

From: KMZ Rosenman Customs Practice

Date: April 8, 2004

Re: Client Alert - Important Change in CBP's Importer Self-Assessment Program

In a telephone discussion on April 7th with CBP's new ISA Program Director, Joseph Rees, KMZ Rosenman has learned that, effective March 1, 2004, importers who have been notified by CBP that they are Focused Assessment ("FA") candidates may no longer apply for Importer Self-Assessment ("ISA") membership to postpone initiation of a FA audit if they have not yet become "C-TPAT Certified." C-TPAT *membership* (i.e., signing and submitting the C-TPAT Memorandum of Understanding) has been a prerequisite for ISA eligibility since the inception of the program 22 months ago, however, until now, C-TPAT Certification was not a requirement.

According to Rees, C-TPAT Certification occurs after CBP reviews and approves a C-TPAT member's Supply Chain Security Profile Questionnaire. Rees emphasized that although ISA is a CBP "Trade Facilitation Program," the agency decided internally to implement the policy change as of March 1, 2004, as a result of an increasing number of ISA applicants subject to FA notification who had failed to timely submit their C-TPAT Supply Chain Security Profile Questionnaire. Mr. Rees acknowledged that if a FA candidate had timely submitted its C-TPAT Supply Chain Security Profile Questionnaire to CBP prior to submitting its ISA application, it was likely that the importer's ISA application would be considered. (It should be noted that currently, C-TPAT *Validation* occurs after C-TPAT Certification and that therefore, a C-TPAT Validation is not a prerequisite for ISA eligibility. C-TPAT Validation is the process conducted by CBP after Certification to review and confirm (i.e., "Validate") the accuracy of the Certified partner's security practices and procedures as set forth in the party's Supply Chain Security Profile Questionnaire.) Lastly, Rees advised that CBP will be updating its website shortly to reflect this change to the ISA program.

Potential FA Candidates who plan on applying for ISA membership should be aware of this important policy change, and if they have not yet joined C-TPAT and/or submitted their C-TPAT Supply Chain Security Profile Questionnaire to CBP should immediately address the status of their C-TPAT participation. We note that KMZ Rosenman and its Global Trade Advisory Group have developed a "C-TPAT Solutions Kit" to assist clients become C-TPAT Certified members. We also have created an "ISA Diagnostic Tool" to aid interested parties evaluate their ISA eligibility. Facts sheets describing both the C-TPAT Solutions Kit and the ISA Diagnostic Tool may be downloaded from KMZ Rosenman's website at http://www.kmzr.com/resource/resource_results.asp?group=6|Customs+and+International+Trade.

If you have questions or require additional information regarding the above, please contact one of the attorneys in KMZ Rosenman's Customs and International Trade Department or a trade professional in KMZ Rosenman's Global Trade Advisory Group. You may also contact us by e-mail at kmzrcustomsgroup@kmzr.com.

C-TPAT Solutions Kit[®] Importer Edition

Katten Muchin Zavis Rosenman and its Global Trade Advisory Group (GTAG) introduce the C-TPAT Solutions Kit[®] Importer Edition composed of new tools and services to guide your company through the C-TPAT application process and assess your security systems and procedures pertaining to imported merchandise.

What Is C-TPAT?

The U.S. Customs Service recently launched the Customs-Trade Partnership Against Terrorism (C-TPAT), a joint government-business initiative to strengthen importers' supply chains and increase border security against terrorist activities.

Why Should I Join C-TPAT?

In addition to helping thwart future terrorism, C-TPAT members will enjoy certain benefits, including:

- Reduced number of inspections
- Assignment of an account manager
- Access to the C-TPAT membership list
- Eligibility for account-based processes (e.g., summary payment)
- Access to customers looking to do business with C-TPAT members
- Improved security along supply chains

How Do I Participate In C-TPAT?

The C-TPAT application process consists of two key steps:

- First, applicants must execute a Memorandum of Understanding (MOU) with Customs, entitled the "Agreement to Voluntarily Participate in Customs-Trade Partnership Against Terrorism."
- Second, applicants must complete the "Supply Chain Security Profile Questionnaire." This document elicits information on various matters and provides the primary basis upon which the applicant's membership will be evaluated. The application should address the company's:
 - Security Program
 - Personnel Security
 - Service Provider Requirements

The "Supply Chain Security Profile Questionnaire" must be submitted to Customs **within 60 days** of submitting the MOU.

