

# Q&A from the Role of the Broker Webinar

## June 7, 2012

Note: Participant names have been removed to protect privacy. Questions have been modified to remove typos, correct spelling, and call out acronyms.

### Webinar technical issues

*My volume is up all the way on the computer, but nothing is coming through. I can hear but I'm getting a lot of audio feedback. Why is the audio garbled?*

Make sure that the volume is turned up on your computer and that the mute button is not engaged. If this still does not work, use the call-in number. Make sure you mute your computer when you are on the phone or you will experience a lot of feedback. We have only 125 telephone ports and upwards of 500 participants, ***so please call in only if your sound is not working on your computer.*** Regrettably, if the audio is garbled, this is probably an issue with the speakers on your computer or your internet connection, and CBP is unable to fix this problem from our end.

*Can the listeners ask verbal questions?*

Not during these large webinars. We will have hundreds (potentially thousands) of participants in these webinars and only have 125 telephone ports. We must keep those on the telephone on mute or else the background noise (typing, talking, phone ringing, hold music) overwhelms the webinar. Please ask your questions and make your comments using the question function on the webinar.

*Will the slides be posted to website? What part of the website will this be posted to?*

You can find the webinars and supporting documents under the Trade Transformation part of our website:

[http://www.cbp.gov/xp/cgov/trade/trade\\_transformation/brokerregs.xml](http://www.cbp.gov/xp/cgov/trade/trade_transformation/brokerregs.xml)

*Can you please give us the email address where to send you the request for the Trade Updates link?*

Here is the link to subscribe to Trade Updates:

[https://public.govdelivery.com/accounts/USDHSCBP/subscriber/new?category\\_id=USDHSCBP\\_TO](https://public.govdelivery.com/accounts/USDHSCBP/subscriber/new?category_id=USDHSCBP_TO)

Please send comments, questions, and requests regarding the webinars and the Role of the Broker Trade Transformation Initiative to [RoleoftheBroker@cbp.dhs.gov](mailto:RoleoftheBroker@cbp.dhs.gov)

*I'm curious to know how many people on the call are brokers working directly for importers, consultants, or brokers working for brokerage companies. Can you do a poll?*

This is an excellent suggestion, and CBP will conduct a poll during each webinar to get a snapshot of our participants.

## General

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*This is great for black and white issues, but is Part 111 really a black and white issue?*

We agree that broker issues are complex and do not lend themselves to black-and-white resolutions. CBP believes that conducting broad public outreach to put major themes up for discussion will generate vital feedback, particularly if we put technology to its greatest use. In addition to the public webinars, CBP will also conduct webinars with local brokerage associations where we will use our webinar technology as a virtual workspace, which will allow for more discussion. Finally, CBP is looking to make port visits to communicate with the broker community directly to the extent that travel funding is available.

*Do you think CBP could give combined webinars with EPA, USDA, etc.?*

Thank you for this idea. We will be looking to conduct joint webinars with other government agencies. A question from CBP to the trade: ***What would be the most valuable topics and issues for joint webinars?***

## Applicability

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*Will CBP be regulating brokers that are not the owners of the broker firm?  
Will this rewrite of the regulation pertain to individual broker licenses?*

If you are currently covered by 19 CFR Part 111, whether you are an individual license holder, a broker in a brokerage house, or an in-house broker for an importer, the overhaul of Part 111 will likely affect you. Please tune in to the webinars for more information on specific topics and provide your feedback to CBP on how potential regulatory changes could affect you and your clients. You can also contact us via email if you have very specific concerns or questions: [RoleoftheBroker@cbp.dhs.gov](mailto:RoleoftheBroker@cbp.dhs.gov).

*Will you address individual customs brokers who work for importers (not self-filers)?*

Yes, all webinars will include, for special consideration, topics of particular interest to individual customs brokers, small brokerage firms, and small importers. Impacts to small

entities are of primary concern to CBP, and a special analysis of these impacts must be part of the regulatory package developed.

## **Continuing education**

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*How would this affect brokers not conducting business on behalf of others such as brokers that are employed by importers? Most companies are not paying for conferences, webinars, or other training. Is consideration going to be made to brokers whose salary is modest and may not have discretionary income to spend on continuing education?*

The continuing education requirement is one of the primary drivers of this summer's outreach. A whole new section of the regulations would need to be created if CBP required continuing education units in order to remain a licensed broker.

