NEW ISF ENFORCEMENT POLICY
& REVENUE MODERNIZATION UPDATES

Learn and Lunch – Thursday, 05/15/14
Introductions

**Lisa Gelsomino, President/CEO – Avalon Risk Management**
- TSN eBond Committee, ITSA, COAC Bond Working Group, NCBFAA ISF Committee
- Avalon ISF and eBond outreach to over 2,500 trade participants
- ISF Hotline: 847-700-TISF(8473) or lgelsomino@avalonrisk.com or 847-700-8192

**M. Craig Clark, ISF Program Manager – CBP Headquarters**
Office of Cargo and Conveyance Security
- As ISF Program Manager, he is national point of contact for all ISF matters
- Mr. Clark can be reached directly at 202-344-3052 or craig.clark@cbp.dhs.gov
- Or send questions to security_filing_general@cbp.dhs.gov
- Refer to [CBP ISF website](http://www.cbp.dhs.gov) for current information
CBP Revenue Division Topics

• Revenue Modernization
• Bond Centralization
• eBond by 1/3/15
• PM Statement
• Bond Sufficiency
• Bad Address
## Continuous Bond Centralization

<table>
<thead>
<tr>
<th>Initiative</th>
<th>Continuous Bond Centralization</th>
<th>Decal/Transponder Online Procurement System (DTOPS)</th>
<th>Public Private Partnerships</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Challenge</strong></td>
<td>In 2002-2003, CBP was facing challenges in collecting revenue due to inconsistencies in the management of the bond program. Additionally, there were pressures and concerns that CBP OFO and Office of Administration (OA), were “too close” to the bond process to properly evaluate the bond problems.</td>
<td>Commercial vehicles, private aircraft, and private vessels over 30 feet in length are required to pay a fee each time they cross the U.S. border, or alternatively pay a one-time annual fee. High volume of entries and manual payment methods generated delays at Ports of Entry.</td>
<td>In support of CBP’s Resource Optimization Strategy, CBP plans to provide new or expanded services at domestic ports of entry reimbursed by the partner entity. In conjunction with private sector partners, CBP can better facilitate trade and travel by continuing to grow local and national economies.</td>
</tr>
<tr>
<td><strong>Outcome</strong></td>
<td>CBP contracted with an independent third party to conduct a study to evaluate the current CBP policy on determining bond sufficiency. CBP conducted several educational trips to a variety of ports to further understand the process, explain objectives, and garner feedback from industry.</td>
<td>CBP centralized the collection of the annual fee in 1998, including an internet application in 2001. In November 2008, CBP began development of DTOPS as a web-based online procurement application where commercial vehicle, private aircraft, and private vessel owners can pay a yearly fee for each of their assets to cross the U.S. border. The DTOPS development team worked with the OA’s Revenue Division and external customers to ensure that all of the requirements for the system to function properly were captured.</td>
<td>In 2013, the following entities were selected for partnerships: Dallas/Fort Worth International Airport; The City of El Paso, Texas; South Texas Assets Consortium; The City of Houston Airport System; and Miami-Dade County. These locations will cover the entirety of CBP air, land and sea operations.</td>
</tr>
<tr>
<td><strong>Impact</strong></td>
<td>When CTBs were centralized and each port was brought on, the initiative was ultimately successful; CBP has not faced a single case in the Court of International Trade (CIT) due to execution errors on CTBs.</td>
<td>The DTOPS project is helping to ensure CBP’s mission is met by providing a mechanism for conveyance owners to submit orders for decals and/or transponders online and pay the annual user fee electronically.</td>
<td>CBP created a reimbursable fee agreement program to increase CBP’s ability to provide new or enhanced services on a reimbursable basis to support growth in cross-border trade and travel.</td>
</tr>
</tbody>
</table>
eSTB Bond Centralization

- June 2011 DHS OIG report cited bond execution errors, deficiencies in bond retention, and other issues that challenge CBP’s ability to collect on STBs.
- CBP has limited ability to report to Congress or Treasury on key inquiries regarding bonds.
- Enables CBP Officers to focus on trade and law enforcement mission and reduces the burden on Entry and Import personnel.
- Protects CBP by informing CBP Officers that a valid bond has been secured before cargo is released into commerce.

Trade Community Focus

- Brokers restricted to normal business hours to process bonds and entries
- Broker and Surety systems and processes are more modern and advanced than CBP’s systems, which leads to inefficiencies in accepting and processing STBs
- Standardizes the way CBP interacts with the Trade across ports
“As-Is” Challenges Noted to Date

1. **Processing Time:** Paper-dependent environment and physical document examination can lead to system backlogs and potential cargo delays.

2. **Lost Revenue:** Decentralized STB processes result in write-offs and delinquencies. The DHS OIG estimated that approximately $8 billion of $12 billion in STB for importer/broker entries accepted by CBP during FY 2009 contained errors that could result in non-collection. Further OIG analysis projects CBP should have required an additional $1.5 billion in FY 2009 to cover risk of imports subject to other government agency requirements.

3. **Manual Bond Errors:** Brokers or importers submit inaccurate and/or incomplete bonds that often do not contain importer contact information to clarify errors, leading to unplanned administrative burdens and delays in cargo release.
Additional “To Be” Considerations

1. **Centralized and Standardized Procedures**: Consistent operating procedures will improve accuracy of STB information and minimize cargo delays. Ports will consistently enforce requirement for receiving bond information at the time of entry and verifying existence and accuracy prior to release.

2. **Bond Monitoring**: Updated systems will create uniform procedures at all ports, cracking down on port shopping and enabling more consistent monitoring by CBP.

3. **Expanded Electronic Entry**: e-STB will permit 24/7 bond filing while performing completeness checks on STBs and integrating with existing systems. Potential for ACE interface with proprietary broker/surety systems could further streamline data entry. This will also eliminate instances where documents are required because of the STB, which frees up resources for both the trade and CBP.

