

With Sandra Liss Friedman Barnes, Richardson & Colburn

Sandra Liss Friedman is a partner at Barnes, Richardson & Colburn, a law firm that specializes in global trade issues. She is president of the Customs & International Trade Bar Association and previously chaired its Customs and Tariff Committee. She is a frequent lecturer on such customs topics as compliance issues, valuation and classification.

Q. How well are most companies prepared for Customs and Border Protection audits of trade regulation compliance?

A. We are seeing a reinvigoration of Customs' trade enforcement activities, a lot more inquiries and audits. But many importers don't understand this. It's not just the moms and pops who don't seem to have gotten the message.

Q. Why are so many companies unprepared?

A. International trade has been expanding so fast. Companies go offshore for their sourcing without setting up the infrastructure and providing the training they need at home to be compliant. All of a sudden, they get a phone call from the regulatory audit division at Customs saying, "We are coming to visit you."

Q. How much time is Customs giving to importers to get their compliance processes in order?

A. Since this summer began, Customs has been getting more aggressive. They give people six to eight months of lead time. They want you to look at your current (trade compliance) processes or create those processes, and they give you enough time to start following those processes. If you don't start working quickly to address these issues, they come down on you very hard.

Q. Are you in big trouble if they find you made major miscalculations years ago?

A. They typically will select transactions within the last three months, but they have the authority to go back three to five years.

Q. Why is Customs suddenly pushing so hard for trade compliance?

A. Obviously, the events of Sept. 11 rattled the American government, and Customs was put on the front end of the war on terror. But Customs is also one of the oldest agencies in the U.S. Before the IRS was created, Customs revenues were the main source of income for the federal government, as they still are in some middle-income countries. This is not the role that Customs plays now, but it is still one of its primary missions. The primary expertise of the people who work at Customs is trade compliance,

not cargo security. It is a constant struggle within Customs about which area should get more resources.

Q. Skeptics argue that the SAFE Port Act makes too many demands on Customs. What's your view?

A. Customs is already inundated with information about cargo, but now Customs will have to collect 10 times more pieces of information about such details as the foreign manufacturer, the delivery address and so forth. And they will have to look at all of this data within 24 hours. That means Customs will have to add resources, and I don't know if they will meet their deadlines.

Q. What preparatory measures do you advise global companies to take?

A. You have to audit your internal controls for such areas as classification and value, and your recordkeeping about country-of-origin regulations. The problem is not about getting everything right but about what processes you have for getting things right. What are your policies and procedures? You need to have people who are dedicated to administering the regulations. You are the one who is ultimately responsible; you can't hand off the responsibility to third parties such as freight forwarders and customs brokers. You can't tell Customs auditors, "My broker does it for me." That is a very inadequate answer if your classifications are wrong or your values are wrong.

Q. What kind of cultural changes will some companies have to make?

A. They need to recognize within their company that they have now become importers, and they have legal obligations. Just like they have an accounting department and a purchasing department, they need to have an import department, which has to work very closely with logistics and receiving. The import department needs to receive and exchange information with other departments in the company. And it needs to have the support of senior management.

Q. Is it fair to say many senior executives don't understand that trade compliance issues have become both more challenging and more vital?

A. Absolutely. Seen from the perspective of senior executives, all of this may seem very boring, but they really do need to have vision.

— Alan M. Field

