Barnes & Thornburg

False Claims Act and Criminal Enforcement in the Tariff Context:

Practical Guidance for Companies, Corporations, and Executives

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Introduction

The enforcement landscape surrounding tariffs, customs duties, and international trade compliance has escalated dramatically in recent years. As tariff rates rise and trade policy becomes an increasingly prominent feature of the regulatory environment, companies face mounting challenges in navigating a dynamic landscape and managing import and export costs. At the same time, the United States Department of Justice ("DOJ") and other federal agencies have signaled a renewed focus on tariff-related fraud, and the False Claims Act ("FCA") and criminal laws have emerged as powerful tools in that enforcement arsenal. The convergence of shifting rates, aggressive tariff policies, and a newly energized enforcement apparatus has created a fundamentally enhanced risk environment for companies engaged in international trade, one in which customs compliance is no longer solely an administrative or regulatory concern but rather a civil fraud and potential criminal liability risk of the first order.[1]

New Enforcement Guidance

In July 2026, the DHS/DOJ Trade Fraud Task Force released "A Resource Guide to Trade Fraud Enforcement," describing trade fraud as "economic predation" that is "effectively stealing from the public treasury."

New Record-Setting Settlement

$549.5M

Perfectus Aluminum

Announced May 12, 2026

Largest customs-related FCA resolution in history.

2.2 million aluminum extrusions spot-welded to look like pallets to dodge AD/CVD orders; related criminal convictions.

Previous Record Holder

$54.4M

Ceratizit USA

Dec. 2025

The new settlement supersedes Ceratizit as the largest customs-related FCA resolution.

In July 2026, the Department of Homeland Security and the United States Department of Justice Trade Fraud Task Force released "A Resource Guide to Trade Fraud Enforcement." This Resource Guide frames the current enforcement environment as driven by three primary imperatives—fiscal health, public safety, and human dignity—and characterizes trade fraud as "economic predation" that is "effectively stealing from the public treasury."[2]

The False Claims Act, 31 U.S.C. §§ 3729-3733, imposes civil liability for false claims to the government, including for false customs declarations.[3] While the statute has historically been associated with healthcare and defense procurement fraud, its application to customs and tariff fraud is well established and growing.[4] FCA settlements involving trade violations have spanned product lines including military equipment, clothing and apparel, dietary supplements, construction and industrial components, and home and office furniture, and the trajectory of enforcement activity points firmly toward continued expansion.[5] U.S. and foreign companies that import goods into the United States, and the executives who oversee those operations, face substantial exposure where tariff obligations are not met with precision and good faith.

The scale of this exposure is illustrated by the $549.5 million Perfectus Aluminum settlement announced in May 2026, which is now the largest customs-related FCA resolution in the statute's history. The case involved allegations that more than 2.2 million aluminum extrusions were disguised as functional pallets to evade antidumping and countervailing duties. (DOJ, "Perfectus Aluminum Inc. and Related Companies Agree to Pay $549.5M to Settle False Claims Act Allegations Relating to Evaded Customs Duties," Press Release (May 12, 2026).)

Similarly, companies and executives increasingly face criminal exposure for customs fraud and tariff evasion. Criminal charges have been pursued under the federal smuggling statute (18 U.S.C. § 545), conspiracy to defraud the United States (18 U.S.C. § 371), wire fraud (18 U.S.C. § 1343), and false statements (18 U.S.C. § 1001) against companies and executives determined to have deliberately misled the government or concealed their actions. On June 3, 2026, the President issued Executive Order 14411, "Strengthening Customs Enforcement," directing U.S. Customs and Border Protection ("CBP") to utilize all available administrative remedies, including enforcing liquidated damages claims against bonds, restricting in-bond utilization, increasing audits, and imposing maximum penalties for brokers who fail to conduct due diligence or repeatedly represent noncompliant clients. The newly formed Market, Government, and Consumer Fraud (MGC) Unit, formerly the Market Integrity and Major Frauds (MIMF) Unit, has prioritized trade and customs fraud as a core enforcement area, and DOJ officials have publicly stated that more criminal tariff-evasion cases are in the pipeline. And, in July 2026, the Trade Fraud Task Force published its first comprehensive public guidance document setting forth statutory requirements and enforcement practices.[1] In August 2026, Assistant Attorney General Colin McDonald issued a memorandum identifying "global trade and commerce" as one of the newly created DOJ Fraud Division's five principal enforcement priorities, with a dedicated section focused on illicit transshipment schemes, country-of-origin fraud, undervaluation, sanctions evasion, and forced labor violations.[6]

This white paper is intended to serve as a practical guide for in-house counsel, compliance officers, and senior executives navigating this evolving and complex risk environment. It addresses (1) the substantive bases for FCA and criminal liability for tariff fraud, and the agencies having responsibility for their enforcement; (2) tariff fraud as a current enforcement priority, an analysis of recent enforcement cases, and common threads throughout recent enforcement actions; and (3) strategies for companies and individuals involved in the exporting and importing of goods to limit FCA and criminal exposure. Throughout, we identify open questions and areas of developing law that warrant close attention.

Five Key Takeaways

- Tariff enforcement is a top DOJ priority.
- False Claims Exposure extends beyond traditional government contracting.
- Executives face increasing personal liability.
- Whistleblowers are driving record enforcement.
- Robust compliance programs can significantly reduce risk.

Enforcement by the Numbers (FY2025)

465
Audits in 2025

$235.5M
Recovered in underpaid duties

2,432
Trade penalties

1,400+
Trade enforcement penalties

Overview of FCA and Criminal Liability in the Tariff Context

The government has multiple tools available to enforce the accurate reporting of customs declarations. Chief among these are the FCA and wire fraud statutes.

The False Claims Act: Statutory Framework

The FCA is the government's primary civil litigation tool for policing fraud involving federal funds. It imposes civil liability on individuals or entities that knowingly submit, or cause to be submitted, false claims for payment to the federal government.[7] To establish liability, the government or a relator must prove three core elements: falsity, scienter, and materiality. Each element carries distinctive features that are directly relevant to tariff fraud analysis.

Liability Provisions. The FCA establishes several theories of liability, two of which are most relevant in the tariff context. Section 3729(a)(1)(A) imposes liability on any person who "knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval" to the government.[8] Section 3729(a)(1)(B) reaches any person who "knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim." In addition, the "reverse false claims" provision, Section 3729(a)(1)(G), imposes liability on any person who "knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government."[9] This last provision is particularly significant in the customs context, as discussed in Section I.C below.

Scienter Standard. The FCA's scienter requirement is defined broadly to encompass three levels of knowledge. A person acts "knowingly" if the person "(1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information."[10] Notably, the statute provides that "no proof of specific intent to defraud is required."[11] In 2023, the Supreme Court's decision in *United States ex rel. Schutte v. SuperValu Inc.*, 598 U.S. 739 (2023), significantly clarified this standard, holding that FCA scienter turns on a defendant's subjective knowledge and beliefs, not whether a reasonable person objectively "might have known."[12] The Court held that even if a defendant's actions were objectively reasonable, the defendant can be found to have acted "knowingly" if the defendant's own subjective belief was that its claims were false.[13] This ruling forecloses the defense that a defendant can avoid liability by pointing to an objectively reasonable interpretation of its legal obligations, if the defendant actually believed otherwise at the time the claims were submitted.

Materiality. The Supreme Court addressed the materiality standard in *Universal Health Services, Inc. v. United States ex rel. Escobar*, 579 U.S. 176 (2016), holding that materiality is a demanding standard that examines whether the alleged falsity was material to the government's payment decision. The Court articulated a holistic test, asking whether the misrepresentation is the type of thing that "a reasonable man would attach importance to . . . in determining his choice of action in the transaction." In the tariff context, misrepresentations of country of origin, HTS classification, or customs valuation are virtually always material, as they directly determine the amount of duties owed to the government.

Damages. The FCA authorizes courts to impose damages equal to three times the amount of the government's losses, plus civil penalties that currently range from $14,308 to $28,619 per violation.[14] Because each customs entry constitutes a separate "claim" or involves a separate "false record or statement," the per-claim penalty structure means that importers with high volumes of entries face potentially enormous aggregate penalties. In the *Island Industries* case, for example, a jury found that Sigma misclassified its products on 205 separate entry summary forms, resulting in trebled damages of $24,256,638 plus $1,824,145 in per-claim penalties, for a total judgment exceeding $26 million.[15]

Qui Tam Provisions. The FCA's qui tam provisions, 31 U.S.C. § 3730(b)-(d), allow private parties, known as "relators," to file suit on behalf of the government and share in any recovery.[16] Relators typically receive between 15% and 30% of the total amount recovered, depending on whether the government intervenes in the action.[17] In FY 2025, qui tam cases accounted for more than three-quarters of all new FCA matters and $5.3 billion of the $6.8 billion in total recoveries, confirming the central role of whistleblowers in driving enforcement.[18] The qui tam mechanism is particularly potent in the customs context, where employees, competitors, and industry insiders often possess the specialized knowledge necessary to identify tariff evasion schemes.

The constitutional validity of the qui tam provisions is currently under judicial scrutiny. In *United States ex rel. Zafirov v. Florida Medical Associates, LLC*, a district court in the Middle District of Florida held for the first time that the FCA's qui tam provisions are unconstitutional under the Appointments Clause of Article II, reasoning that relators act as "Officers of the United States" who must be appointed pursuant to constitutional procedures.[19] The government has appealed to the Eleventh Circuit, arguing that relators pursue a private interest as partial assignees of the government's claim rather than exercising executive power. While the Eleventh Circuit's decision remains pending and several Supreme Court justices have expressed skepticism about the qui tam provisions' constitutionality, DOJ has continued to publicly encourage relators to bring cases and has not moderated its reliance on qui tam enforcement. If the qui tam provisions were ultimately held unconstitutional, the impact on customs-related FCA enforcement could be substantial, given that relator-initiated cases account for the vast majority of customs fraud FCA matters. Companies should monitor this litigation closely, though they should not rely on its outcome as a basis for relaxing compliance efforts.

Tariff Fraud as a Basis for FCA and Criminal Liability

The DOJ has identified several categories of tariff-related misconduct as giving rise to FCA liability. While these categories are not exhaustive, they represent the principal enforcement typologies reflected in recent case law and DOJ policy statements. The DOJ appears particularly focused on country-of-origin errors, tariff misclassification, under- or mis-valuation of imported goods, forced labor and Uyghur Forced Labor Prevention Act ("UFLPA")-related issues, and creative workarounds designed to reduce duties, such as unbundling costs or services and seeking alternative Harmonized Tariff Schedule ("HTS") codes.[20]

How Tariff Fraud Happens

1 Misclassification

Goods are classified under an incorrect HTSUS number to obtain a lower duty rate.

2 Undervaluation

Goods are declared at less than their true transaction value to reduce duties.

3 Country-of-Origin Misrepresentation

False statements about the country of origin to obtain duty benefits or circumvent restrictions.

4 AD/CVD Evasion

Avoiding antidumping or countervailing duty orders through transshipment, misdeclaration, or other means.

5 False Drawback Claims

Improper claims for refunds of duties, taxes, or fees.

6 Shell Company Fraud

Using sham importers of record to obscure true parties and evade liability.

7 Customs Broker Fraud

Brokers failing to conduct due diligence or making false statements in import filings.

8 FTA Fraud

Improper use of Free Trade Agreements, including "swapping" to fabricate eligibility.

9 Port Shopping

Re-entering goods at another port after rejection or to obtain more favorable treatement.

10 Manifest Fraud

False or misleading information on shipment or cargo manifests.

11 Health & Safety Offenses

False certifications to CPSC, EPA, or other agencies (e.g., emissions, safety).

12 Forced Labor & UFLPA Enforcement

Section 307 of the Tariff Act (19 U.S.C. § 1307), Withhold Release Orders, UFLPA rebuttable presumption (Xinjiang), and criminal liability under 18 U.S.C. § 1589(b).

