



WEBINAR: 10+2: Finding a Way Forward

Follow up to webinar questions

ACE

- At some point will the ISF data be available on ACE?
 - The ISF data is not available in ACE at this time. It will be quite some time until ACE includes ISF data according to Lou Samenfink of CBP.

AMENDMENTS

- Can you help us out with the timing of making amendments and by when must filers submit the updated data?
 - CBP has not specified how quickly the amendments must be made other than stating that amendments should be filed when the changed or more accurate data becomes available. The Importer Security Filing must be amended if there is a change or more accurate information becomes available before the goods enter the limits of a port in the United States. For goods that will be unladen in the United States, the Importer Security Filing must be updated if there is a change before the goods enter the port of discharge.
- Amend ISF for quantity? Why?
 - Beth misspoke, quantity is not required for ISF's.

AMS

- Are you filing your ISF prior to AMS filing?
 - For vessel carriers, that are not bulk or approved break-bulk, CBP must receive from the carrier the cargo declaration information in AMS 24 hours prior to the lading of cargo on the vessels, and for automated NVOCCs, the cargo declaration information merely needs to be transmitted 24-hours prior to lading of cargo. ISF is also required 24 hours prior to lading of the cargo but we're anticipating that carriers will require the information even earlier.

BILLS OF LADING

- When Customs implemented 10+2, I don't recall anyone mentioning that a House or Master Bill of Lading would be needed to track the shipments. I'm assuming this is needed so Customs can tie the information together. Why wasn't more emphasis placed on this? This really isn't 10+2, it should be called 11+2....Is this information necessary?
 - You are correct that the bill of lading is needed to identify the shipments and to tie the ISF filing to the carrier status messages and stow plan. In addition to the bill of lading, you are also required to submit a filer code and a bond type so its really 13-2.



- What ties the importer's 10 data elements to the carrier's 2 data elements?
 - The lowest level House or Master bill of lading.
- Can you recommend the best way to coordinate or time the filing with the bill of lading submission from the carrier? I'm hearing that importers are finding it difficult to get their BOL from their ocean carrier early enough so they can file the ISF in a timely fashion. How are the carriers responding to this situation?
 - We're hearing this too. According to CBP "The ISF Importer must obtain the bill of lading number. The bill of lading number is an integral part of the security filing. Without the bill of lading number, the ISF cannot be matched to a customs manifest." You are going to have to work with your carriers to get these numbers up front. You cannot use a "dummy" number and then replace it with the correct bill of lading number because the bill of lading number is the ISF identifier. You would have to submit a new ISF if you have a different number and this would probably be considered a late filing.
 - We are seeing that carriers are using booking numbers to convert to Bill of Lading numbers to make them available. This should become a standard. (Thank you audience member for this information).
 - We have heard similar process changes around using the booking number (plus carrier SCAC) as the bill of lading numbers. Importers would have to verify this process with their respective carriers. Some origin 3PL's are also considering process changes around the timing for submitting shipping instructions (BL Instructions). 3PL's are considering holding-off on submitting BL instructions until an ISF has been submitted/approved i.e. potential for more delay at origin as Joe mentioned during the webinar.
- At what event is the B/L number created by the carrier?
 - It varies by carrier. You should work closely with your carrier to ensure that they are assigning the bill of lading number early enough for you to file the ISF 24 hours in advance of lading the goods on board the vessel at the foreign port of lading.
- Currently we were given advice to put "any number" in the Bill of Lading Number field that does not exceed 10 digits of course. When we receive our BL # then we can issue an amendment. 1) Are they capturing this issue in the 15% failure rate, and 2) Do you see this showing up on the report card, 3) This would clearly be a violation after 1/26/10? Finally, how are the carriers doing on compliance?
 - You cannot amend the bill of lading number on an ISF. You will be required to cancel the ISF with the incorrect number and resubmit. However you risk filing your ISF late in this case.
 - We do not believe that incorrect bill of lading numbers are resulting in ISF failures.
 - The report card includes a "Frequency of ISF-10 Filings by Number of Days Leading/Lagging Bill Filing Date" – but it's not clear what this is actually measuring.