CBP is very sensitive to the resource constraints, in terms of both time and money, of individual brokers and brokers who may serve as the sole in-house broker for an importer. Low-cost, but effective methods, of education must be explored, and we hope to be able to present many of these in the two sessions we are going to devote to continuing education (July 12 and August 9 webinars).

***Do you have suggestions or comments now?*** We will incorporate them into the materials we will present in these sessions. Comments to impacts on small entities are especially helpful. Please think creatively! We would like to think beyond the traditional classroom setting. Send your suggestions and comments to [RoleoftheBroker@cbp.dhs.gov](mailto:RoleoftheBroker@cbp.dhs.gov).

*As far as continuing education, is that not what the Certified Customs Specialist (CCS) is for?*

The Certified Customs Specialist Program is housed in the National Customs Brokers and Forwarders of America Association (NCBFAA) and is not mandatory (*i.e.*, a regulatory requirement) for any individual.

## **Changes to business practices**

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*Will the potential revision to Part 111 include validating importers?*

Yes, this is one of the most important elements to the regulatory overhaul. Our June 21 webinar addresses establishing *bona fides*. CBP is also looking to make conforming amendments and further clarifications in 19 CFR Part 141, which addresses the Right to Make Entry. Finally, CBP will modify CBP Form 5106 to more proactively collect information about importers that can be vetted by CBP. The Form 5106 revisions will

apply only to new importers and others requiring an importer number for doing business with CBP.

All changes described above will be subject to public comment prior to any adoption or implementation.

*Will any of the summer sessions address self-filer issues for companies that act as their own broker, as in an FTZ environment? Would there be other topics besides Part 111?*

The summer webinars will focus on Part 111, which contains the regulations for Licensed Customs Brokers. Self-filers, which are not licensed customs brokers, are not the primary focus of our outreach. However, we encourage you to send issues you may have to [RoleoftheBroker@cbp.dhs.gov](mailto:RoleoftheBroker@cbp.dhs.gov), and CBP will seek to answer your questions or develop other webinar series to address topics outside of the Part 111 overhaul.

*Is there a webinar for an importer who does not employ brokers to know how they will be affected by the Role of the Broker?*

Yes! Changes and impacts to the business process will be discussed in our July 26 webinar. Please join us. The full webinar schedule can be found here: [http://www.cbp.gov/xp/cgov/trade/trade\\_transformation/brokerregs.xml](http://www.cbp.gov/xp/cgov/trade/trade_transformation/brokerregs.xml)

*Will the Part 111 rewrite give due consideration for licensed brokers who are technically retired from the business but desire to maintain their license?*

This is an interesting question that we will consider over the summer, particularly as it pertains to any continuing education requirement.

## **More relaxed broker permitting**

*How would this work when other government agency requirements require a local office, such as a USDA Import Permit? When USDA requires a permit, a broker must have a local office. Have you approached any of the other agencies that have oversight of imports?*

The commenter raises an interesting issue. CBP is exploring a pilot program to test a more relaxed broker permitting requirement. CBP is continuously working with our other government agency partners to find ways to incorporate their requirements into our pilot programs. In the particular case of the USDA permit CBP lacks authority to waive the import restrictions set by another Agency.

*Would CBP ever consider broker license specific to the Centers of Excellence and Expertise (CEEs)?*

The CEEs are virtual. While entry summaries are routed to the CEEs for review and processing, the entries themselves are still port based. Release, collections, liquidations, etc. are still based on the port of entry. Thus, a special or different license is not anticipated for the CEEs.

## **The regulatory process**

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*Best case scenario, how soon could the final rule be out?*

*What is the anticipated date of the major overhaul to 19 CFR 111?*

The Federal regulatory process is deliberative by design and usually takes several years from proposed rule to final implementation. In addition to writing the regulatory text and explanatory preamble, CBP must conduct several economic analyses, including a Regulatory Assessment and Small Business analysis. These analyses are required by executive order and by law, and must be thorough, well-documented, transparent, and reproducible. Quantified benefits should outweigh quantified costs. Once CBP has completed its drafting, analysis, and review of the Notice of Proposed Rulemaking (NPRM), the regulatory package undergoes detailed reviews at the Department of Homeland Security (DHS) and at the Office of Management and Budget (OMB). DHS has no set timeframe; OMB has 90 days, as per executive order. Once the NPRM is published the public is generally given a 60- or 90-day comment period. Once the comment period closes, CBP synthesizes, analyzes, and responds to comments and develops a Final Rule and corresponding analyses. The Final Rule again undergoes reviews at DHS and OMB.

