a)(6)(A) (the ground that applies to noncitizens present without admission or parole).¹⁷ Thus, an applicant who entered without inspection may still qualify for LRIF adjustment¹⁸ and an inadmissibility waiver would not be needed. However, keep in mind that someone who entered without inspection and subsequently departed the United States may have triggered a separate ground of inadmissibility under INA § 212(a)(9)(B). Likewise, someone who entered without inspection following a removal order or after an aggregate period of more than one year of unlawful presence

¹⁵ *Id.* at § D.1.

¹⁶ USCIS, Instructions for Form I-485, page 8, available at uscis.gov/i-485.

¹⁷ USCIS Policy Manual, vol. 7, pt. P, ch. 5, § C.3, available at uscis.gov/policy-manual/volume-7-part-p-chapter-5.

¹⁸ Note that that LRIF applicants who entered without inspection should be especially careful to document their physical presence as of Nov. 20, 2014 since they will not have an entry stamp.

is inadmissible under INA § 212(a)(9)(C). LRIF applicants are not exempt from those two inadmissibility grounds.

If a qualifying spouse or child enters the United States now as a visitor, could he or she then apply to adjust under LRIF?

Noncitizens applying for a B-1 or B-2 visa or seeking admission in B nonimmigrant status are required to prove nonimmigrant intent. If the spouse or child of a principal LRIF applicant enters the United States as a visitor intending to apply to adjust status, he or she risks being found inadmissible for material misrepresentation under INA § 212(a)(6)(C)(i) based on post-admission conduct that is inconsistent with nonimmigrant status. Of course, a change in circumstances and intention once in the United States should not trigger inadmissibility under this ground.

Can my client adjust if he or she has worked without authorization?

Yes. The bar to adjusting status in the United States based on having worked unlawfully comes from INA § 245(c) and only applies to individuals seeking to adjust under INA § 245(a) who are not immediate relatives or otherwise exempt. LRIF adjustment applicants are applying to adjust under an entirely separate statute, Section 7611 of NDAA 2020, which does not contain any reference to unauthorized employment as a disqualifying ground.¹⁹

What supporting documentation is required for a LRIF adjustment application?

Principal applicants must include evidence of Liberian nationality and evidence of continuous presence from Nov. 20, 2014 to the date of filing.²⁰ Eligible family members do not need to show Liberian nationality or continuous presence but should include proof of a qualifying relationship to the principal applicant (marriage certificate, birth certificate, etc.). Spouses of Liberian principals must also include proof of termination of any prior marriages and prior marriages of the Liberian national, if applicable.²¹

If a LRIF applicant is inadmissible under any of the applicable grounds, an application for a waiver of inadmissibility or other form of relief (if available) should be included using Form I-601 and/or Form I-212.²² Applicants should indicate in Question 61 of the I-485 that they are exempt from the public charge ground of inadmissibility. A Form I-944 and Form I-864 should not be required

¹⁹ Section 7611 of NDAA 2020, Pub. L. 116-92 (Dec. 20, 2019), available at [congress.gov/116/bills/s1790/BILLS-116s1790enr.pdf](https://www.congress.gov/116/bills/s1790/BILLS-116s1790enr.pdf).

²⁰ USCIS Policy Manual, vol. 7, pt. P, ch. 5, §§ D.1 and 2, available at uscis.gov/policy-manual/volume-7-part-p-chapter-5.

²¹ *Id.* at § D.4.

²² *Id.* at § D.

All LRIF adjustment applicants should include in Part 14 of the I-485 a list of all arrivals to and departures from the United States, along with any supporting evidence.²³ This information is used for two purposes: to assess continuous residence since Nov. 20, 2014 for Liberian principals and to “roll back” the date of LPR admission to the date the LRIF applicant actually established residence in the United States rather than the date the I-485 is approved. Clients who lack travel dates or related documentation may want to file requests under the Freedom of Information Act to obtain details of previous entries. In some cases, applicants may have to provide their best estimate of prior travel dates.