- Can you use your booking number as your BOL number for ISF?
 - Yes, if the booking number is the same as the bill of lading number.
- I'm confused about filing multiple b/l's per ISF. Does this mean I can have multiple parties per ISF. Example if I have one b/l can I have multiple sellers and buyers. If I have multiple b/l's can I have multiple buyers and sellers also?
 - A single ISF may cover multiple bills of lading as long as they are all going to the same importer as part of the same shipment on the same vessel voyage.
- For an importer that uses NVOs, is B/L concern the House or Master B/L?
 - It's the lowest level bill of lading available.

BONDS

- Does the shipper need a bond if their broker is filing as their Designated ISF10 filer?
 - CBP is postponing the requirement for bonds until January 26, 2010. At that time, the ISF filer may use the importer's continuous bond or their agent's bond. It's important to determine who's bond will be obligated as part of your Standard Operating Procedures and if you do utilize your agent's bond, you will want to understand the costs to do so.
- Is there an additional bond required to what is already in place?
 - Not at this time. It isn't very clear how CBP intends to implement the bond requirements and you should stay in touch with your surety company while this is being further defined.
- Is a separate bond required to file the ISF?
 - No, CBP is postponing the requirement for bonds until January 26, 2010. At that time, the ISF filer may use the importer's continuous bond or their agent's bond.

BULK

- What if I ship bulk and my shipment ends up in a container with other shippers....if they are delayed due to ISF issues...will that delay my shipment too?
 - You are required to submit an ISF if your bulk goods are placed in a container. If your container includes other LCL importers, your goods could be held up due to items being imported by other parties included in the container that your goods are shipping in.
- Is this statement correct for break bulk? If the carrier you are using had applied for and received a break bulk exemption from the timing requirement for cargo declaration under 19CFR 4.7(b)(4)(ii), for ISF you can get an exemption from the 24 hour rule before lading and you can file the ISF 24 hrs before arrival in the USA. If the carrier does not already have the exemption in place you must file 24 hours before the vessel is loaded at the point of export.



- Yes, break bulk has a timing exception – you can file your ISF for break bulk 24 hours in advance of arrival of the merchandise.

BUYER

- For the "first sale" rule, does CBP want to see the "first sale" buyer (middle man) or the end buyer (consignee)?
 - It would be the buyer at the time of the ISF filing. If the buyer changes during the sailing, an ISF amendment will need to be filed.

CARRIER STATUS MESSAGES

- Are status messages being sent for all ISF filings?
 - Carrier status messages are required to be filed for every ISF. The carriers are subject to penalties if they fail to file status messages.

CBP Representative

- How do we contact a CBP rep in our specific New York area?
 - We recommend that you start with your (or your broker's) ABI/AMS representative, they have all be trained. Also, CBP has outreach events scheduled for March in New York.

CONFIRMATION

- Where and how will the origin know that the ISF filing has been done in the USA on time and has been accepted?
 - CBP will transmit an acknowledgement to the filer to confirm that CBP has received an Importer Security Filing. The ISF filer will have to forward that confirmation on to origin.
- Have you heard of the very recent issues with CBP and their system not returning confirmation numbers
 - No – you should be receiving confirmation numbers.
- Have you heard regarding the following; 1. CBP continues to have sporadic difficulty with the ISF program, whereby CBP fails to return the ISF Number to the filer. 2. CBP has no provision to resend an ISF number to the filer under normal circumstances. 3. FOR THE MOMENT - if the filer receives a "Duplicate ISF" response message from CBP (DUPLICATE ISF TRANSACTION), the filer is to consider that message proof of ISF filing. 4. CBP is reviewing the ISF programming and is considering methods to return an ISF number back to the filer when a duplicate ISF is filed.
 1. No, but we'll ask American Shipper to follow up on this.
 2. Yes, CBP will only send an ISF confirmation and does not resend it.



3. No, we'd be concerned with this because the importer doesn't have any visibility to what was filed so they have no way of knowing that it was filed in a timely, complete and accurate manner.
4. Great – that would be very helpful.

