Measures of the Customs of the People’s Republic of China for the Administration of Enterprise Credit (GACC Order No. 237, 2018)

Dan Young Business Consultancy — www.danyoungcpa.com

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Adopted at the Executive Meeting of the General Administration of Customs on January 29, 2018; promulgated by GACC Order No. 237 on March 3, 2018; effective May 1, 2018.

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Chapter I — General Provisions

Article 1 — For the purposes of advancing the construction of the social credit system, establishing an enterprise import and export credit administration system, and promoting trade security and facilitation, these Measures are formulated in accordance with the Customs Law of the People's Republic of China, the Regulations of the People's Republic of China on Customs Audits, the Interim Regulations on the Disclosure of Enterprise Information and other relevant laws and administrative regulations.

Article 2 — These Measures apply to the collection and disclosure of credit information of enterprises registered or filed with the Customs and of relevant enterprise personnel, and to the determination and administration of enterprise credit standing.

Article 3 — The Customs shall, based on enterprise credit standing, determine enterprises as certified enterprises, enterprises with ordinary credit and enterprises that have lost credit standing. Certified enterprises are classified into enterprises with advanced certification and enterprises with ordinary certification.

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The Customs shall apply corresponding administrative measures to the above enterprises respectively in accordance with the principles of facilitating those that are honest, lawful and compliant, and disciplining those that have lost credit standing and violated laws.

Article 4 — The Customs shall, in accordance with the relevant requirements of social credit system construction, implement joint incentives for the trustworthy and joint disciplinary action against the untrustworthy with the relevant departments of the State, and promote information exchange, mutual recognition of supervision and mutual assistance in law enforcement (hereinafter the "Three Mutuals").

Article 5 — Certified enterprises are Authorized Economic Operators (AEOs) of China Customs. China Customs shall, in accordance with relevant international treaties and agreements and these Measures, carry out AEO mutual recognition cooperation with the customs authorities of other countries or regions, and grant recognized enterprises relevant facilitation measures.

China Customs shall, based on the needs of international cooperation, advance customs cooperation under the "Three Mutuals."

Chapter II — Collection and Disclosure of Credit Information

Article 6 — The Customs may collect the following information capable of reflecting enterprise credit standing:

(1) enterprise registration or filing information and basic information of relevant enterprise personnel;

(2) enterprise import and export and import/export-related business information;

(3) enterprise administrative licensing information;

(4) administrative penalty and criminal penalty information of the enterprise and its relevant personnel;

(5) information on joint incentives and joint disciplinary action implemented by the Customs with the relevant departments of the State;

(6) AEO mutual recognition information; and

(7) other relevant information capable of reflecting enterprise credit standing.

Article 7 — The Customs shall establish an enterprise credit information administration system and implement credit administration of the relevant enterprises. Enterprises shall submit the Annual Enterprise Credit Information Report to the Customs through the enterprise credit information administration system between January 1 and June 30 of each year.

An enterprise registered or filed in the current year shall submit the Annual Enterprise Credit Information Report to the Customs starting from the following year.

Article 8 — Where an enterprise falls under any of the following circumstances, the Customs shall include it in the list of enterprises with abnormal credit information:

(1) failing to submit the Annual Enterprise Credit Information Report to the Customs in accordance with the provisions; or

(2) upon on-site inspection, its domicile or business premises registered with the Customs cannot be located, and the enterprise cannot be reached through the contact information registered with the Customs.

During the period of inclusion in the list of enterprises with abnormal credit information, the enterprise's credit rating shall not be adjusted upward.

After the circumstances specified in paragraph 1 of this Article are eliminated, the Customs shall remove the relevant enterprise from the list of enterprises with abnormal credit information.

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Article 9 — The Customs shall, on the premise of protecting State secrets, trade secrets and personal privacy, disclose the following credit information:

(1) enterprise registration or filing information with the Customs;

(2) the Customs' determination results on enterprise credit standing;

(3) the Customs' administrative licensing information of the enterprise;

(4) the Customs' administrative penalty information of the enterprise;

(5) information on joint incentives and joint disciplinary action implemented by the Customs with the relevant departments of the State;

(6) the list of enterprises with abnormal credit information; and

(7) other information that shall be disclosed in accordance with law.

