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# How Fashion Is Getting Tariff Refunds

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Since the Supreme Court struck down US President Donald Trump's International Emergency Economic Powers Act (IEEPA) tariffs in February, fashion brands that collectively paid billions in those import duties have been left waiting for clarity on how refunds will be processed — and when, or if, they'll get money back. In the information vacuum that has surrounded this closely tracked trade development, some brands have faced a high-stakes financial decision: take discounted cash now, or wait — with no guarantees — for federal authorities to pay in full.

A secondary market has quietly taken shape to answer it. Hedge funds have approached importers — fashion brands among them — offering to buy tariff refund claims at a discount in exchange for immediate cash, effectively turning government obligations into tradable assets. The administrative delay in returning the estimated \$166 billion in IEEPA tariffs the administration has collected, in this case, has been cleverly reengineered into a financial instrument.

Tariff claims buyers are concentrated among a relatively small number of hedge funds and financial firms. King Street Capital and Oppenheimer are the names most frequently cited by sources with knowledge of the transactions. Some banks are understood to be facilitating deals by connecting buyers and sellers without taking on the risk themselves.

“It's a dynamic situation,” says Tom Janover, partner at Herbert Smith Freehills Kramer. “The motivations of each company that owns a claim are all different, and that's why transactions like these require individual negotiation.”

if it will even actually happen,” says Neil Saunders, managing director of retail at GlobalData. “This is very much a ‘bird in the hand is worth two in the bush’ mentality.”

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The hedge fund pitch is a familiar one for an industry accustomed to factoring: convert a future receivable into immediate cash, rather than wait for payment on the government’s timeline. Now, that calculus may be shifting, and with it, the economics of the entire market.

On March 31, Brandon Lord, executive director of trade programs at US Customs and Border Protection (CBP), filed a declaration in the US Court of International Trade confirming that CBP’s refund processing system — known as CAPE, or the Consolidated Administration and Processing of Entries — is on track to begin issuing refunds by early June. Assembly of the claim portal component is 85% complete.

Phase 1 of CAPE will cover approximately 63% of the roughly 53 million import entries for which IEEPA duties were paid. The remaining 37%, including entries flagged for reconciliation, subject to drawback claims, covered by open protests or otherwise excluded, will be deferred to later phases, with no confirmed timeline.

Even for qualifying entries, CBP has committed to a 45-day processing window after a CAPE declaration is accepted, meaning payment will not be immediate. And as of March 26, while 26,664 importers of record had completed electronic payment registration — representing 78% of entries by volume — the Mass Processing component of CAPE stands at only 60% complete.

Uncertainty, in other words, remains — but it is no longer absolute.

“The approach of tax day is a potent reminder that the government has the capacity to deliver refunds to taxpayers on a much larger scale than what is being asked now of CBP,” says Steve Lamar, president and CEO of the American Apparel & Footwear Association, representing brands including Adidas, H&M, Lululemon and Skims. “These refunds need to be returned to the importer of record fully, quickly and automatically.”

## **A market built on uncertainty**

The claim-trading market began taking shape last fall, almost as soon as the first lawsuits against the IEEPA tariffs started moving through the courts. At that stage, offers were highly speculative — some as low as 15 cents on the dollar, according to people familiar with the transactions. Once the Supreme Court agreed to hear the case, prices climbed to 25 to 30 cents. As oral arguments signaled a likely overturn, they reached 50 cents, and

liquidity — illustrating both the scale of the market and the financial pressure driving it.

Publicly traded companies, however, appear to be largely sitting out. The disclosure implications — explaining to shareholders why a company accepted a fraction of what they're owed rather than holding out for the full amount — create a reputational calculus many are unwilling to navigate.

But some privately held brands in the sector say they have received similar unsolicited proposals.

“We’ve been approached a number of times by parties looking to buy our IEEPA tariff refund — even before the Supreme Court ruling,” says Aaron Sanandres, co-founder and CEO of Untuckit and founder of Definite Articles. “It’s always interesting to see where the market is valuing these receivables, as it hints at the market’s expected timing to collect.”

Untuckit has not committed to a deal, but Sanandres’s observation captures the core logic of the market: pricing is less about value than time.

## Why fashion is receptive

The fashion industry’s relative comfort with claim-trading is not accidental. For decades, apparel, footwear and accessories brands shipping goods to major retailers have sold their accounts receivable to factors — third parties who advance cash against future payments. The mechanics are familiar: sell the claim and take cash now to keep the business moving.

Gary Wassner, CEO of Hildun, a New York-based factoring firm that provides working capital and credit protection to fashion and consumer brands, frames the dynamic in terms of cash-flow structure. “All the costs of design and production are incurred many months before merchandise is shipped to retailers or sold DTC,” he says. “The tariff refunds are predicted to take a long time to receive — perhaps two years, if they are ultimately paid back at all.”

“Having liquidity puts you in a stronger competitive position — and that’s never something brands should second-guess.”

If paid in full, experts expect those refunds to be repaid along with interest and penalties, further increasing their eventual value, but only for companies willing and able to wait.

However, most brands have already expensed the tariffs they paid, Wassner notes, meaning refunds represent recovery rather than anticipated revenue. For smaller companies in particular, that cash flow additive can be critical, especially amid broader strain across the industry, coupled with weakening consumer sentiment.

## The protest problem

For brands and their legal advisors, the CBP filing introduces a new complication: entries covered by open protests — long considered a safeguard — are explicitly excluded from Phase 1.

might need to recommend a smaller scope of entries for protests — namely, entries that are very close to that 180-day protest deadline.”

The situation remains fluid. Senior judge Richard Eaton of the US Court of International Trade recently expanded his ruling to include shipments that CBP deemed final — entries that were previously excluded — broadening the scope of potential refunds. The Department of Justice has not yet indicated whether it will appeal.

“There’s still a lot of uncertainty,” Santos says. “We’re watching all of this, and it could change day to day.”

That uncertainty has created a further complication for brands that have already entered into claim-sale agreements. Contracts often require importers to take affirmative steps to help buyers collect — joining class actions, filing additional suits — but how far those obligations extend remains an open negotiating point.

Since January, filings in the Court of International Trade have also required disclosure of litigation financing, adding a new layer of transparency and potential shareholder optics to transactions.

## **Customer expectations**

The lack of clarity surrounding these trade developments extends beyond the refund process itself. A growing number of class-action lawsuits are targeting brands that raised

tariff-linked fees.

Whether companies face meaningful exposure may depend on how clearly those costs were passed on.

“If a company explicitly itemised a tariff surcharge, that’s relatively easy to trace,” says Santos. “If they later receive a refund, there’s a clearer argument that those amounts should be passed back.”

The challenge is less straightforward where pricing adjustments were embedded more broadly. In many cases, the increases weren’t uniform or directly tied to a single line item, and they varied by product and by customer, so linking those increases back to a specific tariff cost becomes much more difficult, Santos adds.

For industry groups, however, the question is less about legal theory than practical impact.

“One definite issue is the class-action lawsuits against some companies and brands asking for payment to consumers,” says Julie Hughes, president of the United States Fashion Industry Association (USFIA), which counts Ralph Lauren Corporation, Macy’s, Walmart, Under Armour and JCPenney among its membership. “It’s a complicated question. Some companies raised prices to cover the tariffs, others did not. Some small businesses especially need the refunds to stay in business.”

The legal and commercial implications remain unsettled — and, in many cases, contingent on how quickly refunds are processed.