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CBP issues interim final rule defining US IORs and restricting entry by foreign importers of record

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On November 5, 2026, US Customs and Border Protection (CBP) issued a long-awaited interim final rule (FR Doc. 2026-22735) implementing §§ 2(b) and 2(c) of Executive Order 14411, Strengthening Customs Enforcement (June 3, 2026). CBP, for the first time, divides importers of record (IORs) into "US IORs" and "foreign IORs," and limits the ability of foreign IORs to enter merchandise into the customs territory of the US. The rule is scheduled for publication in the *Federal Register* on November 6, 2026, and takes effect 60 days after publication (on or about January 5, 2027).

In brief, the rule:

- Creates a new 19 CFR Part 110 that defines a US IOR and treats any IOR that does not meet the qualifications as a foreign IOR
- Prohibits a foreign IOR from making entry (formal or informal) on CBP forms 3461 or 7501, unless the foreign IOR is itself Customs Trade Partnership Against Terrorism (CTPAT) validated or uses a CTPAT-validated licensed customs broker
- Requires every IOR to declare, on each entry and entry summary, whether it qualifies as a US IOR
- Requires customs brokers to verify a client's US IOR status before filing entry documents for that importer
- Expands CBP's ability to impose live entry, revoke immediate delivery privileges, and assess penalties under 19 U.S.C. 1592 against brokers

CBP invokes the good-cause and foreign-affairs exceptions under the Administrative Procedures Act to issue the rule without prior notice and comment. CBP is accepting comments on the rule up to 60 days after publication.

Who qualifies as a US importer of record

An importer is a US IOR only if it meets the requirements outlined in the new 19 CFR 110.2(a). Any IOR that does not meet all of the qualifications to be a US IOR is a foreign IOR (19 CFR 110.3).

Individuals – An individual qualifies as a US IOR if they are a US citizen or lawful permanent resident. The text contains no residence, asset or business-presence requirement for individuals.

Entities – An entity qualifies as a US IOR only if it meets all three of the following requirements:

1. It is located in the US.
2. It is organized under the laws of the US.
3. Either:
    a. At all times, at least 51% of the entity's beneficial owner(s) are US citizens or lawful permanent residents and have control of the entity.
    b. The entity maintains direct ownership of a significant amount of unencumbered real property in the US at all times.

US incorporation and a US address are no longer sufficient. As anticipated when the president released the executive order, an entity that fails the beneficial ownership test must own US real property directly. Leased space, or property held by a parent or affiliate, does not appear to qualify. CBP explains that the real property "can be subject to some encumberment, but the net unencumbered value of the real property must be of a significant amount." The rule does not define "significant" (see below).

Beneficial owner – CBP regulations (new 19 CFR 110.1) now define a beneficial owner as a natural person who, directly or indirectly, either (a) exercises substantial control over the entity or (b) owns or controls at least 25% of its ownership interests. The definition looks through all layers of entity ownership to the ultimate natural person(s) at the top of the ownership structure. Senior officers (e.g., the president or CEO), persons who can appoint or remove officers, and important decision-makers, all are considered to exercise substantial control. The definition excludes nominees and agents, nonsenior employees, heirs and most creditors.

CBP modeled the definition on Financial Crimes Enforcement Network's (FinCEN) Corporate Transparency Act rule (31 CFR 1010.380(d)) but states that it is not bound by FinCEN's interpretations.

Open questions – The ownership prong, as drafted, is ambiguous. First, it is not clear how CBP intends to measure the 51% requirement. The text requires that "at least 51% of beneficial owner(s)" be US persons, not that 51% of the ownership interests be held by US persons. Because senior officers are beneficial owners, a headcount reading potentially could allow a foreign-owned US subsidiary with several US-citizen senior officers to qualify. The preamble, however, suggests CBP intends to look through entity structure to ultimate ownership, so companies should not rely on a headcount reading without further guidance from CBP. Second, the "and have control" limitation suggests that a passive US owner with no control may not count toward the 51% threshold. Third, the "at all times" language means that the status is a continuing requirement, but it is unclear how this will be enforced. Because a change in ownership, officers or real estate holdings can change an importer's status between entries, there is increased importance to evaluate import compliance issues as part of merger and acquisition due diligence.

