



Tax Newsflash

Updates to China AEO system – What you need to know



On 13 September 2021, China's General Administration of Customs (GAC) announced new customs credit management measures for enterprises (GAC Order No. 251, or Order 251) that revise and replace the current rules on the customs credit rating system. The new measures will come into effect on 1 November 2021.

Background

According to the current rules on the customs credit rating system, an eligible enterprise may fall under one of the following four categories based on its customs compliance status:

- Advanced certified enterprises;
- General certified enterprises;
- General credited enterprises; and
- Discredited enterprises.

The "advanced certified enterprises" and "general certified enterprises" (collectively, "certified enterprises") are regarded as the Chinese version of "Authorized Economic Operators (AEOs)" recognized by the World Customs Organization (WCO). The GAC has adopted categorized administration measures so that certified enterprises may enjoy better, expedited government services and less scrutiny from a customs perspective, while discredited enterprises will be subject to strict scrutiny from customs authorities.

It has been more than three years since the rules on the customs credit rating system were revised. Order 251 has been released to refine and improve the

current system to make it more suitable to the new business and regulatory environment. More implementation guidance is expected to be updated and released soon.

Highlight of changes

1. Merger of "general certified enterprises" and "general credited enterprises"

After the new measures come into effect, the two categories under the current rules, "general certified enterprises" and "general credited enterprises," will be merged into one general category under which a vast majority of enterprises would fall. Therefore, only "advanced certified enterprises" will be considered as AEOs under the new measures. For enterprises that currently are rated as "general certified enterprises," they may no longer be able to enjoy certain benefits available for AEOs unless they could be recognized as "advanced certified enterprises" under the new measures.

2. More benefits granted to "advanced certified enterprises"

The new measures continue to offer priority treatment and other beneficial policies to "advanced certified enterprises" in respect of customs-related matters. They also formally introduce two more incentives, including:

- Priority treatment in being recommended to be registered with customs authorities of other jurisdictions for agricultural products and food importation purposes; and
- Lower inspection rate on the origin of export goods, where the rate for advanced certified enterprises could be less than 20% of the average inspection rate for all enterprises.

3. Extension of valid period for "advanced certified enterprises"

The valid period for "advanced certified enterprises" will be extended from three years to five years. Upon the expiration of the valid period, the customs will review the enterprise's status to determine whether to renew its rating as an "advanced certified enterprise" for another five years. In other words, an advanced certified enterprise's status will normally be reviewed every five years.

The extension of the valid period may help reduce the administrative burden for "advanced certified enterprises" in preparation of the materials for customs authorities' review. However, as customs authorities retain the right to perform reviews whenever special cases arise, an "advanced certified enterprise" should make efforts to continuously comply with customs regulations.

4. Introduction of a list of "seriously discredited enterprises"

A discredited enterprise will be further moved to a list of "seriously discredited enterprise" under the new measures in either of the following situations:

- The enterprise is subject to criminal liability for offenses of violating the laws and regulations for the safety of imported and exported food/cosmetics or smuggling solid waste; or
- The enterprise is subject to a customs penalty exceeding RMB 2.5 million as a result of the illegal import of solid waste.

The list will be shared by the customs authorities with other government agencies. Enterprises on the list will be subject to scrutiny not only from customs authorities but also from other government agencies.

5. Introduction of a "credit recovery mechanism"

The current rules allow an enterprise to be removed from the category of "(general) discredited enterprises" only after a two-year period of no violations. The new measures introduce a "credit recovery mechanism" for qualified discredited enterprises, which voluntarily make corrections and remove the negative consequences of violations, so that such enterprises' compliance ratings could be upgraded more quickly. For example, where an enterprise was recognized as a "(general) discredited enterprise" because of its failure to pay customs duties overdue for more than three months, the enterprise (which has voluntarily made corrections) may apply to upgrade the rating after three months ("the recovery period") since it was recognized as a "(general) discredited enterprise." The recovery period could be three months, six months, or a year, depending on the nature of the violations.

Comments

The Chinese customs authorities have been actively promoting the awareness of the customs credit rating system, as well as encouraging qualified businesses to apply for AEO status (i.e. certified enterprises in China). In addition, China has entered into AEO mutual recognition agreements with more than 40 jurisdictions and has been engaged with other trading partners for AEO mutual recognition. An "advanced certified enterprise" may not only enjoy preferential treatment from Chinese customs authorities, but also may receive certain benefits in the jurisdiction that has signed an AEO mutual recognition agreement with China. Businesses are advised to evaluate their current status and continuously improve the efficiency of customs compliance management in order to apply for AEO status. Since more updates to the implementation guidance (notably, the updates to the criteria of "advanced certified enterprises") are expected to be released soon, businesses are also advised to closely monitor future regulatory developments.

How we can assist

- Help businesses establish a comprehensive AEO strategy designed to achieve effective and efficient compliance management;
- Analyse the feasibility of obtaining the AEO status and assess its impact on business processes;
- Analyse your company's eligibility for the AEO status and bridge the gap between actual status and legal standards;
- Assist your company in preparing and filing the AEO application and other required documents;
- Facilitate the communication with customs throughout the AEO application/validation process;
- Establish or enhance trade related internal control system according to the latest requirement, carry out periodical compliance review and take remediation actions to manage the potential exposure; and
- Assess and implement digital solutions to satisfy the criteria of AEO status and compliance management requirement. We offer a suite of digital solution and analytics tools in this area.

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