The disclosure period for the Customs' administrative penalty information of an enterprise is 5 years.

The Customs shall publish the inquiry methods for the above credit information.

Article 10 — Where a natural person, legal person or unincorporated organization considers that the credit information disclosed by the Customs is inaccurate, it may raise an objection to the Customs and provide relevant materials or certification materials.

The Customs shall conduct re-examination within 20 days from the date of receipt of the objection application. Where the grounds of the objection raised by the natural person, legal person or unincorporated organization are valid, the Customs shall adopt them.

Chapter III — Standards and Procedures for Determining Enterprise Credit Standing

Article 11 — Certified enterprises shall comply with the Customs Certified Enterprise Standards formulated by the General Administration of Customs.

The Customs Certified Enterprise Standards are classified into the standards for enterprises with advanced certification and the standards for enterprises with ordinary certification.

Article 12 — Where an enterprise falls under any of the following circumstances, the Customs shall determine it as an enterprise that has lost credit standing:

(1) it has committed smuggling crimes or smuggling acts;

(2) for a non-customs-declaration enterprise, the number of violations of customs supervision provisions within one year exceeds one-thousandth of the total number of relevant documents such as customs declaration forms, inbound and outbound filing lists and inbound and outbound transport vehicle manifests of the preceding year, and the cumulative amount of customs administrative penalties exceeds RMB 1 million; for a customs-declaration enterprise, the number of violations of customs supervision provisions within one year exceeds five ten-thousandths of the total number of relevant documents such as customs declaration forms, inbound and outbound filing lists and inbound and outbound transport vehicle manifests of the preceding year, and the cumulative amount of customs administrative penalties exceeds RMB 300,000;

(3) it is in arrears with payable taxes or with payable fines and confiscated amounts;

(4) it is subject to the circumstance specified in item (2) of paragraph 1 of Article 8 of these Measures and has been included in the list of enterprises with abnormal credit information for more than 90 days;

(5) it obtains improper benefits by falsely using the name of the Customs or another enterprise;

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(6) it conceals true circumstances from the Customs or provides false information, affecting enterprise credit administration;

(7) it resists or obstructs customs officers in performing their duties in accordance with law, and the circumstances are serious;

(8) it has been included in the national list of joint disciplinary action against the untrustworthy due to a criminal offense; or

(9) other circumstances prescribed by the General Administration of Customs.

Where a non-customs-declaration enterprise or customs-declaration enterprise registered or filed in the current year has, within one year, cumulative customs administrative penalty amounts for violations of customs supervision provisions exceeding RMB 1 million or RMB 300,000 respectively, the Customs shall determine it as an enterprise that has lost credit standing.

Article 13 — Where an enterprise falls under any of the following circumstances, the Customs shall determine it as an enterprise with ordinary credit:

(1) it is an enterprise registered or filed with the Customs for the first time;

(2) a certified enterprise no longer complies with the Customs Certified Enterprise Standards and none of the circumstances specified in Article 12 of these Measures has occurred; or

(3) for two consecutive years from the date of being determined by the Customs as an enterprise that has lost credit standing, none of the circumstances specified in Article 12 of these Measures has occurred.

Article 14 — An enterprise applying to become a certified enterprise shall submit the Application for Application of Certified Enterprise Administration to the Customs. The Customs shall certify the enterprise in accordance with the Customs Certified Enterprise Standards.

Article 15 — The Customs shall, within 90 days from the date of receipt of the Application for Application of Certified Enterprise Administration, make a decision on whether the enterprise's credit standing complies with the Customs Certified Enterprise Standards. Under special circumstances, the customs certification period may be extended by 30 days.

Article 16 — For an enterprise that passes certification, the Customs shall issue a Certified Enterprise Certificate; for an enterprise that does not pass certification, the Customs shall issue a Decision on Non-Application of Certified Enterprise Administration. The Certified Enterprise Certificate and the Decision on Non-Application of Certified Enterprise Administration shall be served on the applicant and shall take effect from the date of service.