4. **Bond Accountability**: Updated systems and policies will clarify who is accountable for STBs throughout entry process by shifting ownership from CBP to the broker and surety communities.
## STB Centralization Concept

<table>
<thead>
<tr>
<th>Current Operations</th>
<th>STB Centralization Concept</th>
</tr>
</thead>
<tbody>
<tr>
<td>Some ports release cargo without receiving a STB.</td>
<td>CBP protects revenue by enforcing the requirement to submit and validate an STB prior to cargo release.</td>
</tr>
<tr>
<td>CBP receives and reviews paper STBs (CBP Form 301) and Ports use a combination of ACS and ACE.</td>
<td>E-STB will be an electronic system for receiving, processing, reviewing, and maintaining STB data across all Ports in a single ACE platform.</td>
</tr>
<tr>
<td>Brokers submit a majority of STBs with limited surety involvement.</td>
<td>The eSTB concept will limit who can push STB data electronically to CBP. Brokers will not be able to push bonds to CBP unless the sureties or surety agents grant that authority to the brokers through the surety system.</td>
</tr>
<tr>
<td>CBP is involved with litigation cases over inaccurate STBs due to execution errors.</td>
<td>CBP regulations will be revised to reflect that the individual who pushes the bond (i.e. the surety) is responsible for the accuracy of the inputs. CBP will “accept” the STB after automated data validations.</td>
</tr>
<tr>
<td>CBP spends valuable time correcting erroneous STBs, utilizing valuable Officer and staff resources.</td>
<td>CBP will “accept” STBs after automated bond validation; CBP ports will no longer manually review and approve the STB. OA staff will shift from administrative activity to more analytical functions.</td>
</tr>
<tr>
<td>Surety systems do not interface with CBP systems to push STB data, yielding risks for manual data errors.</td>
<td>The eSTB concept will enable sureties’ financial systems to interface directly with CBP systems to push STB data electronically to CBP, which eliminates duplication of effort and risks for manual data entry errors in creating and submitting paper STBs.</td>
</tr>
</tbody>
</table>
eBond Project Update

• **CBP organized and hosted e-STB and eBond working group meetings:**
  - December 2, 2013 focus on e-STB concept with limited discussion
  - April 2, 2014 finalize e-STB issues, start eBond discussions

• **Key anticipated dates for eBond:**
  - May 7, 2014 – Begin development of eBond (ACE Increment 6)
  - August 5, 2014 – Complete system development of eBond
  - January 3, 2015 – Planned deployment of e-STB and eBond in ACE

• OA and ACE Business Office continue to engage CBP and Trade to refine user requirements gathered over the last several years and prepare for development of user stories for system development.

• Process under eBond (continuous bond) will remain largely the same; continuous bond submissions will not be tied to an individual entry and Surety will still submit bond to CBP.
Broker Notification in eBond

• A concern was raised to CBP by the broker community regarding the eSTB process flow developed as part of eBond.

• When a CB message is sent to ACE by a surety, ACE will validate the information present, store that information (if validations are successfully passed), and return a CX message to the surety who filed the CB.

• A number of brokers raised the concern that they must rely on a message being returned from the Surety, and will not receive a notification from ACE that the Bond has been filed.

• eBond will now include a Second Notify Party (SNP) to the party identified by the surety once a bond is successfully stored in ACE.
SNP Notification

• The SNP Notification is not meant to replace communication between the Broker and the Surety as identified in the eSTB process flow.

• The SNP Notification to the identified party is a separate message from the CX response that will be sent to the surety. The CX message will only be sent to the surety, as identified in the eSTB process flow.

• The CX Message and SNP Notification will be sent simultaneously.

• It will be the responsibility of the Surety and the Broker to determine how this information is obtained for insertion into the message.
eBond High Level Data Flow

e-Single Transaction Bond : High Level 'To-Be' Data Flow Concept

1. If the Broker/Filer opts to continue the eSTB process, the process would start again from "Request an STB for Entry".

2. If the rejection of the entry filed is due to the inability to match an Entry and Bond, the flier should contact the surety to determine what corrective actions should be taken.
eBond Replacement Flow

1. If the Broker/Filer opts to continue the eSTB process, the process would start again from "Request a Supplemental/Additional/Substitution STB for Entry".

2. If a bond is being replaced, the original bond on file is considered voided.

3. If the rejection of the entry filed is due to the inability to match an Entry and Bond, the filer should contact the surety to determine what corrective actions should be taken.
Develop Bond Intake System (Increment 5)
- Provide capability to receive a bond submission via EDI
- Provide capability to validate the information received in the bond submission.
- Provide capability to store bond information received for use in additional processes.
- Provide capability to return a positive or negative response to the surety via EDI.

Begin building ACE Portal Functionality for Bonds (Increment 5)
- Provide a Bond search screen for Trade
- Provide a Bond view screen for Trade
- Provide a Bond search screen for CBP
- Provide a Bond view screen for CBP

Surety Portal
1) Submit information
2) Surety review
3) Transmit Data Elements
4) Riders
5) Terminations
**Desired Outcomes and Impacts**

**Save Time and Expedite Trade**

**Dedicated Resources with Specialized Knowledge and Expertise** – Smaller group of dedicated resources focused primarily on the STB program promotes faster processing and responsiveness to issues and questions raised by the Trade.

**Faster STB Processing for the Trade** – Brokers and sureties will not have to duplicate efforts to complete paper STBs for data already in their own systems.

**Expanded Entry Capabilities for the Trade** – Automated STB submission and validation will permit 24/7 bond filing so the Trade does not have to wait for ports to open for business.

**Automates Labor-Intensive STB Validation by CBP** – Electronic submission and validation can expedite cargo release without increasing risk and free up resources in the field. Based on annual STB volumes (300,000 – 750,000) and avg. manual processing times (6.5 minutes per bond), could save estimated 32,500 – 81,250 man hours (15-39 FTEs) per year.