Misclassification of Goods. Deliberately or recklessly assigning incorrect HTS classifications to imported goods to secure lower duty rates is among the most common bases for tariff-related FCA claims. Under 19 U.S.C. § 1484, importers have an obligation to exercise "reasonable care" in making entry, including the accurate classification of merchandise. The interplay between this reasonable care standard and the FCA's scienter requirement is a critical area of analysis that warrants careful examination. The FCA's scienter standard requires that the defendant act "knowingly," which encompasses actual knowledge, deliberate ignorance, and reckless disregard, but does not require proof of specific intent to defraud.[21] A pattern of systematic misclassification, failure to investigate known classification risks, or deliberate selection of favorable but incorrect HTS codes may support findings of deliberate ignorance or reckless disregard under the FCA, potentially exposing the importer to treble damages and per-claim penalties far in excess of the penalties available under Section 1592.

The reasonable care obligation under 19 U.S.C. § 1484 is a continuing duty; it applies anew with each entry and requires importers to account for changes in law, new CBP rulings, and evolving interpretations.[22] An importer that established a classification in good faith years ago but failed to update it in light of intervening CBP rulings, Court of International Trade decisions, or changes to the HTS may find that its once-defensible position has become indefensible. Under the *SuperValu* subjective knowledge standard, the critical question is whether the importer actually believed its classification was correct at the time of each entry, not whether an objectively reasonable person might have reached the same conclusion.[23] An importer that continued to use a classification it subjectively believed to be wrong, even if an objectively reasonable argument could be constructed in its defense, faces FCA liability.

Undervaluation. Reporting a declared customs value that is materially lower than the actual transaction value of imported merchandise represents another established basis for FCA liability. Undervaluation may be accomplished through manipulation of invoices, transfer pricing arrangements, or "double-invoicing" schemes. The *Global Office Furniture* complaint illustrates this typology: DOJ alleged that the company created two separate invoices for each shipment of Chinese-manufactured office chairs, one reflecting the true transaction value (used for customer billing) and another with significantly lower prices (submitted to CBP), enabling the company to pay roughly half the tariffs it would otherwise owe.[24] Two importers of wiring and power distribution products and two of their principals paid $10.6 million in August 2024 to settle allegations that they understated the value of goods imported from China, and a women's wear company paid $7.7 million in August 2024 to resolve allegations that it underpaid customs duties on imported apparel by misrepresenting value.[25]

Country-of-Origin Misrepresentation. Falsely declaring the country of origin of imported goods to avoid tariffs, duties, or trade remedy measures is a particularly significant risk area in the current enforcement environment given the proliferation of country-specific tariff measures and Section 301 duties. This category encompasses transshipment schemes, in which goods manufactured in one country are routed through a third country to disguise their true origin, as well as "substantial transformation" manipulation, in which goods undergo minimal processing in a third country insufficient to confer a new country of origin under applicable legal standards.

Evasion of Antidumping and Countervailing Duties (AD/CVD). Conduct designed to circumvent AD/CVD orders represents a distinct category of tariff fraud that has attracted significant enforcement attention. AD/CVD evasion may involve misrepresentation of the manufacturer, exporter, or country of origin of subject merchandise, or mischaracterizing goods to avoid the scope of an applicable order. The Allied Stone settlement ($12.4 million, August 2025) illustrates this pattern: the defendants allegedly misrepresented Chinese quartz products as marble or crystallized glass to avoid applicable AD/CVD orders, and also misrepresented the country of origin.[26] The Grosfillex settlement ($4.9 million, July 2025) involved allegations that the company evaded AD/CVD on extruded aluminum from China by submitting false customs forms that mischaracterized certain aluminum furniture components as not subject to AD/CVD, and in some instances attempted to camouflage the aluminum extrusions by packaging parts as sham furniture "kits."[27] The Wanxiang America resolution ($53 million, December 2025) addressed allegations of misclassifying Chinese automotive components to avoid antidumping duties.[28]

False Drawback Claims. Fraudulent claims for duty drawback, the refund of customs duties paid on imported goods that are subsequently exported, based on false or misleading documentation, represent an additional but less commonly prosecuted basis for FCA liability.

Shell Company Fraud. Using shell entities as importers of record (IORs) with no real assets, often dissolved shortly after entry, can insulate the true beneficiaries from collection of unpaid duties and penalties. The Resource Guide describes a sales representative who pleaded guilty to violating 18 U.S.C. § 542 after arranging a transshipment and shell-company scheme, including establishing sham IORs.

Customs Broker Fraud. Customs brokers may be independent sources of fraud, including by deliberately misclassifying goods, submitting fraudulent invoices that understate the purchase price, or facilitating other schemes. A broker's involvement does not shield the importer of record from liability: the importer remains responsible for the truthfulness of the entry and cannot contract away its duty to exercise reasonable care. The Resource Guide cites a broker who was convicted of mail fraud and sentenced to 10 months in prison followed by house arrest for a tobacco excise-tax evasion scheme involving more than $500,000 in losses.

Free Trade Agreement (FTA) Fraud. Importers may claim preferential duty rates under FTAs such as the United States-Mexico-Canada Agreement (USMCA) or the U.S.-Jordan Free Trade Agreement for goods that do not satisfy the applicable Rules of Origin. A "swapping" technique may involve sending raw materials from a non-FTA country to an FTA partner and exchanging them for finished, non-qualifying goods, followed by submission of a fraudulent Certificate of Origin to claim preferential or duty-free treatment. The Resource Guide describes a more-than-$22 million multinational settlement involving false FTA claims on customs declarations.

Port Shopping. An importer may attempt to re-enter goods previously rejected at another port—for example, after an FDA Import Refusal—rather than destroy or export them as required. Re-entering the goods at a different port is a deliberate effort to bypass the prior regulatory determination and related health and safety screening, and the prior refusal is strong evidence that the importer knew the entry was "contrary to law."

Manifest Fraud. Intentional misstatement, omission, or manipulation of cargo manifest data—including false commodity descriptions, concealment of prohibited or restricted items, and splitting shipments to avoid regulatory scrutiny—can undermine cargo screening and create civil, criminal, and administrative exposure.

Health and Safety Offenses. Trade fraud may involve forged product-safety or environmental certifications, including CPSC or EPA certifications; failure to report dangerous or defective products or adverse events; and false declarations of regulated commodities designed to bypass USDA or CBP agriculture inspections. The Resource Guide cites Hino Motors' agreement to plead guilty and pay more than $1.6 billion for falsified emissions and fuel-economy data, as well as a New Jersey company's $8 million criminal penalty for failing to report dangerously defective air conditioners to the CPSC.

Forced Labor and UFLPA Enforcement. Section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307) prohibits importing goods mined, produced, or manufactured wholly or in part with forced labor. On reasonable suspicion, CBP may issue a Withhold Release Order (WRO) detaining goods at all ports of entry; on probable cause, CBP may issue a Finding authorizing seizure and forfeiture. The UFLPA, Pub. L. No. 117-78, creates a rebuttable presumption that goods connected to the Xinjiang Uyghur Autonomous Region or UFLPA Entity List entities were produced with forced labor; an importer must provide "clear and convincing" evidence to overcome the presumption. The Forced Labor Enforcement Task Force (FLETF), chaired by DHS, maintains the Entity List and includes DOJ, State, Treasury, Labor, Commerce, and the Office of the U.S. Trade Representative (USTR). The high-priority sectors now total twelve: apparel, cotton, silica-based products (including polysilicon), tomatoes, aluminum, polyvinyl chloride (PVC), seafood, steel, copper, lithium, caustic soda, and jujubes.

Criminal Liability for Forced Labor. 18 U.S.C. § 1589(b) reaches anyone who "knowingly benefits, financially or by receiving anything of value, from participation in a venture which has engaged in the providing or obtaining of [forced] labor or services" while knowing or recklessly disregarding that fact. This exposure can reach importers and down-chain distributors and retailers, and forced-labor violations can supply the "contrary to law" predicate for prosecutions under 18 U.S.C. § 545. Convictions may result in mandatory restitution under 18 U.S.C. § 1593 and forfeiture under 18 U.S.C. § 1594.

Direct and Reverse False Claims Theories

Two theories of FCA liability are applicable to the types of tariff fraud discussed above, and understanding the distinction between them is essential for companies evaluating their exposure. Under a direct false claims theory (Section 3729(a)(1)(A)), a company or individual submits, or causes the submission of, a false claim to the government, for example, a customs entry that materially understates the duties owed. Under a reverse false claims theory (Section 3729(a)(1)(G)), liability attaches when a person knowingly makes, uses, or causes to be made or used a false record or statement material to an obligation to pay or transmit money to the government, or knowingly conceals or knowingly and improperly avoids or decreases such an obligation.[29]

The reverse false claims theory is particularly significant in the tariff context because unpaid or underpaid customs duties constitute an "obligation" to the federal government. The FCA defines "obligation" to mean "an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment."[30] In 2009, Congress specifically amended the FCA's definition of "obligation" to make clear that the statute reaches customs duties even though the precise amount due may not be fixed at the time of entry.[31] Efforts to avoid or reduce tariff obligations through fraud may therefore trigger reverse false claims liability even absent an affirmative false filing. The Resource Guide confirms that FCA cases involving external revenue evasion typically involve the latter scenario, colloquially referred to as a "reverse false claim."

The Ninth Circuit's 2025 decision in *Island Industries Inc. v. Sigma Corp.* is the seminal appellate decision affirming the applicability of FCA reverse false claims liability in the customs context. In that case, Island Industries, a domestic manufacturer of pipe fittings, filed a qui tam complaint against Sigma, alleging that Sigma falsely declared on customs forms that its welded outlets imported from China were not subject to antidumping duties of 182.9%, and misclassified the products as "steel couplings" (a product not covered by the antidumping order).[32] A jury found Sigma liable and awarded approximately $8 million in unpaid duties, which were trebled to over $24 million with additional per-claim penalties, for a total judgment exceeding $26 million.[33]

Parallel Civil and Criminal Exposure

The possibility of parallel civil and criminal proceedings is one of the most significant risks in the tariff-related FCA enforcement context. The Trade Fraud Task Force was expressly designed to coordinate DOJ's Civil and Criminal Divisions, and the Ceratizit settlement's express reservation of criminal charges confirms DOJ's intent to preserve all enforcement options.[34] Companies and their counsel should be prepared for the possibility that a civil FCA investigation may be accompanied by, or may develop into, a criminal investigation at any time.

LANE 1

FCA & Criminal Liability (Existing)

- False Claims Act — 31 U.S.C. §§ 3729–3733
- Smuggling — 18 U.S.C. § 545
- Conspiracy — 18 U.S.C. § 371
- Wire Fraud — 18 U.S.C. § 1343
- False Statements — 18 U.S.C. § 1001

Civil penalties + treble damages under FCA; imprisonment under criminal statutes.

LANE 2

RICO & Money Laundering (NEW)

- Money Laundering — 18 U.S.C. §§ 1956–1957 (Resource Guide "lobster smuggling" example)
- RICO — 18 U.S.C. §§ 1961–1968
- Conspiracy liability can reach executives who agreed to further the scheme

Asset forfeiture, lengthy prison terms, enterprise liability.

LANE 3

Lane 3 — Securities Law Exposure (NEW)

- Books & Records / Internal Controls — 15 U.S.C. § 78m(b)(2)
- Periodic Disclosure Obligations — 15 U.S.C. § 77q(a); 17 C.F.R. § 240.12b-20

Disclosure failures can trigger SEC enforcement, shareholder suits, and reputational harm.

Additional Criminal Enforcement Tools: RICO and Money Laundering. Money laundering under 18 U.S.C. §§ 1956–1957 provides an additional avenue for trade-fraud prosecutions. Section 1956(c)(7) identifies violations of 18 U.S.C. §§ 542 and 545 as "specified unlawful activities," so a monetary transaction exceeding $10,000 using property derived from trade fraud—including proceeds from reselling misclassified goods or transferring tariff savings to a parent company—may trigger liability under Section 1957. The Resource Guide describes prosecutions arising from undersized, illegally packed Caribbean spiny lobsters: because the lobsters were imported "contrary to law," subsequent financial transactions involving sale proceeds supported Section 1957 convictions. The Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961–1968, requires at least two predicate acts within ten years, which may include mail or wire fraud, Section 545, or money laundering. RICO conspiracy can reach executives who did not personally commit the fraud or laundering but agreed to further the enterprise's illegal goals. Criminal RICO carries up to 20 years' imprisonment and mandatory forfeiture; private civil RICO actions permit treble damages and reasonable attorneys' fees.

