



Dugger Law

UPDATE—FEBRUARY 2017

PRESIDENT TRUMP'S 100 DAY PLAN AND EXECUTIVE ORDERS TO DATE

Does your business need a health checkup?

Do you need to organize, review, and update the business formation documents, standard contract terms and conditions, executive and employee contracts, and company minutes? Do you have impending employee visa renewal deadlines? Does your business have updated W-9's? Please contact us to schedule a consultation.

Now that President Trump has been sworn into office, he has begun issuing executive orders and taking other actions in accordance with his "Contract with the American Voter" which contains President Trump's plan for his first 100 days in office. Of interest are the components of the 100-Day Plan which addresses Trade, Immigration, and Business Law and Taxation.

100-Day Plan

Trade – During his election campaign, President Trump made a number of promises regarding renegotiating and exiting international trade treaties, such as NAFTA (North U.S. Free Trade Agreement) and the TPP (Trans-Pacific Partnership), as well as remedying other trade circumstances that adversely impacted the U.S. economy and the U.S. worker. President Trump also promised to put an end to U.S. companies moving operations outside of the United States yet still importing their goods into the United States duty free. President Trump also promised to engage in extensive infrastructure building and repair.

Immigration – A central component to President' Trump election campaign was changing U.S. immigration laws. Promises included the suspension of certain refugee programs, the suspension of immigration from certain countries, as well as the reevaluation of certain visa programs such as the H-1B non-immigrant visa and the EB-5 Immigrant Investor Program. Further promises were made regarding the securing of U.S. borders and the elimination of federal funding to "sanctuary cities."

Business Law & Taxation – In an effort to grow the economy at a consistent rate, President Trump promised, in conjunction with the above trade reforms, to reduce taxes and to simplify the tax code. Specifically, tax breaks for the middle class

and a reduction in the corporate tax rate were often referred to during the presidential campaign. Also discussed was a small tax on the repatriation of overseas profits by U.S. companies back to the U.S. to encourage economic growth. In order to further help the burden on business, President Trump promised to eliminate certain federal government regulations and the implementation of any new federal regulation would require the elimination of two (2) other existing federal regulations.

A complete copy of President Trump's 100 Day plan may be found [here](#).

EXECUTIVE ORDERS THROUGH JANUARY 31, 2017

Trade – President Trump has withdrawn the United States from further participation in the ongoing Trans-Pacific Partnership in addition to announcing his plan to renegotiate NAFTA. President Trump has also proposed a possible 20% tax on Mexican imports into the U.S. among other suggestions as a way to protect the U.S. worker and pay for other projects in which President Trump wants prioritization, such as increased border security.

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President Trump has also signed executive orders relating to the Keystone XL pipeline and the Dakota Access pipeline. The Keystone XL pipeline executive order invites TransCanada to reapply for a cross border permit and directs the U.S. State Department to take all action necessary to facilitate the application's review. With regard to the Dakota Access pipeline, President Trump ordered the U.S. Army Corps of Engineers to conduct all necessary and appropriate action to review and approve the pipeline in an expedited manner. Due to the vague language of the executive order, the order seems to permit the U.S. Army Corps of Engineers to perform another Environmental Impact Study if need be in order to determine the best route for the pipeline. As a final boost to pipeline construction, President Trump ordered the Secretary of Commerce to review ways in which the federal government can mandate the use of U.S. made steel in the pipeline projects.

Finally, President Trump has also set up a fast track system for infrastructure projects deemed a high priority. This would allow the infrastructure project to go to the top of the list for federal agency review and approval.

Immigration – Since inauguration day, there have been a number of high level bureaucrats who have resigned from their posts or have been fired. The entirety of the most senior level managers at the State Department have resigned and the acting director of U.S. Immigrations and Customs Enforcement as well as the chief of the U.S. Border Patrol have been removed from their respective posts. In conjunction with President Trump's federal hiring freeze until his respective cabinet appointments are approved by Congress, it appears as if immigration and visa matters may begin to take longer than usual.