How CBP will verify US IOR status

The appropriate center of excellence and expertise (CEE) director decides whether an importer qualifies (19 CFR 141.22(b)). That is the importer's assigned CEE or, if none is assigned, the CEE aligned with the Harmonized Tariff Schedule (HTS) classification of the importer's highest-value commodity. CBP may request supporting records under 19 U.S.C. 1508, such as proof of citizenship or permanent residence, corporate charters, financial statements, purchase receipts, and documents evidencing real property title. The rule provides no timeline for the CEE's determination and no appeal or reconsideration procedure.

In deciding whether an entity is "located in the United States," CBP will consider "the size and scale of the overall operations of the entity and whether it is an instrumentality of a foreign manufacturer without a substantial presence in the United States." New 19 CFR 110.2(b) lists six nonexhaustive criteria that CBP "may consider in its discretion" in conducting its assessment:

1. Whether the entity's principal place of business is in the US
2. Whether it has a physical presence where substantial business transactions are conducted in the US, such as paying employees, generating revenue or operating retail locations
3. Whether it maintains sufficient unencumbered physical domestic assets
4. Whether it directly owns a significant amount of unencumbered real property in the US
5. Whether its gross sales generally exceed its cost of goods sold, and it is structured to generate its own profit
6. Whether it is sufficiently capitalized

Physical domestic assets versus real property – "Physical domestic assets" is a broader category than real property. It means cash in a US bank account, US Treasury bonds, and real property, inventory, machinery or equipment physically located in the US. Specifically excluded are accounts receivable and intangible assets.

It is important to note that real property is the only asset that can establish US IOR status for an entity that does not meet the 51% beneficial ownership test. Cash, Treasuries, inventory, and equipment, however substantial, do not satisfy new 19 CFR 110.2(a)(2)(iii)(B). Physical domestic assets instead are a verification factor. According to CBP, the definition "becomes relevant when CBP verifies" status under Criterion (3), which is geared towards identifying shell companies and affiliations and enabling CBP to pursue successors and alter egos. In practice, a thinly capitalized entity can be found not "located in the United States" even if it is majority US-owned.

While using the term "significant" to describe the required real estate holdings, CBP left the term undefined. The rule sets no dollar threshold, ratio or safe harbor for "significant" real property, and it offers no examples indicating how CBP will evaluate the criterion. CBP says only that the determination "will vary depending upon the circumstances in each instance" and that the criteria "are flexible." Importers relying on the real property prong should therefore expect a case-by-case judgment by the relevant CEE. We note that this lack of guidance presents a strong candidate for comments; namely, proposing that CBP adopt an objective benchmark – for example, one tied to annual duty liability or bond amount, or outlining metrics that the CEEs will use to guide their discretion.

Restrictions on foreign importers of record

New 19 CFR 141.21 limits the ability of a foreign IOR to enter merchandise for consumption, both formal and informal, to only those who are CTPAT validated or who designate a CTPAT-validated licensed customs broker.

Foreign IORs who are not CTPAT validated have two options:

- **Option 1: The foreign IOR remains IOR** – The entry stays in the foreign IOR's name and number, typically on its own bond, and the foreign IOR remains liable for duties. The only change is that the filing broker must be CTPAT validated.
- **Option 2: The broker serves as IOR** – The validated broker enters the goods in its own name and on its own bond, and assumes IOR liability. Any broker acting as IOR for a principal that would be a foreign IOR must be validated. When the principal is not the owner or purchaser of the goods, this structure is mandatory, consistent with 19 U.S.C. 1484(a)(2)(B). Brokers taking on IOR liability for foreign principals can be expected to price accordingly or decline.

Once the rule takes effect, "being a licensed customs broker alone is not sufficient" to file entry for a foreign IOR that is not itself CTPAT validated.

Executive Order 14411 directed CBP to prohibit foreign IORs from making informal entry. CBP did not adopt that prohibition in the rule, but notes that it will monitor informal entries, may impose the prohibition later, and invites comments on this issue.