Securities Law Exposure for Public Companies. For public companies, trade fraud violations may give rise to additional liability under federal securities laws, including (1) the books-and-records and internal-control provisions requiring accurate financial records and sufficient systems of internal accounting controls (15 U.S.C. § 78m(b)(2)); and (2) disclosure obligations requiring truthful and complete material information in periodic reports and public statements (15 U.S.C. § 77q(a); 17 C.F.R. § 240.12b-20). Companies with material customs fraud exposure should evaluate whether their public disclosures and internal controls adequately account for trade compliance risks.

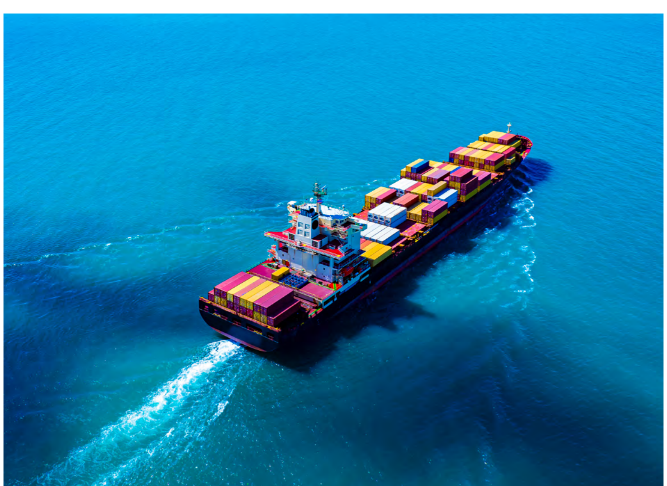
Executive-Level Exposure and Individual Liability

The risk of personal liability for individual executives under the FCA and related criminal statutes has never been more acute. DOJ has made clear, through both policy pronouncements and enforcement actions, that it will pursue individuals with increasing vigor. This emphasis on individual accountability has been a central feature of DOJ policy since the issuance of the "Yates Memo" (formally titled "Individual Accountability for Corporate Wrongdoing") in September 2015. The Yates Memo established that one of the most effective ways to combat corporate misconduct is by holding individuals accountable, and it directed DOJ attorneys to focus on individuals from the inception of any investigation. Although subsequent policy refinements have provided some flexibility in the civil context, the core principle remains: pursuing culpable individuals is a top priority in every corporate investigation.[35]

1. When the misconduct is pervasive throughout the organization rather than isolated to lower-level employees
2. When the conduct was directed from the top or senior management was aware of and failed to stop it
3. When the misconduct occurred in the absence of an effective compliance program

The risk of individual executive liability is particularly acute in three scenarios identified in DOJ guidance: (1) when the misconduct is pervasive throughout the organization rather than isolated to lower-level employees; (2) when the conduct was directed from the top or senior management was aware of and failed to stop it; and (3) when the misconduct occurred in the absence of an effective compliance program. In each of these scenarios, executives face heightened exposure because DOJ views the failure as systemic rather than aberrational and is more likely to conclude that individuals at senior levels either participated in, directed, or willfully ignored the wrongdoing.[36]

Recent enforcement statistics underscore the government's commitment to individual accountability. According to DOJ's 2025 Year in Review, the Criminal Division's Fraud Section (renamed the White Collar and Corporate Enforcement Section in August 2026) brought 15 corporate enforcement actions, including three corporate indictments, the first such indictments since 2010, while the MGC Unit, which is responsible for trade fraud prosecutions, achieved 62 individual charges and 75 individual convictions. In FY 2025, FCA recoveries exceeded $6.8 billion, with whistleblowers filing a record 1,297 qui tam lawsuits. The fact that the vast majority of FCA matters originate from qui tam complaints, and that individual executives have been named defendants in numerous recent settlements and criminal prosecutions, confirms that the enforcement focus extends well beyond corporate entities to the individuals who direct their conduct.[37]



Enforcement by the Numbers (FY2025)

$6.8B+
FCA recoveries

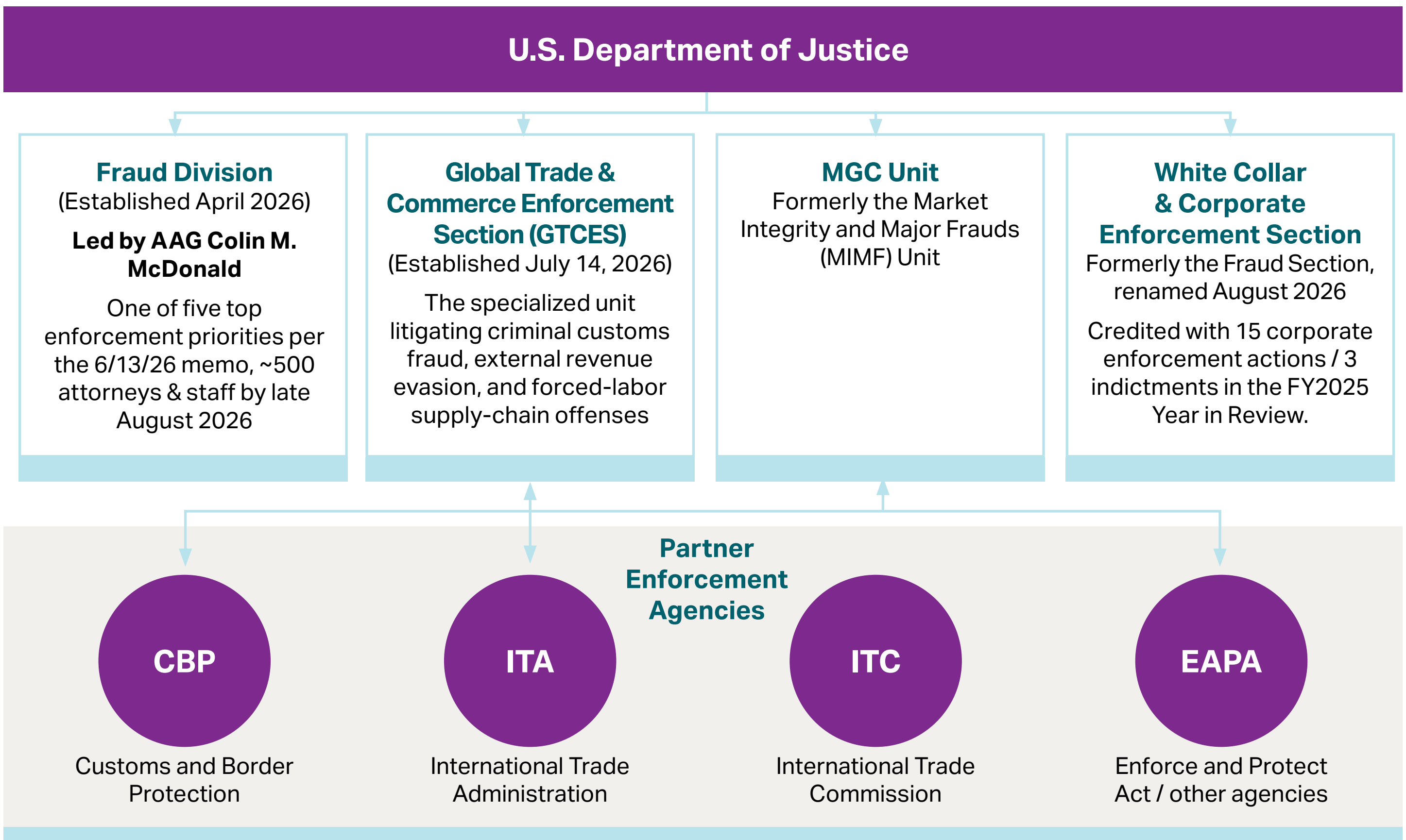
1,297
Qui tam lawsuits filed by whistleblowers

The FCA itself imposes liability on any "person" who knowingly submits or causes the submission of a false claim, and the statute's definition of "person" includes individuals as well as entities. An executive may be found to have acted with the requisite scienter through actual knowledge of false customs declarations, willful blindness to compliance failures, or reckless disregard for the accuracy of customs filings. The *SuperValu* decision's subjective knowledge standard means that an executive who suspected that customs entries were inaccurate but consciously chose not to investigate may face personal liability, even if an objectively reasonable person might not have known.

A distinctive feature of the current enforcement landscape is the degree of interagency coordination among federal agencies responsible for tariff- and customs-related enforcement. Understanding each agency's role and enforcement authority is essential for companies assessing their risk profile.

Agencies Tasked with Investigating Tariff Fraud

Multiple agencies have responsibility for investigating tariff fraud.



Department of Justice (DOJ). The DOJ is the primary agency responsible for investigating and prosecuting both civil FCA cases and criminal customs fraud cases. Within DOJ, several components have been mobilized for trade fraud enforcement:

- **National Fraud Enforcement Division (the "Fraud Division") and Global Trade and Commerce Enforcement Section (GTCES).** The Fraud Division, created in April 2026 and led by Assistant Attorney General Colin M. McDonald, is a DOJ component and a signatory to the Resource Guide. Within the Fraud Division, GTCES—established July 14, 2026—is the specialized litigating component responsible for investigating and prosecuting criminal customs fraud, external revenue evasion, international supply chain forced labor offenses, and related trade crimes.

- **Fraud Division Enforcement Priorities.** In an August 13, 2026 memorandum outlining the Fraud Division's enforcement priorities, the Assistant Attorney General confirmed that global trade and commerce enforcement is among the Division's five principal priorities. GTCES will lead DOJ's coordinated criminal enforcement strategy targeting trade and customs violations and supply chains polluted by forced labor. The memorandum states that prosecutors will focus on "systemic, high-impact noncompliance that threatens our economic and national security," including "illicit transshipment schemes, country-of-origin fraud, the undervaluation of imported goods designed to evade duties, sanctions evasion, and foreign forced labor schemes." The Fraud Division was expected to grow to approximately 500 attorneys and staff by late August 2026, with plans for continued expansion over the following two years.[38]

- DOJ Trade Fraud Task Force *(*launched Aug. 29, 2025*).* The Task Force was announced jointly by DOJ and the Department of Homeland Security to "bring robust enforcement against importers and other parties who seek to defraud the United States."[39] It enhances coordination between DOJ's Civil and Criminal Divisions, CBP, and Homeland Security Investigations (HSI) to pursue tariff- and duty-evasion schemes through the full range of enforcement tools, including FCA actions, Tariff Act penalties under 19 U.S.C. § 1592, and criminal prosecutions under Title 18.[40] The Task Force has stated that it will pursue four principal categories of conduct: tariff and duty evasion (including AD/CVD) involving below-market, industry-destabilizing goods; smuggling of prohibited goods, including those violating intellectual property rights; trade fraud threatening economic and national security interests; and other trade-related conduct that undermines honest American competitors.[41] Critically, the Task Force has explicitly encouraged domestic industries to use the Criminal Division's Corporate Whistleblower Awards Pilot Program to report suspected violations and has encouraged whistleblowers to use the FCA's qui tam provisions.[42]

- DOJ Criminal Division White-Collar Enforcement Plan *(*May 12, 2025*).* The Criminal Division's Acting Assistant Attorney General Matthew Galeotti designated trade and customs fraud, including tariff evasion, as one of 10 "high-impact areas" for white-collar enforcement and the Division's number-two corporate criminal enforcement priority.[43] The plan stated that "in the absence of unusual facts, prosecutors should charge and pursue the most serious, readily provable offense," signaling that tariff evasion may be charged as a felony smuggling offense under 18 U.S.C. § 545 rather than treated as a mere administrative violation.[44]

- Market, Government, and Consumer Fraud (MGC) Unit (announced July 10, 2025)*.* DOJ restructured the Criminal Division's Fraud Section to create a new unit consolidating civil and criminal resources to prosecute long-running, complex trade fraud schemes, including schemes to evade tariffs[45]

- Corporate Whistleblower Awards Pilot Program expansion (May 2025)*.* DOJ broadened its Corporate Whistleblower Awards Pilot Program to include trade, tariff, and customs fraud, actively soliciting tips from individuals who report potential trade crimes and offering the prospect of financial awards. [46]This expansion creates an additional reporting channel beyond the FCA's traditional qui tam provisions, further increasing the likelihood that customs fraud will be brought to the government's attention.