**Improve Collections for CBP**

**Reducing Protests, Write-offs, and Rejections**– Improved consistency in the application of STB policies and procedures will drive down potential revenue losses. CBP will have perfected STBs in-hand in all cases prior to cargo release.
Points of Contact

- **Office of Administration, Financial Operations, Revenue Division**
  - Bruce Ingalls - Director, 317-298-1107
  - Kara Welty - Chief, Debt Management Branch, 317-614-4614

- **Office of Trade, ACE Business Office**
  - Monica Crockett – Director, Entry Summary Accounts and Revenue, 571-468-5375
  - John Everett – Cargo Control and Release Division, 571-468-5339
Scope of eBond

- **CBP 301 Bond Form** 99% of all Customs Bonds

<table>
<thead>
<tr>
<th>Activity Code</th>
<th>STB</th>
<th>Continuous</th>
<th>CTB Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 – Importer or Broker</td>
<td>x</td>
<td>x</td>
<td>174,731</td>
</tr>
<tr>
<td>1a – Drawback</td>
<td>x</td>
<td>x</td>
<td>1,049</td>
</tr>
<tr>
<td>2 – Custodian of Bonded Merchandise</td>
<td></td>
<td>x</td>
<td>5,770</td>
</tr>
<tr>
<td>3 – International Carrier</td>
<td>x</td>
<td>x</td>
<td>5,911</td>
</tr>
<tr>
<td>3a – Instrument of International Traffic</td>
<td></td>
<td>x</td>
<td>807</td>
</tr>
<tr>
<td>4 – Foreign Trade Zone Operator</td>
<td></td>
<td>x</td>
<td>862</td>
</tr>
<tr>
<td>5–10 (Public Gauger, Wool/Fur, B/L, Detention, Court Costs)</td>
<td>x</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>11 – Airport Security</td>
<td></td>
<td>x</td>
<td>510</td>
</tr>
<tr>
<td>16 – ISF</td>
<td>x</td>
<td>x</td>
<td>142</td>
</tr>
</tbody>
</table>

- **Out of Scope:** Activity Code 12 (ITC), 14 (IBEC), 15 (IPR) and 17 (MTO)
- **ACE ABI CATAIR Chapters for the Future Deployment of ACE eBond** [http://www.cbp.gov/trade/ace/catair](http://www.cbp.gov/trade/ace/catair)
  - Customs eBond Create/Update ACE CATAIR Chapter
  - ACE CATAIR Error Dictionary (Updated to reflect future deployment of ACE eBond)
  - Appendix G Condition Codes and Text (updated to include eBond error codes and conditions)
Bond Designation Type Codes

- **N** = Add a *NEW* basic bond
- **A** = An *ADDITIONAL* bond
  
  *An additional bond; the bond that secures an AD/CVD, PGA or any other aspect not covered by the basic bond requirement. Applies only to a Single Transaction Bond (STB).*
- **V** = *VOID* the STB on file
- **R** = *ADJUST* the bond amount of the STB on file
- **S** = *SUBSTITUTE* the bond presented at time of entry
  
  *Substitute bond from 3461 entry to 7501 summary*
  
  See [48 CFR 28.106-2](#) - SUBSTITUTION OF SURETY BONDS;
- **C** = *SUPERSEDE* the bond presented at time of entry
  
  See §142.4 _Bond Requirements_
- **T** = *TERMINATE* the Continuous Bond on file
Proposed eSTB Data Elements

- **Activity Code 1** (2-11 and 16 data elements TBD)
- **Bond Type Code** (8 for Continuous or 9 for STB)
- **Bond Amount** ([Customs Directive 099 3510-004](#))
- **CHB Reference Number** (optional)
- **Entry Type Code**
- **Entry Number & Filer Code**
- **Importer of Record**, **Physical Address**, Mailing (optional)
- **Port Code** (expect that this is subject to change)
- **Principal’s Country Code** (country of domicile)
- **Surety Code and Filer Code**
- **Surety Producer Code** (surety account# for billing)
**Additional Elements (3461 vs. 7501)**

- Commodity/HTSUS (determines duty for bond amount)
- Country of Origin (identifies CBP targeted areas)
- Value/Duty/Taxes/Fees (determines bond amount)
- PGA Indicator/Agency Codes (determines bond amounts)
- Sureties approve “routine” shipments (99%)
- Target High Risk Cargo (estimate 1% of cargo)
  - AD/CVD high risk commodities/countries/trans-shipments
  - Honey, Tobacco, other “fraud” targeted cargo
  - FDA subject to redelivery problems
  - Avoids E&O exposure for CHB when issuing bonds in violation of their U/W authority
Bond Amount/Sufficiency

- Total Value (3461)
- Total Estimated Duties (7501)
- Total Estimated Taxes (7501)
- Total Estimated Fees (7501)
- Bond Amount (7501)
- PGA Indicator (7501)
- Transmit from ABI

- **STBs:** (Customs Directive 099 3510-004)
- **CTBs:** Current Bond Formulas
AD/CVD Data Elements

- AD/CVD Case Number
- AD/CVD Case Deposit Rate & Rate Type Qualifier Code
- AD/CVD Value and Quantity
- AD/CVD Duty Amount
- AD/CVD Quantity
- AD/CVD Non-Reimbursement
- Declaration Identifier
- Bonded AD/CVD Duty Amount
- Cash Deposit AD/CVD Amount
- Bond/Cash Claim Code
ISF Bonds

• Unified Entry/ISF (Activity Code 1 Single or S1)
  – ISF Transaction Number
  – Vessel Departure Date (VDD)

• Activity Code 16 for ISF-D Singles (S16)
  – Transmitted separately as it is today
  – ABI Integration also possible
  – Data elements TBD
eBond 113 Rewrite