Where an enterprise voluntarily withdraws its certification application, it shall be deemed not to have passed certification.

An enterprise that has not passed certification shall not apply to the Customs for certification again within one year.

Article 17 — During the certification application period, where an enterprise is filed for investigation or inquiry on suspicion of smuggling, the Customs shall terminate the certification. Where an enterprise is filed for investigation on suspicion of violating customs supervision provisions, the Customs may terminate the certification.

During the certification application period, where an enterprise is subject to customs audit or verification, the Customs may suspend the certification. Where the suspension period exceeds 3 months, the Customs shall terminate the certification.

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Article 18 — The Customs shall re-certify enterprises with advanced certification once every 3 years and re-certify enterprises with ordinary certification at irregular intervals.

Before re-certification, the Customs shall notify the enterprise and conduct re-certification with reference to the enterprise certification procedures. For enterprises that do not pass re-certification, the Customs shall issue an Enterprise Credit Rating Determination Decision and adjust the enterprise credit rating. The Enterprise Credit Rating Determination Decision shall be served on the enterprise and shall take effect from the date of service.

During the re-certification period, where an enterprise applies to renounce certified enterprise administration, it shall be deemed not to have passed certification.

Article 19 — A certified enterprise that is adjusted by the Customs to ordinary-credit-enterprise administration shall not apply to become a certified enterprise within one year. A certified enterprise that is adjusted by the Customs to lost-credit-enterprise administration shall not become an enterprise with ordinary credit within 2 years.

An enterprise with advanced certification that is adjusted by the Customs to ordinary-certification-enterprise administration shall not apply to become an enterprise with advanced certification within one year.

Article 20 — Where, for two consecutive years from the date of being determined by the Customs as an enterprise that has lost credit standing, none of the circumstances specified in Article 12 of these Measures has occurred, the Customs shall adjust the enterprise that has lost credit standing to an enterprise with ordinary credit.

An enterprise that has lost credit standing may apply to the Customs to become a certified enterprise after one year from its adjustment to an enterprise with ordinary credit.

Article 21 — Where an enterprise undergoes division or merger, the Customs shall adjust its determination results on enterprise credit standing in accordance with the following principles:

(1) where an enterprise undergoes surviving division, and the surviving enterprise after division inherits the main rights and obligations of the enterprise before division, the Customs' determination results on the credit standing of the enterprise before division shall apply, and the other divided enterprises shall be deemed as enterprises registered or filed for the first time;

(2) where an enterprise undergoes dissolution division, the divided enterprises shall be deemed as enterprises registered or filed for the first time;

(3) where an enterprise undergoes merger by absorption, the Customs' determination results on the credit standing of the surviving enterprise after merger shall apply to the merged enterprise; and

(4) where an enterprise undergoes merger by new establishment, the merged enterprise shall be deemed as an enterprise registered or filed for the first time.

Article 22 — The Customs or the enterprise may commission a social intermediary institution to issue professional conclusions on issues related to enterprise certification.

Chapter IV — Administrative Measures

Article 23 — Enterprises with ordinary certification shall be subject to the following administrative measures:

(1) the average inspection rate of imported and exported goods is below 50% of the average inspection rate of enterprises with ordinary credit;

(2) priority in handling customs clearance formalities for imported and exported goods;

(3) the amount of guarantee collected by the Customs may be lower than the total amount of taxes it may bear or the amount prescribed by the General Administration of Customs; and

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(4) other administrative measures prescribed by the General Administration of Customs.

Article 24 — In addition to the administrative measures applicable to enterprises with ordinary certification, enterprises with advanced certification shall be subject to the following administrative measures:

(1) the average inspection rate of imported and exported goods is below 20% of the average inspection rate of enterprises with ordinary credit;

(2) they may apply to the Customs for exemption from guarantees;

(3) the frequency of customs audits and verifications of the enterprise is reduced;

(4) they may declare to the Customs before the export goods arrive at the customs supervision area;

(5) the Customs assigns a coordinator for the enterprise;

(6) customs clearance facilitation measures of AEO mutual recognition countries or regions;

(7) joint incentive measures for the trustworthy implemented by the relevant departments of the State;

(8) priority customs clearance after the resumption of international trade interrupted due to force majeure; and

(9) other administrative measures prescribed by the General Administration of Customs.