OMB has a complete overview of the regulatory process on its website:

<http://www.reginfo.gov/public/jsp/Utilities/faq.jsp>, including a nice graphic depiction:

<http://www.reginfo.gov/public/reginfo/Regmap/index.jsp>

CBP is conducting the extensive outreach throughout the summer with the goal of drafting the NPRM in Fall 2012/Winter 2013 and publication in late Spring 2013.

*Will the new regulations be vetted not just for economic impact but for discriminatory impact? I'm particularly concerned that the requirement to professionalize the industry will discriminate against our younger generation.*

CBP must conduct several economic analyses, including a Regulatory Assessment and small business analysis. These analyses are required by executive order and by law. While these analyses do not address age specifically, *all* economic impacts, both positive

and negative must be considered in the Regulatory Assessment. To the extent that new requirements would represent a new burden to brokers, CBP must explore how this could serve as a deterrent to becoming a licensed customs broker, which could have economic impacts. CBP must quantify these impacts to the extent possible.

## Miscellaneous

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*Are there plans to extend RLF to more entry types? Currently RLF only covers two entry types.*

*When will 03 entries via RLF be allowed?*

CBP has plans to expand RLF to include additional entry types, including types 03 and 06. CBP is currently focusing on expanding RLF using existing automation wherever possible; however, there are automated system changes and policy implementation that must be completed prior to the expansion. As such, CBP does not have a time frame for RLF expansion.

*How do we sign up to the pilot program for self-assessment?*

This question refers to a pilot program CBP will be running over the next year to 18 months that will allow CBP-accredited brokers to pre-certify applicants for CBP's Importer Self-Assessment (ISA) program. CBP expects to announce this pilot through a Federal Register Notice in Summer 2012. Detailed instructions for applying to this pilot program will be provided in this notice.

*Will CBP be publishing an updated Brokers Handbook to account for the regulatory changes?*

Yes, the Customs Brokers Handbook will be updated to reflect all changes to regulations.

*What is the work of the CBP/NCBFAA work group - do you meet regularly to discuss issues, develop documents, have calls? Is there a work plan with deliverables? A mission statement?*

The joint CBP-NCBFAA workgroup met throughout 2011 to co-create new approaches for the critical role that the customs broker plays in the conduct of international trade. Workgroup activity was completed largely in 2011. In Fall 2011, NCBFAA presented CBP with a list of recommended regulatory changes. CBP welcomed these recommendations, but believed that further discussion with the wider trade community was warranted based on the complexity of the issues, the potential impacts of regulatory changes on the brokerage community, and impacts to small entities, including importers

and freight forwarders. The work with NCBFAA was vital to CBP's understanding of the issues from the broker's perspective and is the foundation of CBP's outreach this summer. CBP is currently seeking comment from the widest audience possible.

## **Broker exam**

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*We hear that there will be changes to the exam this October. How do we find out about that?*

*Is there any discussion on whether the brokers exam might be standardized, without the swings in pass rates?*

While the pass rate for the April 2012 exam was lower than in previous years, the questions used on the exam, covered a broad range of issues a broker may encounter during his/her daily course business, including: value, classification, admissibility, related laws and regulations pertaining to conducting customs business.

CBP is continuing to explore the usefulness of the exam to test the readiness of individuals to become licensed customs brokers with a wide range of responsibilities in trade compliance and the filing of entries. CBP continues to collaborate with the broker community to increase the level of broker knowledge, expertise, and professionalism—a direct correlation to the value of obtaining and retaining a broker's license.

Because CBP makes prior tests and answer keys available for study purposes, CBP does not want to give the same standardized test at every exam session because that would not test the knowledge of the examinee.

## **Comments received (posted without CBP response)**

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A standard minimum price for basic services would definitely protect small broker firms and will create a more fair competitive market.

Continuous education requirements should be for the Customs House Broker (CHB) employees as well as the CHB.

Suggestion regarding importer validation: mandate all importers who have bonds to also have Automated Clearinghouse (ACH) accounts. This will add Bank Account verification.

Right to make entry is a concern—this can be defined as a party who has a financial interest in the transaction (excepting informal entries).