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Customs, Trade and Transport Law e-alert

Helping Industry to claim compensation from losses arising from the Federal Government's failed insulation scheme

An article in today's *Australian Financial Review* (page 7) neatly summarises the losses and difficulties being faced by those in the supply chain industry arising from the Federal Government's cancellation of its insulation scheme. The abrupt cancellation of the scheme has meant that many importers who had purchased products to sell to installers of insulation now do not want that product and have "walked away" from their contractual commitments. This leaves large numbers of containers filled with insulation being held under Customs' control, together with other "cleared" containers full of insulation being held in storage facilities around the country. In the overwhelming majority of cases, those providing services in the supply chain (including shippers, freight forwarders and licensed customs brokers) find themselves facing issues such as dealing with those goods trying to get clearance of those goods and payment for those goods from their importer clients.

Unfortunately, the compensation scheme announced by the Federal Government at the time it cancelled the insulation scheme only applies to installers of insulation, not importers or their service providers. In our view, it is no answer for Government to say that those in the supply chain have their contractual remedies against their importer clients when it is those importer clients who have been also adversely affected by the decision to cancel the insulation scheme. Many of those in the supply chain must take action now to clear goods from Customs' control (by paying GST and customs duty) to mitigate losses by moving goods to cheaper storage premises. Actions against importers may take many months and, in many cases, those importers will not have the financial ability to pay any awards made against them.

We are acting for a number of parties in the supply chain who are seeking financial compensation from Government. It is encouraging that the Minister responsible for dealing with the issues arising from the insulation scheme has asked for relevant parties in the supply chain to come forward to put their cases for compensation. We would be pleased to assist by co-ordinating a group of claimants to make the strongest possible representations to Government for urgent and comprehensive compensation. We can only hope that this is one case in which Government will be prepared to make appropriate comprehensive and urgent compensation payments rather than adopting the type of approach which it had adopted in making compensation arising from the failed introduction of the Integrated Cargo System where a number of importers have yet to be compensated over four (4) years since the introduction of that Integrated Cargo System.

We look forward to hearing from you.

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