



Thank you for participating in the NCBFAA ISF Webinar held on Tuesday, June 24, 2014. Please find below a list of all Questions that were submitted during the webinar and answered to the best of our ability based on the information available at this time. Send additional questions to craig.clark@cbp.dhs.gov or lgelsomino@avalonrisk.com or refer to the [CBP ISF Page](#) or Avalon's ISF Archives at <http://www.avalonrisk.com/isf.html>.

- Q1: Are liquidated damages issued by a port reviewed by HQ before it is issued? We had a problem when liquidated damages first began to be issued.**
- A1: This was answered during the webinar. Liquidated damages are issued by the local ports and not by CBP-HQ. However, CBP-HQ will continue to review all liquidated damage claims to ensure they are issued in accordance with the new enforcement strategy announced on 5/13/14 and in place until 5/13/15.
- Q2: What form will the warnings be in? Email? How will the importer know how many they have?**
- A2: The outreach may be in the form of a letter, phone call, or email to the ISF Importer. The ISF Importer should inquire with CBP during this outreach to confirm how many warnings CBP has on file since this will be tracked in a national database.
- Q3: Are violation notices sent to ACE portal accounts? If not, is there a plan to do so?**
- A3: No and there is currently no plan for CBP to do so because the claims are issued by Fines, Penalties & Forfeitures (FPF), which utilizes a totally separate system from ACE. It is anticipated that the FPF process will be incorporated into ACE in 2016 per the current deployment schedule, but how violation notices will be displayed in ACE at that time remains to be seen and should be directed to the ACE Business Office.
- Q4: Will the ISF Late filing reports in ACE be amended to reference B/L mismatches or B/L not filed issues?**
- A4: The Late ISF report only reflects late ISFs and does not include this information, nor does it anticipate including in the future. The NCBFAA has requested query functionality in ACE that is being addressed by the ACE Business Office.
- Q5: If an ISF was filed untimely prior to the issuance/announcement of the new enforcement strategy, will CBP still count that as a strike?**
- A5: No, the updated enforcement strategy was in place on May 13, 2014.
- Q6: Can you explain how the strikes are added to the nationwide database? Are all ports required to update the database at the time they issue the strike to the ISF IOR? Are all ports required to refer to the database before issuing a strike?**
- A6: Yes, this understanding is correct as addressed during the webinar.
- Q7: Warnings go to importer not broker? Or both?**
- A7: To the ISF importer, although ports may opt to include the ISF Filer. This will depend on resources and the method of outreach the port chose.
- Q8: Is there a way that the broker/surety/service provider would be able to access the number of warnings an IOR has before we take them on as a client?**
- A8: No, only CBP has access to the nationwide database being used to track the warnings. This is a law enforcement database that CBP uses to obtain a consistent view of each individual importer and is not accessible to the trade.