All applicants should provide evidence showing their residence in the United States from the date(s) of arriving and first establishing residence until the date the I-485 was filed. While USCIS does not specify what types of evidence will suffice to show residence, it does clarify that residence refers to the applicant’s “principal, actual dwelling place in fact” (regardless of intent).²⁴ USCIS will use the earliest arrival date in the United States from which the applicant first established residence to determine his or her date of admission as an LPR once the I-485 is approved.²⁵ See additional discussion in the below question, *When will an LPR who has successfully adjusted under LRIF be eligible to apply for naturalization?* Note that evidence of residence is an additional requirement and distinct from the continuous presence requirement applicable to LRIF principals.

Principal applicants and qualifying family members should check the box for “Other eligibility” in Part 2 of Form I-485 (page 4) and write in either “LRIF” or “LRIF family member,” as applicable.²⁶ Family members who do not file together with the Liberian applicant should include proof of the pending I-485 filed by the principal.²⁷ All I-485s should be accompanied by the correct filing fee or a fee waiver request, two color photographs, a copy of a government-issued photo identity document, and a copy of the applicant’s birth certificate.²⁸ While a medical exam is required for these adjustment applicants, the Form I-693 may be submitted later in the process, for example in response to a request for evidence. Currently, the I-485 packet should be filed with the USCIS Chicago, Phoenix or Dallas Lockbox, depending upon where the applicant lives, but always check current filing addresses [here](#). Also, make sure to review the Special Instructions for Liberian Refugee Immigration Fairness Applicants, available [here](#).

²³ USCIS, Special Instructions for Liberian Refugee Immigration Fairness Applicants, available at uscis.gov/i-485.

²⁴ USCIS Policy Manual, vol. 7, pt. P, ch. 5, §§ D.3 and 4, available at uscis.gov/policy-manual/volume-7-part-p-chapter-5.

²⁵ *Id.*

²⁶ USCIS Liberian Refugee Immigration Fairness webpage, available at uscis.gov/green-card/other-ways-get-green-card/liberian-refugee-immigration-fairness.

²⁷ USCIS Policy Manual, vol. 7, pt. P, ch. 5, § D.4, available at uscis.gov/policy-manual/volume-7-part-p-chapter-5.

²⁸ *Id.* at § D.

May LRIF applicants concurrently apply for work authorization and advance parole?

Yes. LRIF applicants seeking work authorization may include an I-765 application for employment authorization and/or I-131 application for advance parole travel document with the I-485 adjustment filing. Alternatively, they may file an I-765 and/or I-131 sometime later, along with the I-485 receipt notice indicating the adjustment application is pending.²⁹ On the I-765, applicants should indicate eligibility under the “(c)(9)” category.³⁰

While an eligible LRIF applicant may file an I-765 concurrently with his or her I-485, USCIS is not always quick to adjudicate the I-765 and issue an employment authorization document (EAD). According to the USCIS Policy Manual, the agency must approve a LRIF-based EAD application that has been pending for more than 180 days as long as the LRIF I-485 remains pending. Applicants who have not received an EAD by the 180-day mark are advised to contact the USCIS Contact Center to request [expedited adjudication](#) of the pending I-765.³¹

What about work authorization for Liberian DED holders applying for LRIF adjustment?

Some Liberians seeking to adjust under LRIF may have been covered by DED. The Biden administration has [reinstated](#) DED for Liberians through June 30, 2022. Current Liberian DED holders with a DED-based EAD containing a Mar. 30, 2020 or Jan. 10, 2021 expiration date remain work-authorized through June 30, 2022 by virtue of an automatic extension. However, those who desire a DED-based EAD with an expiration date of June 30, 2022 on the card may file an I-765 in the (a)(11) category. Alternatively, DED holders may seek a (c)(9) EAD by filing an I-765 together with or after filing their LRIF adjustment application.

May LRIF adjustment applicants request fee waivers?

USCIS will accept fee waiver requests for the Form I-485 and any related I-765. The filing fee for a related I-131 cannot be waived.³² More information about fee waiver requests is available [here](#). Note that if a LRIF adjustment applicant pays the I-485 filing fee, it includes the cost of an initial I-765 or I-131 filed concurrently with the LRIF I-485 or submitted subsequently. This is the case for any category of I-485 filed with the appropriate filing fee after July 30, 2007.³³

²⁹ *Id.* at § F.