CONSOLIDATOR

- On FCL shipment being stuffed at factory, would freight forwarder, who arranged the shipment, be listed on the ISF under CONSOLIDATOR or would the factory, where goods being stuffed, be listed on ISF as consolidator?
 - CBP has stated that the consolidator (stuffer) is the party who stuffed the container or arranged for the stuffing of the container. From your description, it sounds like the factory is actually stuffing the container and should be listed on the ISF as the consolidator.
- How can US Customs know the accuracy of the consolidator name and address is correct, this information is not transmitted within AMS or Customs entry?
 - CBP has not advised how they will be validating the names and address of the parties on the ISF.

CONTRACTS

- What type of contractual changes are you hearing between buyer/seller, if any, regarding 10+2 requirements?
 - We're seeing new terms and conditions between the ISF filer and their agent. We're seeing lead time requirements. We're seeing (some) pricing agreement for ISF filings and amendments.

COST

- Where did you get this \$20-50 price range? We are NOT seeing this in the market and we're and ISF filer
 - This is from software vendors who are providing the software to importers who will be self filers.
- Are most brokers charging a flat fee for dealing with ISF or do you get the sense that the brokers are looking to charge for every time they go to your import file and input data on a rolling basis?
 - We've seen brokers charging an ISF set up fee, an ISF filing fee and an amendment fee. We're seeing charges for everything related to ISF filings.
- Your ISF filer is likely to charge you for each filing.
 - Yes.

COUNTRY OF ORIGIN



- Is country of origin one of the filing requirements that can be amended if there is a difference?
 - All of the data elements can and should be amended if there is a difference. And yes, the country of origin is one of the four data elements that CBP will have flexible interpretation of in addition to the Manufacturer (supplier) name/address, Ship to party and the Commodity HTS – 6 digit.

CUSTOMS BUSINESS

- We are a logistics management company with continuous bonds in place. We use customs brokers to handle our imports. What does "not customs business" mean? Why is Customs requiring the data if the data is not Customs business?
 - We can't answer for CBP, but we're happy to make assumptions. Because the ISF requirements seriously exceed what has been considered Customs business until now, we believe that they have specifically stated that the ISF is security related rather than Customs business to avoid legal challenges. CBP is requiring the data for the purposes of "To help prevent terrorist weapons from being transported to the United States."
- On the question of "Customs Business", dont you think that 10 + 2 is or will be "Customs Business" given the considerable overlap between the data required on a 3461 / 7501 and the ISF?
 - This is a slippery slope and we think that CBP will try to avoid going down it.

DO NOT LOAD

- If something is wrong with a ISF, will CBP issue "Do Not Load" from port of loading?
 - The interim final rule did not state that CBP will issue a "Do Not Load" message for ISF filings. However, CBP has stated that the "Do Not Load" message is one of many enforcement tools that they will utilize for shipments that pose a security risk.

FLEXIBLE INTERPRETATION

- If importers are under previous requirements to exercise reasonable care for their customs compliance, then shouldn't the importer know its vendors and products and be able to provide the info right away?
 - The ISF is not considered "customs business" so the reasonable care requirement does not apply.
- What level of detail is required, meaning if the 7501 will have 20 HTS#s, all within the same chapter, for duty collection is this level required for ISF? Is this basically a pre-importation entry and will ISF data be compared with the duty paid entry?
 - If the 7501 would have 20 HTS numbers, you are required to file 20 HTS numbers at the 6 digit level in your ISF. If you file a Unified Entry, you can assume that the ISF data will be compared to the duty paid entry. But please note, CBP has expressed that they will be flexible in the interpretation of the data received in the ISF. If you do not have visibility to the 20 HTS numbers until the goods have been discharged at the U.S. port of arrival,



you have a good case for CBP being flexible and accepting the HTS numbers that you can provide. You should discuss this with your CBP Account Manager.

FUTURE

- Where will we be five years from now? Will compliance come relatively smoothly as it did w/24-hour rule, or since this is much more complex, will the cost and impact be greater?
 - This is a much more complex request and is very different from the 24 hour rule. The information required for the ISF is usually spread across multiple supply chain participants and requires aggregation and validation. It's anticipated that ISF compliance will be much more difficult. CBP is looking for comments from the trade by June 1 communicating the complexity and cost to collect and file their ISFs.