- **19CFR113** updated to eliminate paper requirement
  - Sureties have “absolute” liability; no execution defenses
  - Revised Bond Application Requirements
  - eBond will accommodate eRiders and eTerms
  - Termination notice may change (from 10/30 to 15 days)
- **Recordkeeping Requirements** ([19CFR113.15](#))
  - There will be no paper bond record, only data elements
  - Customs Assigned Bond# will change from 9 to 10 digits
- **Determining Bond Amounts**
  - 3 times value requirements ([Customs Directive 099 3510-004](#))
  - Bond sufficiency Reviewers vs. [Analytical Formula](#)
**Bond Amount and Sufficiency**

- **Bond Amount:** (Customs Directive 099 3510-004)
- **Bond Sufficiency:** Reviewers vs. Analytical Formula

Duties, Taxes & Fees $ \times 10\%$
  
  (previous 12 months)

+ $10\% - \text{unpaid bills not protested and less than 210 days or protested}$

+ $\$ - \text{delinquent bills not protested and over 210 days or denied protest}$

+ $\$ - \text{debit vouchers unpaid}$

\text{\$ paid by surety}$

\text{Total Amount} = \text{A + B + C + D + E}$

= minimum bond amount or $50,000
  
  (rounded up by increments of $10,000, up to $100,000 and then by increments of $100,000)
Bond Sufficiency Reviews

Bond Insufficiency Letters Issued (2004-2013)

<table>
<thead>
<tr>
<th>Year</th>
<th>Letters</th>
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</thead>
<tbody>
<tr>
<td>2004</td>
<td>(93)</td>
</tr>
<tr>
<td>2005</td>
<td>(790)</td>
</tr>
<tr>
<td>2006</td>
<td>(2,290)</td>
</tr>
<tr>
<td>2007</td>
<td>(2,829)</td>
</tr>
<tr>
<td>2008</td>
<td>(2,325)</td>
</tr>
<tr>
<td>2009</td>
<td>(1,429)</td>
</tr>
<tr>
<td>2010</td>
<td>(2,130)</td>
</tr>
<tr>
<td>2011</td>
<td>(922)</td>
</tr>
<tr>
<td>2012</td>
<td>(1,958)</td>
</tr>
<tr>
<td>2013</td>
<td>(2,120)</td>
</tr>
</tbody>
</table>
Periodic Monthly Statement

- 20,000 ACE accounts
- 68% of all duty/fees
- Over $1.6 billion
- Defaults/Debit Vouchers
- CBP Delays

E-mail should state the following:
- Importer is an ACE Portal Account;
- Importer’s interest in participating in Periodic Monthly Statement; and
- List of IR#s being requested for Periodic Monthly Statement activation.
- ACE ID from Top Account and ACE IDs associated with IR#s being requested.

Subject of e-mail should be “Activation Request.” Carbon copy should be sent to importer’s CBP Account Manager, if applicable.

E-mail should state the following:
- Importer’s interest in participating in Periodic Monthly Statement as a non-portal account;
- List of IR#s being requested for Periodic Monthly Statement activation.

Scanned image of the CBP Form 5106 with “Periodic Monthly Statement Activation” written on top is to be included. Please include no more than five CBP Forms 5106 on a single email.

Subject of e-mail should be “Activation Request.” Carbon copy should be sent to importer’s CBP Account Manager, if applicable.

Bad Address/5106 Revisions

- **Effective 4/8/14:** CBP will render importer’s continuous bond insufficient for returned mail
- **ACE Surety Portal:** Avalon receives weekly notices
- **Change in Mailing Address:** [CBP Form 5106](http://www.cbp.gov/trade/trade-community/outreach-programs/bonds/bond-program/information/insufficient-bonds)
- **Change in Physical Address:** Bond Rider + [CBP Form 5106](http://www.cbp.gov/trade/trade-community/outreach-programs/bonds/bond-program/information/insufficient-bonds)
- **What if Address is Correct?** Letter from Importer
- **5106 Revisions**
  - CBP developing new form, more data on new importers
  - CBP building a web portal to input information
  - Not expected until 2015 after eBond
Bond Cancellation/Changes

• **Bond Amount Adjustment** *(Activity Code 1 Singles Only)*
  - STBs only, not continuous bonds
  - Only allowed in 10 day window between Entry (3461) and Entry Summary (7501).
  - Only the Bond Amount field can be changed.
  - All other fields must remain same as originally transmitted.
  - Replacement Bond assumes liability for the entire transaction starting with 3461 filing.

• **Example**
  - At time of entry, bond amount = $10,000
  - At summary, bond amount = $30,000
Bond Cancellation/Changes

• **Substitution Bonds** *(Activity Code 1 Singles Only)*
  – Assume liability for transaction when Substitute Bond filed.
  – Original bond maintains liability for the timeframe prior to the Substitution Bond being filed.
  – Substitution Bonds must be filed in the window between Entry/Release (3461) and Entry Summary (7501).

• **Single Transaction Bonds**
  – Substitution STBs will be treated as new Bond in ACE.
  – No restrictions to match details between old/new bond.
  – Both bonds logged to a single transaction for liability.
  – Surety on original bond notified of change.
Bond Cancellation/Changes

• Continuous Bond Substitution
  – Only if filer substitutes one continuous bond for another.
  – May file Entry Summary with a different importer#.
  – eBond validation to check if CB on file for new importer#.
  – *Superseding Bond Indicator* would already be present in the Entry Summary set to appropriate value.
  – Allows for Entry Summary to be filed with new bond successfully, as long as all other bond validations passed.
  – By logging the Bond change to the transaction, Office of Administration will be able to determine the party liable for the transaction.
Bond Cancellation/Changes

- **Superseding Bonds** *(Activity Code 1 Only)*
  - Assume liability for increased and additional duties after the merchandise is released from CBP custody or the entry has liquidated.
  - The initial bond used to secure release of the merchandise remains liable until the Superseding Bond is effective.
  - Can be filed between Entry and 90 days after Entry Filing.
  - Require the filing of a 3347 (Owner Declaration).
  - 3347 submission requirements will need to be monitored by the Office of Administration.
  - *see §142.4 Bond Requirements*
Bond Cancellation/Changes

• **Superseding STBs** *(Activity Code 1 Only)*
  - Treated as a new bond submission in ACE
  - No restrictions to match details between old/new bond.
  - Both bonds logged to a single transaction for liability.
  - Surety on original bond notified of change.

