



世民律師事務所 SHIMIN LAW OFFICES

NEWSLETTER

The Promulgation of the *Interim Measures on Enterprise Credit Management for Customs of the People's Republic of China*

In order to promote the establishment of the social credit system and the credit management system for the enterprise's import and export activities and to ensure trade safety and facility, the Interim Measures on Enterprise Credit Management of Customs of the People's Republic of China (the "Interim Measures") was promulgated by the General Administration of Customs after examination and approval by the General Administration of Customs' Faculty Meeting and will become effective from December 1, 2014. At the same time, the Categorization Management Measures of the Enterprises of the Customs of the People Republic of China promulgated on November 15, 2010 will be annulled.

The newly-promulgated Interim Measures will classify enterprises into certified enterprises, general credit enterprises and credit-losing enterprises. The Standard for Certification of Enterprises of the Customs that is applicable to certified enterprises, however, has not been promulgated yet. According to Article 9 of the Interim Measures, the Standard for Certification of Enterprises of the Customs makes a difference between the standard for general certified enterprises and that for advanced certified enterprises. Such standards will be drafted and promulgated by the General Administration of Customs.

For ease of comprehension by the readers, we will introduce and mark the following issues in the Interim Measures as important in the form of Q & A.

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Q1: What information will the Customs collect to be included into the enterprise credit information management system according to the Interim Measures?

For purpose of building an enterprise credit information management system, the Customs shall collect the following information that can reflect the credit situation of the enterprise's import and export activities:

Registered Information of the Enterprise with the Customs

Business information regarding the enterprise's import and export activities

Information mutually-recognized by AEO (Authorized Economic Operator) ¹

Information registered with other administrative authorities of the enterprise

Other information relevant to the import and export activities of the enterprise

Q2: What information of an enterprise will the Customs make public? If the publicized information is incorrect, how can an enterprise remedy such mistake?

According to Article 7 of the Interim Measures, the Customs shall publicize the following information of an enterprise without disclosing any of the State secrets, trade secrets and personal privacy information:

Registered Information of the Enterprise with the Customs

The Customs' determination on the credit situation of an enterprise

Information on administrative penalties given to the enterprise

Other enterprise information that shall be publicized

Article 8 of the Interim Measures provides that any individual, enterprise or other organization can raise an objection accompanied by relevant certification materials to the Customs if he or she thinks that the information publicized by the Customs is not correct. The Customs shall re-examine such information within 20 days from the date of receipt of the objection. The Customs shall sustain the objection if such objection stands up with reasons. According to this Article, individuals, enterprises or other organization can raise an objection to the Customs regarding the information publicized by the Customs. This means that enterprises or other organizations may raise objection to not only incorrect information of their own enterprise, but also incorrect information of other enterprises.

¹ According to Article 22 of the *Interim Measures*, AEO (also known as "certified operator") refers to enterprises that participate in international exchange of goods in any method and in accordance with the provisions of this *Interim Measures* and the *Standard for Certification of Enterprises of the Customs* and with the certification of the Customs.

Q3: What are the certification standards, the management principles and the measures of the certified enterprises, and the procedures for certification?

	Certification Standards	Management Principles and Measures	Procedures for Certification
Certified Enterprises	<p>Certified Enterprises are the AEOs certified by the China Customs. The China Customs carries out a mutual recognition of AEOs with the Customs of other countries or regions and gives AEO enterprises relevant facilities for Customs clearance. The Certified Enterprises shall comply with the Standard for Certification of Enterprises of the Customs. The Standard for Certification of Enterprises of the Customs will make a difference between the standard for general certified enterprises and that for advanced certified enterprises. Such standards will be drafted and promulgated by the General Administration of Customs.</p>	<p>General Certified Enterprises</p> <p>Relatively low examination rate of import and export goods Simplified procedures for the examination of import and export cargo papers Prioritized Customs clearance Other management principles and measures provided by the General Administration of Customs.</p> <p>Advanced certified enterprises</p> <p>In addition to the management principles and measures that apply to the general certified enterprises, the following management measures shall also apply to the advanced certified enterprises.</p> <p>Release before the determination on the classification of the import and export good, price valuation by the Customs and country of origin, or other Customs procedures Designation of a coordinator for the enterprise by the Customs Free of deposit account for enterprises engaging in processing trade Facility Customs clearance measures provided by Customs of countries and regions where there is mutual recognitions of AEOs</p>	<p>The Customs shall give its conclusion within 90 days from the receipt of the enterprise's written application for certification. Under special circumstances, the Customs may extend such period for an additional 30 days.</p> <p>The Customs shall re-certify the advanced certified enterprises every 3 years and shall re-certify the general certified enterprise from time to time.</p> <p>Enterprises not successfully certified as a general certified enterprise shall not apply for such certification again within 1 year; enterprises not successfully</p>

			certified as an advanced certified enterprise but conforming to the certification requirements as a general certified enterprise, shall be managed by the standard for general certified enterprises.
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Q4: Under what circumstances will an enterprise be regarded as a “credit losing enterprise”?