HTS

- Do you use your vendor's HTS or your HTS?
 - You are required to submit an accurate HTS number at the 6th digit level unless you are filing a unified filing. If you are filing a unified filing, then you are required to submit a 10 digit HTS. It's recommended that you submit your HTS, this assumes that you followed reasonable care in assigning the classification.
- Is the HTS number provided by the supplier in the ISF expected to match the classification of the CHB
 - The HTS number submitted in the ISF should match the HTS number on the entry.

IN-BOND

- For In-Transit Cargo - you mentioned 2 parties can submit ISF5. Either: - 7512 Filer - Carrier Can NVOCC filling AMS for these submit ISF5?
 - For "Transit" Cargo – the ISF filer is required to file 5 data elements and the ISF filer could be:
 - The 7512 filer for Immediate Exportation (IE), Transportation and Exportation (TE).
 - Or the carrier/NVOCC for Foreign Cargo Remaining On Board (FROB).
- Does the 10 + 2 regulation apply to Canadian bound cargo transiting U.S. ports
 - Yes, an ISF-5 is required for cargo transiting U.S. ports.
- There are requirements for temporary imports 5+2
 - Yes, these are the ISF-5.

INTERIM FINAL RULE



- I'm hesitant to invest time and money in enhancing or modifying our existing systems to submit the ISF now with the fact that a portion of this new law is not final (interim). Is this a concern?
 - The only components of the rule that are not final are the timing of the filing of the Container stuffing location and the Consolidator name/address; the flexibility of interpretation of the Manufacturer (supplier) name/address, Ship to party, Country of origin and the Commodity HTS – 6 digit; and enforcement by CBP. We think it is definitely a concern. But we also expect that CBP will continue to define and update the transaction sets.

ISF DATA

- What pieces of information are typically most difficult to get by the importers (from outside their walls)?
 - It depends on the company, their supply chain model and their industry. We've heard of companies having issues with most of the data elements.

ISF FILINGS

- I'm a novice, what does 10 + 2 actually refer to? Documents?
 - The ISF is an electronic filing with CBP required 24 hours prior to lading the goods on board a vessel at the foreign port of lading. The interim final ruling on ISF can be found at <http://edocket.access.gpo.gov/2008/pdf/E8-27048.pdf>.
- How would a shipper know if a freight forwarder or broker other than the one the shipper has designated to file as their ISF10 filer has filed first with customs for the shipper?
 - If another party has filed an ISF on your behalf, you would receive a rejection when your designated agent attempts to file. That's the only way that you would know that someone else has filed your ISF.
- Who is responsible for ensuring the SF has been filed prior to a container being loaded on a vessel? The importer? The carrier or shipper?
 - The ISF filer is responsible for ensuring that the ISF is filed in a timely, complete and accurate manner. If it is not, the ISF filer will be subject to liquidated damages of up to \$5,000 per ISF effective January 26, 2010.
- We are a wine importer and sell our wines with FOB terms to distributors across many states. In this scenario, who is responsible for the ISF filing? Us or the distributor who is buying FOB?
Thank you.
 - The wine industry is particularly challenging because of this type of business model. Technically, the person causing the importation to occur would be the ISF filer. Our understanding is that you don't know who the distributor is when the goods are laden on board so you would be responsible for filing the ISF. This could be an issue because you will incur risk of potential liquidated damages as the ISF filer.



