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## **“10+2” and YOU: No room for error after January 26, 2010 (part 1 of 2)**

Importers have lived with the **Importer Security Filing (ISF)**, a.k.a. the “10+2 Rule”, since January 2009. In fact, importers knew it was coming down the pike long before that date. The big news now is: **after January 26, 2010, the U.S. Customs and Border Protection (CBP) will begin strict enforcement of the ISF requirements.** For the period of one year following the effective date of the ISF Interim Final Rule on 1/26/09, CBP had used restraint in enforcing compliance to allow the importing community time to put in place and work out the bugs of their internal processes. And now that “grace period” is over.

A critical component of ISF which importers need to fully comprehend is that it is the importer in the U.S. who is responsible for timely and accurate ISF submissions. Nobody, least of all CBP, wants to hear the old song “My Broker Does That for Me.” Your broker may do the keystroking of the electronic ISF submission; your broker may compile the information received from foreign vendors in order to prepare an ISF submission; you may even pay for the service of your broker communicating with and collecting data from foreign vendors on your behalf in order to complete an ISF submission.

But at the end of the day, it is to the importer and *only* the importer that CBP will look and assess penalties for deficient or untimely ISF submissions. As with every other requirement for entry of merchandise into the United States, your customs broker is merely an agent of your company. **It is always the importer who bears the ultimate responsibility for compliance with CBP’s regulatory requirements.**

Since mid-2009, CBP has been issuing report cards to ISF filers (whether they are the importer or its agent). The goal of these report cards is to call out and make filers aware of deficiencies and/or timeliness of ISF submissions. As promised, CBP did indeed use great restraint in assessing liquidated damages against importers. However, as of January 26, 2010 that exercise of restraint will end and CBP will commence the issuance of penalties.

**Penalties can be up to \$5,000 for each untimely filing, for deficiency in a filing, or for inaccurate data contained within an ISF submission.** In July 2009, [CBP](#) issued guidelines for the mitigation of penalties assessed under the ISF program. Though every mistake or omission may not cost an importer \$5,000, it will very likely cost an importer something.

CBP must, necessarily, try to imbue upon importers the importance of timely and accurate ISF submissions. To assist in this regard, CBP will continue to issue report cards. And to emphasize the importance of the ISF, CBP will commence assessing penalties. Importers should appreciate that the whole point of the ISF is not some bureaucratic statistical gathering exercise, but rather a key component to the United States’ combating terrorism and protection of the homeland.

The more information our government has on what is arriving at a port in the U.S., from whom it came and how it got here, the better is our opportunity to screen and deter those things which could pose a risk to our homeland security.