• **Superseding Continuous Bonds** *(Activity Code 1 Only)*
  - Required filing of 3347 (Owner Declaration)
  - Results in change to the IOR# on the Entry/Entry Summary
  - When IOR# is changed on Entry/Entry Summary (by ABI or by CBP), ACE will validate active CB on file for new IOR#.
Any eBond Questions?
ISF Enforcement Updates from CBP

ISF $5,000 +2 per violation

liquidated damages
# ISF Timeline & Updates

<table>
<thead>
<tr>
<th>ISF Action</th>
<th>Date</th>
<th>ISF Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>ISF Proposed Rule (NPRM)</td>
<td>01/02/08</td>
<td>1&lt;sup&gt;st&lt;/sup&gt; notice of ISF bonds <strong>CBP 19CFR149(b)</strong></td>
</tr>
<tr>
<td>ISF Interim Rule</td>
<td>01/26/09</td>
<td>CBP <strong>ISF Interim Rule</strong></td>
</tr>
<tr>
<td>“Flexible” Enforcement</td>
<td>01/26/09</td>
<td>CBP <strong>ISF Web Page</strong></td>
</tr>
<tr>
<td>“Informed Compliance”</td>
<td>01/26/10</td>
<td>CBP <strong>ISF Mitigation Guidelines</strong></td>
</tr>
<tr>
<td>ISF Enforcement</td>
<td>07/09/13</td>
<td>CBP <strong>CSMS Enforcement Message</strong></td>
</tr>
<tr>
<td><strong>NPRM (ISF-5)</strong></td>
<td>TBA</td>
<td>Questions or comments to: <a href="mailto:security_filing_general@cbp.dhs.gov">security_filing_general@cbp.dhs.gov</a></td>
</tr>
<tr>
<td><strong>ISF Final Rule</strong></td>
<td>ETA of 8/14</td>
<td><strong>CBP FAQ</strong> dated 07/09/10</td>
</tr>
<tr>
<td>CBP FAQ Update</td>
<td>OR&amp;R Review</td>
<td></td>
</tr>
</tbody>
</table>

**CSMS# 14-000273 - ISF Progress Reports to be issued late this month** on 5/12/14

**CSMS# 14-000260 - Disruption to ISF Bill Matches** on 4/17/14

**CSMS# 14-000219 - Delays in ISF Processing** on 4/17/14

**CSMS# 14-000129 - ISF Rejections** on 3/20/14
ISF by the Numbers

<table>
<thead>
<tr>
<th>Period</th>
<th>ISF-10s</th>
<th>Filers</th>
<th>ISF Importers on File</th>
<th>Importers Filing ISF</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 26 – November 23, 2009</td>
<td>3.4 million</td>
<td>1,900</td>
<td>99,700</td>
<td>95%</td>
</tr>
<tr>
<td>January 26 – September 21, 2010</td>
<td>6.2 million</td>
<td>2,350</td>
<td>194,000</td>
<td>97% nationally</td>
</tr>
<tr>
<td>January 01, 2013 – December 31, 2013</td>
<td>10,508,000</td>
<td>2,500+</td>
<td>264,000</td>
<td>90%+ nationwide</td>
</tr>
</tbody>
</table>

- Since ISF Enforcement on 7/9/13, over 10 million ISFs have been filed and 90% of importers are now filing ISFs nationwide. Approximately 20% of ISFs still filed late.
### ISF Statistics and Updates

#### Bond Statistics

<table>
<thead>
<tr>
<th>Description</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>10,508,000 ISFs in 2013</td>
<td></td>
</tr>
<tr>
<td>74,000 ISF-D Singles/Year (estimate)</td>
<td></td>
</tr>
<tr>
<td>99% of ISFs filed against CTBs</td>
<td></td>
</tr>
</tbody>
</table>

#### What about ebond?

<table>
<thead>
<tr>
<th>Description</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Activity Code 1 (SEB and CB) by 1/3/15</td>
<td></td>
</tr>
<tr>
<td>Activity Code 16 ISF STB 3rd in volume</td>
<td></td>
</tr>
<tr>
<td>Yes, ISF Bonds in scope by 1/3/15</td>
<td></td>
</tr>
</tbody>
</table>

#### Enforcement Stats

<table>
<thead>
<tr>
<th>Description</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over 10,000,000 ISFs since 7/9/13</td>
<td></td>
</tr>
<tr>
<td>1% result in Cargo Holds</td>
<td></td>
</tr>
<tr>
<td>Status of LD Claims?</td>
<td></td>
</tr>
</tbody>
</table>

#### What about ACE Cargo Release?*

<table>
<thead>
<tr>
<th>Description</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ocean shipments effective 1/4/14</td>
<td></td>
</tr>
<tr>
<td>Deployment C released 4/5/14</td>
<td></td>
</tr>
<tr>
<td>Will certify summary for release</td>
<td></td>
</tr>
</tbody>
</table>

* **ACE Cargo Release** “will not replace ISF, but it will allow the filer to fulfill the ISF requirements. The approach is that if we have the data in the system, the trade will not have to send it again. CBP cannot say when this will be operational...it may be after Deployment C or a separate deployment just for the ISF integration.”
ISF Enforcement on Local Level

