AIRA
JOURNAL

VOL. 38 NO. 4 2025

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# US TARIFFS SPUR CHAPTER 11 FILINGS

**WHILE THE IMPOSITION OF NEW TRADE POLICIES AND THE RECALIBRATION OF SPECIFIC TARIFFS IS BY NO MEANS A NEW PHENOMENON,** the sheer scale, scope, and unpredictability of recent US trade policy have created an extremely challenging environment for US businesses that rely on imported supplies to sell their products to US consumers. This is particularly true for companies that have been (or may now be) grappling with low margins and liquidity issues or companies that are vulnerable to sudden decreases in demand or competition from suppliers unaffected by import tariffs. While it is too early to assess the long-term consequences of the Trump Administration's trade policies, the short-term effects are visible in a handful of distressed companies, some of which have resorted to US bankruptcy courts for protection. The key question is: Are these cases a harbinger of what we might see over the next 12 to 24 months, or are they exceptions to the rule as companies adapt to the new US trade policies – and the retaliatory responses that we will inevitably see from other countries?

## DEFINING TARIFFS

Tariffs are intended to protect domestic industries from foreign competition and to remedy perceived trade imbalances, but higher tariffs often come with the immediate (and unintended) consequence of exacerbating financial stress for companies. Tariffs are taxes imposed on imported goods, and for many companies, particularly in manufacturing, retail, agriculture, and logistics, tariffs increase the cost of imported components or finished goods. These higher costs must either be absorbed by businesses or passed on to consumers. In many cases, companies operate on thin margins and lack the pricing power to shift these costs, resulting in squeezed profits, reduced liquidity, and poor long-term cash flow sustainability. Businesses that cannot pass these costs onto consumers may experience margin compression, leading to cash flow issues, which may trigger covenant breaches on loans or impair a company's ability to service its debts.

## A CONSTANTLY SHIFTING LANDSCAPE

As a result of the constantly shifting trade landscape, businesses across the globe are forced to operate in a state of uncertainty as to what impact tariffs will have on daily operations and ultimately, their bottom line. Modern supply networks are globalized and optimized for efficiency purposes and cost savings, and while there may be incentives to manufacture and buy locally, many companies are looking to the global markets to fulfill their business needs. When tariffs are introduced or increased, companies are forced to reconfigure these supply networks, which could mean sourcing materials from more expensive or less reliable suppliers, or moving production altogether. These shifts are costly, time-consuming, and fraught with risk. In addition, retaliatory tariffs from other

countries can further hinder exports, cutting off key revenue streams.

## TRADE RELATIONSHIP MANAGEMENT

As of June 2025, the top five largest trading partners with the US for imports were Mexico, Canada, China, Ireland, and Vietnam, and for exports were Canada, Mexico, China, the United Kingdom, and the Netherlands.[1] Since the announcement of new tariffs on February 1, 2025, firm trade deals have been announced with Vietnam (blanket 20% tariff on Vietnamese imports and no reciprocal tariffs on United States exports),[2] the United Kingdom (certain aspects of that trade deal, namely tariffs on steel, aluminum, and derivative products remain unsettled)[3] and the European Union (even though a significant first step, the July 27, 2025 political agreement struck between President Trump and European Commission President Ursula von der Leyen is, in fact, a nonbinding agreement to further negotiate tariffs between the United States and the 27 nation bloc).[4]

1 *Top Trading Partners – April 2025*, United States Census Bureau, https://www.census.gov/foreign-trade/statistics/highlights/topyr.html#exports (data reflects trade data based on goods only).

2 *Trump Announces Trade Deal with Vietnam*, BBC News, July 2, 2025, https://www.bbc.co.uk/news/articles/c4gd66q0q7go.

3 *A Timeline of Trump's Tariffs Actions So Far*, PBS News, May 26, 2025, https://www.pbs.org/newshour/economy/a-timeline-of-trumps-tariff-actions-so-far. *See also Trump Announces His First Trade Deal with the UK. Here's What's In It.*, Yahoo.com, May 8, 2025, https://finance.yahoo.com/news/trump-announces-his-first-trade-deal-with-the-uk-heres-whats-in-it-120417143.html.

4 *EU-US Trade Deal Explained*, European Commission, July 28, 2025, https://ec.europa.eu/commission/presscorner/detail/en/qanda_25_1930.

More recently, President Trump announced steeper tariffs on more than 60 countries that went into effect on August 7, 2025, with tariffs ranging as high as 50% for some countries. For example, Canada, one of the US's largest trading partners for both imports and exports, saw tariffs on most of its exports to the US increase to 35% from 25%, and tariffs on exports from Brazil to the US increased to 50%.[5] President Trump has also threatened to impose tariffs on companies such as Apple and Mattel that manufacture products outside of the US on their imports into the US of at least 25%.[6]

## THE CONSEQUENCES OF LOW DIVERSIFICATION

For those businesses lacking a sufficient financial cushion or the ability to avoid tariff-induced disruptions by pivoting away from supply markets that are subject to import duties, the result has sometimes been Chapter 11 or similar insolvency proceedings in other jurisdictions. In particular, retailers that rely on imported goods, manufacturers sourcing parts from overseas, and logistics companies hit by rerouted supply chains have all reported increasing financial

5 *Trump Administration Updates: White House Announces Sweeping New Tariffs for Much of the World*, The New York Times (Updated Aug. 4, 2025), https://www.nytimes.com/live/2025/07/31/us/trump-news.

