

**ADVISORY COMMITTEE ON COMMERCIAL OPERATIONS OF CUSTOMS AND  
BORDER PROTECTION (COAC)**

**Trade Modernization Subcommittee  
Role of the Broker Working Group  
Government Report  
November 2013**

**CURRENT STATUS**

The Trade Modernization Subcommittee was tasked to make recommendations to CBP regarding importer *bona fides*.

Beginning in July and throughout the third quarter of 2013, the Role of the Broker Working Group has been meeting to discuss possible recommendations on importer *bona fides*. This work began with developing a draft framework document, which spells out that the issue is establishing the factual identity of the importer of record and what *bona fides* should be required of the importer of record to establish this identity to the customs broker. CBP recognizes that many customs brokers have developed best practices that assure the identity of the importer, but are aware that there is not a common standard across the customs brokerage community which allows some importers to "broker shop" for a company with less stringent standards.

The discussions within the working group have been centered on what documentation is of significant value to this purpose and is readily available to the importer which they can provide to the customs broker, and that the customs broker, in turn, can furnish to CBP upon request. CBP has made very clear to the working group that the role of the customs brokers in obtaining *bona fides* is not to vet the importer, but to establish the identity of the authorized individual and their relationship to the importer of record. An example of a logical *bona fides* might be a government-issued photo identification of the authorized individual who was empowered to sign the Power of Attorney. The difficulty in production of this document for an importer might be that the authorized person may not be directly involved in establishing the working relationship with the customs broker and is hesitant to furnish a copy of their Driver's License or Passport for fear of identity theft. The discussion is continuing and we are looking for alternative *bona fides* that may be acceptable.

Further discussions in the working group have focused on other information sources within the importation process that might enable CBP to obtain and retain additional information about an importer to establish identity and authenticity. CBP has briefed the working group on the enhancement of the current Importer ID Input Record (CBP Form 5106) process. Although this would not be considered to be part of *bona fides*, the working group has been encouraged by these discussions and is hopeful that any revisions to the process will enable CBP to have a better idea of who the importer is and what they do as an importer.

The working group strongly supports the premise that the customs broker must have direct contact with the importer of record and that no third party should be able to prevent a direct communication between a broker and an importer of record.

### **ROLE OF THE BROKER TRADE TRANSFORMATION INITIATIVE**

In 2012, the following Role of the Broker (ROTB) trade transformation initiative elements were completed: automation of broker exam registration, transformation of broker licensing to incorporate more efficient background investigations, and automated application and payment processes.

CBP is still in need of one key element of the trade transformation initiative: an overhaul of the regulations contained in 19 CFR Part 111 and 141.