³⁰ USCIS Liberian Refugee Immigration Fairness webpage, available at uscis.gov/green-card/other-ways-get-green-card/liberian-refugee-immigration-fairness.

³¹ USCIS Policy Manual, vol. 7, pt. P, ch. 5, § F, available at uscis.gov/policy-manual/volume-7-part-p-chapter-5.

³² USCIS, I-912, Request for Fee Waiver, *Listing of Forms Eligible for Fee Waiver*, available at uscis.gov/i-912. The I-485 fee can be waived since LRIF adjustment applicants are exempt from the public charge ground of inadmissibility at INA § 212(a)(4). The I-131 filing fee may only be waived in the context of an application for humanitarian parole.

³³ USCIS, Instructions for Form I-1765, page 24, available at uscis.gov/i-765; I-131, Application for Travel Document, *Filing Fee*, available at uscis.gov/i-131.

Does USCIS require an interview for LRIF adjustment applicants?

While the USCIS Policy Manual states that an interview may be required, the agency appears to be routinely scheduling interviews for all LRIF adjustment applicants, including cases without particular red flags or concerns.³⁴ Practitioners report varying trends and practices at interviews, depending on the field office. Some have reported extensive questioning of clients about their activities during the time of the Liberian civil war and other questions potentially related to inadmissibility under the security-related grounds. CLINIC recommends preparing clients for these types of questions and, if possible, representing LRIF clients at interviews in order to be able to object to unwarranted questioning.

What about clients who are in removal proceedings or have a final order of removal?

USCIS has exclusive jurisdiction over LRIF adjustment applications. In other words, eligible LRIF applicants who are currently in removal proceedings or have an outstanding removal order may still apply to adjust with USCIS (rather than applying with the Executive Office for Immigration Review (EOIR)).³⁵

Clients in proceedings: An immigration judge (IJ) cannot order the removal of an individual with a LRIF adjustment application pending with USCIS.³⁶ Instead, IJs should grant a continuance, place the case on a status docket, if the immigration court uses a status docket, or administratively close the case to allow USCIS to adjudicate the I-485. Alternatively, a LRIF adjustment applicant might request that the prosecutor for the government in removal proceedings—Immigration and Customs Enforcement Office of the Principal Legal Advisor (ICE OPLA)—agree to a joint motion to dismiss the removal proceedings based on the fact that the noncitizen is eligible for LRIF adjustment.³⁷

³⁴ USCIS Policy Manual, vol. 7, pt. P, ch. 5, § E.1, available at uscis.gov/policy-manual/volume-7-part-p-chapter-5.

³⁵ Advocates who have represented “arriving aliens” will be familiar with this process since the immigration court generally has jurisdiction to adjudicate adjustment of status applications of individuals in removal proceedings other than for those filed by “arriving aliens.”

³⁶ See Sec. 7611(d)(2)(A) of NDAA 2020, Pub. L. 116-92 (Dec. 20, 2019), available at congress.gov/116/bills/s/1790/BILLS-116s1790enr.pdf. Although the statute notes that the Secretary of Homeland Security “may not order an alien to be removed from the United States,” CLINIC interprets this to mean the Attorney General, and therefore IJs, until EOIR issues guidance on this provision as IJs are the ones with the authority to enter removal orders.

³⁷ See, e.g., Memorandum from John D. Trasviña, ICE Principal Legal Advisor, “Interim Guidance to OPLA Attorneys Regarding Civil Immigration Enforcement and Removal Policies and Priorities,” at 9 (May 27, 2021), ice.gov/doclib/about/offices/opla/OPLA-immigration-enforcement_interim-guidance.pdf (recognizing that, absent serious aggravating factors, when a noncitizen has a form of viable immigration relief outside of removal proceedings “it generally will be appropriate to move to dismiss . . . proceedings without prejudice so that the noncitizen can pursue that relief before the appropriate adjudicatory body”) [hereinafter “Trasviña Memo”].

