



new executive order addresses e-commerce and counterfeit goods

Susan Kohn Ross
MSK Client Alert

February 11, 2020

On January 31, 2020, President Trump issued Executive Order 13904 ("EO") entitled "Ensuring Safe & Lawful E-Commerce for U.S. Consumers, Businesses, Government Supply Chains, and Intellectual Property Rights." It begins by stating that e-commerce is "being exploited by traffickers to introduce contraband into the United States, and by foreign exporters and United States importers to avoid applicable customs duties, taxes and fees." The types of malfeasance cited are counterfeit goods, narcotics (specifically synthetic opioids, such as fentanyl), and other contraband, plus, of course, protection of the revenue. The focus of the EO is on express consignment operators, carriers, hub facilities, international posts, customs brokers and e-commerce platform operations (the "Regulated Parties"). Anyone who participates in the "introduction or attempted introduction" of parcels containing contraband can be held accountable with accountability taking the form of both civil and criminal consequences, as appropriate. The EO goes on to state that CBP's suspension and debarment procedure will form the framework through which these actions will be carried out. Suspension and debarment apply in the context of doing business with the government, such as government contracts, subcontracts, grants, loans and other assistance programs.

CBP already has a suspension and debarment process in place, the goals for which are to: 1) Enhance legal and regulatory authorities to better posture CBP and interagency partners to address emerging threats; 2) Enhance and adapt all affected CBP operations to respond to emerging supply chain dynamics created by the rapid growth in e-commerce; 3) Drive private sector compliance through enforcement resources and incentives; and 4) Facilitate international trade standards for e-commerce to support economic prosperity...

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Susan Kohn Ross

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