- Does GT Nexus have a 10+2 software solution? Standalone or as part of package?
 - Yes, GT Nexus has a 10+2 solution delivered as Software as a Service.
- Are there any preliminary statistics on how many companies are opting to self-file for ISF?
 - No, but that's an excellent question for a security survey.
- Can you have more than one forwarder file the ISF for you?
 - Yes you can nominate as many ISF agents as you want. And you can utilize a mixture of self-filings and filings via agents.
- How does 10+2 apply to U.S. government shipments?
 - Exactly the same as commercial shipments.
- Point of clarification. Filing must be done 24 hours OR MORE prior to lading, right? There is no maximum timing is there?
 - Correct, you can file your ISF as far in advance as you want to.
- Is there an free internet based way to file these yourself (like the AES)
 - No.
- As an NVOCC who does not consolidate (only handle FCL), and typically only handle exports from the US we are beginning to import and I wanted to know are we responsible for the 10+2 filing or is the actual importer of record? - Thank you.
 - The party causing the import to occur is responsible for the ISF filing.
- Is there any hope that 10+2 will go away?
 - Only if the trade provides a very compelling argument as part of their comment filed by June 1, 2009 in response to the Interim Final Rule.
- Will Snow Days by customs be declared on ISF issues??
 - CBP has not addressed this at all. Snow Days are a U.S. issue and the ISF filing is required at lading so the assumption would be that they will not be considered.
- As this is an alternative to 100% scanning, shouldn't we quit complaining so much?
 - That's the logic. The trade realized that improving security is critical and we had hoped that the ISF would be a reasonable alternative to 100% scanning. Unfortunately, CBP did not take all of the trade's recommendations into consideration when they issued the Interim Final Rule.
- What about shipments that originate in a foreign port and then transloaded in the Bahamas onto another container/B/L does another ISF need to be filed?



- The ISF filing would be from the port of transload in this case.
- What are the requirements of a 10+2? My broker asks for copy of B/L, commercial invoice, and packing list along with the 10+2 together? Or can the 10+2 just be sent first as long as the 10 fields are filled then the other documents be submitted later?
 - The bill of lading, commercial invoice and packing list are required for the entry filing. You should be able to provide this to your broker anytime before the goods can be pre-filed for entry which is five days in advance of arrival. That said, these documents do contain information that can be used for the ISF filing. Its up to you if you want your broker to extract the data from your documents or if you want to provide them with the 10 (really 11 data elements) separately.

MANUFACTURER:

- What if it is a triangle business and shipper refused to provide the manufacturer information to importer then how can we file the ISF without the accurate manufacturer information?
 - It is perfectly acceptable to substitute the supplier name and address if you do not know the manufacturer name and address.
- If using an agent overseas, do we have to find the actual manufacturer especially on parts shipments
 - No, you can substitute the supplier name and address if you do not know the manufacturer name and address.

MESSAGING

- What happens if you get a message from CBP saying there are no match with BOL and if those messages continue up to 30 days?
 - These messages are being provided at the request of the trade. CBP will provide a status notification message to both the ISF Filer as well as the appropriate carrier that an ISF has successfully matched to a bill of lading that is on file with CBP. If there isn't a match you'll get these messages for up to 30 days. As the ISF filer you are not required to ensure that the ISF is matched to the carrier's status message or stow plans.

MODES

- Will 10+2 be expanded to air and land in the near future?
 - CBP plans to expand the ISF to other modes of transportation once they have successfully implemented ISF filings for ocean shipment.
- Can you touch on the truck and rail comment made early on?
 - Yes, currently the ISF is not required for goods arriving in the U.S. via truck or rail. This includes goods arriving in Canada or Mexico via ocean that are moved into the U.S. via truck or rail.



NON-US

- Do we know which other countries already have or may be contemplating future "10+2" import procedures? If so, could there be progressively an international "standard" for 10+2 type import procedures, whether globally or regionally (NAFTA, UE, Asia)?
 - Canada and China both have similar programs at various stages of implementation.
- Any thoughts on how 10 + 2 fits with the EU AEO program or discussions before the WCO to standardize the effort?
 - Not at this point. To date the WCO has been very vocal in their objection to the ISF requirements.
- How close is Canada to requiring ISF?
 - Canada has published information on the "Importer Admissibility Data" but it does not include a timeline.
- Canadian Customs just introduced its plan to implement 10+2 under its new e-manifest for air, land and maritime. Are there any bi-lateral efforts to impose the Canadian and US versions in the same fashion at the same time?
 - Not at this time.
- Puerto Rico?
 - Puerto Rico is a territory of the U.S. and is considered within the scope of this Interim Final Rule.

