



Power of Attorney

^Final Rules (87 FR 63262 and 87 FR 63267) are effective as of 12/19/2022

Send questions to the Broker Management Branch email: brokermanagement@cbp.dhs.gov

What is a Power of Attorney (POA)?

A Power of Attorney (POA) is a written statement legally authorizing a person to act for another. A POA is a requirement for customs brokers transacting customs business on behalf of an importer of record (IOR) or a drawback claimant (claimant).



**Principal or Grantor
(IOR/Claimant)**

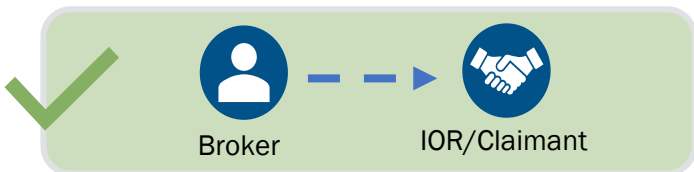
Person granting the authority



**Agent or Grantee
(Broker)**

Person authorized to act on behalf of another

How have custom broker modernization regulations impacted POA?



Updated regulations define how brokers can execute a POA

In the new § 111.36(c)(3):

- Brokers must execute a POA directly with an IOR or claimant, without going through a third-party intermediary such as a freight forwarder*; and
- The compensation agreement between the broker and forwarder cannot forbid or prevent direct communication between an IOR or claimant and the broker.

*The requirement for brokers to execute a POA directly with a client does not prohibit a Broker A-Broker B relationship. A client may authorize its broker (Broker A) to allow other brokers (Broker B) to transact customs business by including special appointment language in the POA.

How should brokers execute a POA?

- Brokers must execute a POA before transacting customs business for a client
- Brokers must execute a POA directly with their client, not via a freight forwarder or other third party
- Brokers may use a CBP Form 5291 Power of Attorney or private alternatives that indicate the principal is granting authority to the broker to act as the principal's agent for customs business transactions, and the scope of that authority
- Include full legal name of the principal and of the broker as well as any authorized trade or fictitious names when completing a POA
- Include the alternative method of payment statement of 19 CFR 111.29 (b)(1) on POAs, or on an attachment to the POA, executed after 1982
- Execute new POAs from existing clients when a business restructuring results in the termination of the legal existence of either the principal or the broker
- POAs may be granted for unlimited periods, except for POAs from partnership clients, which must be obtained every two years
- POAs are unnecessary when the broker is acting as the importer of record

How long should brokers retain POA records?

Brokers must keep POA records on file until revoked; revoked POAs must be retained for five years after the date of revocation or for five years after the date the client is no longer an active client, whichever is later. An "active client" is a client from whom the broker has obtained a POA and for whom the broker has transacted customs business on at least two occasions in the preceding 12-month period.

