

Customs Flash

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Proposal for a Directive on the customs infringements and sanctions – Update

The enforcement of customs legislation currently lies within the ambit of 28 EU Member States' national law. In practice, the EU Member States classify customs infringements differently and also impose different types of sanctions because of the 28 different sets of legal rules and traditions. These differences result in different treatment of companies operating in the EU. The process of granting an AEO status could also differ considering the criterion related to the absence of any customs infringements, the classification of which could vary per Member State. In order to deal equally with breaches of Union customs legislation and create a level playing field between economic operators, the European Commission has submitted a proposal for a new Directive. A link to this proposal can be found here: [Proposal / COM\(2013\) 884 final](#)

The aim of the Directive is to provide for a common legal framework. In achieving this goal, the proposal lists a number of customs infringements and also provides for the range of corresponding sanctions. The proposal distinguishes customs infringements that do not require any element of fault and customs infringements committed intentionally or by negligence. For instance, the removal of goods from customs supervision or the inward processing procedure holder's failure to discharge a customs procedure within the time limit constitute a customs infringement, regardless of any fault element. A suitable sanction for these infringements is either 1% up to 5% of the goods' value, or from € 150 up to € 7,500 if the customs infringement is not related to specific goods. Another example is when the customs authorities are intentionally provided with false information, constituting a customs infringement for which the sanction may vary between an amount of 30% of the goods' value and a fine of up to € 45,500.

What does it mean for you?

The proposal may result in different classification of customs infringements and/or sanctions that are higher or lower than those currently set by the Member States' national legislation. Member States that now impose relatively low sanctions or have a limited number of customs infringements listed in their current legislation may have to adjust their legislation to a higher standard. This increases the importance of compliance for companies operating in these Member States. In addition, those companies may need to re-evaluate their (internal) procedures.

What to do?

Currently, the proposal is still under discussion. It is therefore presently not certain if and when the proposal will be approved. Considering the potential impact that it may have on business, Deloitte's Customs team will monitor the progress and keep you updated on any new developments that may occur.

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