PENALTIES

- Any comments on forwarder/broker liability if their software prompts an error causing liquidated damages?
 - In most cases (broker error or software errors) the importer receives the penalty notice. In the case of the ISF, the assumption is that the bond holder will receive the penalty notice. But this can't be verified until CBP provides more detail on the bond requirements.
- What is the likelihood of stringent enforcement of 10+2? I ask that because of the concerns back with the 24-hour rule. And CBP was less stringent on that filing requirement so as to not interfere with the flow of trade.
 - CBP has repeatedly stated that their enforcement of the ISF will be flexible and if they determine that more time is needed to implement the ISF that they will postpone enforcement past January 26, 2010.
- On what unit will the \$5000 liquidated damages assessed? Per b/l, per container, per package?



- CBP has stated that the \$5,000 penalty is per ISF.

PRESENTATION

- I am not able to download the presentation can you provide a link?
 - You can go to www.americanshipper.com/10+2 and watch the recording on-demand.

REMOTE LOCATION FILING

- How has the ISF rule impacted brokers that use Remote Location Filing and how do they adapt?
 - Per CBP you cannot file a Unified Entry for Remote Location Filing entries. There are no other differences between a standard entry and an RLF entry.

REPORTING

- Could CBP provide a list of all the issues so far reported and expected fix delivery?
 - CBP has stated that they will provide an ISF report card. Issues that we see with the report card are that they don't state how many ISF's you should have filed. Or how many amendments you have filed. It is unclear from the sample report card whether there is sufficient detail for you to research issues – for example – if you have a 50 percent compliance for manufacturer name – how do you find out which shipments these errors are stemming from? CBP is going to have data that shows non-compliance – but you won't be able to address the root cause of the issue if you don't have enough detail.
 - We have also asked CBP to provide American Shipper with data on how many ISFs should be filed versus how many are being filed.
- When will CBP begin sending out ISF "score cards" to importers and brokers?
 - We don't know. We understand that the report cards will be sent to the ISF filers but CBP has not told us when or how often.

RETURN MERCHANDISE

- Are there different rules for companies setup outside the U.S. that ship products in then back? Maybe ship in parts, assemble them and ship the finished product back? or does this matter?
 - The same rules apply to ISF filings for companies setup outside of the U.S. shipping products into the U.S. and then back.

SELF FILING

- Can I file my own ISF? Do I need a broker or forwarder?
 - Absolutely.
- How would a self filer in the US file the ISF at origin??



- Through an ABI/AMS vendor or in-house software that is designed for access abroad.
- How can one file themselves when using a customs broker to handle the import entry?
 - By using 3rd party software, such as GT Nexus' solution.
- What are the procedures for self filing?
 - The filer needs a filer identification code. Either a SCAC if transmitting through AMS or an ABI filer code if filing through ABI. And the filer needs a system to file with. This could be developed in house or a 3rd party software solution.

SHIP TO PARTY

- Please confirm either Importer ID or Dun & Bradstreet number, in addition to name and address, is required for both the Ship to party and the Buying Party.
 - The Importer ID is required for the Importer of Record. A Dun & Bradstreet number can be used for the Seller, Buyer, Manufacturer (or supplier), Ship to party, Container stuffing location, Consolidator (stuffer), and Booking party. In addition, CBP will accept Facilities Information and Resources Management System (FIRMS) codes for the ship to party, when applicable.

UNIFIED FILING

- Can CBP accept unified entries for ISF? Our broker says they can't do it yet, but I wanted to confirm CBP can accept and some parties are doing this.
 - Yes. This is an issue with your broker. There are many brokers who are currently filing Unified Entries.
- Current regulations allow for entry filing 5 days prior to arrival. How is this impacted if the ISF is combined with entry?
 - You will file the Unified Entry at least 24 hours in advance of lading of the merchandise on board the vessel at the foreign port of lading and your entry will not be processed until five days in advance of the arrival date. CBP has suggested that they may consider changing this, but haven't enacted any changes yet.
- As an importer Joe, which would you do, stand alone or unified
 - Joe sees value in filing Unified Entries. Beth is concerned with the risk of the Unified Entry being used for compliance measurement.
- Is the ISF data compared to the data of the final declaration? And is there a report available as well?
 - Yes, for the Unified Filing. Probably for the separate filing. There is no report that compares the ISF filing to the entry filing at this time.



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