UPDATE ON

IEEPA TARIFF REFUNDS AND CONTINUING TARIFF LITIGATION

What Companies Need to Know

September 10, 2026

Webinar Agenda

- IEEPA Tariff Repeal / Refund Overview Post-SCOTUS
- Status of Refunds Through CAPE
- Refunds Options Through Litigation
  - Federal Appeal / Individual Lawsuits / Class Actions
- Key Commercial Contract Considerations
- Consumer Class Action Wave

IEEPA Tariff Repeal / Refund Timeline

February 20, 2026
Supreme Court holds that the President cannot impose tariffs under IEEPA

March 2, 2026
CAFC sends case to the Court of International Trade (CIT)

March 4, 2026
CIT rules that all importers are entitled to IEEPA refunds plus interest

March 5, 2026
CIT issues follow up order requiring CBP to begin the refund process immediately

April 20, 2026
CBP launches Phase 1 of CAPE, begins issuing refunds in May

June 2, 2026
DOJ files CAFC appeal challenging CIT's universal refund order

Appeal remains pending

June 29, 2026
CAPE Phase 2 Launches

IEEPA Tariff Refunds – Status of CAPE Phases 1-3

Phase	Entry Type	Launch	Status	Estimated Coverage
Phase 1	Unliquidated entries or less than 80 days post liquidation	April 20, 2026	**Operational** ~80% of total refunds accepted for processing	Bulk of the ~$166B in total IEEPA tariffs
Phase 2	Entries flagged for reconciliation where the reconciliation entry is not yet on file	June 29, 2026	**Operational** refunds being approved and disbursed	Entries liquidation + 80 days
Phase 3	Finally liquidated entries (Liquidated 80+ days); AD / CVD; subject to protest	TBD — in preparation	**Pending** depends on court-ordered reliquidation	~$11.4B; subject to CAFC appeal and class action outcomes

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Refund Status as of August 21, 2026

$133B

Accepted for processing in CAPE (~80% of total)

$107B

Refunds (duties + interest) completed and sent to Treasury

~$11.4B

Remains uncertain

subject to CAFC appeal and class action outcomes

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IEEPA Tariff Litigation

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IEEPA Tariff Refund Litigation - Current State of Play

CAFC Appeal (Universal Jurisdiction)

V.O.S. Selections, Inc. v. United States

(CIT No. 25-66 | CAFC No. 26-1895)

- DOJ appealed June 2, 2026, challenging CIT authority to order nationwide injunction requiring refunds to all importers
- DOJ argues relief available ***only to importers who filed individual lawsuits*** – not all affected parties
- Appeal pending before the Court of Appeals for the Federal Circuit (CAFC) – Gov't opening brief filed
- **Outcome determines whether ~$11.4B in refunds for finally liquidated entries can be obtained through the CIT universal order or only through individual litigation**