For those LRIF adjustment applicants who have other forms of relief that are within the jurisdiction of the immigration court, such as asylum or cancellation of removal for certain non-permanent residents, a January 2020 EOIR memorandum on managing LRIF cases in immigration court directs IJs to proceed with adjudicating those applications unless the noncitizen indicates that he or she no longer wishes to seek such status.³⁸ However, at the time the EOIR memo was issued, an attorney general decision — *Matter of Castro-Tum*, 27 I&N Dec. 271 (A.G. 2018) — restricted IJs' authority to administratively close cases, and ICE OPLA lacked prosecutorial discretion guidance. Now, in light of Attorney General Merrick Garland's decision overruling *Castro-Tum* and restoring IJs' administrative closure authority³⁹ and the Biden administration's policies encouraging the use of prosecutorial discretion,⁴⁰ LRIF adjustment applicants with other relief before the immigration court should consider seeking a postponement of the removal proceedings, such as through a joint motion for administrative closure, to await USCIS's adjudication.

If removal proceedings are pending⁴¹ when USCIS approves an LRIF adjustment application, the EOIR memo instructs immigration courts to "expeditiously adjudicate any motions filed by either party."⁴² Presumably, EOIR means a motion to terminate filed by either party.⁴³

Clients before the Board of Immigration Appeals: The EOIR memo instructs the Board of Immigration Appeals (BIA) to continue adjudicating the appeal while the LRIF adjustment of status application remains pending with USCIS.⁴⁴ However, unless the case falls under one of two scenarios, the BIA should not issue a decision on the appeal until it receives notice from USCIS of its decision on the LRIF adjustment application. The BIA should issue a decision on the appeal prior to USCIS deciding the LRIF adjustment application if that decision entails (1) termination of the proceedings; or (2) a grant of relief or Temporary Protected Status.⁴⁵

³⁸ Memorandum from James R. McHenry III, EOIR Dir., "Section 7611 of the National Defense Authorization Act for Fiscal Year 2020, Public Law 116-2," at 3 (Jan. 13, 2020), [justice.gov/eoir/page/file/1234156/download](https://www.justice.gov/eoir/page/file/1234156/download) [hereinafter "LRIF EOIR Memo"].

³⁹ *Matter of Cruz-Valdez*, 28 I&N Dec. 326 (A.G. 2021).

⁴⁰ See Memorandum from Alejandro N. Mayorkas, DHS Sec'y, "Guidelines for the Enforcement of Civil Immigration Law" (Sept. 30, 2021), [ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf](https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf); Trasviña Memo, *supra* note 37.

⁴¹ Pending removal proceedings include those that have been administratively closed.

⁴² LRIF EOIR Memo, *supra* note 38, at 4.

⁴³ Although in *Matter of S-O-G- & F-D-B-*, 27 I&N Dec. 462 (A.G. 2018) the Attorney General eliminated IJs' ability to exercise their independent discretion to terminate proceedings, this decision does not limit an IJ's termination authority for those who adjusted status pursuant to LRIF because Section 7611(d)(2)(A) of NDAA 2020 provides the basis to justify termination. Furthermore, this decision should not apply to those who become lawful permanent residents pursuant to LRIF because IJs possess the authority to terminate removal proceedings where DHS has not met its burden to prove the charges of removability against a respondent. See 8 C.F.R. § 1240.12(c); *Sanchez-Herbert*, 26 I&N Dec. 43, 44 (BIA 2012) ("If the DHS meets its burden, the [i]mmigration [i]udge should issue an order of removal; if it cannot, the [i]mmigration [i]udge should terminate proceedings.").

⁴⁴ LRIF EOIR Memo, *supra* note 38, at 3. To avoid unnecessary BIA briefing, LRIF applicants with pending appeals could consider filing a motion, joint if possible, with the BIA to administratively close the case pending the USCIS adjudication.