U.S. Customs and Border Protection (CBP). CBP is the frontline agency responsible for assessing and collecting customs duties. CBP possesses its own administrative enforcement authority under 19 U.S.C. § 1592, which authorizes penalties for materially false statements or omissions in connection with import transactions. CBP referrals to DOJ have historically been a primary source of FCA and criminal customs fraud cases. Importantly, CBP's focused assessments and compliance reviews can serve as precursors to DOJ investigations, and companies that receive such inquiries should treat them with appropriate seriousness. Executive Order 14411, "Strengthening Customs Enforcement," directs CBP to utilize all available administrative remedies, including enforcing liquidated damages claims against bonds, restricting in-bond utilization, increasing audits, and imposing maximum penalties for brokers who fail to conduct due diligence or repeatedly represent noncompliant clients. CBP does not possess independent criminal investigative authority and routinely coordinates with HSI and other authorized federal law-enforcement components on criminal matters.

Homeland Security Investigations (HSI). HSI special agents are "customs officers" under 19 U.S.C. § 1401(i) and criminal investigators with law-enforcement authority under 19 U.S.C. § 1589a. HSI investigates willfully noncompliant importers, customs brokers, and down-chain actors and refers appropriate matters to DOJ for criminal prosecution.

Department of Commerce, International Trade Administration (ITA). The Department of Commerce ("Commerce") plays a central role in AD/CVD enforcement by conducting scope determinations, administrative reviews, and anti-circumvention inquiries. Commerce determines whether particular products are subject to AD/CVD orders and at what rates. Findings from Commerce proceedings may inform or trigger FCA and criminal investigations, particularly where an importer's representations to CBP are inconsistent with Commerce's determinations regarding the scope of applicable orders.

U.S. International Trade Commission (ITC) and the Enforce and Protect Act (EAPA) Process. The EAPA mechanism, codified at 19 U.S.C. § 1517, provides a process by which interested parties can allege that importers are evading AD/CVD orders. CBP is authorized to investigate EAPA allegations and, upon making an affirmative determination of evasion, to impose duties and penalties. Findings of evasion in EAPA proceedings may serve as the factual predicate for subsequent FCA or criminal investigations.

Tariff Enforcement as a DOJ Priority, Recent Cases, and Common Threads

Tariffs have been a centerpiece of the current administration's trade policy. Not surprisingly, the government has pursued FCA actions and criminal prosecutions as never before.

Tariff Enforcement as a Priority

On Aug. 29, 2025, DOJ and the Department of Homeland Security launched a cross-agency Trade Fraud Task Force to target importers and affiliates who defraud the United States by evading tariffs, duties, and import restrictions.[47] The Task Force builds on the DOJ Criminal Division's May 12, 2025 white-collar enforcement plan, which designated trade and customs fraud, including tariff evasion, as one of 10 "high-impact areas" for white-collar enforcement and the Division's number-two corporate criminal enforcement priority.[48] In a February 2025 speech to an industry conference, Deputy Assistant Attorney General Michael Granston declared that DOJ would continue to enforce FCA violations "aggressively" and singled out customs enforcement as an area where the FCA can serve as a "powerful" enforcement tool.[49]

According to DOJ's published 2025 Year in Review, the Criminal Division's then-Fraud Section brought 15 corporate enforcement actions, including three corporate indictments, the first such indictments since 2010. The MGC Unit, which is responsible for trade fraud prosecutions, had 62 individuals charged and 75 convictions. Total global monetary recoveries by that Section alone exceeded $1 billion.[50] Critically, the Year in Review expressly identifies customs and tariff fraud as a priority enforcement area for the newly reorganized MGC Unit. In fact, at a December 2025 industry conference, DOJ's Criminal Division emphasized a "pipeline" of trade fraud cases under investigation, with a "particular focus" on "trade fraud schemes carried out by or with the knowledge of corporate executives."[51]

Cases

Recent DOJ announcements illustrate the full breadth of the government's enforcement toolkit.

NEW RECORD

$549.5M

Perfectus Aluminum

Announced May 12, 2026

2.2 million aluminum extrusions spot-welded to look like pallets to dodge AD/CVD orders; related criminal convictions.

NEW CASE

$365M

Ford Motor Company

March 2024

Temporary sham rear seats" installed in cargo vans to claim the 2.5% passenger-vehicle duty rate instead of the 25% cargo-vehicle rate, removed after clearance.

NEW CASE

$42M+

Florida couple / hardwood plywood

57 months each, February 2024

Sentenced for evading $42M+ in duties via shell companies and transshipment.

See Appendix E for 18 recent customs-related FCA enforcement actions (2023–2026).

- On May 12, 2026, DOJ announced that Perfectus Aluminum Inc. and related companies agreed to pay $549.5 million to settle FCA allegations, following guilty verdicts in related criminal proceedings. The matter involved more than 2.2 million aluminum extrusions that were spot-welded to appear as functional pallets and misrepresented to CBP as finished goods outside the scope of applicable AD/CVD orders; the pallets had no customers and were never sold. This is now the largest customs-related FCA resolution in the statute's history. (DOJ, "Perfectus Aluminum Inc. and Related Companies Agree to Pay $549.5M to Settle False Claims Act Allegations Relating to Evaded Customs Duties," Press Release (May 12, 2026).)
- On Dec. 18, 2025, DOJ announced a $54.4 million FCA settlement with Ceratizit USA LLC, a distributor of tungsten carbide products, for misrepresenting the country of origin and misclassifying Chinese-manufactured products. The settlement was previously described as the largest customs-related FCA resolution in the statute's history, but that distinction now belongs to the $549.5 million Perfectus Aluminum settlement announced in May 2026.[52] The whistleblower in the Ceratizit case received approximately $9.75 million.[53]
- In July 2025, DOJ announced a $6.8 million FCA settlement with MGI International LLC subsidiaries for underpaying Section 301 tariffs on Chinese-origin plastic resin, crediting the company's voluntary self-disclosure and cooperation.[54] The company's former chief operating officer, David Guimond, subsequently pleaded guilty in December 2025 to conspiracy to smuggle goods into the United States based on his instructions to subordinates to misrepresent manufacturer and country-of-origin information on customs filings.[55]
- DOJ brought criminal charges against Indonesian jewelry company UBS Gold, its co-owner, and two employees for a multiyear scheme to evade more than $86 million in customs duties on over $1.2 billion in jewelry imports through transshipment and false country-of-origin declarations.[56]
- In July 2025, DOJ filed an FCA complaint against Global Office Furniture LLC, alleging a "double-invoicing" scheme in which the company created two separate invoices for each shipment of Chinese-manufactured office chairs, using an accurate invoice for customer billing and a fraudulently understated one for customs purposes, evading at least $2 million in tariffs.[57]
- On July 24, 2025, DOJ announced a $4.9 million settlement with Grosfillex Inc. for evading antidumping and countervailing duties on extruded aluminum from China by submitting false customs forms that mischaracterized aluminum furniture components.[58]
- In August 2025, two Denver-area companies, Endless Sales LLC and Octane Forklifts, and three executives were indicted for importing Chinese-manufactured forklifts while falsely claiming they were "Made in America."[59]
- In August 2025, DOJ settled with Allied Stone Inc. and its president for $12.4 million to resolve allegations of conspiring to evade AD/CVD on quartz products from China by misrepresenting them as marble or crystallized glass.[60]
- On Dec. 18, 2025, DOJ and CBP announced a $53 million civil penalty against Wanxiang America Corporation for misclassifying Chinese automotive components to avoid antidumping duties.[61]
- On March 11, 2024, Ford Motor Company agreed to pay $365 million to settle customs civil penalty claims that it misclassified and undervalued hundreds of thousands of imported cargo vans by installing "temporary sham rear seats" to make them appear to be passenger vehicles and secure a 2.5% duty rate instead of the 25% rate for cargo vehicles; the seats were removed after customs clearance.
- In February 2024, a Florida couple was sentenced to 57 months each for conspiring to evade more than $42 million in customs duties on hardwood plywood through shell companies, transshipment, and false country-of-origin declarations.

Common Threads

Analysis of these cases reveals certain themes:

Focus on Non-U.S. Entities and Foreign Nationals

The enforcement reach of the FCA and criminal statutes extends beyond U.S. companies and citizens. Non-U.S. entities with U.S. import exposure, as well as their executives and employees (including foreign nationals), face substantial enforcement risk. The FCA reaches any "person" who knowingly submits or causes the submission of false claims, or who conspires with others to defraud the government, and courts have recognized that this includes foreign companies operating in U.S. import chains. Similarly, the criminal statutes applicable to tariff fraud, including the smuggling statute (18 U.S.C. § 545) and conspiracy to defraud the United States (18 U.S.C. § 371), apply to any person who engages in proscribed conduct affecting U.S. commerce, regardless of nationality.

Four Key Takeaways

1. Focus on Non-U.S. Entities and Foreign Nationals
2. FCA Is a Favored Tool
3. Individuals Continue to Be Targeted
4. Self-Disclosure Has Benefits and Limits

The UBS Gold case, announced in November 2025, illustrates this enforcement posture with particular clarity. DOJ charged Indonesian jewelry company PT Untung Bersama Sejahtera (UBS Gold), along with the company's Indonesian co-owner Michael Yahya and two employees, Indonesian national Icha Anastasia and Italian citizen Claudio Fogale, with conspiracy to commit wire fraud for a multiyear scheme to evade more than $86 million in customs duties on over $1.2 billion in jewelry imports.[62] According to the criminal complaint, after Indonesia lost its duty-free status in 2021, the defendants conspired to evade import taxes by shipping Indonesian-manufactured jewelry to Jordan and falsely claiming Jordanian origin to exploit the U.S.-Jordan Free Trade Agreement.[63] Following the imposition of broader tariffs in early 2025, the defendants allegedly escalated the scheme by shipping scrap gold from the United States to Jordan, falsely claiming it was unfinished jewelry requiring assembly, and then swapping it for Indonesian-made jewelry that they shipped "back" to the United States as purportedly U.S.-made goods.[64] Two of the defendants were arrested in the United States, while the co-owner remains in Indonesia.[65]

The UBS Gold case underscores several key enforcement realities for non-U.S. entities. First, DOJ is willing to charge foreign companies criminally, not merely pursue civil FCA settlements. Second, individual foreign nationals face personal criminal liability and risk arrest when entering the United States. Third, the case arose from interagency coordination between DOJ, Homeland Security Investigations, Internal Revenue Service–Criminal Investigation ("IRS-CI"), and U.S. Customs and Border Protection, consistent with the Trade Fraud Task Force's mandate to pursue tariff evasion through the full range of enforcement tools.[66] Fourth, the conduct at issue spanned multiple years and involved sophisticated transshipment schemes, suggesting that DOJ is developing cases with significant factual complexity.

On the civil FCA side, DOJ has historically pursued recoveries from businesses throughout the import chain, including upstream foreign exporters and suppliers, under conspiracy theories of liability. For example, in 2016, both a U.S. clothing importer and its foreign manufacturer paid $13.375 million to settle FCA claims that they conspired to underpay customs duties using misrepresented invoices.[67] More recently, in November 2023, a German cutting tools manufacturer paid $1.9 million to settle FCA allegations that it manufactured tools in a Chinese factory, performed additional processing on some products in Germany, and then shipped them to the United States as "German" products to avoid tariffs on Chinese goods.[68] These precedents establish that foreign manufacturers, suppliers, and affiliates face direct FCA exposure when they participate in, facilitate, or conspire in the submission of false customs declarations by U.S. importers.

