

## Immigration Update: What's Coming (and Not) with the New U.S. Administration



# Immigration Blog

By [Elizabeth M. Klarin](#)

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Since September of this year, the number one question I have been hearing from clients is, “What will happen with immigration under the new Trump administration?” Individuals wishing to have access to the U.S. and/or work or live in the U.S. are concerned that immigration will become difficult or impossible under President-elect Trump’s rules and policies as he enters his second (and final) term.

### **What will be a problem for some foreigners in the U.S.?**

If you entered the U.S. without authorization and/or are undocumented or have overstayed in the U.S., you have reason to be concerned. All signs point toward a major crackdown on illegal immigration and a focus on deporting and removing those who (1) are in the U.S. without authorization, (2) have overstayed their authorized period of status or (3) are in the U.S. and considered a threat to the safety of U.S. persons.

Removing those who are in the U.S. without legal authorization to enter or stay, as well as foreigners who pose a

threat to the U.S., was a central campaign promise of the Trump campaign during the 2024 election cycle, and identified appointees tapped to hold critical roles with the “new” Department of Homeland Security (DHS) seem to be lined up to carry out on this promise. Already, the incoming Trump administration is pre-emptively seeking to solve issues that might delay its mission to carry out these mandates — including identifying third countries to which they can send individuals subject to deportation if their home countries refuse to repatriate them.

## **Who has no need to panic?**

That said, if you are trying to come to the U.S. via long-standing, identified and statutorily sound legal methods, there is absolutely no reason to panic. President-elect Trump has not indicated any intention to cut back on or impede legal immigration pathways. In its 2024 GOP Platform publication describing its priorities, the administration has indicated that it will “prioritize merit-based immigration, ensuring those admitted to our country contribute positively to our society and economy and never become a drain on public resources.”

The *United States-Mexico-Canada Agreement (USMCA)* will remain in place. In fact, the terms of this treaty were negotiated under the first Trump administration, so there is no reason to think that this will come under attack. As such, anyone coming to the U.S. for the purposes of working for U.S. employers in one of the 63 identified professional categories permitting work authorization under this designation (“TN”) should have no reason whatsoever to believe that their continued eligibility will be at risk.

Likewise, it’s hard to argue that those bringing businesses to the U.S. and investing money in its economy to hire U.S. workers are doing anything but “contribut[ing] positively to our society and economy,” so business owners and their executives and managers coming to the U.S. to start or support U.S.-based businesses are likely not going to be a target for increased scrutiny, either. Work authorization categories such as L-1A (intracompany transferee managers and executives) and E-2 (treaty investors) should be able to continue to qualify for U.S. status based on the current and historic eligibility requirements and policies. Likewise, those meeting the already-strict requirements for visas based on their extraordinary ability are unlikely to have a harder time under the incoming administration, as permitting workers with extraordinary ability to live and work in the U.S. has historically been seen as a net positive for U.S. society and the U.S. economy.

## **Who may experience heightened scrutiny of visa applications?**

Certain visa categories could come under heightened scrutiny for those coming via legal pathways, including any category that has historically posed a threat to U.S. jobs. Fair or not, specialized knowledge workers have long been under heightened scrutiny for work authorization, and it is certainly unlikely that this pressure will abate under the incoming administration. However, there is no indication that it will increase, either. President-elect Trump is very close to Elon Musk and other big-name corporate leaders, who will likely wish to continue utilizing foreign labour. This could temper the DHS approach to policy changes impacting non-immigrant workers.

Foreign workers seeking authorization to work (or continue to work) using visa categories such as L-1B (specialized knowledge intracompany transferee) and H-1B (specialty occupation worker) have long had to endure heightened scrutiny due to high levels of abuse or fraud in those programs — and will likely continue to have to fight a bit harder than managers, executives, investors or extraordinary ability workers to come to the U.S. to work. However, there have been no proposed statutory or policy changes or indications that those are in the pipeline for new workers or renewing workers in these categories.

There is also concern that President-elect Trump could take executive action to restrict entries by certain foreign nationals due to, for example, security concerns. During his first administration, President-elect Trump did restrict visa issuance to certain citizens from 14 countries identified as posing terrorist or public safety threats. Individuals intending to come to the U.S. from countries where there is significant terrorism or fraud within their passport issuance system — or from countries that are now refusing to repatriate their citizens who took advantage of loopholes to enter the U.S. illegally over the past four years — may find obtaining visas to come to the U.S. challenging or impossible, looking forward. These types of executive actions to protect the interests of the U.S. are within the purview of the Chief Executive, as confirmed by the U.S. Supreme Court, and ongoing negotiations between countries will surely impact President-elect Trump's choices on whether and when to restrict the issuance of visas to travel to the U.S.

## **Immigration: Looking backward to see the path forward**

Our advantage is that we have already lived through one Trump administration, and, as immigration lawyers can attest, business owners, their workers and family members of U.S. persons continued to enter the U.S. throughout the prior Trump administration. And dig a little deeper into the timing here: The Trump administration has four years. *Only four years.* President-elect Trump cannot be elected again, as he has already served as president for one term of the two-term maximum mandated by the 22nd Amendment to the U.S. Constitution. And in these coming four years, President-elect Trump has some very lofty and difficult-to-achieve goals to accomplish and promises to fulfill to his voters in his attempt to clean up immigration and curb the drug and human trafficking crises that have arisen.

The U.S. voters have broadly given President-elect Trump a mandate on what they want to see from a second term regarding immigration, focusing on reinstating the rule of law through revised immigration policies cracking down on the illegal activity that has surged over the past four years—including illegal entries, overstays, drug trafficking across borders and human trafficking across borders. These are not small or easily solved issues, and President-elect Trump will be hard-pressed to restore the rule of law in these areas alone. Attacking legal immigration would also ignore a principle that every parent and teacher knows by heart — punishing bad choices is important, but so is rewarding good ones. It would be foolish to punish foreigners who are openly transparent with their eligibility for immigration benefits and who follow enumerated processes to come to the country legally.

Politics is a dynamic realm, and policies have largely driven the ease (or difficulty) of immigration to the U.S. for decades. But imagine this scenario: What if the incoming administration focuses as much on rewarding those following legal processes as it does on punishing bad actors? While it seems unlikely that comprehensive immigration reform will happen on a statutory level in four short years, stranger things have happened. If the Republicans maintain a majority in both houses of Congress, it is possible. We would need a new leader to arise with a historic level of political courage to achieve this, but comprehensive immigration reform bolstering and possibly broadening legal immigration is likely the only long-term solution to the problems with the current system.

For personalized legal guidance that addresses your specific circumstances, it is essential to consult with a qualified legal professional who can provide tailored advice and explore your individual options. Our Immigration Practice Team at Lippes Mathias LLP stands ready to assist. Please contact Elizabeth M. Klarin ([eklarin@lippes.com](mailto:eklarin@lippes.com)) or Eileen M. Martin ([emartin@lippes.com](mailto:emartin@lippes.com)) with any questions.

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