Each port will implement based on local needs/resource

<table>
<thead>
<tr>
<th>Port</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>LA/Long Beach</td>
<td>07/12/13</td>
</tr>
<tr>
<td>NY/NJ</td>
<td>07/19/13</td>
</tr>
<tr>
<td>Seattle</td>
<td>07/22/13</td>
</tr>
<tr>
<td>San Francisco/Oakland</td>
<td>07/25/13</td>
</tr>
<tr>
<td>Baltimore</td>
<td>08/05/13</td>
</tr>
</tbody>
</table>

Notices are all similar, attend local port meetings for details

<table>
<thead>
<tr>
<th>Port Notice Link</th>
</tr>
</thead>
<tbody>
<tr>
<td>LA 13-026 Public Bulletin</td>
</tr>
<tr>
<td>Pipeline 13-027-NWK</td>
</tr>
<tr>
<td>CBP Trade Information Notice 13-17 WA</td>
</tr>
<tr>
<td>Notice 782-13-09</td>
</tr>
<tr>
<td>BWI Port Information Notice 2013-16</td>
</tr>
</tbody>
</table>

LA/Long Beach is Unique

- Not enough resource to issue 400 LD claims/day to address all ISF violations.
- Did not start out holding consolidated shipments, but is doing so effective 10/7/13 only on cargo that arrives without an ISF 48 hours prior to arrival.
- Each port handling enforcement differently.
ISF Enforcement - Cargo Holds

• CBP expects 100% compliance since 7/9/13
• Non-compliant ISFs subject to cargo holds in ACE

<table>
<thead>
<tr>
<th>Code</th>
<th>Name/Disposition</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>2O</td>
<td>ISF Hold for no ISF on file</td>
<td>Informs the carrier that this shipment has a manifest hold.</td>
</tr>
<tr>
<td>2P</td>
<td>ISF Hold - ISF Compliance Issue</td>
<td>Informs the carrier that this shipment has a manifest hold.</td>
</tr>
<tr>
<td>4O</td>
<td>ISF Hold Removed for no ISF on file</td>
<td>Generated to remove the ISF Hold identified in 2O</td>
</tr>
<tr>
<td>4P</td>
<td>ISF Hold Removed for ISF Compliance Issue</td>
<td>Generated to remove the ISF Hold identified in 2P</td>
</tr>
</tbody>
</table>

• When is CBP using ISF cargo holds? (<1% of cargo)
  – When ocean cargo arrives without an ISF
  – When an ISF is not timely filed 24 hours prior to departure
  – When an ISF is not complete and/or missing a B/L match
  – Entry cannot be made at ocean port without an ISF
  – Sent to G.O. if entry is not made (manual cargo holds)
• **2Q is the code for Carrier Holds Overseas**
  – Should only be used when there is a threat to national security.
  – Any instances of CBP holding cargo or containers overseas without a 2Q code should be reported to CBP-HQ: craig.clark@cbp.dhs.gov
  – Do not expect ocean carrier to hold cargo for non-compliant shipments.

• **Once ISF data received, security assessment made**
  – Each port has its own process for handling manual cargo holds.
  – Some ports don’t have facilities to strip consolidated cargo when cargo is held so a single late ISF can delay an entire container.
  – CBP does not compare ISF to Entry data; however, this may be reviewed during a cargo hold or inspection. Discrepancies that impact national security are major concern.
  – Liquidated Damages could be assessed in addition to or instead of cargo holds.
K-Line Cargo Hold Data

• **POD Holds in 2014**
  – 698 total, average 34 per week (down from 78 in 2013)
  – 687, no ISF on File
  – 11, ISF on file, but the data contains some type of compliance issue, and CBP placed a hold for further review
  – Majority of POD Holds in Long Beach/LA, ORF, OAK

• **POL Holds in 2014**
  – 6, Do Not Load due to No ISF on File
  – Placed in error, removed when CBP was notified
• **When and Why Will a Liquidated Claim Get Issued?**
  – ISF must be filed timely, accurately, and completely.
  – If not, CBP may assess liquidated damages of $5,000 per violation subject to $10,000 maximum per ISF transaction.
  – Per CBP-HQ: “Since 7/9/13, any ISF not filed timely, accurately, and/or completely is in violation of ISF laws and at risk for claims.”
  – CBP’s initial focus is a measured approach directed at “egregious” offenders (non-files, repeat late files, etc.).
  – HQ reviews claim details before port issues the 5955A.
ISF Enforcement – Liq Damages

• Types of Violations for Liquidated Damages
  – Late Files (all ISF claims to date issued for this reason)
  – Inaccurate/Incomplete (98% of ISFs accepted)
    • Missing B/L
    • Missing bond information
    • Duplicate ISFs
  – B/L Mismatch
    • Makes ISF inaccurate
    • Can also cause ISF to appear late due to mismatch

• ISF Penalty Provisions
  – ISF Importer Penalties under 19 U.S.C. 1595a(b) = value of cargo
  – ISF Filers not liable under CBP regs, not “Customs Business”
  – Customs Brokers 19U.S.C.§1641 = $10,000/violation
Bill of Lading Match in ACE

- **B/L commonly known as the “11th data element.”**
- **B/L required as part of the ISF transmission**
  - ISF Importer must provide B/L to lowest common denominator
  - ISF Filer needs to query ACE to secure a B/L match
  - This links ISF to Customs manifest in ACE to be visible to CBP
- **CBP cannot target ISF without a B/L match**
  - CBP needs match 24 hours prior to arrival to conduct targeting
  - Failure to match 24 hours prior to arrival may result in cargo hold
  - Liquidated Damage claim also possible
  - A B/L mismatch is an inaccurate ISF
  - Potential for 2 LD claims, late ISF and inaccurate ISF if untimely B/L match
  - Cap is $10,000 any one ISF transaction
ISF Exposure for Importers

