

Are You Prepared for a Customs Audit?

Export Controls, Sanctions & Trade

As the U.S. government enters a new fiscal year as of October 1st, U.S. Customs and Border Protection (“Customs”) will begin its process of notifying importers of their selection for and required participation in various audit and assessment programs. While customs' audits cover routine compliance matters that may impact revenue collection, each year the agency focuses on various priority trade issues. Customs is expected to have a growing interest in country of origin declaration where special tariffs or trade remedies may apply and documenting supply chain due diligence for forced labor compliance.¹

Customs engages with the trade community through various types of reviews, including three levels of more formal audits and four non-audit assessments.²



Audits

- Focused Assessment
- Referral Audit
- Customs Broker Audit



Assessments

- Risk and Analysis Survey Assessment (RASA)
- Risk Assessment
- Customs Forms 28 or 29
- Import Specialist Inquiry

What to Expect

For more comprehensive reviews, such as a Focused Assessment, Customs may give advance notice the importer will be audited but more targeted assessment activities can occur without warning. Customs typically initiates its review by sending the importer a questionnaire on the company's trade activity and compliance procedures. Questionnaires may target specific topics such as valuation, country of origin, or supplier due diligence, giving the importer an indication of Customs' perceived risks. Customs will often request review of sample import transaction and associated records, including entry summaries (Customs Form 7501), evidence of the right to make entry (airway bill or bill of lading), commercial invoices, packing lists, and bond information.³

Throughout the audit or assessment, Customs is continuously evaluating compliance with the recordkeeping requirements and ensuring importers are maintaining accurate and complete documentation. Customs audits and assessments vary in duration,

¹ Paul Koscak, “CBP Takes Aim at Forced Labor,” U.S. Customs and Border Protection (last modified January 4, 2022), <https://www.cbp.gov/frontline/cbp-takes-aim-forced-labor>.

² 19 USC §1509(a)

³ U.S. Customs and Border Protection, “Audits, Risk Analysis and Survey Assessments and ISA Companies” (last modified May 23, 2022), <https://www.cbp.gov/trade/programs-administration/audits/quick-response-audits>.

with Risk Assessments and Risk and Analysis Survey Assessments typically taking three to six months while Referral Audits may last a year or longer. Focused Assessments, which are the most comprehensive and invasive customs audit, may last several years depending on the importer's preparedness, identified risks, and violations discovered during the audit process.⁴

Depending on the nature and scope of an audit, both Customs and the importer may identify risks of noncompliance or specific errors or omissions that must be addressed. Customs regulations provide an opportunity in many cases for the importer to address issues identified during an audit through the Prior Disclosure process, which itself may require a more in-depth review and analysis of historical activity.⁵ Some violations, however, could result in a Customs penalty equal to a multiple of the lawful duty amount. More egregious violations, such as those that indicate criminal intent, may result in a formal Customs investigation and expose the company or its officers to significant civil or criminal liability.⁶



— HOW FTI CONSULTING CAN HELP

Successfully navigating a Customs audit or assessment requires a comprehensive and non-adversarial approach to Customs requests and providing thorough, yet tailored responses. While being selected for a customs audit or assessment is potentially disruptive, our international trade and customs professionals have extensive experience leading importers through this process by providing practical guidance and serving as a liaison to communicate with Customs on all areas under review.

Our support is highly tailored to the specific needs of our clients, but we often prepare companies for discussions with Customs by:

- Examining the scope of the audit or assessment with the company
- Reviewing questionnaires or other information requests to identify potential risk areas
- Collecting and validating requested records, including serving as a centralized document repository for organizing audit-related documentation and materials for submission
- Coordinating Customs meetings, site visits, and other forms of communication
- Performing thorough and advanced evaluation of specific transactions to provide insight on any possible errors, need for disclosure, or opportunities for improvement ahead of Customs' review
- Building and executing an internal communication strategy for company stakeholders
- Developing strategies and internal controls to improve the company's compliance going forward

⁴ U.S. Customs and Border Protection Office of International Trade Regulatory Audit, "Focused Assessment Pre-Assessment Survey Audit Program" (last modified October 1, 2014).

⁵ 19 CFR § 162.74.

⁶ 19 CFR § 162.73.

FTI Consulting’s experts can also support importers before the initiation of a formal Customs audit or assessment by performing risk assessments of commonly scrutinized compliance areas, evaluating internal control programs, and reviewing sample transactions. The investment in these initial reviews can save importers from uncovering severe errors during a formal audit and being assessed penalties.

When applicable, we also leverage FTI Consulting’s deep expertise in data & analytics and forensic accounting to support large-volume and multi-jurisdictional Customs reviews. Our global teams are enabled by extensive libraries of tools, code, reference data and other custom-developed proprietary tools and methodologies. The data science and software development teams ensure clients get the resources required by either employing our core skills or leveraging our Augmented Investigations™ capability.

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