

**[DOF DEPARTMENT ORDER NO. 011-2014,
February 05, 2014]**

GUIDELINES AND PROCEDURES BY THE DOF-FIU RE: RECORD-KEEPING AND POST-ENTRY AUDIT OF IMPORTERS AND BROKERS

WHEREAS, Section 3515 of the Tariff and Customs Code of the Philippines ("TCCP"), as inserted by Republic Act No. 9135, authorizes the conduct of audit examination, inspection, verification and/or investigation of transaction records of importers and brokers;

WHEREAS, pursuant to the Constitutional mandate for the President to ensure the faithful execution of all laws and the corresponding Constitutional grant of control of all executive departments, bureaus and offices, Executive Order No. 160, Series of 2003, created the Post Entry Audit Group in the Bureau of Customs ("BOC-PEAG") to discharge the functions and responsibilities provided under Section 3515 of the TCCP;

WHEREAS, pursuant to the same mandate and grant of power under Section 17, Article VII of the 1987 Constitution, Executive Order No. 155, Series of 2013, transferred the functions of the BOC-PEAG to the Fiscal Intelligence Unit of the Department of Finance ("DOF-FIU");

WHEREAS, Executive Order No. 292, Series of 1987, otherwise known as the "Administrative Code of 1987" confers on the Secretary of Finance supervision and control over the Bureau of Customs, including the authority to act directly whenever a specific function is entrusted by law or regulation to the Bureau of Customs;

WHEREAS, there is a need to prescribe the guidelines and procedures in the performance by the DOF-FIU of the foregoing functions and responsibilities, for the guidance of the public and the government officials concerned;

NOW, THEREFORE, in consideration of the foregoing premises, the following rules and regulations are hereby promulgated:

PART I. RECORD-KEEPING

Section 1. Obligation to keep records. - All importers are required to keep at their principal place of business, for a period of ten (10) years from the date of filing of the import entry, all the records of their importations and/or books of accounts, business and/or computer systems and all other customs commercial data, in whatever form, including payment records relevant for the verification of the accuracy of the transaction value declared by the importers/customs brokers on the import entry and the documents enumerated in Section 2 of this Department Order.

All customs brokers are also required to keep at their principal place of business, for a period of ten (10) years from the date of importation copies of the importation

records in whatever form covering transactions that they handle, including records enumerated under Section 2(c), paragraphs 1 to 13, of this Department Order.

For purposes of this Department Order, the term "importer" shall include the importer of record/consignee, beneficial owner, agent of the persons effecting the importation in question or any other person or entity who knowingly causes the goods to be imported. The phrase "knowingly causes the goods to be imported" covers, among others, domestic transactions where: 1) the terms and conditions of the importation are controlled by the person placing the order with the importer; or 2) technical data, molds, equipment, other production assistance, material, components, or parts are furnished by the person placing the order with the importer with knowledge that they will be used in the manufacture or production of imported goods.

Section 2. Records to be kept – The following records are required to be kept by importers:

- a. Company or entity structure including the following to the extent that they are relevant for the verification of the accuracy of the transaction value declared on the import entry and necessary for the purpose of collecting the proper duties and taxes on imports, as the case may be:
 - 1) Articles of Incorporation, articles of partnership, registration certificate with the Bureau of Domestic Trade and the like;
 - 2) List of incorporators, stockholders, partners, board of directors, owners;
 - 3) Organizational structure;
 - 4) Management and key personnel involved in the import processing including authorized declarants and their specimen signatures;
 - 5) Capital composition; stock and transfer book;
 - 6) Principals and/or subsidiaries and their capital composition, if applicable;
 - 7) List of exporters/suppliers to which the importer is related pursuant to Section 1 of this Department Order;
- b. Ordering and purchase documentation to the extent that they are relevant for the verification of the accuracy of the transaction value declared on the import entry and necessary for the purpose of collecting the proper duties and taxes on imports, including the following:
 - 1) Sales and other related agreements, in whatever form, including, whenever applicable, those covering distribution, royalty, agency, warranty, terms of payment, and the like;
 - 2) Correspondence or communication relating to the import transaction, in whatever form, including, whenever applicable, purchase orders, vouchers, confirmations, pro-forma invoice, acknowledgement receipts, notices, advisories, and the like;
 - 3) Product description or specifications. Brochures, manual, catalogue, pamphlet, flier, literature, if applicable;
- c. Shipping, importation, exportation, and transportation documentation

including the following to the extent that they are relevant for the verification of the accuracy of the transaction value declared on the import entry and necessary for the purpose of collecting the proper duties and taxes on imports, as the case may be:

