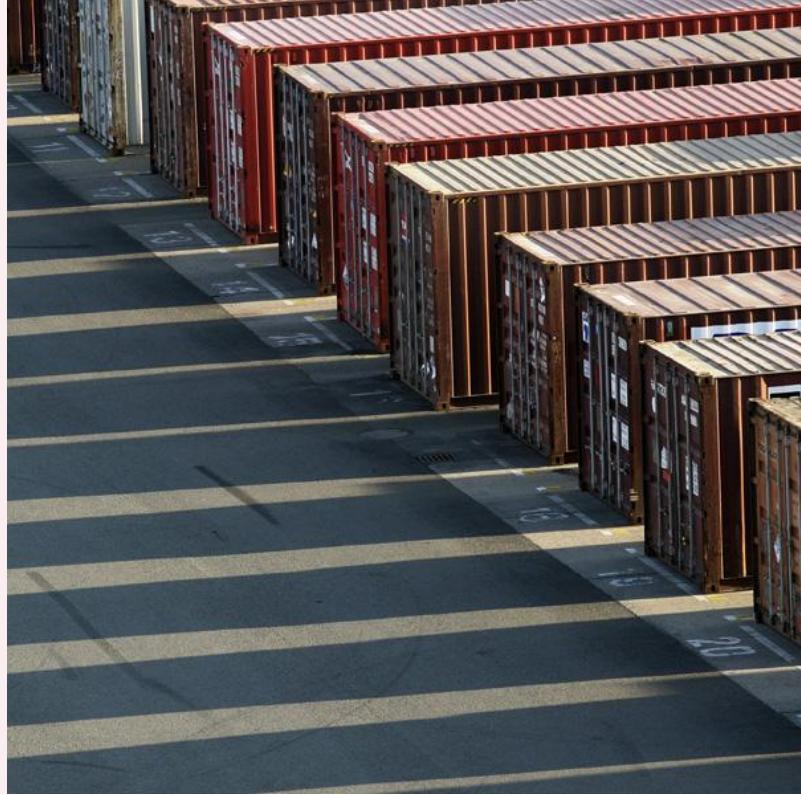


Don't wait for the Supreme Court to rule on tariffs: Enforcement is happening now

06 February 2026



The U.S. Department of Justice (DOJ) is starting 2026 with an aggressive approach to tariff evasion enforcement, following a [record year](#) of False Claims Act (FCA) recoveries and a significant increase in trade fraud investigations. 2025 ended with a string of high-profile FCA resolutions, including a settlement for US\$54 million, underscoring that tariff evasion is an increasingly prime target for both civil and criminal enforcement.

Whatever the Supreme Court's decision in the current tariff case, tariffs are here to stay, and enforcement will remain aggressive.

Businesses must remain vigilant in ensuring their compliance frameworks are up to the challenge.

The Enforcement State of Play

The Trump Administration has taken several steps to operationalize its [priority](#) of increased civil and criminal customs fraud enforcement since taking office. In May 2025, DOJ identified tariff evasion as a priority for the Criminal Division in [its memo](#) "Focus, Fairness, and Efficiency in the Fight Against White-Collar Crime." In August 2025, DOJ [launched](#) the Trade Fraud Task Force, facilitating improved coordination between DOJ's Civil and Criminal Divisions and DHS's agencies, including U.S. Customs and Border Protection (CBP), to target "importers and other parties who seek to defraud the United States."

The Task Force has already been active. Recent enforcement actions reflect not only significant civil financial penalties under the FCA, but also criminal investigations and charges against corporate officers, including those with responsibility for compliance oversight. Importers must now guard against not only legacy Customs and Border Protection (CBP) civil enforcement under 19 U.S.C. § 1952 but expanded civil and criminal DOJ enforcement theories.

On January 16, 2026, DOJ announced that recoveries under the FCA, 31 U.S.C. § 3729(a) *et seq.*, exceeded a record US\$6.8 billion for FY2025, [highlighting](#) that tariff fraud enforcement was a key contributor to that metric and its commitment to targeting actors that misrepresent the type

of goods imported or an item's country of origin or disguise items to evade duties.

Weeks prior, on December 18, 2025, the DOJ announced significant tariff-related resolutions, including a US\$54.4 million corporate civil resolution with a North Carolina-based distributor of tungsten carbide products. DOJ alleged that the distributor transshipped Chinese-origin goods through Taiwan to avoid paying certain China tariffs and misclassified the goods to lower the duties further. The resolution, which stemmed from a private *qui tam* complaint, filed by a whistleblower and purported industry participant, was the [largest ever](#) customs fraud resolution under the FCA. Announcing the resolution, Assistant Attorney General Brett Shumate of the Civil Division emphasized that the DOJ would continue to "zealously pursue those who seek an unfair advantage in U.S. markets by evading customs duties." Additionally, on December 18, the DOJ announced that it had resolved a criminal trade fraud investigation of a leading global plastic resin distributor pursuant to the Criminal Division's Corporate Enforcement and Voluntary Self-Disclosure Policy. While the DOJ declined corporate prosecution against the company (agreeing to civil settlement), it [did charge](#) the former chief operating officer of the company by criminal information for conspiracy to smuggle goods into the United States, demonstrating the legal risk that corporate officers individually face in overseeing customs compliance systems. These actions illustrate the increasing use of the FCA as a tariff evasion enforcement mechanism, including by private whistleblowers motivated by financial recovery who can bring civil *qui tam* actions on the government's behalf. Qui tam suits expose companies to treble damages for customs related false statements, including duty underpayments, misclassification, and false country-of-origin declarations.

