



Republic of the Philippines
Department of Finance
BUREAU OF CUSTOMS
1099 Manila

10 February 2017

CUSTOMS MEMORANDUM CIRCULAR
NO. 32-2017

TO : ALL CONCERNED

SUBJECT : Section 8.c of CMO No. 11-2014

Pursuant to the primary jurisdiction of the Bureau of Customs in the construction and interpretation of customs laws, as well as its own issuances, rules and regulations, the following construction and interpretation of Section 8.c of CMO No. 11-2014 is hereby reiterated and affirmed:

I. Section 8.c of CMO No. 11-2014 pertinently states as follows:

"If at any time during the validity of a BOC accreditation, any of the following occurs, to wit: xxx

c. the BOC discovers any violation of law or regulation by the accredited importer or customs broker

the BOC may suspend or cancel the accreditation of the erring importer or customs broker xxx".

II. Prescinding therefrom, all District Collectors, in accordance with Memorandum dated 08 December 2016, were directed to report their seizure and/or forfeiture cases for the past six (6) years; and the same were subsequently lodged with the Account Management Office (AMO), Legal Service, RCMG, for immediate evaluation as against culpability of importers and customs brokers involved to suspension or cancellation / revocation of their customs accreditation.

In addition, per Memorandum dated 31 January 2017, District Collectors were further directed to include the issue on the suspension / cancellation of importers and customs brokers involved in the resolution of seizure and/or forfeiture cases. Any corresponding recommendation for the suspension or cancellation / revocation of their customs accreditation shall be forwarded immediately to the AMO, Legal Service, RCMG, for appropriate action.

III. Indeed, Section 8.c of the subject CMO No. 11-2014 includes violations of customs laws, rules and regulations committed by importers and customs brokers in the importation of its shipments, which led to its seizure and/or forfeiture. As such, it is incumbent upon the Bureau of Customs to judiciously act thereon in holding them administratively accountable, bearing in mind the basic legal maxim that the power to accredit and

approve subsumes the power to disaccredit and disapprove, subject, of course, to due process of law.

IV. Needless to state, these efforts are anchored on Section 202 (d) of the CMTA, which bestows upon the Bureau of Customs the arduous responsibility on the "xxx prevention and suppression of smuggling and other custom fraud xxx." Thus, to sanction erring importers and customs brokers with suspension or cancellation/revocation of its customs accreditation privileges is but preventive and a deterrence from further commission of customs violations.

V. For this purpose, the construction and interpretation of the subject Section 8.c of CMO No. 11-2014 as regards the imposition of the sanctions of suspension and cancellation / revocation vis-à-vis the enumerated infractions therein and in CMO No. 04-2014 is included herein as well in the spirit of transparency, impartiality and fairness. The same is categorized and graduated as light, less grave and grave infractions, as follows:

a. Light Infractions - suspension of customs accreditation privileges for one (1) month to six (6) months:

1. Inadvertent mistake or erroneous information in the submitted documents, not substantial in nature, pursuant to Section 8.a of CMO No. 11-2014;
2. Failure to report changes in requirements after approval of accreditation as required under Section 3.3 of CMO No. 04-2014 and Section 7.a of CMO No. 11-2014 in relation Section 8.b of CMO No. 11-2014; and
3. Violation of law or regulation by the accredited importer or customs broker pursuant to 8.c of CMO No. 11-2014, such as, but not limited to, the following:
 - 3.a. Belated submission of import permit/clearance issued by government agency concerned for its shipment;
 - 3.b. Excusable negligence in protecting e2m / CPRS password from abuse and mis-use; and
 - 3.c. Other analogous circumstances.

b. Less Grave Infractions - sanctioned with suspension of customs accreditation privileges of six (6) months and one (1) day to twelve (12) months:

1. Violation of the sworn undertaking to strictly abide with existing rules and regulations on the Statement of Full Description of Imported Articles covered by entry declarations pursuant to Section 3.5.a of CMO No. 04-2014;
2. Material misrepresentation, or submission of false information or document pursuant to Section 3.5.c of CMO No. 04-2014 and Section 8.a of CMO No. 11-2014, such as, but not limited to, the following:
 - 2.a. Failure to maintain office operations in the given address;
 - 2.b. Failure to maintain a valid BIR ICC/BCC;
 - 2.c. Submission of false identification card (ID); and

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- 2.d. Other analogous circumstances.
- 3. Violation of law or regulation by the accredited importer or customs broker pursuant to 8.c of CMO No. 11-2014, such as, but not limited to, the following:
 - 3.a. General or inaccurate declaration, misclassification, misdeclaration, undervaluation or intentional over quantity of shipments;
 - 3.b. Lack of import permit/clearance issued by government agency concerned covering its shipment;
 - 3.c. Inexcusable negligence in protecting e2m/CPRS password from abuse and mis-use; and
 - 3.d. Other analogous circumstances.
- c. Grave Infractions - sanctioned with cancellation / revocation of customs accreditation privileges:
 - 1. Failure to report to the proper customs authorities any fraud upon customs revenue which has come to the importer's knowledge or cognizance, or knowingly assisting or abetting in the importation or exportation or entry of prohibited or any article in the importation of which is contrary to law pursuant to Section 3.5.d of CMO No. 04-2014;
 - 2. Material misrepresentation, or submission of false information or document pursuant to Section 3.5.c of CMO No. 04-2014 and Section 8.a of CMO No. 11-2014, such as, but not limited to, the following:
 - 2.a. Fictitious applicant or non-existent officer/s;
 - 2.b. Fictitious BIR Tax Identification Number (TIN);
 - 2.c. Spurious BIR ICC / BCC;
 - 2.d. Inexistent office address; and
 - 2.e. Other analogous circumstances.
 - 3. Violation of law or regulation by the accredited importer or customs broker pursuant to 8.c of CMO No. 11-2014, such as, but not limited to, the following:
 - 3.a. Importation of absolutely prohibited goods, i.e., illegal drugs and precursors, second-hand vehicles, right-hand vehicles, pornographic, and seditious and treasonous materials; and
 - 3.b. Other analogous circumstances.

VI. Moreover, in the determination of the sanction to be imposed, the following attendant mitigating and/or aggravating circumstances are to be appreciated:

- a. Business track record or standing;
- b. Educational attainment;
- c. First time offender;
- d. Good faith or lack of malice;
- e. Admission of the infraction;
- f. Habituality;
- g. Actual or material loss to the government;
- h. Wanton disregard of customs laws, rules and regulations;
- i. Remorse or the lack thereof; and
- j. Other analogous circumstances.

VII. The issuance of this Memorandum is for the purpose of clarification in order to end any speculation against these efforts of the Bureau of Customs to hold erring importers and customs brokers administratively liable.

VIII. For proper information dissemination, publication in a newspaper of general circulation of this Memorandum is hereby ordered.

Please be guided accordingly.

[Handwritten Signature]
NICANOR E. FAELDON
af Commissioner



FEB 15 2017