As promised during the presidential campaign, President Trump took executive action in an effort to secure the borders and interior of the United States. By executive order, President Trump directed U.S. Customs and Border Patrol to secure the southern border with Mexico through the immediate construction of a physical border wall and the hiring of an additional 5,000 border patrol officers. In union with this act, President Trump ordered that federal funding shall end to so called "sanctuary cities" and expanded the discretion of immigration officers to institute deportation proceedings to include non-citizens not yet charged with a crime but who, in the judgment of the immigration officer, pose a risk to public safety or national security.

President Trump's executive order which has been the most controversial thus far has been the ninety (90) day ban on all immigration from Iran, Iraq, Libya, Somalia, Sudan, Syria and Yemen, except for immigration from religious minorities in these respective countries, in addition to the temporary suspension of the U.S. Refugee Admissions Program for one hundred twenty (120) days and a permanent suspension of the U.S. Syria refugee admissions program save for those Syrian citizens whose entry would be in the national interest of the United States. To date, this order has been judicially limited pursuant to a number of preliminary federal district court decisions as well as the issuance of further clarification from the U.S. Department of Homeland Security. Pursuant to U.S. Department of Homeland Security guidance, lawful permanent residents (Green Card holders) will not be subject to this executive order in the absence of significant derogatory information indicating a serious threat to public safety and welfare. Further, the U.S. Department of Homeland Security has stated dual U.S. and foreign country citizens are exempt from the suspension of entry due to their U.S. citizenship. However, clarification has not been provided for dual citizens who hold a passport from one of the above enumerated countries or foreign dual citizens who are a citizen of one of the above enumerated countries.

For those foreign citizens who may utilize the Visa Interview Waiver Program available for citizens of most European Union countries, but who have traveled to one of the above enumerated countries, the general consensus is that such foreign citizen is recommended to apply for a visa and to avoid the Visa Interview Waiver Program process as the White House has confirmed those persons traveling to the above mentioned countries shall be subject to further screening. There are no guarantees the suspension of immigration from these countries will be lifted in ninety (90) days. Normal immigration from these countries may only resume once the U.S. Department of Homeland Security satisfies certain actions contained in the executive order and subsequently reopens travel from these countries. Early reports state that U.S. Embassies and Consulates have received instructions to immediately suspend the issuance of immigrant and nonimmigrant visas for anyone subject to these executive orders and that visa interviews have been cancelled for affected foreign individuals.

While no new executive orders have yet specifically been used on H-1B visas, the above restrictions would apply to applicable H-1B visa holders or applicants. April 3, 2017 is the first day employers can apply for 2018 H1-B visas for qualifying foreign citizens. Due to limited numbers of H1-B visas available, the maximum number of applications is usually reached within a week and sometimes on the first day. It is possible changes could be made on H-1B visas prior to the April 3, 2017 filing date, but most certainly by the April 1, 2018 filing date. We also anticipate changes being made in the future to the L Intracompany Transferee Visas.

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Business Law & Taxation – Although not an executive order, President Trump’s chief of staff has issued a memorandum to all federal agencies to halt any new regulations until President Trump’s proposed cabinet members have been confirmed by Congress. President Trump has also focused on federal regulations in two other executive orders. The Secretary of Commerce has been ordered to review manufacturing regulations in an effort to streamline federal rules in an effort to aid the U.S. manufacturing industry. Also, President Trump has ordered any new federal regulations require the elimination of two existing regulations and that the regulatory cost of the new federal regulation does not exceed the regulatory cost of the two eliminated federal regulations. To date, President Trump has not signed any executive orders regarding tax reform or the repatriation of U.S. profits from overseas. Substantive changes in this area will likely go through Congress.

More changes are on the way! Please feel free to contact our law office if you have any questions with regard to the above. This newsletter does not substitute for specific legal advice, may not reflect the most current legal developments, and is not intended to create an attorney-client relationship.

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