Importer of Record Status Declaration Requirements

Consistent with Section 2 of Executive Order 14411, **"Strengthening Customs Enforcement**," the Heightened Requirements for Foreign Importers of Record interim final rule (IFR) establishes heightened requirements for foreign importers of record (IORs) when making entry and corresponding responsibilities for licensed customs brokers with respect to their clients.

Who Qualifies as a U.S. Importer of Record (19 CFR § 110.2)?

Individual

An individual who is a U.S. citizen or lawful permanent resident.

Entities or Companies

An entity qualifies as a U.S. IOR if it is:

1. located in the United States (including Puerto Rico);
2. organized under U.S. law; and
3. maintains at all times either (i) at least 51% U.S. beneficial ownership with control or (ii) direct ownership of a significant amount of unencumbered real property in the United States.

Foreign Importer of Record Filing Restrictions

Foreign Importer of Record

An IOR that does not meet the U.S. IOR criteria is considered a foreign IOR.

Formal and informal entry by a foreign IOR is permitted only if the foreign IOR is CTPAT validated and has the right to make entry, or, if the foreign IOR is not CTPAT validated, the entry is made by a licensed customs broker that is CTPAT validated.

ACE may reject entry summary filings involving a foreign importer of record if the applicable CTPAT validation requirement is not satisfied.

Questions may be directed to:

Office of Trade,
Trade Modernization Division
ForeignIOR@cbp.dhs.gov

How to Prepare For U.S. IOR Requirements

These examples are intended to provide general guidance.
The totality of the circumstances should be evaluated on a case-by-case basis.

For Importers

- ✓ **Determine Your Status**: Identify whether you qualify as a U.S. IOR or a foreign IOR based on official definitions.
- ✓ **Gather Supporting Records**: Collect documentation proving your U.S. IOR status or CTPAT validation ahead of time.
- ✓ **Coordinate with your Broker**: Ensure your broker has an accurate, up-to-date power of attorney (POA), CBP Form 5106, and filing information on file.
- ✓ **If Qualified as a U.S. IOR**: Declare status at entry/entry summary, maintain records, and be ready to provide them to your broker or CBP upon request.
- ✓ **If a Foreign IOR**: Confirm your customs broker's CTPAT validation status CTPAT Customs Brokers unless you are CTPAT validated yourself.

For Customs Brokers

- ✓ **Review Client Base**: Identify clients who are foreign IORs versus those claiming U.S. IOR status.
- ✓ **Client Onboarding and POA Compliance:** Revise client intake processes and verification protocols to ensure POAs are obtained before transacting any customs business, including circumstances where the broker acts as the IOR for the entry.
- ✓ **Software Updates**: Update filing systems and software to accommodate new ACE data fields (CBP Forms 3461 and 7501).
- ✓ **Recordkeeping**: Ensure systems are in place to retain all U.S. IOR verification records for 5 years from the verification date and to conduct verifications of U.S. IOR status on an ongoing basis for the duration of the broker-IOR relationship.
- ✓ **Compliance Extensions:** If necessary, submit a delayed compliance request within 60 days of the Interim Final Rule publication date.

What Records Can Be Used to Verify U.S. IOR Status?

When brokers or CBP verify U.S. IOR status, the following potential records may be used depending on the criteria and circumstances.

For Individuals (U.S. Citizens or Lawful Permanent Residents):

- ✓ U.S. Passport
- ✓ U.S. Birth Certificate
- ✓ Certificate of Naturalization/Citizenship
- ✓ Permanent Resident Card (Form I-551)

For Business Entities (Located & Organized in the U.S.):

Secretary of State records

- ✓ State business registration
- ✓ Local business license
- ✓ Certificate of Occupancy

Financials

- ✓ Bank statements
- ✓ Lease agreements
- ✓ Property/Mortgage records
- ✓ Insurance policies
- ✓ Invoices/POs listing business address
- ✓ Utility bills
- ✓ Website/Warehouse evidence

U.S. Legal Entity Considerations

- **Unencumbered Physical Domestic Assets**: Cash in U.S. bank accounts, U.S. Treasury bonds, title deeds, inventory receipts, machinery/equipment titles or receipts. *Documents must demonstrate that assets have been maintained in the U.S. on an ongoing basis and were not recently obtained for purposes of meeting the U.S. IOR requirement, which could indicate the IOR does not intend to maintain the assets in the U.S.*
- **Anticipation of Profit/Capitalization**: Proof of revenues & tax returns, managerial accounting spreadsheets, business plans, bank loans, or lines of credit.

Additional Considerations

- **Ownership (at least 51% owned/controlled by U.S. Citizens or LPRs):** Tax returns, corporate resolutions, shareholder ledgers/agreements, stock certificates, organizational charts, confirmation that compensation/distributions to reported owners are consistent with their reported ownership stake relative to other owners, and confirmation of no undisclosed side agreements.
- **Real Property**: Titles, deeds, mortgage records, or trust documents showing direct ownership of unencumbered U.S. real property.

Contact:
ForeignIOR@cbp.dhs.gov

Physical Domestic Assets Verification Examples

These examples are intended to provide general guidance.
The totality of the circumstances should be evaluated on a case-by-case basis.

Cash in U.S. Bank

U.S. bank statements; full account numbers if not shown;

Financial statements;

Bank letter;

Ownership certificate, or micro-deposit verification if needed;

Officer declaration confirming intent to maintain funds and notify broker if balances fall below a threshold.

U.S. Treasury

Treasury Direct statements;

Paper bond certificates, if applicable;

Purchase receipts;

Balance sheets;

Officer declaration confirming intent to maintain ownership and notify broker before sale or transfer.

Real Property

Deeds;

Mortgage documents or statements;

Satisfaction or release of mortgage;

County assessor records; property tax records;

Balance sheets;

Officer declaration confirming intent to maintain ownership.

Inventory

Warehouse records;

Inventory system reports;

Third-party logistics records;

Balance sheets;

Photos, video verification;

Site visit records.

Machinery/ Equipment

Bills of sale, invoices;

Certificates of title;

Financing documents, lien satisfaction records;

Valuation materials; useful-life information;

Balance sheets;

Officer declaration confirming value and intent to maintain ownership.

Customs brokers are responsible for verifying the IORs declaration and must maintain a valid POA on file before conducting customs business including circumstances where the broker acts as the IOR for the entry.

Brokers should review historical records to confirm whether assets were maintained in the U.S. over time, not recently acquired solely to qualify as a U.S. IOR. Assets should align with the IORs business model, operations, and financial statements.

Inventory should reflect a regular, meaningful U.S. presence, not merely recently imported goods likely to be quickly sold. Perishable or readily disposable inventory may be insufficient.

Evaluate ownership, U.S. location, value, business use, and remaining useful life. Assets near the end of useful life may be insufficient.

If concerns arise, brokers should request additional information. If unresolved, they should **decline to verify** the IOR as a U.S. IOR or **decline to do business with the IOR**.

Brokers should retain records for at least **5 years** and provide them to CBP upon request.

Brokers should **verify claimed assets** rather than rely solely on the IOR's assertion, including continued verification on an ongoing basis for the duration of the broker-IOR relationship.

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U.S. Customs and Border Protection