Non-U.S. entities with U.S. import exposure should assume they are within the enforcement reach of U.S. authorities. Companies that export goods to U.S. importers, participate in supply chain arrangements involving goods destined for the United States, or have affiliates or subsidiaries involved in U.S. import activities face potential FCA and criminal liability. Foreign nationals who participate in customs fraud schemes, direct employees to submit false customs documentation, or travel to the United States may face arrest and prosecution. The strength of U.S. enforcement in this area, combined with active interagency coordination and DOJ's stated intent to pursue cases in the pipeline, counsels heightened vigilance by all participants in cross-border trade with U.S. touchpoints.

The FCA Is a Favored Tool

The coexistence of Section 1592 and the FCA also creates important strategic considerations. The Ninth Circuit held in *Island Industries* that Section 1592 does not displace the FCA as a remedy for customs fraud, meaning both statutes may be enforced concurrently.[69] This means an importer may face CBP administrative penalties under Section 1592 and, separately, FCA liability with treble damages and per-claim penalties. The FCA's statute of limitations can extend up to ten years (compared to five years under Section 1592), and the tolling effect of a sealed qui tam complaint means that an importer's exposure may extend well beyond the period covered by CBP's own enforcement efforts.[70] Moreover, while Section 1592 penalties can only be pursued by the government through the Court of International Trade, the

FCA's qui tam provisions allow competitors and other private parties to file suit in any federal district court, a dynamic that the *Island Industries* decision has now confirmed.[71]

The *Ceratizit USA* settlement (December 2025) provides a compelling illustration. DOJ alleged that from June 2015 through March 2024, the company knowingly used incorrect HTS codes on tungsten carbide products to reduce the applicable general duty rate to zero, and that certain imported products were not properly marked with the country of origin, leading to unpaid marking duties.[72] The nearly nine-year duration of the alleged conduct underscores how historical noncompliance, even predating the current administration's trade priorities, can create significant exposure. In another notable case, International Vitamins Corporation settled an FCA suit in 2023 for $22.8 million to resolve allegations that it had misclassified more than 30 of its products under the HTS to avoid paying customs duties.[73]

Recent enforcement actions provide compelling illustrations. In the *Ceratizit* settlement, the company allegedly routed Chinese-manufactured tungsten carbide products through Taiwan and falsely declared Taiwan as the country of origin to avoid Section 301 tariffs.[74] In the UBS Gold criminal case, defendants allegedly shipped Indonesian-manufactured jewelry through Jordan, falsely claiming Jordanian origin to exploit the U.S.-Jordan Free Trade Agreement, and later falsely claimed that jewelry was manufactured in the United States.[75] In the Endless Sales/Octane Forklifts indictment, the defendants imported Chinese-manufactured forklifts while falsely claiming they were "Made in America."[76] In March 2025, a wood flooring importer and its two individual owners paid $8.1 million to settle allegations that they evaded AD/CVD and Section 301 duties by misrepresenting the country of origin of items imported from China, with the relator (a competitor) receiving $1.2 million.[77]

Individuals Continue to Be Targeted

Recent enforcement actions have made the individual liability risk unmistakably concrete. In the Endless Sales/Octane Forklifts case, three executives were personally indicted alongside their companies for conspiring to misrepresent the origin and value of Chinese-made forklifts.[78] In the UBS Gold case, the company's co-owner and two employees were criminally charged.[79] In the MGI International matter, the former COO was charged with conspiracy to smuggle goods even though the company itself received a criminal declination based on its self-disclosure and cooperation.[80] In the Allied Stone case, the company's president was a named defendant in the $12.4 million settlement.[81] In the *Global Office Furniture* complaint, the company's founder and president was individually named, and DOJ alleged that he directed employees to delete relevant emails, reviewed employees' desks for potentially incriminating notes, and directed the company's IT service provider to implement a retroactive 60-day auto-delete function for company emails after becoming aware of a government investigation.[82]

The Florida plywood conspiracy provides another illustration of this individual-liability focus: a Florida couple was sentenced to 57 months each after using shell companies, transshipment, and false country-of-origin declarations to evade more than $42 million in customs duties.

Self-Disclosure Has Benefits—and Limits

The MGI International matter provides the clearest illustration of the benefits and limits of self-disclosure in the tariff context. In 2024, MGI and its subsidiaries proactively submitted a self-disclosure to DOJ and CBP acknowledging that they had failed to declare accurate country-of-origin and valuation information on certain entries of Chinese-origin plastic resin since 2019. MGI cooperated with the investigation by, among other things, performing a thorough internal investigation, preserving and disclosing relevant facts and documents, sharing a damages analysis with the government, and implementing remedial actions including disciplining personnel and improving compliance procedures.[83] In announcing the $6.8 million civil settlement, DOJ's Civil Division emphasized that "[w]hen importers fail to pay customs duties owed, they can mitigate the consequences by making timely self-disclosures, cooperating with investigations, and taking appropriate remedial measures."[84]

On the criminal side, DOJ declined to prosecute the company under the Criminal Division's Corporate Enforcement and Voluntary Self-Disclosure Policy, crediting the earlier FCA payment and the company's cooperation.[85] However, the matter also underscores the limits of self-disclosure as a shield: notwithstanding the corporate declination, the company's former chief operating officer, David Guimond, was charged criminally with conspiracy to smuggle goods into the United States, based on his 2021 instructions to subordinates to misrepresent manufacturer and country-of-origin information in customs filings to avoid Section 301 tariffs.[86]

Key Red Flags Signaling Increased Enforcement Risk

In this heightened risk environment, companies should be alert to the following circumstances that may signal or attract government scrutiny:

Significant or sudden changes in import classification patterns, particularly changes that result in materially lower duty rates.

Importation of goods from countries subject to elevated tariffs, AD/CVD orders, or trade sanctions, especially China and other countries facing heightened tariff exposure. Reliance on a single customs broker or freight forwarder without adequate oversight or audit rights. Use of transshipment hubs or free trade zones in a manner that may obscure the true country of origin.

Receipt of CBP requests for information, focused assessments, EAPA investigations, or compliance reviews.

Internal complaints or whistleblower reports related to customs practices, particularly from employees with access to import documentation and pricing data. Discrepancies between declared customs values and market prices or related-party transfer pricing documentation. Supply chain structures involving minimal processing in third countries that may not constitute legally sufficient "substantial transformation." Competitors that appear to be undercutting the company on price, which may indicate that those competitors are engaging in tariff evasion, but may also prompt those competitors (or the company's own employees) to file qui tam complaints.

Algorithmic anomalies.

Companies should also be aware that DOJ has publicly emphasized its use of data analytics, including CBP's partnerships with AI-based supply chain technology firms, to detect patterns of tariff evasion.[87] The Trade Fraud Task Force is actively encouraging domestic competitors to report suspected customs violations by rivals through both the Criminal Division's Corporate Whistleblower Awards Pilot Program and the FCA's qui tam provisions, creating an additional, powerful vector for enforcement referrals.[88] As one DOJ official observed, "domestic industries that are most harmed by unfair trade practices and trade fraud" are a primary source of enforcement leads.[89]

Signals of parallel criminal exposure.

Several indicators may suggest that a parallel criminal investigation is underway or under consideration: involvement of the U.S. Attorney's Office or DOJ's Criminal Division (rather than or in addition to the Civil Division); receipt of a grand jury subpoena (as opposed to a civil investigative demand ("CID")); coordination between DOJ and law enforcement agencies such as Homeland Security Investigations; involvement of agents or investigators from agencies associated with criminal enforcement; and government requests for employee interviews, particularly if accompanied by Miranda warnings.

Four Red Flags

- Significant or sudden changes in import classification patterns, particularly changes that result in materially lower duty rates.
- Receipt of CBP requests for information, focused assessments, EAPA investigations, or compliance reviews.
- Algorithmic anomalies.
- Signals of parallel criminal exposure.

Risk Mitigation Strategies for Companies and Executives Involved in the Import and Export of Goods

Proactive Compliance Program Design

In the current enforcement environment, companies should expect that trade compliance will be treated as a fraud risk, with DOJ treating misclassification, undervaluation, country-of-origin misrepresentation, and AD/CVD or Section 301 evasion as potential FCA conduct carrying treble damages and per-claim penalties.[90] A well-designed customs and tariff compliance program is therefore both a legal necessity and a strategic imperative. DOJ evaluates the adequacy of compliance programs as a factor in enforcement decisions, and a program that meets DOJ's standards may both reduce the likelihood of violations and strengthen a company's position in any subsequent investigation or resolution.

The Trade Fraud Task Force's Resource Guide underscores that "candor is not just the best practice; it is a legal requirement" and that DOJ views every participant in the supply chain—from the importer to the secondary wholesaler to the transporter—as having a role in maintaining market integrity. It cautions that "[t]he era when a company can claim ignorance of its upstream partners' activities is over." Companies should therefore treat transparent, truthful supply-chain oversight as a core compliance obligation rather than a discretionary best practice.

The DOJ Criminal Division's *Evaluation of Corporate Compliance Programs* (ECCP), most recently updated in September 2024, provides the framework that prosecutors use to evaluate whether a company's compliance program was effective at the time of an offense and at the time of a charging decision.[91] While the ECCP was developed primarily in the context of FCPA and healthcare fraud prosecutions, its core principles apply with equal force to customs and tariff compliance. The ECCP instructs prosecutors to consider three fundamental questions: (1) Is the corporation's compliance program well designed? (2) Is the program adequately resourced and empowered to function effectively? (3) Does the corporation's compliance program work in practice?[92]

Applied to the customs and tariff context, an effective compliance program should include, at a minimum, the following elements:

- **Formal written compliance policies and procedures.** Companies should develop and maintain written policies and procedures specific to customs and tariff obligations, covering classification, valuation, country-of-origin determination, AD/CVD compliance, recordkeeping, and related topics. These policies should be integrated into the company's day-to-day operations and accessible to all relevant personnel.[93]

- **Designation of a qualified compliance leader.** The company should designate a qualified chief compliance officer or trade compliance lead with appropriate authority, seniority, stature, and resources to oversee the customs compliance function. The ECCP instructs prosecutors to evaluate whether compliance personnel have sufficient qualifications, direct access to the board of directors or audit committee, and autonomy from management.[94]

- **Risk-based training.** Regular, role-specific training should be provided for all personnel involved in import operations, classification, valuation, and customs entry preparation. Training should address the specific types of misconduct most likely to occur in the company's line of business, incorporate lessons learned from the company's own prior issues and from enforcement actions in the same industry, and include practical guidance on identifying and escalating compliance concerns.[95]

- **Clear escalation protocols.** The compliance program should establish clear channels for the internal identification and escalation of potential tariff compliance issues, including an anonymous or confidential reporting mechanism. The ECCP emphasizes that an effective "speak-up" culture requires mechanisms to encourage and incentivize reporting, and companies must ensure that whistleblower protections are robust and well communicated.[96]

- **Periodic program assessments.** The compliance program should be reviewed and updated on a regular basis to remain current with changes in tariff schedules, trade policy, enforcement priorities, and lessons learned from the company's own experience and that of other companies operating in the same industry. The ECCP makes clear that a static compliance program will be viewed skeptically by prosecutors.[97]

Internal Controls Related to Customs and Tariff Obligations

Beyond the general compliance program architecture, companies should implement specific operational controls to ensure the accuracy and integrity of their customs entries and tariff-related filings. These internal controls are the practical mechanisms by which a compliance program translates its policies into reliable outcomes.

Bonding and liquidated damages. Most entries are covered by bonds that guarantee payment of duties, fines, or other obligations if the importer fails to pay. CBP is now enforcing liquidated damages claims against bonds for noncompliance pursuant to Executive Order 14411; companies should ensure that bond coverage is adequate and that compliance obligations tied to their bonds are being met.