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- Q9: If a violation occurs does CBP also notify the broker who filed the ISF along with the importer? Will the ISF Filer be getting a copy of the warning letter, along with the importer? Why no plan to copy CHB and Surety?**
- A9: No, there is not a nationwide policy since the outreach to the ISF importer can be a phone call, email or letter as referenced above. Some ports have indicated that if the outreach is written in the form of a letter or email, they will also copy the ISF Filer. You will need to verify the policy with your local port. The ISF Filer and Surety are not copied at this juncture because these are just warning notices to the ISF Importer and not formal liquidated damage claims, which would get issued on the CBP5955A, a copy of which is provided to the Surety and the ISF Filer.
- Q10: If don't include the ISF Filer in the warnings, how can you be sure the warning reaches a person of authority/responsibility**
- A10: The ISF Importer is the responsible party.
- Q11: Is the 3 warnings permanent or will expire? If expires, when?**
- A11: The three (3) warnings are set to expire on May 13, 2015.
- Q12: You had indicated that liquidated damages would be assessed after the third warning. What would be the time period allotted for the warnings—three warnings in a year? 2 years?**
- A12: As answered above, the three warnings are only for a one-year period set to expire on May 13, 2015. After such time, ISF is expected to go into full enforcement with no provision for warnings.
- Q13: Is there a time limitation on violations that occur past the 3rd violation? (i.e., 10 violations occur with no penalty).**
- A13: No, there is no time limitation on violations that occur after the 3rd violation. Meaning the 4th violation and any going forward are subject to potential liquidated damage claims.
- Q14: If a warning was received after May 13th for an ISF that was due before May 12th, does this count toward the 3 strikes? We have one warning received last week for an ISF that was due before May 13th 2014, does this count towards the 3 warnings/strikes?**
- A14: No neither of these situations count as a strike.
- Q15: Can we petition a warning or strike against an ISF importer's record?**
- A15: No, a strike or warning is not considered a liquidated damage (LD) claim and cannot be petitioned. If an LD claim gets issued on the 4th violation and one or more of the three strikes was not valid, this should be used as a mitigating factor during the petition process. The petition should request that the LD claim be cancelled in full since one or more of the initial strikes was not valid.
- Q16: Can three violations occur on one ISF? I see a \$10K violation cap... what happened to \$5K?**
- A16: This was answered during the webinar and also within the presentation. CBP can assess a \$5,000 liquidated damage claim for an untimely ISF, an inaccurate and/or incorrect ISF and/or ISF update, and/or failure to withdraw an ISF. Despite the potential for multiple violations against a single ISF, CBP has always capped the maximum amount of liquidated damages to \$10,000 per one single ISF transaction. With the new ISF enforcement policy implemented on 5/13/14 for one year period, CBP would not consider three violations against a single ISF as three warnings or strikes; it would be considered a single ISF warning.
- Q17: Can the trade receive a redacted version of CBP-HQ's May 13 directive to the field offices on the new ISF enforcement guidance?**
- A17: CBP does not provide internal guidance to the public. CBP published an [addendum](#) to the ISF FAQ that addresses all the relevant points of the updated enforcement strategy.



Q18: Why is the penalty so high?

A18: ISF is a security program. As such, the amounts for liquidated damage claims were established at these levels to discourage them from being considered a “cost of doing business” as is currently the case with entries that are filed late.

Q19: Please speak to UPDATE of the ISF, not delete and file a new ISF. Some filers seem to remain confused on this point. Remind people not to "DELETE" ISF, in most cases you want to AMEND, not DELETE and miss the TIMELY filing.

A19: Yes, that is correct and this was answered during the webinar and referenced within the presentation. Per CBP, always update an ISF rather than delete it and add a new one. Updating the ISF will retain the timeliness of the original filing.

Q20: What happens when freight gets rolled off of the original vessel-if you have already filed the ISF based on the original vessel departure date?

A20: You should amend the ISF to change any relevant information. You can update an ISF up to the cargo’s arrival in the U.S. unless this is a flexible filing, in which case you must update the ISF to a Compliant Transaction (CT) at least 24 hours prior to arrival in the U.S.

Q21: Can an ISF be amended after 24 hours prior to arrival? For example, to correct an HTS?

A21: Yes, as long as the ISF was not filed using any of the flexible filing options, which must be amended to a CT at least 24 hours prior to arrival in the U.S.

Q22: When an arrival slides to a later ETA US, does the ISF need to be amended?

A22: No

Q23: There are instances where we have queried AMS and the B/L is on file but the message from customs for ISF is no bill on file...we have been told in the past not to send a replace but often this is the only way to get a timely match...any suggestions?

A23: ACE will automatically query the B/L match for 60 days, and the ISF Filer should be receiving disposition codes regarding the status after each query. If you are not receiving these disposition codes, this is a problem with your ISF software and you must contact your provider to resolve it. Although there are many instances where you will first transmit your ISF and not secure a B/L match due to timing issues, you should always continue querying to receive a match, not delete or replace it with an untimely ISF.

A24: What about the issue when we get no match but send a REPLACE with no change and get the match?

Q24: As referenced above, if you secure a match by replacing the ISF, you may now have a Late ISF. Sometimes re-filing may be the only option, but should only be done if CBP-HQ or your ACE client representative advises that you do so due to any disruption in processing ISFs in ACE (per guidance from CSMS messages). As discussed during the webinar, never delete an ISF to re-file an untimely ISF since you risk the timely filing of your original ISF.