⁴⁵ *Id.*

Following USCIS approval of a LRIF adjustment application, the BIA will “expeditiously adjudicate any motions filed by either party,” presumably meaning a motion to terminate by either party.⁴⁶

Clients with final orders: USCIS has sole jurisdiction over LRIF adjustment applications. Therefore, LRIF-eligible applicants who are subject to a final order of exclusion, deportation, removal, or voluntary departure may nonetheless file an LRIF adjustment application with USCIS without first filing and prevailing on a motion to reopen before EOIR. In fact, EOIR has instructed the immigration courts and the BIA to reject the filing of any motion that seeks to reopen, reconsider, or vacate an order of exclusion, deportation, removal, or voluntary departure solely based on a potential or pending LRIF adjustment application.⁴⁷ Since removal from the United States remains a concern for those with an order of exclusion, deportation, or removal, practitioners should follow current procedures for requesting a stay. If USCIS approves the LRIF adjustment application, DHS will cancel the outstanding order, according to the statute.⁴⁸ EOIR recognizes that “it is a novel provision of immigration law” for DHS to cancel an order issued by an IJ or the BIA and further guidance on this implementation may be forthcoming.⁴⁹ Until then, EOIR directs IJs and the BIA to “expeditiously adjudicate any joint motions to reopen such orders” that the lawful permanent resident and DHS file following approval of the LRIF adjustment application.⁵⁰

When will an LPR who has successfully adjusted under LRIF be eligible to apply for naturalization?

The LRIF statute provides for a rollback of LPR status that will enable many beneficiaries to apply to naturalize as soon as they adjust status.⁵¹ This is because LRIF LPR cards will be backdated as follows:

- A Liberian principal’s effective date of permanent residence will be the earliest arrival date in the United States from which he or she established residence or Nov. 20, 2014 (if the applicant cannot establish residence earlier).
- An eligible family member’s date of admission as an LPR will be the earliest arrival date in the United States from which he or she established residence or the date the adjustment application was received by USCIS (if the applicant cannot establish residence earlier).⁵²

According to the USCIS Policy Manual, LPR status will not be rolled back automatically to the applicant’s earliest arrival date. The adjudicator will review the nature of all arrivals, departures, and

⁴⁶ *Id.* at 4.

⁴⁷ *Id.* at 2.

⁴⁸ Sec. 7611(d)(2)(A) of NDAA 2020, Pub. L. 116-92 (Dec. 20, 2019), available at [congress.gov/116/bills/s1790/BILLS-116s1790enr.pdf](https://www.congress.gov/116/bills/s1790/BILLS-116s1790enr.pdf).

⁴⁹ LRIF EOIR Memo, *supra* note 38, at 3.

⁵⁰ *Id.*

⁵¹ Section 7611(e) of NDAA 2020, Pub. L. 116-92 (Dec. 20, 2019), available at [congress.gov/116/bills/s1790/BILLS-116s1790enr.pdf](https://www.congress.gov/116/bills/s1790/BILLS-116s1790enr.pdf).

⁵² USCIS Policy Manual, vol. 7, pt. P, ch. 5, § E.2, available at uscis.gov/policy-manual/volume-7-part-p-chapter-5.

absences from the United States to determine when the applicant first established residence and whether he or she subsequently may have abandoned residence. For example, an applicant who initially entered as a B-2 tourist and timely departed within their period of authorized stay would not be considered to have established residence here during that stay. In contrast, someone who first arrived as a B-2 tourist and never departed may be considered to have commenced a period of residence upon entry. It is the applicant's burden to prove their intent and establish from which arrival date he or she established residency.⁵³

Depending on the individual's effective date of LPR status, all Liberian principal applicants and some family members will have met the naturalization requirement of 5 years of continuous residence as an LPR upon approval of their adjustment application.

What if my client's LRIF adjustment is denied?

Unlike other types of adjustment applications, LRIF adjustment is not discretionary, meaning USCIS must approve the application if the applicant meets all the eligibility requirements.⁵⁴ If the applicant does not meet all eligibility requirements and the application is denied, he or she may file a motion to reopen or reconsider using Form I-290B. A denied LRIF adjustment may not be appealed.⁵⁵

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.* at § E.3.