• Calculate Exposure from Financial Perspective
  – Inventory carrying costs based on 2-5 day shipment delays (cargo holds)
  – Extra costs for holding freight at origin or destination if ISF missing/late
  – Extra costs for non-intrusive inspection (NII) and/or full examination
  – Liquidated Damage (LD) Exposure (now or future potential)
  – *One day, ISF violations will receive LD claims routinely like Entry Process.*

<table>
<thead>
<tr>
<th>100/Year</th>
<th>%</th>
<th>#</th>
<th>Worst</th>
<th>C-TPAT</th>
<th>Best</th>
<th>Average</th>
<th>C1 Bond</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violation%</td>
<td>3%</td>
<td>3</td>
<td>$ 15,000</td>
<td>$ 3,000</td>
<td>$ 6,000</td>
<td>$ 8,500</td>
<td>N/A</td>
</tr>
<tr>
<td>Violation%</td>
<td>5%</td>
<td>5</td>
<td>$ 25,000</td>
<td>$ 5,500</td>
<td>$ 11,000</td>
<td>$ 16,000</td>
<td>N/A</td>
</tr>
<tr>
<td>Violation%</td>
<td>10%</td>
<td>10</td>
<td>$ 50,000</td>
<td>$ 11,750</td>
<td>$ 23,500</td>
<td>$ 61,000</td>
<td>$ 50,000</td>
</tr>
<tr>
<td>Violation%</td>
<td>20%</td>
<td>20</td>
<td>$ 100,000</td>
<td>$ 24,250</td>
<td>$ 48,500</td>
<td>$ 73,500</td>
<td>$ 50,000</td>
</tr>
</tbody>
</table>

• Worst assumes $5,000 liquidated damage per violation, no mitigation
• Best assumes $1,000 for 1st time violation, $2,500 for all subsequent violations
• C-TPAT assumes 50% reduction of claims
• Average, mix of each

*Remember C1 bond limits LD exposure to bond amount typically $50,000/year.*
ISF 6-Year Statute

- **ISF Liquidated Damage Claims**
  - *Before 7/9/13*: CBP has no intention of issuing any LD claims prior to when ISF enforcement began, except in cases of fraud.
  - *After 7/9/13*: CBP has up to 6 years to issue an LD claim for any ISF violations that occur on or after 7/9/13.

**HQ Guidance to Ports in Q2 14**

- ISF enforcement should focus on more severe violations.
- Severe violations include: “significantly” late ISFs, failure to file an ISF, and repeat violations (to be defined).
- Issue LD claims within 6 months or so of the ISF violation, otherwise understood no claim should be forthcoming.
- Does not remove CBP’s right to issue claims up to 6 years per statute.
### Mitigating Factors

- **ISF-5** for FROB cargo is not subject to liquidated damages at this time, but would be subject to same violation types and mitigating factors.

- **6 Mitigating Factors:**
  1. ISF progress since 1/26/09;
  2. Small # of violations to shipments (as %);
  3. C-TPAT Tier 2 or 3 status;
  4. Demonstrated action to reduce future violations;
  5/6. ISF filed late or inaccurate, can mitigate if due to factors outside importer’s control (such as carrier error).

- **4 Aggravating Factors:**
  1. Non-cooperative;
  2. Multiple errors on the ISF;
  3. Rising/Deteriorating Error Rate;
  4. Smuggling/Fraud.

### ISF Mitigation Guidelines

<table>
<thead>
<tr>
<th>Violation Type</th>
<th>Cause</th>
<th>Max.</th>
<th>1st Violation</th>
<th>All Other</th>
<th>C-TPAT</th>
</tr>
</thead>
<tbody>
<tr>
<td>ISF-10 Filing</td>
<td>Late File</td>
<td>$5,000</td>
<td>$1,000-$2,000</td>
<td>$2,500</td>
<td>50%</td>
</tr>
<tr>
<td>ISF-10 Filing</td>
<td>Inaccurate Filing</td>
<td>$5,000</td>
<td>$1,000-$2,000</td>
<td>$2,500</td>
<td>50%</td>
</tr>
<tr>
<td>ISF-10 Filing</td>
<td>Inaccurate Update(s)</td>
<td>$5,000</td>
<td>$1,000-$2,000</td>
<td>$2,500</td>
<td>50%</td>
</tr>
<tr>
<td>ISF-10 Filing</td>
<td>Withdrawal/Deletion</td>
<td>$5,000</td>
<td>$1,000-$2,000</td>
<td>$2,500</td>
<td>50%</td>
</tr>
</tbody>
</table>
Mitigation Best Practices

• Describe Nature of Error or Violation
  – If clerical in nature, describe why it occurred?
  – Is ISF Filer or Carrier at fault? Provide specific details.
  – Was it a one-time or repeat violation? Explain.
  – Outline how future violations will be avoided.

• Importer’s ISF Performance Record
  – How long has importer been compliant with ISF?
  – Emphasize importer’s compliance record
    • Timeliness/Accuracy (95% timely/98% accurate)
    • Include ISF Progress Report (from Filer or ACE portal)
    • Overall cooperation

• C-TPAT Status
  – Request 50% mitigation based on C-TPAT status of importer and/or ISF Filer.
• All ACE accounts access ISF reports in same manner
  – Go to References Tab
  – Select Task “Links” from Menu Panel on the left
  – Button to “Launch ISF” will appear
• “Launch ISF” will open new window
  – Sign up for reports in Reports Menu
  – Reports will then appear in Reports Tab (check daily)

CSMS #11-000155 effective 7/13/11
ISF Progress Reports

- Per CBP, only an estimate of ISF compliance
- C-TPAT tier 2 and 3 receive line item detail
ISF Progress Reports

