

Global Immigration alert

January 2025

United States

President Trump takes office and issues a series of Executive Orders

Executive summary

On 20 January 2025, President Donald Trump was sworn in as President of the United States for a second term, and issued a series of executive actions which laid out his policy and enforcement priorities for the new administration, many of which have an impact on immigration.

These include:

- ▶ A restrictive approach to immigration and refugee admissions
- ▶ Tightening border security
- ▶ Increasing enforcement measures
- ▶ Challenging birthright citizenship

Background

Recent presidential administrations have increasingly relied upon executive action to pursue policy goals, as a president can implement quick changes by clarifying existing law and instructing governmental agencies on how to execute existing laws.

It is important to note that as quickly as these changes are issued, they can be reversed or paused when a new president takes office or by the courts, respectively. As such, executive actions are not as durable as laws passed by Congress, and can be challenged by litigation in the federal courts if plaintiffs argue that the actions are in contravention to existing laws or the Constitution.

Analysis

The recent Executive Orders (EOs) included directives calling for the following:

- ▶ Denying birthright citizenship for children born within the United States to non-immigrant or undocumented

parents on or after 30 days of issuance of the EO. President Trump's interpretation challenges the landmark Supreme Court case *United States v. Wong Kim Ark (1898)*, which held that the 14th Amendment ensures that children born to immigrants within the United States were entitled to US citizenship. Multiple legal challenges were immediately filed, including by the ACLU and several state attorneys general. On 23 January 2025, a Washington Federal Court Judge issued an Emergency Stay of the Executive Order as unconstitutional.

- ▶ Enhanced vetting and screening measures of foreign nationals seeking admission into the United States in line with the first Trump administration policies, which included increased security-related questions and higher rates of administrative processing for background checks
- ▶ A report within 60 days of EO issuance to identify a list of countries the partial or full suspension of admission of foreign nationals
- ▶ Restricting the scope and grant of Temporary Protected Status and Parole, and terminating categorical parole programs, including for Cubans, Haitians, Nicaraguans, and Venezuelans
- ▶ Reducing the rate of issuance of Employment Authorization Documents to unauthorized aliens
- ▶ Prioritizing immigration enforcement and increasing efforts to remove foreign nationals with prior deportation orders, and wider use of expedited removal
- ▶ Sanctions against countries who do not cooperate in identifying and accepting the return of foreign nationals ordered removed

- ▶ A 90-Day federal hiring freeze, except for positions related to immigration enforcement, national security, or public safety
- ▶ Directing department heads to terminate remote-work arrangements and instruct federal workers to return to office, as soon as practical
- ▶ A regulatory freeze on draft regulations and withdrawal of regulations sent for Office of the Federal Register review that have not yet published in the Federal Register
- ▶ Consideration of a 60-day postponement of implementation for recently issued regulations for review and to re-open up for public comment

What this means

The executive actions instruct the secretaries of the Departments of State, Homeland Security and others within the executive branch to prepare reports and recommendations on how to execute upon these directives, over the next 30-60 days. In the coming days and weeks, we can expect to see the issuance of directives, guidance and policy memoranda which set forth how the departments will adjust their policies, processes and priorities in line with these orders. For example, the Department of Homeland Security has recently published directives in the Federal Register notifying the public of how the department will expand the application and use of expedited removal for undocumented foreign nationals apprehended within the United States who are unable to demonstrate at least two years of residency.

Additional executive actions are expected. We will continue to monitor and share future developments. For additional information, or if you wish to discuss this further, please contact your EY Law LLP professional or Mehlman Jacobs LLP professional.

EY Law LLP

Alex Israel, Partner
+1 416 943 2698
alex.d.israel@ca.ey.com

Marwah Serag, Partner
+1 416 943 2944
marwah.serag@ca.ey.com

Melanie Bradshaw, Partner
+1 416 943 5411
melanie.bradshaw@ca.ey.com

Mehlman Jacobs LLP
Sharon Mehlman, Partner
+1 858 404 9350
sharon.mehlman@mehlmanjacobs.com

Dilnaz A. Saleem, Partner
+1 713 750 1068
dilnaz.saleem@mehlmanjacobs.com

Author: Melanie Bradshaw, Partner
+1 416 943 5411
melanie.bradshaw@ca.ey.com

Roxanne Israel, Partner
+1 403 206 5086
roxanne.n.israel@ca.ey.com

Jonathan Leebosh, Partner
+1 604 899 3560
jonathan.e.leebosh@ca.ey.com

Stephanie Lipstein, Partner
+1 514 879 2725
stephanie.lipstein@ca.ey.com

EY | Building a better working world

EY exists to build a better working world, helping create long-term value for clients, people and society and build trust in the capital markets.

Enabled by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate.

Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

Follow us on X @EYCanada

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. EY member firms do not practice law where prohibited by local laws. For more information about our organization, please visit ey.com.

About EY Law LLP

EY Law LLP is a Canadian law firm, affiliated with Ernst & Young LLP in Canada. Both EY Law LLP and Ernst & Young LLP are Ontario limited liability partnerships. EY Law LLP has no association or relationship with Ernst & Young LLP in the US, or any of its members. Ernst & Young LLP in the US does not practice law, nor does it provide immigration or legal services. For more information, please visit EYLaw.ca.

About Mehlman Jacobs LLP

Mehlman Jacobs LLP specializes in immigration law and provides legal and strategic advice to employers and their employees on all stages in the immigration process. Providing boutique, customized experience, the firm aims to provide transparency to an often complex and uncertain environment. Mehlman Jacobs, a California Limited Liability Partnership, limited to the practice of immigration law, is a member of Ernst & Young Global Limited and is independently owned and operated by US licensed lawyers.

© 2025 Ernst & Young LLP.

All Rights Reserved.

A member firm of Ernst & Young Global Limited.

EYG no. 000560-25Gb1

This publication contains information in summary form, current as of the date of publication, and is intended for general guidance only. It should not be regarded as comprehensive or a substitute for professional advice. Before taking any particular course of action, contact us or another professional advisor to discuss these matters in the context of your particular circumstances. We accept no responsibility for any loss or damage occasioned by your reliance on information contained in this publication.