

SAFE Tightened Evidence Check Requirements on Import Payment

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The State Administration of Foreign Exchange (hereinafter "SAFE") released the "Notice to Facilitate The Banks' Evidence Verification on Settlement for Trade in Goods" (Huifa [2017] No.9, hereinafter the New Notice)¹ on 4 April 2017. The New Notice will come into effect on 1 May 2017. It is literally introduced with the purpose to facilitate bank's authenticity check, but is actually seen as a sign to tighten the control over outward payment for trade in goods.

BACKGROUND

SAFE reformed the administration mode on settlement for trade in goods by abolishing the requirement to verify and write-off the customs import/export records one-by-one and implementing the 12-month gross quantity control via the Foreign Exchange Monitoring System for Trade in Goods (hereinafter the Monitoring System) on 1 August 2012. The reform, aiming at facilitating trade settlement, has delegated the authority to the banks to conduct import payment at the sight of either trade agreement, invoice, or customs declaration form.

However, facing the pressure of RMB depreciation, China has been taking various measures to restrict irregular fund outflow since late 2015. Banks are required to conduct business within the quota for big amount currency conversion and outward payment. In the Notice of Bank Settlement Business Offenses and Violations (Huizongfa [2016] No. 103) circulated in September 2016, SAFE introduced as many as 7 cases where banks were accused to have neglect the verification duties which caused massive fund outflow with false trading arrangement.

To fill the existing loopholes, SAFE has decided to open up the access of Customs Declaration Information Module² on the Monitoring System to the banks. The New Notice has also made it an obligation that banks should verify the payment with the import information on the module.

HIGHLIGHT

The promulgation of the New Notice is in accordance with the recent trend to control fund outflow. Moreover, it is expected to help improve SAFE's management on settlement for trade in goods by modifying the usage of the Monitoring System from 2 aspects:

¹ Retrieved from:

http://www.safe.gov.cn/wps/portal!/ut/p/c5/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gPZxdnX293QwML7zALA09P02Bnr1BvI2c_E_1wkA6zeGd3Rw8Tcx8DAwsTdwMDTxMnfz8P50BDA09jLwBDuBooO_nkZ-bqI-QnZ3m6KioCACk6Xh-/dl3/d3/L2dJQSEvUUt3QS9ZQnZ3LzZfSENEQ01LRzEwODRJQzBJSUpRRUpKSDEySTI!/?WCM_GLOBAL_CONTEXT=/wps/wcm/connect/safe_web_store/safe_web/zcfg/jcxmwhgl/jcksfhyhagl/node_zcfg_jcxm_jck_store/1d48bd8040a7765f90c9da336463394e

² Information on the Module is transmitted real-time from Customs database on a daily basis.

Online verification of customs declaration information is newly required

The core idea of the New Notice is to adopt the customs declaration verification process so as to strengthen the authenticity check on import payment.

The bank shall conduct the customs declaration verification process at conducting import payment on behalf of its client, if the amount of single payment is over USD100 thousand equivalent. Or, in case that the know-your-client, know-your-business and due-diligence principle is fulfilled, and the amount of single payment is USD100 thousand equivalent or less, the bank may choose to conduct such process at its own discretion.

- i) The verification process shall be completed within 5 working days after the payment if it is made after the receipts of goods;
- ii) The verification process shall be completed within 40 days after the completion of customs import declaration if the payment is to be made in advance;
- iii) The verification process shall be completed within 40 days after the completion of customs import declaration if the customs declaration information isn't available but there's justified reason to support payment;
- iv) The bank must specify the cause in the Monitoring System if the settled amount exceeds the declared value of import goods due to reasons such as short/over loading clause.

Irregular settlement must be marked on client basis

If one of the following conditions occurs with the client who requires to conduct import payment, the bank shall identify the client by making special mark in the Monitoring System.

- i) failing to provide the customs declaration information within certain time limit without reasonable explanation;
- ii) suspected of repeated use of the used customs declaration information without reasonable explanation;
- iii) suspected of using fraudulent customs declaration information;
- iv) other conditions that the special mark shall be kept

The information regarding the special mark, which can be retrieved in a period of 24 months, is considered as an additional indicator that SAFE can use to pick its onsite examination objects in the future.

COMMENTS

The New Notice, targeting at tightening the control of trade-related fund outflow, is expected to increase the workload and slow down the settlement efficiency. Especially for large payment that involves multiple customs documents, the client may be required to assist the bank with the verification process by providing additional evidences and information. It is doubtful whether the increasing workload will be paid off at helping eliminate fraudulent trade settlement.

However, we will pay consistent attention to the operational efficiency of the New Notice after it comes into implementation in May.

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