- 1) Import and/or export entry;
- 2) Invoice and/or consignment notes;
- 3) Import and export licenses/permits;
- 4) Ocean bill of lading, and/or master air waybill, and/or house air waybill, and/or consolidator bill of lading;
- 5) Shipping instructions, and/or freight forwarders instructions;
- 6) Certificates of Origin, and/or Certificates of Eligibility and/or Certificate of Inspection and/or Loading;
- 7) Freight and insurance contracts;
- 8) Packing Lists;
- 9) Transshipment permits, and/or boatnotes, and/or special permits to transfer;
- 10) Quota Allocation and/or Certificates;
- 11) Customs brokerage agreements, and/or billings, and/or statement of accounts, and/or receipts;
- 12) Receipts for arrastre charges, cargo handling and storage fees,
- 13) Short shipped/bad order reports, if applicable;
- 14) Goods tally records, if applicable;
- 15) Letters of credit, application for letter of credit, bank details;
- 16) Remittance advice;
- 17) Credit card transactions;
- 18) Telegraphic money transfers;
- 19) Offshore monetary transactions; and
- 20) Evidence of payments by any other means, including information detailing non-cash compensation transactions.

d. Manufacturing, stock and resale documentation including the following to the extent that they are relevant for the verification of the accuracy of the transaction value declared on the import entry and necessary for the purpose of collecting the proper duties and taxes on imports:

- 1) Inward goods register/receipts journal;
- 2) Stock register/inventory records;
- 3) Production records;
- 4) Costing records;
- 5) Sales records;

e. The following bank documents, financial statements and other accounting information to the extent that they are relevant for the verification of the accuracy of the transaction value declared on the import entry and necessary for the purpose of collecting the proper duties and taxes on imports:

- 1) Receipts, cashbooks;
 - 2) Schedules of accounts payables and accounts receivables; and
 - 3) Cheque records;
- f. To the extent that they are relevant for the verification of the accuracy of the transaction value declared on the import entry and necessary for the purpose of collecting the proper duties and taxes on imports, and if applicable charts and codes of accounts, ledgers, financial statements, accounting instruction manuals, and systems and program documentation that describes the accounting system used by the importer; and
- g. Whenever applicable, papers, books, registers, discs, films, tapes, sound tracks, and other devices or things in or on which information contained in the records described in paragraphs (a) to (f) of this Section are recorded or stored.

Section 3. Documents in a foreign language. - Whenever a document in a foreign language is presented to the DOF-FIU in relation to the conduct of audit examination, inspection, verification and/or investigation of transaction records of importers and brokers, said document must be accompanied with a translation in English or Filipino, certified correct under oath by the translator.

PART II. SCOPE OF POST-ENTRY AUDIT

Section 4. Audit of importers. - The audit of importers shall be undertaken by the DOF-FIU at the following instances, among others:

- a. When firms are selected by a computer-aided risk management system, the criteria for which are provided in Section 5 hereof;
- b. When errors in the import declaration are detected;
- c. When firms voluntarily request to be audited, subject to the approval of the Commissioner of Customs, upon recommendation of the DOF-FIU.

Section 5. Importer Profiling. - The selection of importers to be audited pursuant to Section 4(a) hereof shall be based on the following objective and quantifiable data, among others:

- 1) Relative magnitude of customs revenue from the firm;
- 2) The rates of duties of the firm's imports;
- 3) The compliance track record of the firm; and
- 4) An assessment of the risk to revenue of the firm's import activities;

Section 6. Audit of brokers. - Brokers shall be audited to validate audits of their importer clients and/or fill in information gaps revealed during an audit of their importer clients.

Section 7. Coverage of audit - The audit of importers shall include the conduct of examination, inspection, verification and/or investigation of the importer's:

- a) Document flow;
- b) Financial flow;
- c) Goods inventory; and