The C-TPAT Solutions Kit[®]

KMZ Rosenman and GTAG have developed a unique and affordable C-TPAT Solutions Kit[®] that aids in the preparation of your company's C-TPAT application. This kit contains:

- A Sample Completed Executive Summary Response to Supply Chain Profile Questionnaire to help guide you in preparing the Supply Chain Security Profile Questionnaire.
- A Supply Chain Security Profile Questionnaire Template to respond to Customs' "Supply Chain Security Profile Questionnaire," and

The C-TPAT Solutions Kit[®] Complements

In addition to the C-TPAT Solutions Kit[®], we have developed products and services for importers at every stage of the C-TPAT process. KMZ Rosenman is collaborating with experienced security professionals to offer—

- Application assistance by:
 - Preparing an action plan for C-TPAT
 - Reviewing responses to the C-TPAT Solutions Kit[®] Supply Chain Security Profile Questionnaire Template
 - Provide sample notification letters to employees and service providers
- Internal Review assistance utilizing:
 - Site Evaluations
 - Document Reviews
 - Self-Assessments
 - Validation Services
- Training:
 - General security awareness seminars
 - Customized seminars

These products and services are described more fully on the back of this fact sheet.

Contact Us

To obtain our C-TPAT Solutions Kit[®], or to discuss our other services, please email us at: kmzcustomsgroup@kmzr.com, or contact any of the following professionals:

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Importers may choose any combination of the following KMZ Rosenman trade security products and services to complete their trade security programs:

Profile Questionnaire: KMZ Rosenman's C-TPAT Solutions Kit[®] contains a questionnaire addressing Customs' security recommendations:

- Internal controls
- Information controls
- Physical security
- Procedures for access to the facility
- Employment requirements
- Visitor access procedures
- Access to automated systems
- Service providers' security and quality controls
- Shipping and receiving controls
- Theft prevention and reporting procedures

Site Evaluation(s): KMZ Rosenman has experienced professionals who can:

- Review physical facilities of U.S. parties
- Review physical facilities of domestic and/or overseas suppliers
- Review facility's written policies and procedures
- Interview key personnel regarding security practices
- Evaluate adequacy of security measures and procedures
- Identify areas to improve security
- Recommend corrective actions

Document Review: With or without an on-site visit, KMZ Rosenman can:

- Review company's written security-related policies and procedures
- Review other security-related documents (e.g., visitor logs, incident reports, loss or damage claims, entry documents, purchase order terms, terms of sale, service provider agreements, training materials, etc.)
- Evaluate existing procedures and identify areas for improvement
- Provide written procedures to improve identified areas

Action Plan(s): KMZ Rosenman has experience to draft or revise:

- Corporate security policy(ies)
- Security procedures appropriate for your company facilities
- Hiring guidelines to include security procedures
- Employee handbooks concerning security policies and procedures
- Security training materials
- Import and export compliance manuals to include security procedures

Notification Letter(s): KMZ Rosenman can provide sample communications such as:

- Memorandum from senior management communicating the company's security policy and commitment to C-TPAT

- Internal memorandum to purchasing organization(s) advising them of company's C-TPAT participation and how to implement C-TPAT with suppliers and service providers
- Letter advising suppliers and service providers of company's C-TPAT participation and communicating C-TPAT requirements

On-going C-TPAT Responsibilities: To meet C-TPAT's continuing responsibilities, KMZ Rosenman can assist by:

- Using risk management techniques to identify areas for a security self-assessment
- Determining methodology for security self-assessment
- Conducting security self-assessment
- Providing security self-assessment results along with recommendations for corrective action
- Conducting training

Validation Services: In anticipation of a Customs C-TPAT validation, KMZ Rosenman can help a company prepare by:

- Reviewing the C-TPAT validation process with company
- Reviewing company's security profile
- Reviewing company's security program to determine whether C-TPAT commitments have been met
- Identifying corrective actions to address any security deficiencies

Seminars & Training: KMZ Rosenman can conduct both general security awareness training as well as customized seminars covering:

- Overview of C-TPAT's goals and requirements
- General security awareness
- Company's security policy and procedures
- Company procedures or "best practices" in specific areas (e.g., documentation, shipping and receiving cargo, personnel screening, facility access control, etc.)

Why hire KMZ Rosenman for assistance with trade security?

