

# Regulatory Alert

## Regulatory Insights

June 2025

### Tariff, Trade, and Customs Fraud/Evasion

#### KPMG Regulatory Insights:

- **Increasing Risk:** Amid tariff/trade uncertainties, growing concern for the increased risk of potential fraud and evasion.
- **Increasing Enforcement:** Prioritization of investigations related to tariff, trade, and customs fraud and evasion—through multiple anti-fraud laws, including the False Claims Act.
- **Broad Application:** Enforcement focus across the full import process, including third parties, suppliers, and intermediaries.
- **Use of Other Actions:** Imposition/modification/revocation of tariffs, sanctions, visas, etc. for “enabling” tariff, trade, and customs fraud and evasion.

The Administration is aware that current changes in tariff, trade, and customs policies increase the risk of potential fraud and evasion. As such, the Administration and federal enforcement agencies are taking steps to:

- Prioritize investigations and prosecutions
- Expand use of existing legal authorities
- Potentially employ other punitive measures

#### Prioritization of investigations and prosecutions:

- **DOJ.** The Department of Justice (DOJ) [states](#) that it “will prioritize investigating and prosecuting corporate crime in areas that will have the greatest impact in protecting American citizens and companies and promoting U.S. interests.” It identifies trade and customs fraud and tariff evasion among these crimes, adding that “prosecuting such frauds will ensure that American businesses are competing on a level playing field in global trade and commerce.”
- **DOC.** Via Presidential Memorandum, the Department of Commerce (DOC) is directed to assess and make recommendations regarding export control enforcement policies and practices, and enforcement mechanisms to

incentivize compliance by foreign countries (including trade and national security measures).

- **CBP.** The Administration specifically directs U.S. Customs and Border Protection (CBP) under the Department of Homeland Security to prioritize reviews of classifications of imported steel and aluminum articles and derivatives as well as to assess monetary penalties in the maximum amount permitted by law in the event that it discovers misclassification resulting in non-payment of the ad valorem duties. CBP is also instructed to report any identified attempts to evade payment of the ad valorem duties through the processing or altering of articles or derivatives “as a disguise or artifice prior to importation.” (See Proclamations on imports of [steel](#) and [aluminum](#).)

**Existing legal authorities:** Recent statements from DOJ highlight the potential use of:

- **The False Claims Act** to enforce against illegal foreign trade practices, including customs fraud and tariff evasion. The False Claim Act imposes civil monetary penalties on any person who knowingly submits, or causes another to submit, a false claim to the government, or knowingly makes a false record or statement to receive payment from the government. A

provision of the False Claims Act, referred to as the “reverse false claims” provision, provides for liability when one “knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the government.”

- Note: Customs and tariffs cases are likely to focus on misrepresentations about the value of goods, the country of origin, and/or the relevant classification/tariff coding.

- **Criminal charges** for fraud and evasion violations. Relevant criminal statutes include the International Emergency Economic Powers Act and additional statutes addressing wire fraud, conspiracy, and/or smuggling.
- **Whistleblower incentives**, including amendments to the Criminal Division Whistleblower Awards Pilot Program to add corporate trade, tariff, and customs fraud to the list of subject areas of focus.

**Other punitive measures:** Beyond enforcement activities, the Administration may potentially seek other punitive measures in tandem or separately, including:

- New tariffs and/or sanctions against countries that aid/facilitate another country’s effort to evade tariff duties.
- Sanctions and secondary sanctions against individuals and corporate entities that aid or facilitate fraud or evasion.
- New or amended legislation to clarify tariff evasion as a federal crime.

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