

Client Alert:

DOJ Appeals Euro-Notions IEEPA Tariff Ruling: What are the Implications for CAPE Refund Processing?

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As anticipated, on June 2, 2026, the DOJ filed a Notice of Appeal to the Federal Circuit from the Court of International Trade's April 7, 2026, injunction order in *Euro-Notions Florida, Inc. v. United States*, Court No. 25-00595 (docketed June 3, 2026, as Federal Circuit Case No. 26-1898). The appellate briefs are not due until August 4, 2026, when we will learn the exact nature of the appeal and the desired relief sought.

In a separate but related filing on May 29, 2026, in *V.O.S. Selections, Inc. v. United States* (CIT Court No. 25-00066), the DOJ stated explicitly that defendants intend to appeal the Court's universal injunction *and to seek a stay of the injunction except as to the particular importer plaintiffs in each case* in which the Court has entered the injunction."

If a stay is granted, CAPE Phase I refund processing may halt for several months or longer, and there is no assurance as to when—or whether—CAPE Phase II will launch, which is expected to cover approximately 40 percent of all entries subject to IEEPA tariffs.

CAPE Phase I Refund Processing to Date

According to the June 10, 2026 Declaration of Brandon Lord (CBP Office of Trade), after nearly two months of CAPE Phase I operations (launched April 20, 2026), the refund pipeline is proceeding slowly: of an estimated \$170 billion in total IEEPA duties eligible for refund, approximately \$94.94 billion (56%) have been accepted for review, and only approximately \$23.68 billion (14% of the total) have actually been certified and either disbursed to importers or processed through Treasury. CBP's financial accounting system confirms that Treasury is regularly disbursing these certified refunds. The remaining \$71 billion in accepted refunds is still under CBP review, and close to half of the eligible universe has not entered the pipeline at all.

Key Entry Eligibility Issues and Recommended Actions

Even while CAPE Phase I remains operational, only about 60% of all affected entries are eligible for processing in Phase I.¹ Besides the liquidation timeline, eligibility for CAPE Phase I may be blocked in the following cases:

Protested Entries

Open, suspended, or denied protests flagged for Application for Further Review to Headquarters (“**AFR**”) create a hard block in CAPE. **Denied** protests without an AFR flag are not blocked by CAPE, provided that the entry is still within 80 days of liquidation.

Practical Tips:

- For entries beyond 80 days of liquidation, importers may file a CIT civil action within 180 days of the Notice of Denial.
- For AFR-blocked entries importers should monitor CBP headquarters for a final AFR decision and resubmit to CAPE once the block clears.
- For entries within 80 days with denied protest (no AFR), importers should submit through CAPE now.

Reconciliation-Flagged Entries

Reconciliation-flagged entries are blocked from CAPE Phase I even after reconciliation is complete, because ACE does not automatically remove the flag.

Practical Tips:

- Importers should identify all fully reconciled entries that remain flagged in ACE, and
- Submit a written request to their assigned Center of Excellence and Expertise for manual flag removal.; and
- Once the flag is removed, importers should file the CAPE declaration promptly.

Practical Strategy for Importers

- Submit all eligible entries through CAPE Phase I immediately while the portal remains operational as a stay of the injunction could halt processing at any time.
- For entries with denied protests (no AFR) that are still within the 80-day reliquidation window, file CAPE declarations now before the window closes.
- File protests on entries that are more than 80 days post-liquidation but within the 180-day protest deadline to preserve refund rights. For denied protests, file a civil action in the U.S. Court of International Trade within 180 days of the Notice of Denial.

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- ¹ As more fully described in our **Evolving Landscape After SCOTUS IEEPA Decision: Where Are the Refunds?** Alert, the eligible entries are:
 - Unliquidated entries that exist in ACE; and
 - Entries liquidated within the preceding 80 days (to allow CBP time to complete processing and reliquidate by the 90-day statutory deadline for reliquidation under 19 U.S.C. § 1501) (the “**80 Days Post-Liquidation Window**”).

- For entries past the 180-day protest deadline, file a civil action in the U.S. Court of International Trade.
- For reconciliation-flagged entries where reconciliation is complete, contact your assigned Center of Excellence and Expertise to request manual flag removal and submit the CAPE declaration as soon as the flag is cleared.
- For reconciliation-flagged entries at risk of liquidation, file a written extension request under 19 C.F.R. § 159.12 citing "good cause" before the statutory period expires, and hold Entry Type 09 filings, unless the deadline is within 30 days.
- Ensure ACH account information is current and on file with CBP to avoid Treasury disbursement holds.

We expect the IEEPA landscape to continue to change as the appeal progresses through the Federal Circuit and potentially to the Supreme Court. As that happens, this practical strategy advice will also change, and we will issue further updates.

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For further guidance on the IEEPA tariff refunds via CAPE, CIT litigation and filing protest, or to discuss tariff mitigation strategies, please contact your Dentons Cohen & Grigsby International Trade Team.

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