- Our ability to protect confidentiality of communications between importer and trade or security professionals to the maximum extent permitted by law under the attorney-client privilege.
- Our multi-disciplinary practice includes GTAG Trade and Operations Specialists experienced in advising importers on their supply chain as part of trade compliance procedures.
- KMZ Rosenman attorneys and GTAG trade professionals serve on committees, such as the U.S. Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service (COAC) and Customs' Trade Support Network (TSN), which are instrumental in shaping trade policy, automation and technology, security and enforcement.

Importer Self-Assessment (ISA)

Katten Muchin Zavis Rosenman and its Global Trade Advisory Group (GTAG) wish to introduce you to the Importer Self-Assessment (ISA) program offered by the Bureau of Customs and Border Protection.

What is ISA?

ISA is a new program from the Bureau of Customs and Border Protection (CBP). In contrast to traditional Customs audits, ISA permits companies to apply for membership in this program and if accepted, avoid most audits conducted by CBP.

How do I participate in ISA?

Participation in the C-TPAT initiative is a prerequisite for ISA. Beyond this, a separate application and memorandum of understanding are filed with CBP. The information you provide in your application is evaluated by CBP to determine if your company is considered eligible.

What benefits does ISA provide?

The benefits include removal from the CBP audit pool, less government interference, improved access to trade compliance information, and enhanced prior disclosure benefits to provide relief from potential penalties.

Is ISA right for my company?

CBP typically focuses its audit resources on companies whose annual import volume exceeds \$10 million. If your company is in this category, *you may be on the government's radar screen for audit selection.* Successful ISA applicants are removed from the audit pool, and the program permits you to manage your trade compliance matters, on

your own terms. If you have, or are implementing reliable internal controls to manage your compliance, you could be well-positioned to take advantage of this program.

Here are some questions to ask yourself to determine if ISA is right for you:

- Are you participating or planning to participate in C-TPAT?
- Are your imports greater than \$10 million per year?
- Can your internal controls effectively manage compliance?
- Do you prefer addressing compliance issues internally, without the added presence of government auditors?
- Would you like to address compliance issues easily, and with reduced potential for penalties?
- Would you like better access to the information that CBP keeps regarding your imports?
- Do you conduct audits of your company's entries, including work undertaken by third parties?

Contact Us

To obtain our ISA Diagnostics Tool[®], or to discuss our other services, please email us at: kmzcustomsgroup@kmzr.com, or contact any of the following professionals:

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How can KMZ Rosenman help?

Even with the benefits the program provides, ISA participation involves certain requirements and may not be right for every company. KMZ Rosenman has designed the **ISA Diagnostics Tool**[®], to help you decide whether this program is right for you.

Should you decide to participate, we can help you align your company's unique needs and realities with the requirements and benefits of the program.

With the diagnostic tool and our unrivaled expertise in the field of customs compliance, we can help you secure acceptance into ISA. We can provide in-depth evaluation of your internal controls to maximize your compliance and benefits under ISA. Also, as the ISA program matures, KMZ Rosenman can safeguard your interests by serving as an effective advocate before CBP.

To obtain our **ISA Diagnostics Tool**[®], contact one of our attorneys or trade professionals listed on the front of this Fact Sheet or send us an email at kmzcustomsgroup@kmzr.com.

KMZ Rosenman's Customs and International Trade practice, along with the Global Trade Advisory Group, includes a highly competent team of professionals with accomplished backgrounds. Our team members have previously held key positions in government and private industry, and offer great depth of experience in all areas of customs compliance, including audits and penalties.

Other Frequently Asked Questions about the ISA Program

- Q** At what stage in the C-TPAT process does a company become eligible to apply for ISA?
- A** You may apply for ISA at the same time that you apply for C-TPAT, or at any time thereafter. Your ISA application will not be reviewed until your C-TPAT profile has been reviewed by CBP and your company is C-TPAT certified. C-TPAT validation is not a prerequisite for ISA.
- Q** How are multiple Importer of Record (IOR) numbers covered by ISA?
- A** You may choose which IOR numbers or suffixes to include in your ISA application, as long as these numbers or suffixes are within the scope of your C-TPAT participation.
- Q** May a company apply for ISA after receiving notice of an upcoming audit?
- A** CBP currently allows applications for ISA anytime prior to the audit entrance conference. This policy could change in the future. In any event, you could be required to complete the audit questionnaire, even if the audit is cancelled.