Shape the future with confidence

Navigating tariff compliance and identifying red flags

The better the question. The better the answer. The better the world works.

As tariff regulation continues to evolve, businesses may encounter increased risk for fraudulent activity and challenges to remain compliant with changes. Organizations must be vigilant and proactive in monitoring their supply chain practices, looking for potential red flags that may indicate tariff noncompliance.

Importers have an obligation to correctly pay duties and tariffs levied by the United States (US) government. Avoiding or improperly decreasing the obligation can be considered a violation of the False Claims Act (FCA), which brings with it both penalties and negative attention. The US administration is focused on trade and has expressed a heightened monitoring of compliance with regulations. When operating in such an environment, companies are well served to review their processes and controls, particularly as changes are made to their supply chains.

Some of the red flags that may be indicative of tariff evasion include:

- **Inconsistent documentation:** discrepancies between shipping documents, invoices and customs declarations can indicate potential tariff evasion
- **Geography manipulation:** falsely claiming incorporation or business in one geography when the business is incorporated or operates in another
- **Unusual shipping patterns:** abnormal shipping routes, including routing goods through countries with lower tariff rates, which do not align with typical operations
- **Misclassification of goods:** incorrectly classifying goods to take advantage of lower tariff rates or exemptions
- **Use of related parties:** transactions with related parties that may not reflect fair market values or typical business practices
- **Complex supply chains:** overly complicated supply chains that obscure the origin of goods, making it difficult to assess tariff obligations
- **Underreporting values:** reporting lower values for goods than their actual market value to reduce tariff liabilities
- **Lack of transparency:** companies that are unwilling to provide necessary documentation or information during audits or investigations
- **Frequent refund claims:** regularly claiming refunds for tariffs paid, which may indicate manipulation of tariff classifications
- Frequent changes in suppliers: rapid changes in suppliers or manufacturers, especially in high-tariff countries, may suggest attempts to circumvent tariffs
- **High volume of exemptions:** a significant number of claims for tariff exemptions or reductions that seem disproportionate to industry norms.
- **Changes to good ownership structures:** utilizing the Delivered Duty Paid method, in which ownership of goods does not transfer over to the US company until inside the US.

Companies should be on the lookout for these red flags and other possible signs of tariff evasion and potential fraudulent activity.

Reduce the risk of tariff evasion to maintain business integrity

Rapidly changing US tariff regulation has introduced more pressure on an already complex global trade environment by increasing the financial incentive to avoid or limit the impact of increasing tariffs. The implications of noncompliance can be severe, leading to legal and financial repercussions.

The Trump Administration has made it clear that the enforcement of tariffs and customs is a top priority. Specifically, the US Department of Justice (DOJ) has committed to using the FCA to pursue investigations and litigation against companies suspected of tariff or customs avoidance. This may include being ordered to pay three times the amount of underpaid tariffs, in addition to up to $28,619 for each false claim. The FCA also holds those who collude with others to fraudulently underpay the government legally responsible.

One of the most common violations fined under the FCA is the misclassification of imported goods, where companies knowingly reduce their customs duties by categorizing products and product components under a lower tariff rate. For example, in 2023, the DOJ settled a case for more than $22.8 million after a company admitted to misclassifying products to evade customs duties[1], and in 2024, the DOJ secured a guilty plea from an importer involved in a transshipment scheme of truck tires from China through other countries to evade antidumping, countervailing duties and tariffs[2]. For companies to avoid such enforcement actions, they should conduct timely reviews of the changes published in the Harmonized Tariff Schedule (HTS), which sets out the tariff rates and statistical categories for all merchandise imported into the US and diligence country of origin classification including proper assessment of "last substantial transformation" for imported goods that are manufactured in more than one country.

Another enforcement-related risk area for companies to consider is failing to declare the proper value of imports. Although, sometimes an error, the US regulators are aware that some importers may deliberately understate the value of goods to reduce tariffs. This practice not only violates customs regulations but can also trigger FCA claims. A true declared value may include the price actually paid or payable, plus certain mandatory additions (e.g., the value of assists and royalties) and any allowed voluntary deductions. Valuations on the threshold of customs brackets could be an area of focus and scrutiny even when legitimately valued.

There has also been increased FCA activity around the country of origin as the reciprocal tariffs impose different rates based on the country of origin, and companies may engage in "transshipment," routing goods through lower-tariff countries to misrepresent their origin and evade tariffs. Such actions can lead to FCA liability if they are deemed fraudulent.

What your organization can do:

Organizations are advised to take specific steps to reduce risks associated with tariff compliance, such as:

1. Document the supply chain. Companies should retain adequate documentation that explains their actions and confirms that all information is accurate and readily available for audits.
2. Understand the processes involved in product manufacturing and your organization's connections to higher-tariff countries. This can help businesses identify potential compliance risks.
3. Provide training for employees. Employees should be well-informed about tariff regulations, the importance and commitment to compliance as well as armed with tools and educations to be able to recognize risks. Companies should provide support in the form of subject-matter advisors and stress the importance of the internal whistleblower program, where concerns can be raised or violations reported without repercussions.
4. Develop a comprehensive strategy that leverages technology. US regulators know that technologies are available to assist compliance and are looking to see that companies are taking advantage. Compliance programs and advanced technology tools that search for anomalies to identify and address tariff-related risks before they escalate should be considered. For example, businesses can establish policies and procedures to track and report non-invoice costs (e.g., assists, royalties) and proper oversight of duty calculations.

Staying compliant is not just a legal obligation, it is necessary for successful and sustainable business practices. To meet regulatory expectations, companies should design effective internal controls and engage with supply chain partners who adhere to import regulations. Transparency is paramount and importers should be prepared to provide documentary support for classification, country of origin and valuation of imported goods. Data-focused compliance strategies can help organizations not only meet regulatory expectations but also enhance their operational integrity.

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[1] US Attorney Announces $22.8 Million Settlement Of Civil Fraud Lawsuit Against Vitamin Importer For Underpaying Customs Duties Owed On Products Imported Into The United States: https://www.justice.gov/usao-sdny/pr/us-attorney-announces-228-million-settlement-civil-fraud-lawsuit-against-vitamin

[2] Miami Importer Pleads Guilty to Scheme to Evade US Tariffs on Chinese-Made Truck Tires: https://www.justice.gov/usao-sdfl/pr/miami-importer-pleads-guilty-scheme-evade-us-tariffs-chinese-made-truck-tires

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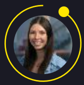

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