

PROPERTY & CASUALTY

Tariffs at the Top

The Risk Agenda for Executives

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Overview

As the Trump Administration continues to impose import taxes on goods from other countries in an effort to boost American manufacturing and protect domestic jobs, the reverberations are felt in the C-Suite. These often unpredictable tariffs have disrupted corporate supply chains and financial results.¹ This volatile environment has the potential to create legal and regulatory disclosure risks for directors and officers who are increasingly caught in the crosshairs of a trade war. It is expected that the U.S. Securities and Exchange Commission (SEC) will maintain its scrutiny and impose penalties on executives who violate securities laws by making misleading disclosures in response to the tariff-related disruptions.

Regulatory Action

While the current administration's tariff policy may feel like a new challenge, there are numerous precedents involving companies that allegedly misrepresented supplier contracts. In 2021, Kraft Heinz Company agreed to pay \$62 million in civil penalties. Chief Operating Officer Eduardo Pelleissone and former Chief Procurement Officer Klaus Hofmann were charged with financial misrepresentation spanning several years, specifically falsifying supplier contracts to inflate cost savings.² The SEC found that Kraft had negligently disregarded internal accounting controls, violating provisions of the federal securities laws by failing to maintain robust systems that provide reasonable assurances for stakeholders. 15 U.S.C. § 78m(b)(2)(B) (2024).

In 2023, American Patriot Brands, Inc., Urban Pharms, LLC, DJ & S Property #1, LLC, TSL Distribution, LLC, Robert Y.

Lee, Brian L. Pallas, And J. Bernard Rice, were charged with making false and misleading statements to investors about the scope of operations.³ The complaint alleged that senior executives fabricated business prospects to entice investors.⁴ This added layer of risk, perpetuated by the recent tariff policies, are forcing executives to balance SEC compliance with strategic corporate decisions.

More recently, the SEC charged Centene CEO Sarah London with misleading investors about the company's financial prospects and failing to disclose material facts about overall profitability.⁵ These accusations led to a 40% stock drop and an \$11 billion devaluation in a single day. This case underscores the SEC's heightened focus on fraud and misrepresentation, particularly when companies disregard Regulation S-K disclosure obligations. Of particular relevance is Item 105 of Regulation S-K, which requires a summary of material risk factors, including those

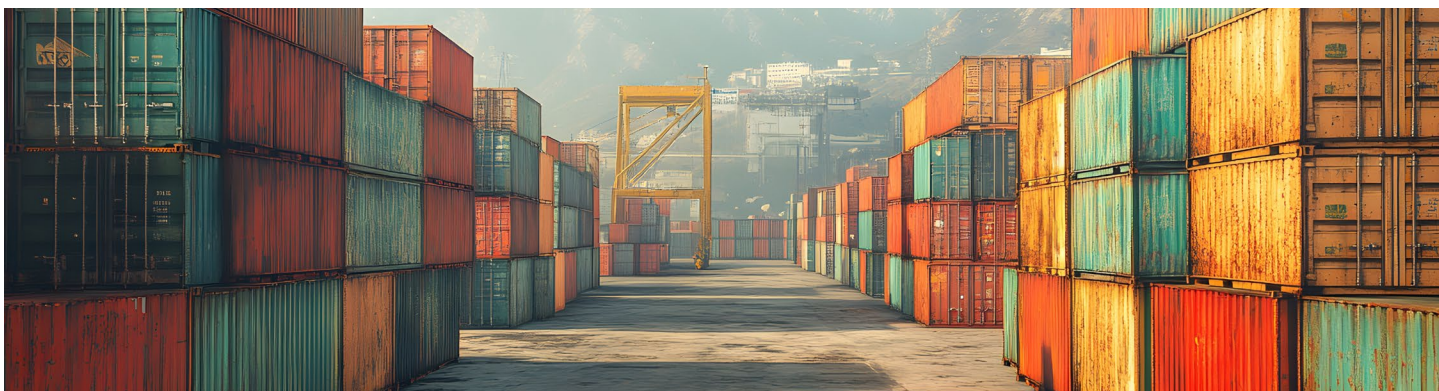
1. *Tariffs and Disclosures: Corporate Risks in a Global Trade War* | The D&O Diary

2. SEC.gov | SEC Charges The Kraft Heinz Company and Two Former Executives for Engaging in Years-Long Accounting Scheme

3. Centene Corporation Class Action Lawsuit | CNC Class Action

4. Securities and Exchange Commission Q2 2025 Enforcement Trends Und

5. SEC.gov | SEC Charges Cannabis Company American Patriot Brands, CEO, and Others with Fraud



arising from tariff disruptions. 17 C.F.R. § 229.105 (2024). The Centene matter has evolved into an ongoing class action in the Southern District of New York.

