United States Customs and Border Protection ("CBP") has posted to its website an announcement regarding the final selection of third-party “validators” for the Customs-Trade Partnership Against Terrorism ("C-TPAT") third-party validation pilot program.

The pilot program for use of third-party validators in China is in response to Section 218 of the SAFE Port Act, which required CBP to develop a one-year voluntary pilot program to test and assess the feasibility, costs and benefits of using third-party entities to conduct foreign validations. CBP’s inability to access Chinese manufacturers to perform the foreign C-TPAT validation presented a significant problem for CBP. As a result, many members of C-TPAT whose primary source for imported product was in China remained at Tier 1 status in the program, receiving the lowest level of benefits.

This pilot program represents the first time that CBP will allow validations to be performed by commercial entities versus a Customs administration. The following companies have been selected by CBP to perform validations on CBP-selected C-TPAT importers that buy more than 75 percent of their imports from China:

- ABS Group
- Cotecna
- CSCC/STR
- Det Norske Veritas
- Intertek
- Omega Compliance
- Pinkerton
- SGS North America
- Sharp Global
- TUV Rheinland

CBP will notify eligible C-TPAT participants in writing of the opportunity to participate in the pilot. Those opting to participate will be required to select one of the approved third-party validators within 30 days to initiate the process. The participant will be responsible for all associated costs and charges, and the C-TPAT participant and third-party validator will be required to sign a conflict of interest form.

Despite the use of third-party validators in China during the pilot program, it should be noted that it is solely within CBP’s discretion to validate a C-TPAT member. Upon completion of the validation, CBP will retain all decisions over the status of the C-TPAT participant.

A copy of the CBP news release can be found at http://www.cbp.gov/xp/cgov/import/commercial_enforcement/ctpaf/
Customs & Trade Practice Group

Drinker Biddle Gardner Carton’s Customs and Trade Practice Group is positioned to assist you with questions regarding this topic and with preparing for your foreign C-TPAT validation. For assistance, please contact Karen A. Lobdell or any other member of the Customs and Trade Practice Group.

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