Classification controls. Companies should establish documented procedures for HTS classification, including the use of CBP advance rulings and binding classification decisions where available. Classification decisions should be documented, reviewed by qualified personnel, and periodically re-evaluated in light of changes to the HTS, CBP rulings, or Court of International Trade decisions. Given the enforcement focus on misclassification, as illustrated by the Ceratizit and Grosfillex cases, companies should be especially cautious about classifications that result in significantly lower duty rates and should ensure that such classifications are defensible and well documented.

Valuation procedures. The customs value of imported merchandise must accurately reflect the transaction value as defined by 19 U.S.C. § 1401a. Companies should implement procedures to verify that declared values are consistent with commercial invoices, purchase orders, and related documentation. Transfer pricing arrangements between related parties should be reviewed to ensure compliance with CBP's transaction value rules. The *Global Office Furniture* complaint illustrates the severe consequences of double-invoicing schemes, which DOJ treats as deliberate customs fraud.[98]

Country-of-origin verification. Companies should establish processes for verifying the country of origin of all imported goods, with particular attention to goods sourced from or transshipped through countries subject to elevated tariff rates, Section 301 duties, or AD/CVD orders. These processes should include review of supplier certifications, manufacturing documentation, and shipping records. Given the enforcement focus on transshipment schemes, as illustrated by the Ceratizit, UBS Gold, and other recent cases, companies should be skeptical of supply chain structures that involve routing goods through third countries, and should verify that any claimed "substantial transformation" in a third country is genuine and legally supportable.

Oversight of customs brokers and third parties. Companies that rely on customs brokers, freight forwarders, or other third parties for import entry preparation should exercise active oversight of those third parties' work. Under CBP regulations, the importer of record remains responsible for the accuracy of customs entries regardless of whether a broker prepared the entry. Blind reliance on a third party's classification, valuation, or country-of-origin determinations does not insulate the importer from FCA liability and may, in fact, support a finding of "deliberate ignorance" under the FCA's scienter standard.

Supply Chain Due Diligence and Third-Party Risk Management

The risks arising from reliance on foreign suppliers, intermediaries, customs brokers, freight forwarders, and other third parties in the import supply chain are among the most significant sources of tariff-related FCA exposure. Because the FCA reaches any person who "causes" the submission of a false claim, a U.S. importer may be liable for false customs entries caused by the conduct of its agents, contractors, or supply chain partners, even if the importer did not directly prepare or file the false entry.

Companies should implement a risk-based third-party due diligence program that includes, at a minimum: verification of country-of-origin representations made by foreign suppliers, including independent corroboration through manufacturing documentation, plant inspections (where feasible), and shipping records; contractual provisions requiring compliance with applicable trade laws, accurate documentation, and cooperation with audits and investigations; ongoing monitoring and auditing of third-party performance, including periodic review of the accuracy of customs entries prepared by or based on information from third parties; and clear contractual consequences for noncompliance, including termination rights and indemnification provisions.

The ECCP instructs prosecutors to evaluate whether a company has applied "risk-based due diligence to its third-party relationships" and whether the company engages in "ongoing monitoring of the third-party relationships, be it through updated due diligence, training, audits, and/or annual compliance certifications."[99] These principles are directly applicable to customs and tariff compliance. Because DOJ can use the FCA against companies in the import chain, including non-U.S. exporters and suppliers as well as U.S. importers, companies should conduct due diligence to understand their supply chains and the compliance posture of their partners.[100]

Supply Chain Mapping and Traceability Technologies. Companies with complex, multi-jurisdictional supply chains should consider deploying digital tools for supply chain visibility as both a compliance measure and a potential litigation defense. The enforcement focus on transshipment, exemplified by CBP's deployment of AI-powered detection capabilities and DOJ's aggressive use of FCA enforcement, makes supply chain traceability an increasingly important element of an effective compliance program.

In October 2025, CBP awarded a multimillion-dollar contract to deploy AI-powered supply chain mapping technology across its enforcement operations. The platform is designed to detect illicit transshipment by examining billions of shipment records, performing entity resolution across hundreds of millions of organizations, and using AI-powered anomaly detection to reconstruct trade routes at a granular, transaction-by-transaction level. The technology links shipments to ultimate beneficial owners and detects ties to state-owned enterprises, sanctioned parties, or forced labor risks. According to CBP, the platform enables real-time risk-scoring of shipments, AI-enabled validations of tariff classification, value, and country of origin, and the creation of automated bills of material for products and sub-components.[101]

Separately, CBP's Global Business Identifier (GBI) Program enables companies to share AI-powered Product Passports, digital records tracking a product's complete journey from raw materials through manufacturing to final delivery, to prove compliance and expedite customs clearance. According to CBP's Federal Register notice, the program helps trade participants "authenticate and verify supply chain actors" and assists companies "to manage risk in their supply chains" and with "compliance with emerging requirements and mandates."[102] Companies that can demonstrate supply chain visibility through verified Product Passports may benefit from expedited clearance procedures, while those unable to trace their supply chains face heightened scrutiny.

DOJ's September 2024 update to the ECCP further reinforces the importance of supply chain technology. The updated ECCP instructs prosecutors to consider "how the company is leveraging available data to evaluate vendor risk during the course of the relationship with the vendor" and whether third-party management processes "function" and "allow for the review of vendors in a timely manner."[103] The ECCP also asks whether compliance personnel have access to data in a "timely manner" and whether the company is "appropriately leveraging data analytics tools to create efficiencies in compliance operations and measure the effectiveness of components of compliance programs."[104] DOJ has made clear that it expects compliance personnel to have access to the same or similar technological resources as core business teams; a company whose sales function uses advanced analytics while its compliance function relies on spreadsheets will be viewed skeptically.

For companies evaluating supply chain mapping and traceability solutions, key capabilities to consider include: (1) multi-tier supply chain visibility extending beyond first-tier suppliers to sub-tier manufacturers and raw material sources; (2) entity resolution capabilities that can identify beneficial owners and corporate affiliations across complex ownership structures; (3) integration with shipping records, bills of lading, and customs documentation to verify actual trade flows; (4) anomaly detection capabilities that can flag inconsistencies between declared and actual origin, routing, or transshipment through high-risk jurisdictions; (5) sanctions and denied-party screening integrated with supply chain data; and (6) forced labor risk assessment capabilities, particularly for goods from regions subject to UFLPA enforcement.

From a litigation defense perspective, companies that have invested in supply chain traceability technologies may be better positioned to demonstrate good faith compliance efforts in the event of an enforcement action. The ECCP's emphasis on continuous improvement, periodic testing, and data-driven compliance suggests that prosecutors will look favorably upon companies that have deployed technology solutions to monitor and verify supply chain representations. Conversely, companies that have taken no steps to verify the accuracy of origin declarations by foreign suppliers, particularly in industries or geographies where transshipment is a known risk, may find it difficult to argue that they acted in good faith or exercised reasonable care. As CBP deploys the same AI-powered supply chain mapping tools to detect transshipment schemes, companies without comparable visibility into their own supply chains face an increasing asymmetry of information with enforcement authorities.

Internal Audit

Internal audits play a critical role in identifying potential tariff compliance failures before they attract government scrutiny, and the strategic considerations surrounding voluntary self-disclosure have become increasingly important in the current enforcement environment.

Risk-based internal audit. Companies should design a risk-based internal audit program that includes periodic review of customs classifications, valuations, country-of-origin determinations, and related filings. Audits should focus on the areas of highest risk, including goods imported from countries subject to elevated tariffs, goods subject to AD/CVD orders, and transactions involving complex supply chains or third-country transshipment. The ECCP instructs prosecutors to evaluate the frequency and quality of internal audits and whether audit findings have been used to identify root causes, system vulnerabilities, and accountability lapses.[105]

Self-Disclosure Considerations

CBP prior disclosure. Under 19 U.S.C. § 1592(c)(4), an importer that makes a "prior disclosure" of a customs violation to CBP before the government has commenced a formal investigation may receive reduced penalties. The prior disclosure framework serves as an important complement to the FCA self-disclosure framework, but the two processes are distinct and should be carefully coordinated. A prior disclosure to CBP does not automatically resolve potential FCA exposure, and companies should consult counsel before making a disclosure to ensure that both civil and criminal exposure is addressed.

DOJ voluntary self-disclosure. DOJ has consistently emphasized that voluntary self-disclosure, cooperation, and remediation can result in significantly more favorable outcomes for companies that identify and report customs violations. The DOJ Criminal Division's Corporate Enforcement and Voluntary Self-Disclosure Policy provides that a company that satisfies these criteria is now entitled to (rather than merely presumed to receive) a declination absent aggravating circumstances.[106]

Companies that identify potential customs violations should promptly consult counsel to assess the contours of their exposure and whether self-disclosure to DOJ and/or CBP is appropriate. Notably, the availability of maximum voluntary self-disclosure credit may be limited in qui tam actions, where a relator has already brought the alleged conduct to the government's attention. The *Grosfillex* case illustrates this dynamic: the company received no self-disclosure credit because the whistleblower had already filed a qui tam complaint.[107] Companies should therefore be aware that delay in self-reporting may foreclose or diminish the benefits of voluntary disclosure if a whistleblower files first.

Practical steps executives should take to protect themselves include: documenting their oversight of customs compliance activities, including attendance at compliance briefings and review of audit results; ensuring that compliance decisions, particularly those involving classification, valuation, or country-of-origin determinations, are made by qualified personnel and documented in writing; seeking and memorializing good-faith reliance on expert advice (including customs brokers, trade counsel, and CBP rulings); establishing a culture of escalation in which compliance concerns are raised and addressed promptly; and avoiding any actions that could be construed as obstructing a government investigation, including any interference with document preservation.

Actionable Compliance Checklist for Companies and Executives

Drawing from the risk mitigation strategies discussed in Section III and the enforcement patterns observed in recent cases, the following consolidated checklist of recommended actions is organized by responsible party and priority.

Board and Senior Management	Chief Compliance Officer / Trade Compliance Lead	Operational Management
Ensure that the board of directors and senior management are briefed on FCA exposure in the tariff context, including the risk of personal liability for individual executives.	Conduct a comprehensive review of current HTS classifications and customs valuations, with particular attention to goods imported from countries subject to elevated tariffs or AD/CVD orders.	Implement controls over HTS classification, including use of advance rulings and binding classification decisions where available.
Establish board-level or audit committee oversight of customs compliance, with regular reporting from the compliance function.	Evaluate the adequacy of the existing compliance program against DOJ's ECCP guidance and the enforcement priorities of the Trade Fraud Task Force.	Establish valuation procedures to ensure declared values accurately reflect transaction value.
Review and approve the company's customs compliance program and ensure it is adequately funded and resourced.	Implement or strengthen supply chain due diligence procedures, including independent verification of country-of-origin representations.	Implement country-of-origin verification processes, particularly for goods sourced from or transshipped through high-risk countries.
Set the tone from the top by communicating the company's commitment to customs compliance and the consequences for noncompliance.	Review and update third-party contracts to include trade compliance representations, audit rights, and indemnification provisions.	Exercise active oversight of customs brokers and other third parties involved in the import process.
	Establish a risk-based internal audit program focused on customs and tariff compliance.	Establish a protocol for internal identification, escalation, and investigation of potential tariff compliance issues.
	Design and deliver role-specific training for all personnel involved in import operations	

Board and Senior Management:

Ensure that the board of directors and senior management are briefed on FCA exposure in the tariff context, including the risk of personal liability for individual executives. Establish board-level or audit committee oversight of customs compliance, with regular reporting from the compliance function. Review and approve the company's customs compliance program and ensure it is adequately funded and resourced. Set the tone from the top by communicating the company's commitment to customs compliance and the consequences for noncompliance.

Chief Compliance Officer / Trade Compliance Lead:

Conduct a comprehensive review of current HTS classifications and customs valuations, with particular attention to goods imported from countries subject to elevated tariffs or AD/CVD orders. Evaluate the adequacy of the existing compliance program against DOJ's ECCP guidance and the enforcement priorities of the Trade Fraud Task Force. Implement or strengthen supply chain due diligence procedures, including independent verification of country-of-origin representations. Review and update third-party contracts to include trade compliance representations, audit rights, and indemnification provisions. Establish a risk-based internal audit program focused on customs and tariff compliance. Design and deliver role-specific training for all personnel involved in import operations.

