

# BRIEFINGS

VOLUME 24 NO. 11  
November 15, 2012

## FTZ BACKGROUND CHECKS

Customs Headquarters announced that automated vetting for FTZ operators is available at the Global Enrollment Centers in: Atlanta, Boston, Cleveland, Dallas/Ft. Worth, Detroit, Houston, Laredo, Long Beach, Miami, Nogales, Otay Mesa, Philadelphia, San Francisco, Seattle, JFK, Chicago, and Washington/Dulles. This should significantly reduce the processing time on background checks.

## NEW IRAN REGULATIONS

The Office of Foreign Assets Control (OFAC) has issued new regulations following passage of the Iran Threat Reduction and Syria Human Rights Act of 2012 and the issuance of [Executive Order 13599](#). The title of the regulations has changed to the Iranian Transactions and Sanctions Regulations (ITSR). Non-U.S. subsidiaries of U.S. companies are now subject to the ITSR and exports of EAR99 products by non-U.S. subsidiaries to Iran from speculative inventory are no longer possible without an OFAC license. 77 Fed. Reg. [64664](#) (Oct. 22, 2012).

## FCPA

On November 13 the Criminal Division of the U.S. Department of Justice and the Enforcement Division of the Securities and Exchange Commission published a long-awaited detailed guidance booklet entitled "[A Resource Guide to the U.S. Foreign Corrupt Practices Act.](#)" The guide includes a definition of "foreign official," discussion of facilitating payments, suggestions for compliance programs, and comments on enforcement strategy.

## 2013 SEMINARS

- Feb. 19-20 - Advanced HTSUS Classification
- Feb. 21 - ECCN Classification/License Determination
- March 5-6 - Advanced Exports
- April 2 - FTZ 101
- April 3 - FTZ 201
- April 30 - Import/Export 101
- May 1 - Import/Export 201
- May 14-15 - Advanced Value
- October 8 - FTZ 101
- October 9 - FTZ 201
- Nov. 12 - Import/Export 101
- Nov. 13 - Import/Export 201

In response to client interest, note that for the first time we will offer an extra day with the Advanced Classification seminar on Export Control Classification Number (ECCN) classification and license determination. Returning to the schedule this year is an Advanced Export and an Advanced Import / Export Valuation seminar. Four free seminars continue to be offered for clients. Seminars are offered to Miller & Company clients only. For more details contact [Penny Freeman](#).

## WEBINARS

Upcoming webinars include:

- November 29 - Buying & Selling Agents - Customs Issues
- December 6 - Merchandise Returned for Repair
- December 13 - American Goods Returned

All previous webinars are available at our [eStore](#).

## U.S.-PERU FTA

Customs has issued a Final Rule on preferential tariff treatment and other Customs provisions of the FTA with Peru. 77 Fed. Reg. [64031](#) (Oct. 18, 2012).

## AIR IN-BONDS

ABI functionality to transmit In-Bonds for air cargo was deployed on November 5, 2012. ABI In-bond requests may only be transmitted for air waybills that have been transmitted and accepted in the Air Automated Manifest System. The CATAIR chapter on [Air In-Bond](#) has been revised. CSMS [#12-000428](#) (Oct. 23, 2012).

## TOP IMPORTERS FY 2012

Customs has posted its annual alphabetical [listing](#) of the top 5,000 importers, based on entered value for FY2012. Clients should review the list to see if their company is listed. Entered value is one criterion used by Customs to select companies for Focused Assessments.

## CUSTOMS AUDIT STATS

We have been told that Customs Focused Assessments (FAs) have resulted in significant findings of non-compliance:

- Over 10 years FAs have resulted in payments of \$170 million, not including Prior Disclosures;
- 55% of FAs and 46% of Free Trade Agreement (FTA) audits find the importer out of compliance;
- Quick Response Audits have secured \$212 million in underpayments, not including Prior Disclosures; and
- One FTA audit resulted in a \$17 million penalty to an importer that had been told to correct their FTA compliance and did not.
- It is believed that Customs will be performing a larger number of NAFTA compliance reviews due to a high number of recent unverifiable NAFTA claims.

## BIS PROPOSES VSD LIMITS

The Bureau of Industry and Security (BIS) is proposing a 180-day limit between the date of an initial notification of a potential Voluntary Self-Disclosure (VSD) and the filing of the narrative account of what happened. Under the Proposed Rule, the 180-day limit could be extended for unusual circumstances including material changes in the business or a pending government action. Comments are due by January 7. 77 Fed Reg. [66777](#) (Nov. 7, 2012).

