

October 4, 2013

Update on Government Shutdown's Impact on Trade

The ongoing federal government shutdown is impacting a wide variety of import and export trade activities. While the situation remains fluid as each agency executes its contingency plans, below is a summary of the current impact on trade.

Customs and Border Protection (CBP): The majority of CBP employees are exempt from the furlough as being deemed essential to the country's security. Most of those exemptions are related to the agency's ongoing revenue collections. Currently, ports are maintaining their normal hours of service. CBP also seems to be accepting and processing protests, although with some delays. However, CBP appears to have stopped processing ruling requests or responding to any court documents due to the shutdown. Among the CBP personnel not exempted from furlough are technicians and program managers. As a result, certain additional CBP activities, such as bonds and licensing and processing FDA refusals, may also be impacted.

Food and Drug Administration (FDA): FDA continues to perform entry review and to address high-risk recalls, civil and criminal investigations, and other critical public health issues. However, FDA has furloughed personnel as well, resulting in entry review delays. The agency is giving priority to perishable entries, defined as merchandise expiring within 30 days, and to any lifesaving medical product. The agency has generally ceased routine establishment inspections, monitoring of imports, notification programs such as those involving food contact substances and import formula, and its laboratory research activities.

International Trade Commission (ITC): ITC has shut down its investigative activities, including antidumping and countervailing injury investigations and reviews, and intellectual property rights infringement investigations and ancillary proceedings. The schedules and deadlines for all investigative and pre-institution activities are being tolled and all hearings and conferences have been postponed. In addition, ITC's website is down, so information such as the online Harmonized Tariff Schedule is not available.

International Trade Administration (ITA): ITA's website—including the online steel licensing system—is down. The agency recommends sending an email to steel.license@trade.gov for manual processing of license requests for shipments that do not have a steel license. Enforcement and Compliance (formerly, Import Administration) intends to uniformly toll all administrative deadlines related to the administration of US antidumping and countervailing duty laws for the duration of the shutdown. These include deadlines for preliminary and final determinations in antidumping and countervailing duty investigations and administrative reviews and deadlines for all actions by parties to these proceedings.

Bureau of Industry and Security (BIS): BIS is no longer accepting advisory opinion requests, classification requests (CCATS), encryption reviews, encryption registrations or export license applications. Similarly, BIS will not issue any final determinations. The SNAP-R application on BIS's website is not available and will not reopen until the shutdown ends. All pending export license applications, commodity classification requests, encryption reviews, encryption registrations and advisory opinion requests will be held without action by BIS until the shutdown ends. Applicants may request emergency processing of export license applications for national security reasons.

Department of Agriculture (USDA): USDA's website is down. The Animal and Plant Health Inspection Service (APHIS) is operating in the ports, but personnel will not be available for the renewal and authorization of notifications or permits.

Alcohol and Tobacco Tax and Trade Bureau (ATTTB): ATTTB has halted its regulatory functions, noncriminal investigative activities and audit functions. But it will ensure that all tax remittances are processed because these functions have been deemed necessary for safety and protection of property.

As Congress continues to debate the necessary appropriations to fund the government's operations, the trade community should expect further impact on trade operations. If you have any questions about trade processing during this period, please do not hesitate to contact any of the Katten Muchin Rosenman LLP trade team members below.

Peter J. Battaglioli
+1.202.625.3788
peter.battaglioli@kattenlaw.com

Eric R. Rock
+1.312.902.5228
eric.rock@kattenlaw.com

Benjamin H. Shanbaum
+1.312.902.5306
benjamin.shanbaum@kattenlaw.com

Mark S. Zolno
+1.312.902.5436
mark.zolno@kattenlaw.com

www.kattenlaw.com

AUSTIN | CENTURY CITY | CHARLOTTE | CHICAGO | HOUSTON | IRVING | LONDON | LOS ANGELES | NEW YORK | ORANGE COUNTY | SAN FRANCISCO BAY AREA | SHANGHAI | WASHINGTON, DC

Published as a source of information only. The material contained herein is not to be construed as legal advice or opinion.

©2013 Katten Muchin Rosenman LLP. All rights reserved.

Circular 230 Disclosure: Pursuant to regulations governing practice before the Internal Revenue Service, any tax advice contained herein is not intended or written to be used and cannot be used by a taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. Katten Muchin Rosenman LLP is an Illinois limited liability partnership including professional corporations that has elected to be governed by the Illinois Uniform Partnership Act (1997). London: Katten Muchin Rosenman UK LLP.