- Measures ISF Timeliness based on Vessel Departure Messages (VDMs) received by CBP minus 24 hours per local time.
- “ISFs Not Measured for Timeliness” occur when no VDM was received by CBP.
- Per CBP, these are not late ISFs and do not negatively affect an importer’s compliance rate.
ISF Surety Data in ACE

- Surety receives snapshot of ISF activity (monthly)
- Surety now receiving vessel departure message/date

<table>
<thead>
<tr>
<th>ISF Imp #</th>
<th>ISF Imp Name</th>
<th>Filer Name</th>
<th>ISF Sent Date</th>
<th>Format</th>
<th>Action</th>
<th>Status</th>
<th>Action Reason</th>
<th>Shipment Type</th>
<th>ISF Status</th>
<th>ISF#</th>
<th>SCAC</th>
<th>Bill#</th>
<th>Bill Type</th>
<th>Bond Type</th>
<th>Bond Code</th>
<th>Error</th>
<th>CTB Bond #</th>
<th>STB Bond Ref #</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>09/06/11 01:38:24 PM</td>
<td>ABI</td>
<td>Add</td>
<td>Active</td>
<td>CT</td>
<td>01</td>
<td>Accepted</td>
<td>BM</td>
<td>9</td>
<td>16</td>
<td>STB#</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>09/13/11 04:19:38 PM</td>
<td>AMS</td>
<td>Add</td>
<td>Active</td>
<td>CT</td>
<td>01</td>
<td>Accepted</td>
<td>OB</td>
<td>8</td>
<td>1</td>
<td>CTB#</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- **ISF Transaction Count based on Avalon Data**
  - Based on data Avalon received through portal as of July 2011, VDMs as of 3/14
  - Format/Filer: 80% ABI; 20% AMS
  - Status: 99.89% Accepted; .11% Rejected
  - Action Reason: 98.28% Compliant Transaction vs. Flexible Filing (FR, FT, FX)
  - Bond Type: 98.4% CBs; 1.6% STBs
  - ISFs Late: 16% based on Avalon’s data (not fully populated yet)
ISF Compliance Best Practices

Does the ISF obligation cease at the first ocean port of arrival? Are changes to the ISF allowed during transit or required after arrival at the port of discharge?

– Updates to the ISF are always allowed during transit and encouraged to reflect the most current information available.

– Per CBP’s FAQ: “Generally, the requirement to update an ISF terminates when the vessel calls at the U.S. port of arrival. However, CBP will not restrict updates outside of this window.”

– Although importers are not required to file any ISF updates after the ISF obligation ceases at the first U.S. port of arrival, importers may do so if they prefer to do so for records to match in the event of an audit.

– The only exception to this is a Flexible Filing (FR, FT, FX) which must be updated to a Compliant Transaction (CT) at least 24 hours prior to arrival in the U.S.
ISF Compliance Best Practices

• Per CBP, always best to file ISF timely, update later
  – CBP prefers that ISFs be amended or updated vs. deleted if changes to the ISF are required to make it accurate and complete.
  – Update a timely ISF, don’t delete and redo an untimely ISF.

• ISFs can be updated until cargo arrives in the U.S.
  – **19 CFR 149.2(d)** states the ISF must be updated “if, after the filing is submitted and before the goods enter the limits of a port in the United States, any of the information submitted changes or more accurate information becomes available.”
  – CBP prefers updated information and ACE match at least 24 hours prior to cargo arrival for targeting purposes.
  – A Flexible Filing (FR, FT, FX) must be updated 24 hours prior to cargo arrival as a Complete Transaction (CT). Failure to do so can result in a liquidated damage claim. CBP recommends fling as a Complete Transaction (CT) since updates can always be made.
ISF Compliance Best Practices

• When importers are C-TPAT certified...
  – Consolidate with other C-TPAT cargo as best practice.
  – Load cargo that has ISF acceptances in same container.
  – These best practices can help avoid cargo holds.

• How can the Trade better identify C-TPAT importers?
  – You must participate in C-TPAT to have access to the C-TPAT Status Verification Interface to search participants.
  – Also visit: http://www.cbp.gov/border-security/ports-entry/cargo-security/c-tpat-customs-trade-partnership-against-terrorism/status-verification

• A record of ISF non-compliance will threaten your C-TPAT status and/or participation.
### Contact and Links to Information

#### Avalon Risk Management

<table>
<thead>
<tr>
<th>Category</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Underwriting Questions</strong></td>
<td>Group email: <a href="mailto:Bond-underwriting@avalonrisk.com">Bond-underwriting@avalonrisk.com</a>, phone line: 847-700-8473</td>
</tr>
<tr>
<td></td>
<td>Gabriela Craver: <a href="mailto:gcraver@avalonrisk.com">gcraver@avalonrisk.com</a>, Surety Underwriting Manager</td>
</tr>
<tr>
<td><strong>Claims Questions</strong></td>
<td>Zuleika Medina: <a href="mailto:zmedina@avalonrisk.com">zmedina@avalonrisk.com</a>, Surety Claims Manager</td>
</tr>
<tr>
<td><strong>Web Merlin IT Questions:</strong></td>
<td><a href="mailto:helpdesk@avalonrisk.com">helpdesk@avalonrisk.com</a></td>
</tr>
</tbody>
</table>

#### CBP

<table>
<thead>
<tr>
<th>Category</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Craig Clark</strong></td>
<td><a href="mailto:security_filing_general@cbp.dhs.gov">security_filing_general@cbp.dhs.gov</a> or <a href="mailto:craig.clark@cbp.dhs.gov">craig.clark@cbp.dhs.gov</a></td>
</tr>
</tbody>
</table>
Thank you for participating today!
You will receive 2 CCS/CES Credits
Any Questions?

ISF 10 + 2 liquidated damages $5,000 per violation
Premier Provider of Innovative Insurance and Surety Solutions