Operational Management:

Implement controls over HTS classification, including use of advance rulings and binding classification decisions where available. Establish valuation procedures to ensure declared values accurately reflect transaction value. Implement country-of-origin verification processes, particularly for goods sourced from or transshipped through high-risk countries. Exercise active oversight of customs brokers and other third parties involved in the import process. Establish a protocol for internal identification, escalation, and investigation of potential tariff compliance issues.

Conclusion

The intersection of False Claims Act enforcement and tariff compliance represents a significant and growing area of risk for companies engaged in international trade. The record-breaking $6.8 billion in FCA recoveries in fiscal year 2025, the launch of the interagency Trade Fraud Task Force, the record number of qui tam filings, and the series of landmark enforcement actions in the second half of 2025 collectively signal that customs fraud has moved from the periphery to the center of DOJ's enforcement agenda. The cost of noncompliance, measured in treble damages, per-claim penalties, criminal prosecution, and reputational harm, has never been higher.

Companies and their executives are well advised to invest proactively in robust compliance programs, conduct regular audits of their customs and tariff practices, strengthen supply chain due diligence, and ensure they are prepared to respond effectively and swiftly to government inquiries. Where potential violations are identified, timely voluntary self-disclosure, cooperation, and remediation can meaningfully mitigate exposure, though they will not necessarily shield individual executives from personal liability. The stakes of inaction are substantial, the window for preventive measures is narrowing, and the enforcement environment shows every sign of intensifying.

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Appendix A: Key Statutory and Regulatory Provisions

The following is a summary of the principal federal statutes and regulations relevant to FCA enforcement in the tariff context. Practitioners should consult the full text of each provision for complete language and context.

Civil Enforcement Statutes

False Claims Act, 31 U.S.C. §§ 3729-3733. The FCA is the government's primary civil enforcement tool for fraud involving federal funds. Section 3729(a)(1)(A) imposes liability for knowingly presenting a false claim for payment. Section 3729(a)(1)(B) imposes liability for knowingly making a false record or statement material to a false claim. Section 3729(a)(1)(G) (the "reverse false claims" provision) imposes liability for knowingly concealing or improperly avoiding an obligation to pay money to the government. The statute defines "knowingly" to include actual knowledge, deliberate ignorance, and reckless disregard. 31 U.S.C. § 3729(b)(1). The FCA authorizes treble damages and civil penalties currently ranging from $14,308 to $28,619 per violation. The qui tam provisions (31 U.S.C. § 3730(b)-(d)) allow private parties to file suit on behalf of the government and share in any recovery (typically 15-30%). The statute of limitations extends up to 10 years under 31 U.S.C. § 3731(b), and tolling applies while a qui tam complaint remains under seal.

Tariff Act of 1930, Section 592, 19 U.S.C. § 1592. Section 1592 prohibits the entry or introduction of merchandise into the United States by means of any materially false statement, act, or omission. It establishes three tiers of culpability: (1) fraud (voluntary and intentional), with maximum penalties of the domestic value of the merchandise; (2) gross negligence (actual knowledge or wanton disregard), with maximum penalties of the lesser of the domestic value or four times the lawful duties; and (3) negligence (failure to exercise reasonable care), with maximum penalties of the lesser of the domestic value or two times the lawful duties. Section 1592(c)(4) provides for reduced penalties where a violator makes a "prior disclosure" before the commencement of a formal investigation.

Reasonable Care Obligation, 19 U.S.C. § 1484. Section 1484(a) requires importers to exercise "reasonable care" in making entry, including accurate classification, valuation, and country-of-origin determination. This continuing obligation applies anew with each entry and requires importers to account for changes in law, rulings, and interpretations.

Customs Valuation, 19 U.S.C. § 1401a. Section 1401a establishes the standards for determining the customs value of imported merchandise, including the transaction value method and alternative valuation methods.

Enforce and Protect Act (EAPA), 19 U.S.C. § 1517. EAPA provides a mechanism for interested parties to allege that importers are evading AD/CVD orders. CBP is authorized to investigate EAPA allegations and, upon an affirmative determination of evasion, to impose duties and penalties.

Criminal Statutes

Smuggling Goods into the United States, 18 U.S.C. § 545. Makes it a felony (up to 20 years' imprisonment) to fraudulently or knowingly import or bring merchandise into the United States contrary to law, or to receive, conceal, buy, sell, or facilitate the transportation of such merchandise. DOJ has increasingly used this provision to charge tariff evasion based on false customs declarations, even absent physical concealment of goods.

Entry of Goods by Means of False Statements, 18 U.S.C. § 542. Makes it a felony (up to two years' imprisonment) to enter or introduce goods into the United States by means of any false statement or practice.

Smuggling Goods from the United States, 18 U.S.C. § 546. Makes it a felony (up to five years' imprisonment) to export merchandise from the United States by means of any fraudulent practice.

Conspiracy to Defraud the United States, 18 U.S.C. § 371. Makes it a felony (up to five years' imprisonment) to conspire to defraud the United States, including by impairing, obstructing, or defeating the lawful functions of the government in collecting customs duties.

False Statements, 18 U.S.C. § 1001. Makes it a felony (up to five years' imprisonment) to make a materially false statement or representation in any matter within the jurisdiction of the executive branch of the government, including statements to CBP.

Appendix B: Model Compliance Checklist

The following checklist is designed to assist companies in evaluating and strengthening their customs and tariff compliance programs. It is organized by functional area and responsible party. Companies should adapt this checklist to their specific circumstances, risk profile, and organizational structure.

I. Governance and Oversight

1. The board of directors or audit committee has been briefed on FCA exposure in the tariff context, including the risk of personal liability for individual executives.
2. Board-level or audit committee oversight of customs compliance has been established, with regular reporting from the compliance function.
3. The company's customs compliance program has been reviewed and approved by senior management and is adequately funded and resourced.
4. A qualified chief compliance officer or trade compliance lead has been designated with appropriate authority, seniority, and autonomy.
5. Senior management has communicated the company's commitment to customs compliance and the consequences for noncompliance ("tone from the top").

II. Policies and Procedures

1. The company maintains formal written compliance policies and procedures specific to customs and tariff obligations, covering classification, valuation, country-of-origin determination, AD/CVD compliance, and recordkeeping.
2. Policies and procedures are integrated into day-to-day operations and accessible to all relevant personnel.
3. Policies and procedures are reviewed and updated at least annually to reflect changes in tariff schedules, trade policy, and enforcement priorities.

III. Classification Controls

1. The company has documented procedures for HTS classification, including use of CBP advance rulings and binding classification decisions where available.
2. Classification decisions are documented in writing, reviewed by qualified personnel, and periodically re-evaluated in light of changes to the HTS, CBP rulings, or Court of International Trade decisions.
3. Classifications that result in significantly lower duty rates are flagged for enhanced review and documentation.

IV. Valuation Procedures

1. The company has implemented procedures to verify that declared customs values are consistent with commercial invoices, purchase orders, and related documentation.
2. Transfer pricing arrangements between related parties are reviewed to ensure compliance with CBP's transaction value rules.
3. The company has procedures to identify and include assists, royalties, and other non-invoice costs that affect the declared value of imported goods.

V. Country-of-Origin Verification

1. The company has established processes for verifying the country of origin of all imported goods, with particular attention to goods sourced from or transshipped through countries subject to elevated tariff rates, Section 301 duties, or AD/CVD orders.
2. Supplier certifications, manufacturing documentation, and shipping records are reviewed and retained.
3. Supply chain structures involving routing goods through third countries are scrutinized to verify that any claimed "substantial transformation" is genuine and legally supportable.

VI. Third-Party Risk Management

1. The company has conducted due diligence on all third-party partners involved in the import process, including customs brokers, freight forwarders, and foreign suppliers.

2. Third-party contracts include trade compliance representations, audit rights, cooperation obligations, and indemnification provisions.

3. Third-party performance is monitored and audited on an ongoing basis.

VII. Training

1. Regular, role-specific training is provided for all personnel involved in import operations, classification, valuation, and customs entry preparation.

2. Training incorporates lessons learned from the company's own prior issues and from enforcement actions in the same industry.

3. Training attendance and completion are documented.

VIII. Internal Reporting and Escalation

1. The company has established clear channels for the internal identification and escalation of potential tariff compliance issues, including an anonymous or confidential reporting mechanism (e.g., hotline).

2. Whistleblower protections are robust and well communicated to all employees.

3. Internal reports of potential compliance issues are investigated promptly and thoroughly, and the results are documented.

IX. Internal Audit

1. The company has designed a risk-based internal audit program that includes periodic review of customs classifications, valuations, country-of-origin determinations, and related filings.

2. Audits focus on the areas of highest risk, including goods from countries subject to elevated tariffs, goods subject to AD/CVD orders, and transactions involving complex supply chains.

3. Audit findings are used to identify root causes, system vulnerabilities, and accountability lapses, and to implement corrective actions.

X. Self-Disclosure Readiness

1. The company has established a protocol for evaluating whether voluntary self-disclosure to DOJ and/or CBP is appropriate when potential customs violations are identified.

2. The company is aware of both the CBP prior disclosure framework (19 U.S.C. § 1592(c)(4)) and the DOJ voluntary self-disclosure framework and understands that the two processes are distinct and should be coordinated.

3. The company has retained or identified outside counsel with relevant FCA and trade compliance experience who can be engaged promptly if a potential violation is identified.

XI. Document Preservation and Litigation Readiness

1. The company has a document retention policy that complies with CBP recordkeeping requirements (generally five years from the date of entry).

2. The company has a litigation hold protocol that can be implemented promptly upon receipt of a CID, subpoena, or upon reasonable anticipation of a government investigation.

3. Key custodians have been identified, and procedures are in place to suspend routine document destruction when preservation obligations are triggered.

Appendix C: CID/Subpoena Response Protocol Template

The following protocol template is designed to guide companies through the initial response to a Civil Investigative Demand (CID) or subpoena received in connection with a tariff-related FCA investigation. Companies should adapt this protocol to their specific circumstances and consult with experienced outside counsel immediately upon receipt of any government demand.

Phase 1: Immediate Response (0-24 Hours)

Step 1: Notification. Immediately notify in-house legal counsel, the chief compliance officer, and senior management. If outside counsel with FCA and trade compliance experience has been identified, notify them as well. Depending on the significance of the demand, consider whether notification to the board of directors or audit committee is warranted.

Step 2: Secure the Demand. Obtain and secure the original CID or subpoena. Record the date and manner of service. Identify the issuing agency and the specific DOJ component (e.g., Civil Division, Criminal Division, U.S. Attorney's Office) and the assigned attorney or investigator.

Step 3: Calendar Deadlines. Identify all deadlines, including the return date for document production, the deadline for written objections (20 days from service for CIDs under 31 U.S.C. § 3733), and any other time-sensitive obligations.

Step 4: Implement Litigation Hold. Issue an immediate litigation hold notice to all personnel who may possess potentially relevant documents or information. Suspend routine document destruction policies for all potentially relevant categories of materials. Identify and notify key custodians.

Phase 2: Initial Assessment (24-72 Hours)

Step 5: Scope Review. Carefully review the scope, terms, and categories of documents and information sought by the demand. Assess whether the demand is targeted to a specific transaction, product line, or time period, or whether it signals a broader investigation.

Step 6: Context Assessment. Determine, to the extent possible, whether the demand was issued in connection with a qui tam action or on DOJ's own initiative. Identify any other pending or anticipated government inquiries (e.g., CBP requests for information, focused assessments, EAPA investigations, grand jury subpoenas) that may indicate a parallel or related investigation.

Step 7: Preliminary Fact Gathering. Begin preliminary fact gathering to understand the potential scope of the company's exposure. Identify the relevant import transactions, product lines, suppliers, customs brokers, and personnel.