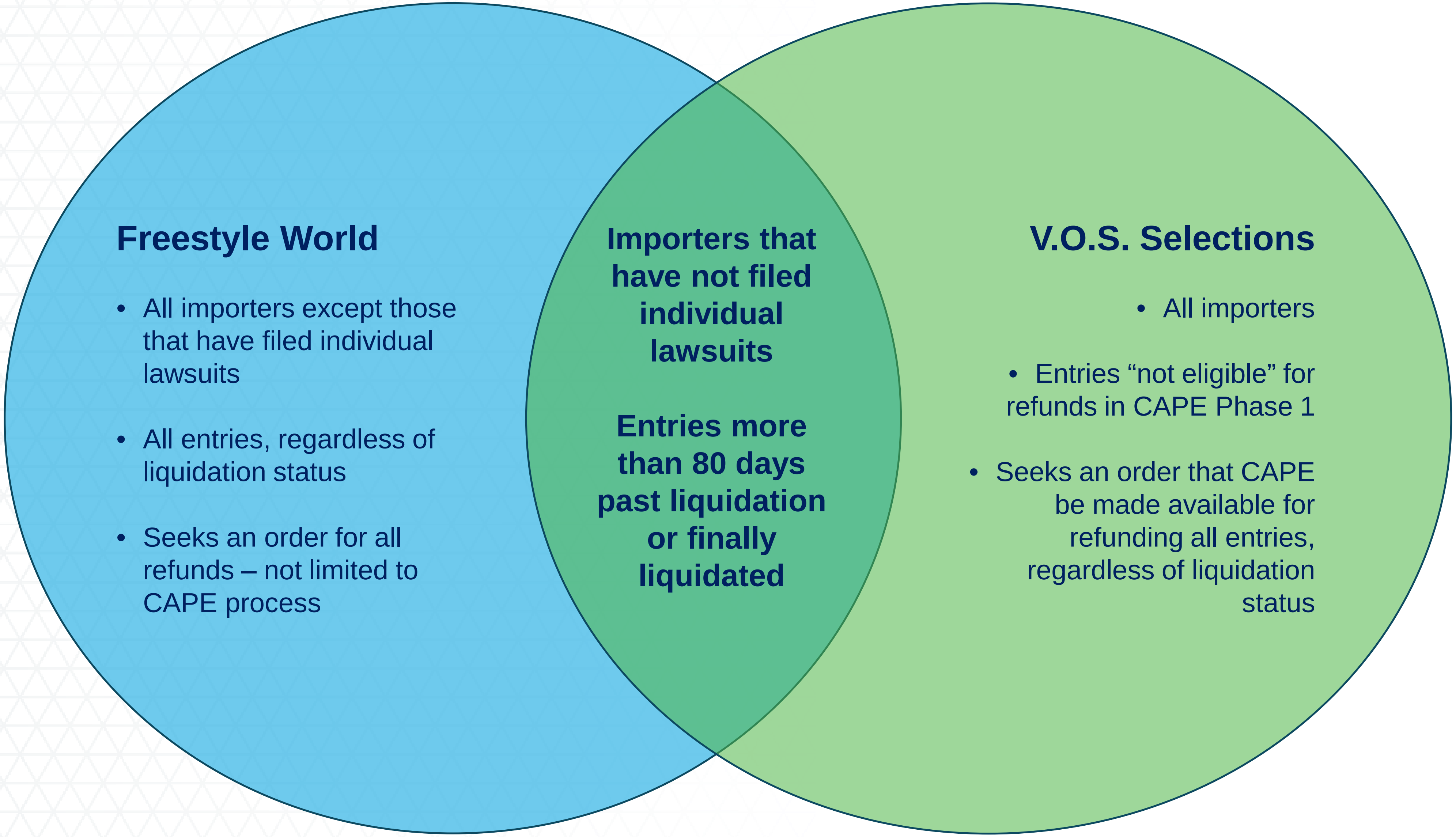
Class Actions Before the CIT

class certification pending

Freestyle Word CIT No. 26-1088	V.O.S. Selections CIT No. 25-66
Class action seeking collective pursuit of refunds for affected importers	Same underlying case as CAFC appeal Also seeking class certification

If certified, these suits could provide a collective path for importers to obtain refunds for finally liquidated entries, as an alternative to individual lawsuits

Comparison of IEEPA Proposed Class Definitions



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Individual Lawsuits

- Filing summons + complaint
- Receiving / managing the court-directed CAPE filing instructions
- Filing a voluntary dismissal of the case once refunds are all received; and
- Potential additional motions/filings if further assistance is needed to accomplish the refunds

Considerations and Next Steps

Considerations

- Money at issue
- Time
- Liquidation / statute of limitations
- Optics

Next Steps

- Information (ACE access/ACH/import data)
- Analysis

Commercial Considerations

1 | HAS THE IOR RECEIVED, OR IS IT EXPECTING TO RECEIVE, AN IEEPA TARIFF REFUND?

2 | WHAT DO THE CUSTOMER TERMS REQUIRE?

Review the complete commercial record: written agreements, purchase orders, invoices, emails and other communications. Ask whether pricing was inclusive of duties/import charges and whether the IOR retains ordinary-course pricing adjustment rights.

TERMS ADDRESS REFUNDS / ALLOCATION

Apply the express terms and confirm the allocation methodology, timing and any related pricing provisions.

TERMS ARE SILENT OR UNCLEAR

Do not assume silence answers the question. Evaluate the contract as a whole and assess commercial and litigation risk before selecting a pass-down approach.

3 | ALIGN ON A COMPANY-WIDE CUSTOMER STRATEGY

Aim to treat similarly situated customers consistently. Consider the number of affected customers, customer-relationship implications, litigation/damages risk, timing of CBP resolution and actual IOR receipt of refunds.

4 | SELECT THE REFUND DELIVERY MODEL

FULL / CASH PASS-DOWN	CREDIT / VALUE PASS-DOWN	PARTIAL PASS-DOWN
Direct cash payment to the customer.	Credits, gift cards, points or rewards for future products/services.	Pass down a portion while addressing documented administrative, transactional and legal costs.

5 | DOCUMENT COST RECOVERY, PAYMENT CONTROLS AND CUSTOMER COMMUNICATIONS

Where applicable, quantify refund-administration costs; evaluate deductions, interest retention and/or service fees; confirm customer payment information; and consider service agreements addressing process, compensation, scope and releases.

REMINDER: This material does not establish a universal rule requiring every IOR to pass every IEEPA refund downstream. It states that contracts govern the obligation and that many IORs are nevertheless electing to pass down at least a portion to mitigate risk and preserve customer relationships.

Consumer Class Actions for Tariff Refunds

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The Wave of Consumer Class Actions Continues

- Dozens of lawsuits filed within weeks of Supreme Court decision overturning IEEPA tariffs.
- To date, approximately 100 class actions have been filed, targeting defendants in multiple industries:
  - Shipping and logistics providers
  - Retailers, brands, manufacturers, distributors and marketplace retailers
  - Automotive

FedEx

TOYOTA

LUXOTTICA

TARGET

amazon

IKEA

Abercrombie & Fitch

TEMU

DOLLAR TREE

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Theories of Relief

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Key Defenses and Challenges

- Motions to dismiss and motions to compel arbitration fully briefed in about a dozen cases; but no decisions yet.
- Key Defenses at Pleading Stage
  - Arbitration
  - Ripeness
  - No deception
  - No Injury / Standing
  - Contractual defenses to equitable claims
  - Good faith compliance with IEEPA

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What Can You Do Now?

- Coordinate between counsel in refund proceedings and consumer class actions.
- Carefully align any plans for refund programs with litigation strategy.
- Exercise caution around disclosure of CBP refund process.
- Review agreements with importers for pass-through or reimbursement.
- Consider putting IEEPA tariffs on reserve.
- Monitor decisions on motions to dismiss.

THANK YOU

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