CTPAT validation

CTPAT is CBP's voluntary supply chain security program under the SAFE Port Act (6 U.S.C. 961 et seq.). It has three tiers:

- **Certified** – CBP has accepted the company's application and security profile, which describe how it meets the program's minimum security criteria (MSC). At this stage, CBP relies on the company's own description.
- **Certified-validated** – CBP has confirmed that the security measures in the profile are actually in place and working. This is the threshold under the rule.
- **Certified-exceeding** – The company exceeds the MSC and follows best practices.

The rule requires CTPAT-validated status by foreign IORs. Mere certification is insufficient. It is unlikely that any importer not already validated will be able to become validated before the effective date of the rule.

Eligibility is the constraint for foreign IORs. The rule does not expand CTPAT eligibility. CBP states repeatedly that "only foreign IORs that are Canadian are currently eligible for CTPAT validation." For practical purposes, a foreign IOR located outside Canada cannot qualify for self-filing under § 141.21(b)(1). It must instead use a CTPAT-validated broker.

Few brokers are CTPAT validated. According to CBP's data, only about 21% of active customs brokers (643 of 3,100) are CTPAT validated. Importers using a foreign IOR should confirm their broker's status immediately rather than assuming the broker can continue filing entries once the rule takes effect.

Declarations, broker verification and enforcement

Starting on the effective date, every entry and entry summary must carry a declaration of whether the IOR qualifies as a US IOR (19 CFR 141.22(a)). CBP is adding a checkbox to CBP forms 3461 and 7501, and a "Yes/No" field to the electronic equivalents. Foreign IORs leave the box blank.

New 19 CFR 111.29(a)(2) requires a broker, before filing a US IOR declaration for a client, to request and review the client's records and confirm the client meets the qualifications to be a US IOR. A broker that is not CTPAT validated must stop filing for any client it determines is a foreign IOR. Verification records must be kept for five years from the date of verification (19 CFR §§ 111.21(a), 111.23(b)).

If CBP determines that an IOR, or a broker acting as IOR for a principal, inaccurately declared US IOR status, CBP may:

- Require live entry, meaning release only after the entry summary is filed and estimated duties, taxes and fees are deposited (new 19 CFR § 142.13(a)(5))
- Discontinue immediate delivery privileges (new 19 CFR § 142.25(a)(5))

An inaccurate declaration is also a potential material false statement under 19 U.S.C. 1592. Previously, CBP pursued brokers under §1592 only for fraud or where the broker shared in the benefits of the violation. Otherwise, it proceeded under 19 U.S.C. 1641, where monetary penalties are capped at US$30,000. Per the rule, CBP may now, in its discretion, assess §1592 penalties against brokers for violations at any culpability level.

Given the increased enforcement environment, tighter requirements and enhanced exposure, importers can expect brokers to require updated powers of attorney with additional documentation required so that brokers can perform the necessary verifications.

Recommended actions

The rule becomes effective January 5, 2027. It provides no transition period for importers. Accordingly, importers should take the following immediate steps:

- Map each IOR number used against the US IOR requirements under 19 CFR § 110.2. This includes nonresident entities, US subsidiaries of foreign parents and entities in multitier ownership structures.
- For entities relying on the beneficial ownership prong, identify every natural-person beneficial owner, including senior officers, and document their citizenship or permanent residence status.
- For entities relying on the real property prong, confirm that the entity itself directly holds title and document the property's net unencumbered value.
- Assemble the records CBP is likely to request, including formation documents, ownership charts, financial statements and title documents.
- Where an IOR will be treated as a foreign IOR, confirm that its broker is CTPAT validated, or restructure the import model before the effective date.
- Review agreements with brokers and foreign suppliers that allocate IOR responsibilities, bonds and duty liability.

Customs brokers should:

- Confirm their own CTPAT status and decide whether to seek validation or file a delayed-compliance request.
- Build a client verification and recordkeeping process, and collect verification documents when obtaining powers of attorney.
- Obtain powers of attorney for every entry in which they act as IOR.
- Reassess exposure under § 1592 for inaccurate US IOR declarations.

Importers and brokers also should consider submitting comments on the rule by the January 5, 2026, deadline. As noted, potential issues to address include proposing that CBP (a) adopts an objective standard for "significant" real property, (b) clarifies how it intends to measure the 51% beneficial ownership threshold, (c) provides a transition period for importers, and (d) provides a reconsideration process for adverse CEE determinations.

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