



# § 111.28(a) Responsible Supervision and Control: *Factors CBP May Consider*

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



## Factors CBP may consider when determining a broker's exercise of responsible supervision and control:

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|----------------------------------|--|
| 1. Training                      | Training provided to broker employees  |
| 2. Instructions and Guidelines   | Instructions and guidelines issued to broker employees   |
| 3. Volume and Type of Business   | Volume and type of business conducted by the broker  |
| 4. Reject Rate                   | Reject rate for various customs transactions relative to overall volume  |
| 5. Employee Access               | Broker employees' access to current editions of CBP regulations, the U.S. Harmonized Tariff Schedule, and CBP issuances  |
| 6. Sufficient Number of Brokers  | Availability of a sufficient number of individually licensed brokers for necessary consultation with employees of the broker   |
| 7. Supervisory Visits            | Frequency of supervisory visits of an individually licensed broker to another office of the broker that does not have an individually licensed broker  |
| 8. Audits and Reviews            | Frequency of audits and reviews by an individually licensed broker of the customs transactions handled by employees of the broker  |
| 9. Broker Involvement            | Involvement of the individually licensed broker who qualifies the permit in the operation of the brokerage and communications between CBP and the brokerage  |
| 10. Broker Interest              | Any circumstances which indicate that the individually licensed broker has a real interest in the operations of the broker   |
| 11. Processing Timeliness        | Timeliness of processing entries and payment of duty, tax, or other debt or obligation owing to the Government for which the broker is responsible, or for which the broker has received payment from a client |
| 12. CBP/Broker Communications    | Communications between CBP and the broker, and the broker's responsiveness and action to communications, direction, and notices from CBP   |
| 13. Broker/Member Communications | Communications between the broker and its officer(s) and member(s); and the broker's responsiveness and action to communications and direction from its officer(s) and member(s)                               |



## Submitting a responsible supervision and control plan\*

### Who should submit a plan

- A broker **applying for a national permit** must provide a supervision plan for exercising responsible supervision and control over its customs business.
- A broker **with an active national permit in place** prior to the Final Rule effective date (**12/19/2022**) is not required to provide a supervision plan to CBP. However, development of a supervision plan is recommended as a best practice to ensure proper maintenance of responsible supervision and control.
- If a broker who is **exempt from the supervision plan** requirement cancels his/her permit or the permit is revoked by operation of law then applies for a new permit, he/she must provide a supervision plan and all other permit application information required.

### How to submit a plan

- When applying for a national permit, **the plan should be sent as an attachment with the broker's national permit application to the appropriate processing Center.**





# § 111.28(a) Responsible Supervision and Control: *Sufficient Number of Brokers Requirement*

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A brokerage must employ a sufficient number of licensed brokers relative to the job complexity, similarity of subordinate tasks, physical proximity of subordinates, abilities and skills of employees, and abilities and skills of the managers. The below examples are merely illustrative in nature as to some of the possible circumstances and considerations relevant to a brokerage determining a sufficient number of licensed brokers to employ.

**Size of a brokerage.** A larger brokerage may need to employ more licensed brokers than a smaller brokerage for oversight

- Number of office locations transacting customs business
- Number of employees involved in customs transactions
- Number of clients
- Number of ports of entry in which a brokerage transacts customs business
- Ratio of employees to managers
- Presence of a broker compliance department

**Skills and abilities of a customs broker's employees.** A brokerage with a lot of inexperienced employees may need more licensed brokers for oversight

**Skills and abilities of a customs broker's manager who is supervising employees transacting customs business.** Inexperienced managers may need more experienced licensed brokers to assist with oversight

**Physical proximity of subordinates to a customs broker's manager.** Ease of subordinates' ability to obtain advice, concurrence, and vetting from a manager who is on-site or readily accessible

**Entry volume or value filed by a customs broker.** A brokerage with high volume or value of entries may need more licensed brokers for oversight

**Reject rate for various customs transactions relative to overall volume/value,** demonstrating the general level of accuracy amongst the brokerage's filings

**Complexity and similarity of transactions performed by a broker's employees.** A brokerage conducting more varied and complex transactions may need more licensed brokers for oversight

- Filing entries subject to CBP Priority Trade Issues (PTIs)
- Filing entries subject to Other Government Agencies clearance
- Filing entries for commodities requiring more in-depth knowledge or training
- Filing entries containing broad ranging classifications with a large volume of line data
- Filing entries through many types of transportation modes (e.g., truck, rail, air, and vessel entries)

**Previous violations of customs regulations or general level of non-compliance.**

- Providing incorrect information or omitting entry information relevant to merchandise associated with CBP PTIs
- Providing incorrect information or omitting information which would result in avoidance of inspection or entry review by another agency, and thereby affecting the admissibility decisions regarding the entered merchandise
- Failing to properly execute power of attorney or customs bonds; failing to retain records; failing to respond to CBP requests for information, telephone calls, or requests for meetings
- Number of penalties issued

**Record evidencing a general level of compliance.** A brokerage that is generally compliant may not need to employ as many licensed brokers as a brokerage that has a record of non-compliance

## Additional Resources



[Modernization of the Customs Broker Regulations 87 FR 63267](#)



[Modernization of the Customs Broker Regulations Webpage](#)



[Customs Broker Guidance for the Trade Community](#)



[Example Considerations for RS&C Factors](#)



U.S. Customs and Border Protection

Please send any questions or comments to the Broker Management Branch email: [brokermanagement@cbp.dhs.gov](mailto:brokermanagement@cbp.dhs.gov)

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