6 *Trump is Threatening to Impose Tariffs on Two American Companies*, CNN, June 3, 2025, https://www.cnn.com/2025/06/02/business/trump-tariffs-apple-iphone-mattel-barbie.



strain. This can be seen in statements made in several recent bankruptcy filings:

**Claire's**, an American go-to establishment for ear piercing, colorful and trendy jewelry and merchandise targeted towards girls, tweens and teens.

> *The Company relies heavily on foreign suppliers. Indeed, between November 2024 and April 2025, the Company purchased approximately 70% of its inventory from suppliers located outside of the US, including, among others, 56% from mainland China, 8% from Vietnam, and 3% from Thailand. As a result, the Company has been significantly impacted by the implementation of sweeping tariffs on imported goods in April 2025, which led to higher projected costs and uncertainty in inventory pricing. The Company could not raise prices to fully offset the effects of tariffs on the Company's cost of goods sold.*[7]

**At Home Group Inc.**, an American big-box retail chain of home furnishing stores.

> *Beyond macroeconomic challenges, retail industry headwinds, and internal pressures, the Company has faced significant challenges in addressing tariffs given its reliance on goods sourced from China. Despite the Company's experience with navigating tariff changes in recent years, the current tariff policy dynamic introduced a new level of volatility during the early stages of the new senior management team's implementation of its refined business strategy. The introduction of broad-based tariffs caused significant unpredictability and disruption to the retail industry and put retailers—especially At Home—in a difficult position.*[8]

**Forever 21**, a multinational fashion retailer.

> *The debtors' business has been negatively impacted by the "de minimis exemption" which exempts goods valued under $800 from import duties and tariffs. Consequently, retailers that must pay duties and tariffs to purchase product for their US stores and warehouses have been undercut. Despite widespread calls from US companies and industry groups for the US government to create a level playing field for US retailers by closing the exemption, US laws and policies have not solved the problem.*[9]

**Sunnova**, an American solar energy company.

> *Over the last couple of years, a combination of industry-specific pressures and macroeconomic headwinds resulted in reduced investment in, and diminished profitability for, residential solar. These forces include economic volatility, above-target inflation, prolonged high interest rates, and more recently, tariffs and uncertainty over federal incentives for solar power generation.*[10]

**Hudson Bay Company**, a Canadian department store retailer.

> *Recent and continuing uncertainty in financial markets, together with trade tensions with the US and the threat of tariffs, have created even more*

7 Declaration of Chris Cramer, Chief Executive Officer, Chief Operating Officer, and Chief Financial Officer of Claire's Holdings LLC and Certain of its Affiliates, In Support of the Debtors' Chapter 11 Petitions and First Day Pleadings, *In re Claire's Holdings LLC, et al.*, No. 25-11454, ECF No. 27 (Bankr. D. Del. Aug. 6, 2025).

8 Declaration of Jeremy Aguilar, Chief Financial Officer of At Home Group Inc. and Certain of its Affiliates, In Support of the Debtors' Chapter 11 Petitions and First Day Pleadings, *In re At Home Group, Inc., et al.*, No. 25-11120, ECF No. 4 (Bankr. D. Del. June 16, 2025).

9 Declaration of Stephen Coulombe in Support of Chapter 11 Petitions and First Day Pleadings, *In re F21 OPCO, LLC, et al.*, No. 25-10469, ECF No. 2 (Bankr. D. Del. Mar. 16, 2025).

10 Declaration of Paul Mathews, President and Chief Executive Officer of Sunnova Energy International Inc., in Support of Debtors' Chapter 11 Petitions, *In re Sunnova Energy International, Inc., et al.*, No. 25-90160, ECF No. 17 (Bankr. S.D. Tex. June 9, 2025).


> *challenging conditions for refinancing and business operations.*[11]

Uncertainty around tariffs will remain pervasive for the foreseeable future, and Chapter 11 is a meaningful (even if only) option for many businesses. Filing for Chapter 11 affords these companies the immediate protection of the worldwide automatic stay while also providing a forum for robust dealmaking. Debtors, lenders, creditors, contract counterparties, and other interested parties can leverage the tools available in Chapter 11 to secure much-needed emergency financing, renegotiate contract terms, engage in marketing processes for the potential sale of the distressed company, right-size operations and workforce, pay off debts, and at the end of the process, hopefully emerge as stronger, more resilient companies.

## PREPARING FOR THE FUTURE

Looking ahead, businesses must consider the full spectrum of consequences associated with tariffs. While global trade negotiations are ongoing and the hope is for a win-win solution, the endpoint is unpredictable, and the interim period may bring unintended side effects. As companies continue to navigate this evolving terrain, tariff risk mitigation is essential, and the implementation of supportive fiscal policies may help stave off bankruptcy. However, for those companies without the requisite means to avoid bankruptcy filing, Chapter 11 provides a useful forum to bring all the key players to the table and iron out a comprehensive solution.

11 *In Re Hudson's Bay Company*, 2025 ONSC 1530, CV-25-00738613-00CL (Mar. 10, 2025).

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