Engaging in smuggling crime or smuggling activities;

The number of times a non-customs-declaration enterprise violates the supervision provisions of the Customs exceeds 1 over 1,000 of the sum of the Customs declaration sheets, the record-filing lists of import and export and other documentation, or the accrued amount of the administrative penalties from the Customs exceeds RMB 1,000,000;

The number of times a Customs declaration enterprise violates the supervision provisions of the Customs exceeds 5 over 10,000 of the sum of the Customs declaration sheets and the record-filing lists of import and export, or the accrued amount of the administrative penalties from the Customs exceeds RMB 100,000;

Default on payment of tariffs and relevant fines, default on forfeiture of properties;

Last season’s declaration error rate is higher than the average declaration error rate nationwide then;

Confirmation that the enterprise’s registered information is untruthful after on-site investigation and also losing contact with the enterprise;

Being legitimately suspended from business operation by the Customs;

Not cooperating with the Customs for investigation when being suspected of smuggling or violating the supervision rules;

Obtaining improper benefits untruthfully using the name of the Customs or other enterprises;

Engaging in fraud, misrepresentation or forging activities on the enterprise credit information; and

Other circumstances that the Customs may regard an enterprise as a credit-losing enterprise.

Q5: What are the management principles and measures of the Customs towards credit-losing enterprises?

The following management principles and measures apply to credit-losing enterprises:

Relatively higher examination rate of import and export goods;

Stricter examination of papers for import and export goods;

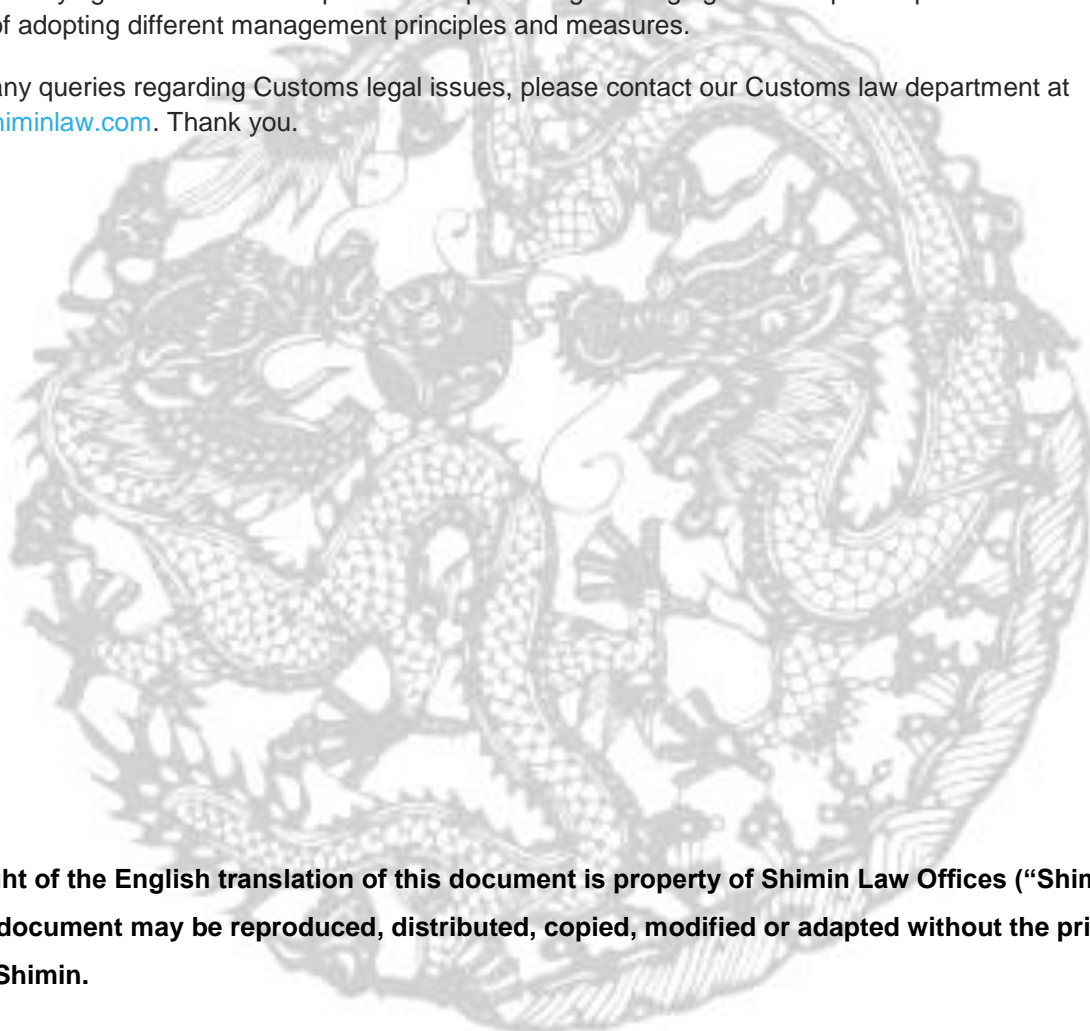
Stricter supervision on processing trade and other areas; and

Other management principles and measures provided by the general administration of the Customs.

According to the general requirements put forward by the 2014-2020 Outline for the Establishment of the Social Credit System and the administrative needs of the Customs, the Customs will make the reform of the enterprise credit management scheme and the promotion of the establishment of the Customs credit system the two most important work in 2014.

The promulgation of the Interim Measures will help to create a fair commercial competition environment and speed up the establishment of the social credit system. Meanwhile, the mindset of relevant administrative authorities is also changing from relying on administrative penalties to promoting and urging the enterprises' proactive abidance by the law by way of adopting different management principles and measures.

If you have any queries regarding Customs legal issues, please contact our Customs law department at customs@shiminlaw.com. Thank you.



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