## FTZ INVENTORY RULING

Customs Headquarters has issued a ruling on a foreign-trade zone inventory reporting methodology for natural gas that, although involving a unique product, is useful guidance for all FTZ Operators and Users managing domestic and foreign status merchandise. Careful consideration of the requirements and effects of any inventory method should be given prior to activation of the FTZ with Customs. HQ [H102097](#) (Feb. 29, 2012).

## BRIBERY CHARGES

A Customs officer was [recently](#) arrested and charged with accepting bribes to allow others to smuggle goods into the U.S. The charges allege a loss of more than \$780,000 in customs duties and taxes.

## BROKER FRAUD

The [president](#) of the San Diego Customs Broker Association has pled guilty to an alleged fraudulent scheme involving the diversion of in-bond merchandise into U.S. commerce. The government alleged that more than \$100 million in goods were involved, causing \$18 million in revenue losses.

## FTA – KOREA

Customs has posted a [frequently asked questions](#) document on the Korea FTA that addresses common questions on rules of origin, regional value content, and the MPF exemption.

## CUSTOMS BUSINESS RULING

Customs has issued a ruling reaffirming [HRL 114654](#) (May 28, 1999) and indicating that “customs compliance services” involving the post-entry audit of electronically filed Customs original source documentation is not in itself “customs business.” HQ [H175280](#) (Sept. 24, 2012).

## REMOTE LOCATION FILING

- Customs recently announced that ACE Entry Summary filers may now use Remote Location Filing (RLF) to transmit Entry Summaries certified for cargo release for Entry Type 03 (AD/CVD). CSMS [#12-000427](#) (Oct. 22, 2012).
- Customs also recently provided guidance on how to remove a RLF entry from an ABI statement. CSMS [#12-000482](#) (Nov. 1, 2012).

## YEMEN SANCTIONS

OFAC has published a Final Rule relating to [Executive Order 13611](#). Certain entities in Yemen have been designated as Specially Designated Nationals (SDNs) and transactions with these entities will require an OFAC export license. Although there are a number of blocked parties in Yemen, Yemen itself is not sanctioned or embargoed. 77 Fed Reg. [67276](#) (Nov. 9, 2012).

## U.S.-PANAMA TPA

- The U.S.-Panama TPA went into effect on [October 31, 2012](#). Over 86% of U.S. exports of consumer and industrial products to Panama are now duty free. 77 Fed. Reg. [66507](#) (Nov. 5, 2012).
- The ITA has posted a [fact sheet](#).
- Customs has issued filing requirements for Panama TPA claims. CSMS [#12-000429](#) (Oct. 23, 2012).
- The ITC has revised the HTSUS. CSMS [#12-000493](#) (Nov. 6, 2012).

## ALUMINUM AD/CVD

Customs has posted its webinar presentation on the AD/CVD orders on [Aluminum Extrusions](#).

## CHINA IMPORT VALUATIONS

The U.S. Department of Agriculture's Foreign Agriculture Service has been coordinating with industry groups and China's Shenzhen Customs office to address the unpredictable and inconsistent tariffs being levied on U.S. agricultural products entering Chinese ports. Chinese port officials are basing tariff calculations on their own [valuation system](#), rather than transaction values. Contact Tom Lobred with questions.

## AIR CARGO SCREENING

Customs has [expanded](#) the Air Cargo Advance Screening (ACAS) pilot eligibility requirements to all organizations in the air cargo supply chain who wish to send and receive advance security filing cargo data. Applications are due November 23. 77 Fed. Reg. [65006](#) (Oct. 4, 2012).

## LAPTOPS AND CONTROLS

The Justice Department has [charged](#) a U.S. resident for taking a laptop that contained defense data on a trip to China. There is no indication that the data was shared or released in China, only that it was taken out of the country in violation of the Arms Export Control Act and the International Traffic in Arms Regulations (ITAR). The incident could also lead to an investigation of his employer. Contact Chuck Ballard with questions.

## CUSTOMS BROKER EXAM

Customs has posted the [answer key](#) to the October 2012 Broker's [exam](#).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 11/15/12		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	281	264
SUBZONES	691	538
PENDING		
ZONES	4	
SUBZONES	15	
MISCELLANEOUS	54	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	10	

The material contained herein is not to be construed as legal advice or opinion. More information may be obtained by contacting any attorney within the firm.  
© 2012 Miller & Company P.C.

4929 MAIN STREET  
KANSAS CITY, MO 64112  
816.561.4999  
FAX 816.561.5999  
E-MAIL [intllaw@millerco.com](mailto:intllaw@millerco.com)

1875 I STREET N.W., 5TH FLOOR  
WASHINGTON, D.C. 20006

233 BROADWAY, SUITE 2702  
NEW YORK, NEW YORK 10279