Step 8: Privilege Assessment. Ensure that all internal investigative activities are conducted under the direction of counsel and are structured to preserve attorney-client privilege and work product protection. Consider whether Upjohn warnings are needed for employee interviews.

Phase 3: Strategic Planning (Week 1-2)

Step 9: Engage Outside Counsel. Retain outside counsel with relevant FCA and trade compliance experience, if not already engaged.

Step 10: Objection and Negotiation. Evaluate whether to file written objections to the CID or to negotiate the scope and timing of compliance with the issuing attorney. Consider requesting extensions of return dates, narrowing overly broad document requests, and agreeing on search methodologies and custodian lists.

Step 11: Parallel Exposure Assessment. Assess whether the demand may signal parallel criminal exposure. Identify signals such as involvement of the Criminal Division, grand jury subpoenas, or coordination with law enforcement agencies. If parallel criminal exposure is suspected, evaluate whether separate counsel is needed for individual employees or executives.

Step 12: Cooperation Strategy. Develop an initial cooperation strategy in consultation with outside counsel, taking into account the company's factual exposure, the strength of the government's case, and the company's broader business objectives.

Phase 4: Compliance and Production (Weeks 2-8+)

Step 13: Document Collection and Review. Implement a systematic document collection and review process, including identification of relevant custodians, preservation of electronically stored information, and privilege review.

Step 14: Production. Produce responsive documents in accordance with the terms of the CID or any negotiated modifications. Maintain a detailed production log.

Step 15: Ongoing Communication. Maintain regular communication with the issuing attorney regarding the status of compliance, any issues encountered during document collection and review, and any requests for clarification or modification.

Step 16: Continuing Assessment. Continuously reassess the company's exposure and cooperation strategy as new information is developed through document review and fact gathering.

Appendix D: Glossary of Key Terms

AD/CVD (Antidumping and Countervailing Duties). Special tariffs imposed on imported goods to offset unfair trade practices. Antidumping duties address goods sold in the U.S. at less than fair value (i.e., below the normal value in the exporter's home market). Countervailing duties offset subsidies provided by foreign governments to manufacturers or exporters.

CBP (U.S. Customs and Border Protection). The federal agency within the Department of Homeland Security responsible for assessing and collecting customs duties, enforcing customs laws, and regulating international trade.

CID (Civil Investigative Demand). An investigative tool authorized by 31 U.S.C. § 3733 that allows DOJ to demand production of documents, written answers to interrogatories, or oral testimony in connection with a False Claims Act investigation, before a formal complaint is filed.

CIT (Court of International Trade). A specialized federal court with exclusive jurisdiction over civil actions arising under federal laws governing import transactions, including customs classification and valuation disputes and Section 1592 penalty actions.

De Minimis. Under 19 U.S.C. § 1321, a duty-free exemption for imports valued at or under $800 imported in a single day. Recent executive orders have modified or suspended de minimis treatment for imports from certain countries.

Drawback. A refund of customs duties paid on imported goods that are subsequently exported, or on imported materials used in the manufacture of goods that are subsequently exported. False drawback claims may give rise to FCA liability.

EAPA (Enforce and Protect Act). Codified at 19 U.S.C. § 1517, EAPA provides a mechanism for interested parties to allege that importers are evading AD/CVD orders. CBP investigates EAPA allegations and may impose duties and penalties upon an affirmative determination of evasion.

Entry Summary (CBP Form 7501). The customs form filed by the importer of record (or its customs broker) with CBP for each shipment of imported goods, declaring the classification, value, country of origin, and duties owed.

FCA (False Claims Act). Codified at 31 U.S.C. §§ 3729-3733, the FCA is the government's primary civil enforcement tool for fraud involving federal funds. It imposes treble damages and per-claim penalties on those who knowingly submit false claims to the government or knowingly avoid obligations to pay the government.

FTZ (Foreign Trade Zone). A designated area within the United States where foreign and domestic merchandise may be admitted without formal customs entry or the payment of customs duties. Goods may be stored, manipulated, manufactured, or exhibited within an FTZ. Duties are paid only when goods leave the FTZ and enter U.S. commerce.

HTS (Harmonized Tariff Schedule of the United States). The classification system used by CBP to determine the applicable tariff rates for all merchandise imported into the United States. Each imported article is assigned an HTS code that corresponds to a specific duty rate.

IEEPA (International Emergency Economic Powers Act). Codified at 50 U.S.C. § 1701 et seq., IEEPA grants the President authority to regulate international commerce during a declared national emergency. Recent tariff actions have been imposed under IEEPA authority.

ITA (International Trade Administration). A bureau within the Department of Commerce responsible for administering AD/CVD laws, conducting scope determinations and administrative reviews, and making anti-circumvention determinations.

ITC (U.S. International Trade Commission). An independent, bipartisan federal agency that determines whether imports are causing material injury to a domestic industry in AD/CVD investigations and conducts other trade-related investigations.

Qui Tam. A provision of the FCA (31 U.S.C. § 3730(b)-(d)) that allows private parties (known as "relators") to file suit on behalf of the government and share in any recovery. Qui tam complaints are filed under seal, and the government has a period to investigate and decide whether to intervene.

Relator. A private party who files a qui tam action under the FCA on behalf of the government. Relators typically receive 15–30% of the total amount recovered.

Reverse False Claim. A theory of FCA liability under Section 3729(a)(1)(G) that applies when a person knowingly conceals or improperly avoids an obligation to pay money to the government. In the tariff context, unpaid customs duties constitute an "obligation" to the government.

Section 232 (Trade Expansion Act of 1962). Authorizes the President to adjust imports through tariffs or quotas if imports threaten to impair national security. Section 232 tariffs have been imposed on steel, aluminum, and derivative products.

Section 301 (Trade Act of 1974). Authorizes the U.S. Trade Representative to investigate and take action against foreign trade practices that violate trade agreements or are unjustifiable, unreasonable, or discriminatory. Section 301 tariffs have been imposed on a wide range of Chinese-origin goods.

Substantial Transformation. A legal standard used to determine the country of origin of imported goods. A product is considered to have been "substantially transformed" in a particular country if it has undergone a fundamental change in name, character, or use in that country. Minimal processing (e.g., repackaging, relabeling) generally does not constitute substantial transformation.

Transshipment. The practice of routing goods manufactured in one country through a third country to disguise their true origin, typically to avoid tariffs, duties, or trade remedy measures applicable to goods from the country of manufacture.

Appendix E: Table of Recent Customs-Related FCA Enforcement Actions (2023-2026)

The following table summarizes significant customs- and tariff-related FCA enforcement actions announced by DOJ since 2023. This table is not exhaustive but is intended to illustrate the breadth and diversity of recent enforcement activity.

Date	Defendant(s)	Resolution Amount	Fraud Category	Key Allegations
May 2026	Perfectus Aluminum Inc. and related companies	$549.5 million (FCA settlement and civil penalties)	AD/CVD evasion	Misrepresented more than 2.2 million aluminum extrusions as functional pallets by spot-welding them to appear to be pallets, avoiding AD/CVD; the pallets had no customers and were never sold. Related criminal convictions were also obtained.

Date	Defendant(s)	Resolution Amount	Fraud Category	Key Allegations
Dec. 2025	Ceratizit USA LLC	$54.4 million (FCA settlement)	Misclassification; Country-of-origin; Marking fraud	Misrepresented Chinese-manufactured tungsten carbide products as originating in Taiwan (transshipment); used incorrect HTS codes to reduce duty rate to zero; failed to mark merchandise with country of origin. The settlement was previously described as the largest customs-related FCA resolution, but the May 2026 Perfectus Aluminum settlement now holds that distinction. Whistleblower received approx. $9.75 million.
Dec. 2025	Wanxiang America Corp.	$53 million (civil penalty)	Misclassification; AD/CVD evasion	Misclassified Chinese automotive components to avoid antidumping duties.
Dec. 2025	David Guimond (former COO, MGI International)	Criminal guilty plea	Country-of-origin; Smuggling	Conspiracy to smuggle goods; instructed subordinates to misrepresent manufacturer and country-of-origin information on customs filings to avoid Section 301 tariffs. Company received criminal declination based on self-disclosure.
Nov. 2025	Harman International Industries[2]	$11.8 million (FCA settlement)	AD/CVD evasion	Evaded AD/CVD on goods made with extruded aluminum from China; concealed noncompliance when confronted by authorities.
Nov. 2025	UBS Gold (Indonesian jewelry company), co-owner, and employees	Criminal charges	Country-of-origin; Transshipment	Multiyear scheme to evade over $86 million in customs duties on $1.2 billion in jewelry imports through transshipment via Jordan; false country-of-origin declarations.

2 Press Release, U.S. Att'y's Off., E.D. Mich., International Audio Electronics Company Harman Pays $11.8 Million to Settle Fraud (Nov. 26, 2025), https://www.justice.gov/usao-edmi/pr/international-audio-electronics-company-harman-pays-118-million-settle-fraud.

Date	Defendant(s)	Resolution Amount	Fraud Category	Key Allegations
Aug. 2025	Allied Stone Inc. and president	$12.4 million (FCA settlement)	AD/CVD evasion; Country-of-origin	Misrepresented Chinese quartz products as marble or crystallized glass to avoid AD/CVD; misrepresented country of origin.
Aug. 2025	Endless Sales LLC, Octane Forklifts, and three executives	Criminal indictment	Country-of-origin	Imported Chinese-manufactured forklifts while falsely claiming they were "Made in America."
July 2025	Grosfillex Inc.	$4.9 million (FCA settlement)	AD/CVD evasion; Misclassification	Evaded AD/CVD on extruded aluminum from China by mischaracterizing aluminum furniture components; packaged parts as sham furniture "kits." Whistleblower-initiated.
July 2025	MGI International LLC subsidiaries (Global Plastics LLC, Marco Polo International LLC)	$6.8 million (FCA settlement)	Country-of-origin; Undervaluation	Failed to pay customs duties on Chinese-origin plastic resin; admitted to undervaluing goods and mis-declaring country of origin. Self-disclosure credited.
July 2025	Global Office Furniture LLC and founder	FCA complaint filed (pending)	Undervaluation (double-invoicing)	Double-invoicing scheme: two invoices per shipment of Chinese-manufactured office chairs; accurate invoice for customer billing, understated invoice for customs. Allegations of evidence destruction.
Apr. 2025	Barco Uniforms Inc., executives, and related companies	FCA complaint filed (pending; DOJ intervened in qui tam)	Undervaluation (double-invoicing)	Alleged double-invoicing scheme to undervalue imported apparel from overseas suppliers, primarily in China.
Mar. 2025	Evolutions Flooring Inc. and owners	$8.1 million (FCA settlement)	Country-of-origin; AD/CVD evasion	Evaded AD/CVD and Section 301 duties by misrepresenting country of origin of wood flooring imported from China. Relator (a competitor) received $1.2 million.
Aug. 2024	Two importers of wiring/power distribution products and principals	$10.6 million (FCA settlement)	Undervaluation	Understated the value of goods imported from China.

Date	Defendant(s)	Resolution Amount	Fraud Category	Key Allegations
Aug. 2024	Florida-based womenswear company	$7.7 million (FCA settlement)	Undervaluation	Underpaid customs duties on imported apparel by misrepresenting value.
Mar. 2024	Ford Motor Company[3]	$365 million (customs civil penalty settlement)	Misclassification; Undervaluation	Installed temporary sham rear seats in cargo vans to obtain a 2.5% duty rate rather than the 25% rate for cargo vehicles; removed the seats after customs clearance.
Feb. 2024	Florida couple[4]	Criminal sentences (57 months each)	Shell company; Transshipment; Country-of-origin	Used shell companies and transshipment to import hardwood plywood with false country-of-origin declarations, evading more than $42 million in duties.
Jan. 2023	International Vitamins Corp.	$22.8 million (FCA settlement)	Misclassification	Misclassified more than 30 vitamin and nutritional supplement products under the HTS to avoid paying customs duties; failed to pay back duties owed after correcting certain misclassifications.

Sources: DOJ Press Releases

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[11] *Id.*

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[13] *Id. at 749–54.*

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