CLIENT ALERTS & INSIGHTS

Tariff Refund Q&A: What to Do Now and What Legal Issues Lie Ahead

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Authors: Jonathan R. Todd, Megan K. MacCallum

Featured Industries: Transportation & Logistics, International Trade & Supply Chain Management

Key Takeaways

- U.S. Customs and Border Protection will launch the new CAPE administrative process on April 20, 2026, allowing importers of record to claim refunds for IEEPA-based tariffs deemed unlawful by the Supreme Court. Refunds are expected within 60-90 days of filing, but only importers of record are eligible.
- With an estimated $170 billion at stake and over 300,000 importers affected, the process carries significant financial and legal implications. Unresolved issues remain for finally liquidated entries and litigation risk for potential disputes arise between importers, customers and suppliers.
- Importers can prepare by registering for ACH payments in ACE, coordinating with customs brokers, and considering filing protests before the deadline on liquidated entries. Early engagement and careful documentation are key, as the process is complex and evolving. Legal counsel may be needed to navigate disputes or maximize recovery.

The administrative process for obtaining IEEPA tariff refunds from U.S. Customs and Border Protection will soon go live. This brings to a close the wide speculation about whether an administrative process will be available to importers who paid IEEPA-based tariffs that the U.S. Supreme Court determined were unlawful. Many questions still remain across the 300,000 individual importers of record who paid the estimated $170 billion dollars in tariffs. This client alert summarizes top action items and clear best practices right now as well as additional challenges on the road ahead.

Q: What is the CAPE administrative process for duty refund claims and how does it work?

A: The new administrative process for refund claims is known as Consolidated Administration and Processing of Entries ("CAPE"). It will go live through the Automated Commercial Environment ("ACE") platform on Monday, April 20, 2026. Importers of record who paid the IEEPA duties and their customs brokers who handled those filings are eligible to submit declarations requesting refund. Customers who may have indirectly paid duties to their suppliers are not eligible. CBP anticipates that release of funds will occur within 60-90 days of the filing unless "compliance concerns" require further review.

To submit a claim, a single declaration must be filed showing all entries on which IEEPA duties were paid. Additional technical instructions are available on the U.S. Customs and Border Protection ("CBP") page dedicated to the CAPE process HERE. Multiple declarations may be submitted if the volume of entries exceeds 9,999. CBP has committed to processing filings in phases. The first phase will involve unliquidated entries and also entries within 80 days of their liquidation date, although there are other exceptions. CBP will validate the data submitted on those entries and process the refunds.

Q: What other immediate action items are also required or best practice for tariff refunds?

A: All importers seeking refund must register in ACE for electronic ACH payments. This is a new program launched in first quarter for the paperless payment of all refunds from CBP as part of this administrative process or any other. An importer who is not registered for ACH will be unable to receive refunds. Most importers are working with their customs brokers to accomplish this requirement. However, many are opening their own ACE accounts where they have not held those in the past so that they can handle both ACH registration and CAPE declarations internally.

Another best practice that has emerged is to file protests before the protest deadline expires on liquidated entries. The Court of International Trade ("CIT") has noted that the question of refund recovery on "finally liquidated" entries remains unresolved. CBP may or may not pay refunds where due on finally liquidated entries through the CAPE process. Filing protest within the 180-day window after initial liquidation can delay final liquidation and possibly preserve the claim. One recent development on this question is that CBP will not handle protested entries during Phase 1 of the CAPE process. If an importer has filed protest on an entry that was liquidated within 80 days then CBP is advising that withdrawal of the protest is necessary for processing.

Q: Are lawsuits required for recovery of IEEPA duties?

A: If the new CAPE administrative process is successful in achieving recovery for all IEEPA-based duties, then no, litigation will not be required. Right now, only around 3,000 lawsuits have been filed for duty recovery out of the approximately 300,000 distinct importers of record who hold claims. Some importers we represent have determined to do so out of an abundance of caution. Also, some importers we represent have decided to sell their claims recovery to the many financial firms offering immediate payment at a discount under participation agreements. Those financial arrangements often require filing of suit. Ultimately, the question of whether litigation is necessary will likely depend on importers' experience in navigating the CAPE process and in CBP's determination on whether or not it will pay refunds on finally liquidated entries.

Q: Do customers and suppliers have any right to refunds or litigation claims against importers?

A: Only importers of record are entitled to refunds under the current administrative process. Over the course of 2025 it was often the case that importers passed the duty burden on to customers or negotiated favorable pricing with suppliers. Some clients were in a position to both pay higher prices for imported goods and require higher prices from customers. Right now, resolution of these questions are primarily occurring through commercial discussions and negotiations. Those arrangements often result in simple terms and agreements between the parties on how any recovery will be handled. In some cases those terms are being presented in new purchase agreements to address historic IEEPA duties as well as future Section 122 and 301 refunds (if those become available). Still, litigation is emerging for some particularly in the B2C context. The dominant cause of action has been unjust enrichment under common law. Other causes of action may be alleged depending on the facts including contract breach claims. The strength of these cases remains to be seen, but we are providing risk assessments to clients and advising on the path forward.

Q: What other legal issues are emerging as the duty refund process develops?

A: We are seeing a steady increase of interest in the financing of refund claims (discussed above) for clients looking to speed up the receipt of sizeable recovery. The prospect for significant recovery is also emerging as a point of negotiation in M&A activity. Whether buyers or sellers are entitled to duty refunds, and the impact if any on financial consideration, is a meaningful deal term for some clients where the magnitude of duties paid was high. If litigation risk grows then potential exposure for any recovery will also gain in relevance during deals. Finally, the accounting and tax implications (if any) for meaningful recoveries of duties paid is an important conversation that many clients are having with their advisors.

Benesch attorneys are available to counsel through the options available right now for tariff recovery, managing supplier and customer demands or litigation risk, as well as ongoing compliance with new tariff programs and government enforcement risk. Our client alerts on tariffs and related supply chain issues are available for you to receive by signing up HERE.

Jonathan R. Todd is a Partner and Vice Chair of the Transportation and Logistics Practice Group at Benesch. He can be reached at 216.363.4658 or jtodd@beneschlaw.com.

Megan K. MacCallum is a Managing Associate with Benesch. She can be reached at 216.363.4185 or at mmaccallum@beneschlaw.com.