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CBP ISSUES INTERIM RULE ON FOREIGN IMPORTERS OF RECORD
(November 6, 2026)

U.S. Customs and Border Protection (CBP) has issued an Interim Final Rule ("IFR") titled "Heightened Requirements for Foreign Importers of Record" that clarifies which entities qualify as U.S. Importers of Record (IOR), limits the circumstances under which foreign entities may serve as the IOR, and imposes new declaration and customs broker verification requirements. The IFR implements Section 2 of Executive Order 14411, "Strengthening Customs Enforcement," which the President signed on June 3 and which was discussed in our June 4 "What's New" update.

The IFR goes into effect on January 5, 2027. Comments are due the same day through regulations.gov under Docket No. USCBP-2026-1387.

A. New U.S. IOR and Foreign IOR Definied

A new 19 C.F.R. Part 110 defines, for the first time, who qualifies as a U.S. IOR:

- An individual who is a U.S. citizen or lawful permanent resident; or
- An entity that is organized under U.S. law, is located in the United States, and maintains at all times either: (1) at least 51% beneficial ownership by U.S. citizens or lawful permanent residents who have control of the entity; or (2) direct ownership of a significant amount of unencumbered real property in the United States.

Any IOR that does not meet these criteria is deemed a foreign IOR, including an entity incorporated in the United States with a U.S. address.

A "beneficial owner" is a natural person who directly or indirectly exercises substantial control over the entity or owns or controls at least 25% of its ownership interests, looking through multiple layers of entity ownership. The definition is modeled on the FinCEN definition of "beneficial ownership," but CBP is not bound by FinCEN's interpretation. The IFR does not quantify "significant" or "unencumbered."

U.S. IOR status is subject to CBP verification by the importer's assigned Center of Excellence and Expertise. Non-exhaustive factors include: whether the entity has its principal place of business in the United States; has a U.S. physical presence where substantial business is conducted (e.g., paying employees, generating revenue, or operating retail locations); maintains sufficient unencumbered physical domestic assets and U.S. real property; has gross sales that generally exceed its cost of goods sold; and is sufficiently capitalized. "Physical domestic assets" include cash in a U.S. bank account, U.S. Treasury bonds, and real property, inventory, machinery, and equipment physically located in the United States. Accounts receivable and intangible assets are excluded. CBP may request records such as proof of citizenship or permanent residence, corporate charters, financial statements, purchase receipts, and title documents.

B. Entry Restrictions and Declarations on Foreign IORs

New 19 C.F.R. § 141.21 will permit a foreign IOR to enter merchandise for consumption only if it:

- Is itself CTPAT validated, in which case it may file its own entries or use any licensed customs broker (currently, only Canadian foreign IORs are eligible for CTPAT validation); or
- Designates a CTPAT validated licensed customs broker to make entry. If the foreign principal is not the owner or purchaser of the goods, the CTPAT validated broker must act as the IOR.

A broker's license alone will no longer be sufficient to file entries for a non-CTPAT foreign IOR, and using a CTPAT validated broker does not confer CTPAT benefits on the importer. The restriction applies to all formal entry types and to informal Entry Types 11, 12, and 13, and covers all entries for consumption, including withdrawals from bonded warehouses and foreign-trade zones.

Although EO 14411 directed CBP to prohibit foreign IORs from using Informal Entry, CBP has not done so in the IFR. Instead, CBP will monitor Informal Entries filed by or for foreign IORs, may impose a full prohibition later, and has requested comments on that alternative.

Under new 19 C.F.R. § 141.22, U.S. IORs may continue to file without CTPAT validation and may use non-CTPAT brokers. As noted in CSMS #70381183 (Nov. 6, 2026) beginning January 5, 2027, every Entry (CBP Form 3461), Entry Summary (CBP Form 7501), and their electronic equivalents, must include a new checkbox (a "Yes/No" indicator in the electronic versions) declaring that the IOR qualifies as a U.S. IOR. Foreign IORs must leave the box blank.

In addition:

- A non-CTPAT broker acting as IOR on behalf of a client must identify the principal at the time of filing, and that principal must have a CBP Form 5106 on file.
- A power of attorney (POA) is now required even when the broker acts as the IOR in its own name, revoking CBP's prior ruling position (HQ 223772).

An inaccurate U.S. IOR declaration is a new basis for CBP to require live entry (release only after the entry summary is filed and estimated duties are deposited) and to discontinue Immediate Delivery privileges, for both Formal Entries and Informal Entries.

C. Customs Broker Verification and Penalty Exposure

New 19 C.F.R. § 111.29(a)(2) will require a broker, before declaring U.S. IOR status on a client's behalf, to verify that the client qualifies by requesting and reviewing client records. A non-CTPAT broker that determines a client is not a U.S. IOR must stop filing entries for that client. Brokers must keep verification records for five years from the date of verification, and CBP recommends collecting this information when obtaining the POA.

Brokers may request delayed compliance with the verification requirement by January 5, 2027, explaining the need for the delay. Brokers subject to the following enforcement actions are ineligible for delayed compliance: removal from CTPAT, revocation of Form 5106 filing privileges, federal suspension or debarment, filer code suspension, or license revocation proceedings. Approved brokers must show good faith progress, and all brokers must be in full compliance by May 6, 2027.

CBP has also revised Appendix B(K) to 19 C.F.R. Part 171. Historically, CBP generally pursued negligent and grossly negligent customs broker violations under 19 U.S.C. § 1641, which carries a maximum penalty of $30,000, reserving 19 U.S.C. § 1592 penalties primarily for cases involving fraud or where the broker benefited from the violation. Under the IFR, CBP expressly states that a broker

committing any violation of Section 1592 may be subject to Section 1592 penalties, which can reach the domestic value of the merchandise, in addition to or instead of broker-specific enforcement actions under Section 1641. This change substantially increases potential penalty exposure.

D. Importer Actions to Consider

Although the IFR primarily targets foreign IORs, it will affect virtually all importers and customs brokers because every importer must now determine whether it qualifies as a U.S. IOR under the new regulations.

Importers should consider taking the following steps before the January 5, 2027 effective date:

- Map beneficial ownership through every layer of the corporate structure to determine whether the company satisfies the new U.S. IOR requirements.
- Assemble ownership records, organizational documents, financial statements, and evidence of U.S. assets and real property that may be needed for broker verification or a CBP inquiry.
- If the company may be considered a foreign IOR, confirm whether its customs broker is CTPAT validated and, if not, transition to a CTPAT validated broker or evaluate whether the company qualifies for CTPAT validation before January 5, 2027.
- Review and update POAs and customs broker agreements to address the new verification, and recordkeeping requirements.
- Consider submitting comments on the IFE by January 5, 2027.

The IFR represents one of the most significant changes to IOR requirements in decades. Companies with foreign ownership structures should begin evaluating their U.S. IOR status immediately, as the IFE requires extensive ownership tracing, broker coordination, and documentation that may take time to assemble before the January 5, 2027 effective date.

Please contact Marshall Miller, Brian Murphy, Sean Murray, David Ostheimer, or Kevin Ekstrand with questions.

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