Article 25 — Enterprises that have lost credit standing shall be subject to the following administrative measures:

(1) the average inspection rate of imported and exported goods is above 80%;

(2) no exemption from expenses such as hoisting, relocation and warehousing for enterprises with no problems found in inspection;

(3) the consolidated tax collection system does not apply;

(4) except under special circumstances, the measures of sample retention, image retention and release do not apply;

(5) enterprises engaged in processing trade business shall provide full guarantees;

(6) the frequency of customs audits and verifications of the enterprise is increased;

(7) joint disciplinary measures against the untrustworthy implemented by the relevant departments of the State; and

(8) other administrative measures prescribed by the General Administration of Customs.

Article 26 — The administrative measures applicable to enterprises with advanced certification are superior to those applicable to enterprises with ordinary certification.

Where the administrative measures applicable are in conflict due to inconsistent determination results on enterprise credit standing, the Customs shall implement administration in accordance with the lower principle.

Article 27 — Where a certified enterprise is filed for investigation or inquiry on suspicion of smuggling, the Customs shall suspend the application of the corresponding administrative measures. Where a certified enterprise is filed for investigation on suspicion of violating customs supervision provisions, the Customs may suspend the application of the corresponding administrative measures. Where the Customs suspends the application of the corresponding administrative measures, administration shall be implemented in accordance with that for enterprises with ordinary credit.

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Article 28 — Where an enterprise is subject to the circumstances of downward adjustment of credit rating specified in these Measures, the Customs shall cease the application of the corresponding administrative measures and implement administration in accordance with the adjusted credit rating.

Chapter V — Supplementary Provisions

Article 29 — A smuggling crime serving as the basis for determining enterprise credit standing shall be determined based on the effective time of the relevant legal documents of the judicial organs.

A smuggling act or an act violating customs supervision provisions serving as the basis for determining enterprise credit standing shall be determined based on the time of issuance of the customs administrative penalty decision.

An act voluntarily disclosed by an enterprise and punished by the Customs with a warning or a fine of not more than RMB 50,000 shall not serve as a record for determining enterprise credit standing.

Article 30 — For the purposes of these Measures, the following terms have the following meanings:

"Relevant enterprise personnel" means management personnel such as the legal representative, principal responsible persons, financial responsible persons and customs affairs responsible persons of the enterprise.

"Penalty amount" means the sum of fines, confiscated illegal gains, or the value of confiscated goods and articles imposed by the Customs for violations of customs supervision provisions.

"In arrears with payable taxes" means that the sum of import and export tariffs and customs withholding taxes that should be paid on imported and exported goods and articles remains unpaid for more than 3 months from the expiry of the tax payment period, including taxes that the Customs has determined, in addition to imposing penalties, still need to be paid after determining a violation of customs supervision provisions.

"In arrears with payable fines and confiscated amounts" means that customs fines, confiscated illegal gains and the equivalent value of recovered smuggled goods and articles remain unpaid for more than 6 months from the expiry of the period specified in the customs administrative penalty decision.

"Day" means a natural day.

"One year" means 12 consecutive months.

"Year" means one calendar year.

"Above" and "below" both include the stated number.

"Authorized Economic Operator (AEO)" means an enterprise that participates in the international circulation of goods in any manner, complies with the conditions specified in these Measures and the Customs Certified Enterprise Standards, and has passed customs certification.

Article 31 — These Measures shall be interpreted by the General Administration of Customs.

Article 32 — These Measures shall take effect on May 1, 2018. The Interim Measures of the People's Republic of China on Customs Enterprise Credit Administration (GACC Order No. 225 of October 8, 2014) shall be repealed simultaneously.

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