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The Government Is Wielding the False Claims Act to Punish Tariff and Customs Evasion, but Companies Can Benefit from Voluntary Self-Disclosure in order to Mitigate the Damage

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In recent months, the Trump administration has made its focus on tariff and trade issues clear. This has been reflected not only through the ongoing negotiations with trade partners regarding country-wide tariffs, but also in the enforcement priorities of the U.S. Department of Justice (DOJ). For example, in May, Assistant Attorney General Matthew Galeotti issued a memorandum identifying "trade and customs fraud, including tariff evasion," as one of the DOJ's top priorities for investigating and prosecuting white-collar crime. The DOJ has also made it clear that it will utilize the False Claims Act (FCA) as an enforcement tool on the civil side.

For example, in March, the DOJ announced it had reached an $8.1 million settlement with a California-based importer to resolve a FCA case for knowingly and improperly evading customs duties on wood flooring manufactured in China. This matter was brough to the government's attention not from a traditional individual whistleblower, but instead from a competitor who originally sued the U.S. importer under the FCA's *qui tam* provisions.1

In July, the government intervened in a *quit tam* FCA case alleging that a South Carolina office furniture company had submitted false invoices to Customs and Border Protection (CBP) in order to underpay tariffs, allegedly by at least $2 million. The government's complaint alleges that the company was motivated to underpay tariffs after failing to obtain from its online retailer meaningfully higher sales prices for its products. The company implemented a fraudulent "double invoice scheme," which involved creating two invoices per shipment—one accurate invoice for the goods' true value, and a second undervalued invoice to submit to CBP in order to reduce tariff payments by half. After the company's owner received notice of the government's investigation, the owner allegedly directed employees to delete emails and documents relating to pricing and the company's business, and instituted a new 60-day auto delete policy for company emails. The original whistleblower *qui tam* FCA complaint was filed under seal by the company's former office manager several years ago. 2

The Benefits of Voluntary Self-Disclosure to the Government

Companies that become aware of inaccurate customs documentation or underpayment of customs duties and voluntarily disclose the issue to the government should benefit from the DOJ's "Guidelines for Taking Voluntary Disclosure, Cooperation, and Remediation into Account in False Claims Acts Matters," (FCA Disclosure Guidelines) Justice Manual § 4-4.112. Under the FCA Disclosure Guidelines, companies can receive credit for making a voluntary self-disclosure (VSD), cooperating with the government, and taking corrective actions.

This credit is being granted in the context of customs matters. For example, in July, the DOJ announced a $6.8 million settlement to resolve FCA liability with two subsidiaries of a multinational manufacturer operating in the plastics and industrial packaging sector. Beginning in May 2024, the subsidiaries voluntarily disclosed to CBP certain shipments to the U.S. in which they knowingly falsified country of origin information (to avoid Section 301 duties owed on products of Chinese origin), failed to mark imports with their country of origin, declared the merchandise with incorrect valuation, and/or failed to pay required duties. The settlement agreement states that the subsidiaries received credit for "voluntarily and timely self-disclosing the matter; performing a thorough and independent internal investigation; preserving, collecting, and disclosing relevant factors not known to the government but relevant to its investigation; conducting a damage analysis that it shared with the government; and implementing appropriate remedial actions, including personnel discipline and making improvements to" their compliance procedures.3 Had the matter been raised with the government through a *qui tam* action rather than voluntary self-disclosure, it's likely the subsidiaries would have faced significantly tougher civil penalties under the FCA. While it's difficult to know for sure, the self-disclosure may have even headed off an investigation into criminal FCA violations.

Takeaways

In this environment, companies with international supply chains should review and update their compliance programs to ensure customs and tariff-related issues are thoroughly considered. Companies should also specifically examine their customs documentation and payment processes to identify and correct discrepancies in import operations, and to ensure that no practices have been implemented (e.g., double invoicing) that could expose the company and their employees to civil or criminal liability. Additionally, employees involved in customs activities should receive training related to customs regulations and FCA-related risks. And when a violation has been identified, voluntary self-disclosure should be carefully considered in order to mitigate punishment.4

In addition to evaluating whether a disclosure to DOJ is appropriate, companies should also evaluate whether a “Prior Disclosure” to CBP is also warranted. CBP’s Prior Disclosure process encourages parties who suspect they may have engaged in an import violation to undertake proactive import compliance and submit a “prior disclosure” to CBP in order to benefit from the mitigated penalties offered by such a disclosure. Disclosure to one agency does not constitute disclosure to the other. There are many considerations that inform how and to what agencies a disclosure should be made, and companies should work with counsel to navigate these disclosure programs to maximize potential benefits.

Footnotes

1 The lawsuit was filed in the Central District of California, No. 2:20cv7217.

2 The lawsuit was filed in the District of South Carolina, Charleston Division, No. 2:20cv01223.

3 U.S. Department of Justice, Office of Public Affairs, Press Release, *Importers Agree to Pay $6.8M to Resolve False Claims Act Liability Relating to Voluntary Self-Disclosure of Unpaid Customs Duties* (Jul. 23, 2025) https://www.justice.gov/opa/pr/importers-agree-pay-68m-resolve-false-claims-act-liability-relating-voluntary-self.

4 Under CBP regulations, the importer of record is required to exercise “reasonable care” to ensure that customs filings are accurate. When non-U.S. suppliers have carried out documentation schemes to take advantage of lower tariff rates, the practices can give rise to liability for U.S. companies that serve as the importer of record. U.S. importers who identify customs fraud or tariff underpayments should consult counsel and consider making a voluntary self-disclosure to the government.