

# Management Alert



## President Trump Signs Two Executive Orders on Immigration

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**Seyfarth Synopsis:** On January 25, 2017, President Trump signed two Executive Orders, one focusing on border security and the construction of a physical wall along the southern border and another focusing on improving public safety in the U.S.

### I. Executive Order: Border Security and Immigration Enforcement Improvements

In a sweeping border enforcement Executive Order (“EO”), “Border Security and Immigration Enforcement Improvements,” President Trump calls for the immediate construction of a physical wall on the southern border between the United States and Mexico. The EO directs a comprehensive study to be completed within 180 days detailing the current state of southern border security, all geophysical and topographical aspects of the southern border, and the availability of federal and state resources to achieve control of the southern border.

While the EO does not specifically state who will pay for the wall, President Trump will direct the head of each executive department and agency to identify and quantify all sources of direct and indirect federal aid or assistance to the Government of Mexico on an annual basis over the last five years, suggesting that the United States will seek reimbursement from the Government of Mexico.

The EO also provides for the construction and staffing of detention facilities at or near the land border with Mexico, and directs the issuance of new policy guidance to all Department of Homeland Security personnel on the appropriate and consistent use of lawful detention authority, including termination of the practice commonly referred to as “catch and release,” where detainees are released in the United States following an immigration law violation. In addition, President Trump ordered the hiring of 5,000 new Border Patrol agents in an effort to ramp up enforcement measures.

In addition, the EO authorizes state and local law enforcement officials to “perform the functions of immigration officers in relation to the investigation, apprehension, or detention of aliens in the United States under the direction and the supervision of the Secretary of Homeland Security.”

The EO also outlines the policy of the executive branch to “end the abuse of parole and asylum provisions currently used to prevent the lawful removal of removable aliens.” The EO tightens discretion regarding parole authority, directing that it be exercised only on a case-by-case basis in accordance with the plain language of the statute.

## II. Executive Order: Enhancing Public Safety in the Interior of the United States

The second EO aims at removing (commonly known as deporting) certain foreign nationals and discouraging support of “sanctuary cities.” Entitled “Enhancing Public Safety in the Interior of the United States,” the EO prioritizes the removal of foreign nationals who are inadmissible on criminal and security grounds, due to unlawful entry to the U.S. and violation of immigration status, as well as removable aliens who: “have been convicted of any criminal offense; have been charged with any criminal offense, where such charge has not been resolved; have committed acts that constitute a chargeable criminal offense; have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency; have abused any program related to receipt of public benefits; are subject to a final order of removal, but who have not complied with their legal obligation to depart the United States; or, in the judgment of an immigration officer, otherwise pose a risk to public safety or national security.” To undertake these removal efforts, the EO calls on the Director of U.S. Immigration and Customs Enforcement (“ICE”) to hire 10,000 additional immigration officers and empowers state and local law enforcement to “perform the functions of an immigration officer” to the maximum extent permitted by law.

With respect to “sanctuary cities,” President Trump’s EO directs the Attorney General and the Secretary of Homeland Security to ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except those necessary for law enforcement. The EO empowers the Secretary of Homeland Security to designate which jurisdictions qualify as sanctuary jurisdictions. Moreover, the EO instructs the Secretary of Homeland Security to publish a weekly list of criminal actions committed by foreign nationals and any jurisdiction that ignored or failed to uphold detainers related to those foreign nationals.

In addition, the Executive Order addresses “Recalcitrant Countries,” calling for the implementation of sanctions provided by the Immigration & National Act (“INA”), which suspends granting immigrant and nonimmigrant visas to individuals from countries who fail to accept a removed (deported) foreign national. Under the EO, the Secretary of State must ensure that diplomatic efforts with foreign states include as a condition precedent the acceptance by the foreign states of their nationals who are removed by the U.S.

For more information, please contact the Seyfarth immigration attorney with whom you work, or any Business Immigration attorney on our [website](#).

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**Seyfarth Shaw LLP Management Alert | January 27, 2017**

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