Furthermore, every SEC enforcement case filed in federal court during the second quarter of 2025 alleged fraud.⁶ This creates a high-risk environment for directors and officers who engage in misconduct in response to tariff policies, whether through supply chain misrepresentations, manipulating financial reports or weak internal controls.

Beyond SEC oversight, the Trump Administration's Department of Justice is aggressively enforcing compliance with the Administration's tariff policies. On July 16, 2025, a complaint was filed against Global Office Furniture, LLC owner, Malcom E. Smith, for improperly underpaying customs duties owed on imported office chairs.⁷ Under the False Claims Act, the company allegedly knowingly underpaid tariffs imposed on Chinese-manufactured furniture during the first Trump Administration. 31 U.S.C. § 3729(a)(1)(B) (2018). This reflects a growing willingness to hold directors and officers accountable for tariff evasion, even retroactively.

Limiting Exposure with D&O Coverage

Tariffs remain a hot button issue, drawing attention from both the public and regulators. The combination of heightened scrutiny and uncertainty in the tariff application presents significant challenges for organizations making public disclosures. With increased exposure and threat of lawsuits against directors and officers, it is crucial for companies to understand the current risks and proactively protect themselves.

When new risks emerge, it is an opportune time to review insurance programs, particularly Directors and Officers (D&O) insurance, to help ensure adequate coverage and appropriate limits for tariff-related exposures. A robust D&O policy can help mitigate the financial impact of securities class actions, regulatory investigations and enforcement actions stemming from trade policy disruptions. Here is what to look for:

Securities Claims Coverage

- **Why it matters:** if tariffs negatively impact financial performance and stock value, shareholders may sue for alleged misrepresentations or omissions in public filings
- **What to check:** confirm the policy covers securities class actions and includes protection for claims alleging failure to disclose material risks related to tariffs

Fiduciary Duty Coverage

- **Why it matters:** boards may be accused of breaching fiduciary duties by failing to anticipate or mitigate tariff impacts
- **What to check:** confirm coverage for shareholder derivative suits alleging mismanagement or poor strategic decisions tied to trade policy

Entity Coverage (for Private Companies)

- **Why it matters:** private companies may face investor lawsuits over tariff-related losses
- **What to check:** look for broad entity coverage that includes non-securities claims, such as misrepresentation in investor communications

6. Securities and Exchange Commission Q2 2025 Enforcement Trends Und

7. District of South Carolina | United States Files Complaint Against Myrtle Beach Office Furniture Supplier, Owner for Customs Fraud | United States Department of Justice

Books and Records Demands

- **Why it matters:** pre-litigation demands for internal documents often precede lawsuits
- **What to check:** confirm the policy includes response cost coverage for books and records demands, even if subject to sublimits

Regulatory Investigation Coverage

- **Why it matters:** tariffs often bring new compliance burdens (e.g., customs, import/export rules) and non-compliance can trigger investigations.
- **What to check:** confirm coverage for regulatory inquiries or investigations, especially those tied to trade compliance

Crisis Management or Reputation Risk Coverage

- **Why it matters:** public fallout from tariff-related decisions can damage reputation
- **What to check:** some policies offer crisis response coverage for PR and legal support during high-profile events

Additional Considerations

- **Policy exclusions:** Watch for exclusions related to trade sanctions or regulatory violations
- **Territorial scope:** Confirm the policy covers claims arising from international operations affected by tariffs
- **Limits and sublimits:** Review whether tariff-related exposures are subject to lower coverage limits

Expanding the Scope: Strategic Risk Management

In addition to reviewing coverage, companies should consider integrating tariff-related risk into their broader enterprise risk management (ERM) frameworks. This could include:

- Scenario planning for supply chain disruptions
- Enhanced internal controls around financial reporting and disclosures
- Board-level oversight of trade policy developments
- Training programs for executives on compliance and disclosure obligations





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