Q25: So when is the ISF considered timely, when it says ISF accepted or when there is a B/L match?

A25: As discussed during the webinar, these are two distinct actions. An ISF is considered timely when the ISF is accepted by CBP. The B/L match will typically come later but must occur before the cargo arrives in the U.S., otherwise CBP will not be able to see the ISF or identify that it was filed on a timely basis. As a best practice, you should secure a B/L match as timely as possible, but at least 48 hours prior to the cargo’s arrival in the U.S.



- Q26: If you query AMS for match to House B/L and find error on carrier end, if carrier does not fix it timely can we file ISF as it is in AMS?**
- A26: Yes, you can file the ISF but the error must be corrected, otherwise the ISF will never get the B/L match message. If there is no match, the ISF will still appear late to CBP. If you receive a “warning” from CBP due to a late ISF that was caused by the carrier, you should document this as a mitigating factor in the event you need to file a petition for any future liquidated damage claims that might be assessed.
- Q27: Which party would be responsible in a situation where a Bill Match message is received, but days later a No Bill on File is issued as a result of some type of action on the steamship company's side?**
- A27: The ISF Importer remains responsible for the timely, accurate, and complete filing of the ISF. If a warning is issued to the ISF Importer due to this change by the carrier, you should advise CBP that the warning was made in error so it does not get held against your record. If a liquidated damage claim does get issued, you need to include this as a mitigating factor in your petition for relief requesting the claim be cancelled in full, or at least the lowest mitigation that can be afforded based on circumstances of the claim.
- Q28: When an ocean carrier transmits the wrong departure date to CBP via AMS triggering a late ISF filing, how can the importer resolve this issue with CBP?**
- A28: You or your ISF Filer can notify the local port if you are aware of the error before a warning or liquidated damage claim gets issued. If a warning is issued to the ISF Importer due to this change by the carrier, you should advise CBP that the warning was made in error so it does not get held against your record. If a liquidated damage claim does get issued, you need to include this as a mitigating factor in your petition for relief requesting the claim be cancelled in full, or at least the lowest mitigation that can be afforded based on circumstances of the claim.
- Q29: VDMs: What does VDM mean? Who gets the VDM? What local time is the VDM based on? In what time zone are the ISF filing times?**
- A29: CBP measures timeliness based on the Vessel Departure Message (VDM) of the mother vessel destined for the United States minus 24 hours based on the local time of the departure port. For example, if goods are departing from China, CBP will use the local time in China minus 24 hours to determine timeliness based on the VDM that CBP receives from the ocean carrier.
- Q30: You indicated that we must transmit the ISF 24 hours (local time) prior to departure. Do we use the departure date from the time of origin or our time? For Example: I am in Pacific Time and I transmit many ISF for shipment from China. Do I transmit the ISF 24 hours prior to departure on China Time or Pacific Time?**
- A30: As answered above, CBP will use the local time in China to determine timeliness.
- Q31: All of the sailing dates in our Late ISF report are at 11:59PM, for every line, from every port?**
- A31: Yes, that is correct because CBP determines timeliness based on the date of departure, not the exact time of departure. This actually provides the trade with more time to file a timely ISF since the trade has an entire day to ensure the ISF is filed 24 hours prior to the date of the VDM.
- Q32: I would like to check with you for some clarification on the ISF webinar yesterday. Here is my example. Would this be considered late ISF Filing?**
Shipment sails from Hakata, JP on 5/28 on the Kobe Express.
Kobe Express sails to Pusan, KR and departs Pusan on 6/1.
Kobe Express ETA to Seattle is 6/11.
Customer sends ISF Info to us 5/29. **If it is the SAME vessel from Hakata to Pusan, and Pusan to USA, does the clock start 24 hours before departure from 1st port of departure?**



A32: Your understanding from the webinar is correct. You must file the ISF 24 hours prior to departure from Hakata since that is the mother vessel destined for the U.S. This is also how all CBP and all ISF reports in ACE measure timeliness.

Q33: Do the carriers receive a penalty if they do not submit their VDM?

