

CBP Moves Forward on Pilots for Account Executive Program and Centers of Excellence and Expertise

By: Karen Lobdell

U.S. Customs and Border Protection (CBP) recently announced it will commence two pilot programs November 1, 2010, to further strengthen the Agency's relationship with the trade in facilitating trade and managing risk.

The Center of Excellence and Expertise (CEE) pilot will involve comprehensive strategies related to facilitating trade and managing risk in the pharmaceutical industry. The Account Executive (AE) pilot will examine CBP's ability to engage its most trusted partners in the electronics industry in facilitating trade while ensuring a high level of compliance with all import requirements.

Background

In May 2009, the Commercial Operations Advisory Committee (COAC) presented a white paper to CBP that identified Account Management as a key trade area with untapped potential.¹ The white paper stated that CBP should consider creation of an Integrated Account Based Processing concept that encompasses trade compliance, informed compliance, security, intellectual property rights, import product safety and information technology.

Although the white paper reinforced the use of NAMs for the top 3,000 importers and top 100 brokers, it also included recommendations on expanding the concept to small and mid-size enterprises (SME). Overall, the theory focused on reinforcing a "risk-based approach" that looked beyond just trade compliance and encouraged better integration of the Automated Commercial Environment (ACE) to compensate for limited CBP resources.

The COAC also envisioned the development of Centers of Expertise for specific industry sectors and trade associations in concert with the NAM program. The goal would be to achieve more industry commodity expertise and greater uniformity in the treatment of specific product categories, and to promote Informed Compliance.

¹ http://www.cbp.gov/xp/cgov/trade/trade_outreach/coac/subcommittee_activities/trade_facilitation/coac_processing.xml

As noted in the Drinker Biddle Client Alert of August 18, 2010,² in late Spring, CBP formed an internal task force to be dedicated full time to this effort for a 90-day period. The task force met with the COAC throughout the summer and early fall, as well as engaging other select members of the trade to explore project ideas related to the Management by Account (MBA) concept. The key ideas discussed included:

- > Risk Based Account Management
- > Single Partnership Program
- > Simplified Entry Process
- > Simplified Financial Processing
- > Centers of Expertise/Account Executive

As a result of these discussions, including strawman and tinman proposals, CBP has elected to move forward with the two pilots at this time (CEE and AE).

Due to the scope of the other ideas under discussion, as well as potential statutory challenges and reliance on ACE development, CBP will continue ongoing discussions with the COAC to determine feasibility long term.

Centers of Excellence and Expertise (CEE) Pilot

The CEE will develop comprehensive strategies to facilitate trade and manage risk in the pharmaceutical sector. This will be accomplished by leveraging a matrix organization involving CBP personnel with pharmaceutical expertise. The model is designed to be “virtual” in nature. Additionally, in selecting this industry for the pilot, CBP will be able to evaluate opportunities to collaborate with other government agencies (OGA), such as the Food and Drug Administration (FDA), on touch points involving pharmaceutical imports. Better collaboration between CBP and OGAs impacting timely release of imports was a key concern of the trade during discussions, and CBP took this into account when developing the pilot.

While activities related to the entry and clearance of merchandise will still take place at the ports of entry, the CEE likely will focus on ensuring uniformity of practice, as well as resolution of compliance and facilitation issues nationwide. The CEE is intended for importers of pharmaceutical goods to address systematic issues, and to serve as a source of information to increase expertise throughout CBP. A CEE potentially would include CBP personnel who cover functional areas including risk management, enforcement, customer service, uniformity/policy, account validation (*e.g.*, ISA, C-TPAT) and other related areas.

Participation in the pharmaceutical CEE is not elective. All importers in the pharmaceutical industry (regardless of size) will be included automatically in the pilot program and ultimately have access to CEE personnel. However, CBP has not yet defined what specific products, by name or tariff classification, it will include in this initial pilot group. CBP will be conducting industry outreach to provide those participants with further communication as more details become available. At this time, CBP’s strategic plans for the CEE are still a work in progress, with additional input from the trade anticipated over the coming weeks.

The CEE will be directed by Ms. Anne Maricich, Assistant Port Director for Trade at the Los Angeles International Airport.

² <http://www.drinkerbiddle.com/managementbyaccount/>

Account Executive Pilot

The Account Executive pilot program is designed to examine how CBP can better engage its most trusted partners in trade facilitation while still ensuring a high degree of compliance with all import requirements. The initial pilot will involve a single importer from the electronics industry.³

Although the definition of a “trusted partner” has not formally been provided at this point, discussions to date have indicated that minimum requirements likely will include: (1) C-TPAT Tier 3 status, (2) participation in ISA, and (3) financial compliance. Volume of imports is not expected to be a prerequisite for being considered for participation in the Account Executive program in the future, and small and mid-size businesses would also be eligible.

In the past, CBP’s risk-management activities have generally been driven at the tactical or transactional levels. This pilot will assess CBP’s ability to address risk at a more strategic level. Successful development of such capabilities would enhance the Agency’s ability to partner with the most trusted trade community members, deliver tangible incentives that reward high levels of compliance (*e.g.*, remove transactional hurdles and other barriers) while providing greater repercussions for willful errors or indifference, and effectively reducing the transaction-level data used to analyze and ascertain levels of risk. It will also allow CBP to focus limited resources on higher-risk companies and shipments. The AE will be CBP’s single point of contact for all issues relevant to the trade partner.

Although further details of the pilot have not been provided at this time, more information likely will be forthcoming as CBP finalizes the AE pilot strategy.

Mr. Leon Hayward, Assistant Director, Field Operations for Trade and Cargo Security in New York City, will serve as the pilot Account Executive. Mr. Hayward likely will have a small matrix team organization (with specific industry expertise) that will support the pilot efforts.

Conclusion

Even though the pilots are just getting underway and further dialogue with the trade still needs to take place, the notion of MBA has caught the attention of Commissioner Bersin and CBP apparently is committing the resources to evaluate what is needed to make it a reality.

Furthermore, although the pilots are initially focused on two specific industry sectors (pharmaceutical and electronics), the outcome of the pilots will assist CBP in determining the direction for MBA for all industry sectors. Companies not initially impacted would be well advised to monitor developments in preparation for dealing with CBP in the future.

Should you have further questions regarding the information set forth in this memorandum, or would like to provide input, please contact Karen A. Lobdell, Director, Trade Security & Supply Chain Services, at (312) 569-1066 or karen.lobdell@dbr.com, or any member of the Drinker Biddle Customs and Trade Group. Karen is a current member of the COAC and the COAC Trade Facilitation Subcommittee.

³ CBP has not indicated at this time whether a specific company has been selected for participation in this pilot. The pilot could be extended to other companies in the industry sector at CBP’s discretion.

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