Further, the DOJ can pursue various criminal statutes for customs evasion, including, but not limited to:

- Criminal enforcement under FCA, 18 U.S.C. § 287
- Enforcement under IEEPA, 50 U.S.C. §§ 1701-05
- Smuggling under 18 U.S.C. § 545
- Entry by false statement under 18 U.S.C. § 542
- Entry by false classification under 18 U.S.C. § 541
- General false statement under 18 U.S.C. § 10001

The *Learning Resources* Decision: Enforcement Risk Will Persist

The forthcoming Supreme Court decision in *Learning Resources, Inc., et al., v. Trump* stands to redefine and potentially invalidate, wholly or in part, the President's authority to impose tariffs under IEEPA to address declared national emergencies. Observers expect a decision to be issued in the coming weeks, and at the latest before the end of the Court's current session in June.

However, two risks remain regardless of the decision of the Court. First, conduct that led to the evasion of tariffs, even those that are invalidated, can still constitute violations of other laws. For example, a false statement on a customs form may violate the entry by false statement statute, which prohibits false statements regardless of whether the government is deprived of lawful duties. Second, the President's IEEPA-based tariffs are

only one tranche of a larger constellation of duties imposed by the current and prior administrations, including those brought under [Section 301](#) of the Trade Act of 1974 and [Section 232](#) of the Trade Expansion Act of 1962. The Administration has already signaled that it will maintain its sweeping tariff strategy, no matter how the case is decided; U.S. Trade Representative Greer has stated the Administration is primed to "immediately" impose tariffs under different statutory authorities. The same aggressive enforcement posture will apply to any new tariffs imposed under other legal frameworks.

The Trump Administration has, and will continue to use, a variety of tariff authorities to achieve its foreign policy and economic objectives. As a result, enforcement-related risks will persist regardless of the outcome in the closely watched *Learning Resources* case.

Customs Compliance is Key

As the DOJ continues to marshal enforcement resources, importers will need to critically assess their compliance systems at an enterprise level to mitigate risk and navigate new tariffs as they come online.

Key compliance considerations for managing enforcement risk include maintaining a technology-enabled compliance program that can adapt to frequent tariff changes. Companies should prioritize accuracy in their customs documentation, especially concerning applicability of relevant tariffs, country-of-origin determinations, product classifications, and reliance on any exemptions. Compliance teams should also ensure ACE Secure Data Portal enrollment and up-to-date banking information. Beginning February 6, 2026, CBP [will process](#) all duty refunds exclusively through the digital ACE portal, including for any refunds that may become payable should the Supreme Court invalidate the IEEPA tariffs in *Learning Resources*.

Companies should also prioritize ongoing staff training, conduct regular internal audits to identify vulnerabilities, and implement strong supply chain due diligence and reporting mechanisms to mitigate enforcement risks. These measures, embedded within a robust compliance framework, are critical to proactively managing risks amid a dynamic tariff enforcement landscape.



Joshua Berman
Partner, Washington DC

joshua.berman@cliffordchance.com
+1 202 912 5174



Janet Whittaker
Senior Counsel, Washington DC

janet.whittaker@cliffordchance.com
+1 202 912 5444



Steve Nickelsburg
Partner, Washington DC

steve.nickelsburg@cliffordchance.com
+1 202 912 5108



Nicolas Friedlich
Associate, Washington DC

nicolas.friedlich@cliffordchance.com
+1 202 912 5197



Jacquelyn Desch
Associate, Washington DC

jacquelyn.desch@cliffordchance.com
+1 202 912 5901



Glen Donath
Partner, Washington DC

glen.donath@cliffordchance.com
+1 202 912 5138



Vasu Muthyala
Partner, Singapore

vasu.muthyala@cliffordchance.com
+65 6661 2051



Sanaz Payandeh
Associate, New York

sanaz.payandeh@cliffordchance.com
+1 212 878 8076

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

cliffordchance.com

Clifford Chance, 2001 K Street NW, Washington, DC 20006-1001, USA

© Clifford Chance 2026

Clifford Chance US LLP

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to nomorecontact@cliffordchance.com or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ

Abu Dhabi • Amsterdam • Barcelona • Beijing • Brussels • Bucharest** • Casablanca • Delhi • Dubai • Düsseldorf • Frankfurt • Hong Kong • Houston • Istanbul • London • Luxembourg • Madrid • Milan • Munich • Newcastle • New York • Paris • Perth • Prague** • Riyadh* • Rome • São Paulo • Shanghai • Singapore • Sydney • Tokyo • Warsaw • Washington, D.C.

*AS&H Clifford Chance, a joint venture entered into by Clifford Chance LLP.

**Clifford Chance has entered into association agreements with Clifford Chance Prague Association SRO in Prague and Clifford Chance Badea SPRL in Bucharest.

Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.