A33: Yes, carriers can receive a liquidated damage claim, but the VDM is not required under ISF laws, rules or regulations. Carriers are required to transmit the VDM under the Trade Act, not the SAFE Port Act that governs ISF.

Q34: If a carrier does transmit "Container Loaded" message in AMS, will CBP use that message date/time instead of the VDM?

A34: CBP uses the date of sailing minus 24 hours to determine timeliness of the ISF.

Q35: There have been some reject issues recently with duplicate filings. CBP sent out a CSMS, have their system issues been resolved to avoid this from happening again in the future?

A35: CBP sends messages when delays and subsequent resolution occurs. Please continue to monitor the CSMS messages since there can be various reasons there are delays with ISF processing as these examples from the presentation demonstrate:

- [CSMS# 14-000359 - Delays in ISF Processing](#) on 6/20/14
- [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

Most of these delays are typically resolved within a day, and CBP will provide guidance on whether you should transmit your ISF again. You should also maintain these messages in the event of a liquidated damage claim since these technical delays or errors are mitigating factors that should be included in any petition filed for relief.

Q36: What is the proper deletion procedure? We normally just submit in our system, is there any other communication Customs needs?

A36: That is correct, no other communication is needed.

Q37: How can the importer confirm there were duplicates filed and by who?

A37: The ISF Importer should know the parties they provided their ISF information to and needs to contact the ISF Filer(s) involved to determine the correct party that should file the ISF on the importer's behalf. The ISF Filer will receive a notification from CBP if they try to file a duplicate ISF, but the ISF Importer does not.

Q38: There is regularly an issue with ISFs being rejected as "duplicate" filings but the AMS query shows ISF not on file. How is this being addressed?

A38: Per CBP, the ACE Client Representatives are aware of this problem and working to resolve it.

Q39: Ports are telling us that it takes 72 hours to take off a late file hold. Is that going to be the case going forward in all ports?

A39: This will vary by port based on local resources.

Q40: Will ISF be expanded to other modes of transportation?

A40: No, since ISF is governed by the SAFE Port Act of 2006, which is statutorily confined to the maritime environment. This doesn't mean that similar provisions won't be developed for other modes of transportation, such as ACAS requirements for shipments by air.



Q41: What does ACAS mean?

A41: Air Cargo Advanced Screening, please see CBP website for [ACAS FAQ](#).

Q42: 6 Year Statute: As a broker what records should we keep on our ISFs and you are stating it should be kept for 6 years? How does the 6 year period effect record keeping requirements (which are 5 years for entries)? Are the CBP regulations going to change for document retention?

A42: This was addressed during the webinar, there are no separate record keeping requirements that were created for ISF and this does not change the five-year record keeping requirements already in place for entries. It is important to note that Section [28 USC § 2415\(a\)](#) is the time limit the United States has for commencing all legal actions. As a result, this 6 year statute applies to any federal government agency, including all legal actions taken by CBP, not just ISF. The 5-year record keeping requirement applies to "Customs Business." ISF is not considered "Customs Business" and thus it is a business decision for each company to consider holding ISF records for six years since that is the amount of time CBP would have to pursue a lawsuit against an ISF transaction based on 24 hours prior to the Vessel Departure Date (the date the right of action accrues and/or a violation could occur).

Q43: ISF Mitigation: Has CBP issued circumstances for mitigation? Does the C-TPAT reduction apply to mutual recognition trade partners?

A43: This was answered during the webinar and within the presentation. CBP issued [mitigation guidelines](#) in 2009, which provide for 50% reduction for the ISF Importer of Record as stated: "An ISF Importer which is certified Tier 2 or Tier 3 C-TPAT member may receive additional mitigation of up to 50% of their normal mitigation amount, depending upon tier of C-TPAT participation." However, we have seen CBP grant 50% mitigation because the ISF Filer was C-TPAT certified typically because the ISF Filer may have contributed to the ISF violation. As a best practice, we recommend highlighting C-TPAT certification of the ISF Importer of Record, ISF Filer, and other trade partners that can assist in mitigation efforts. It is up to the discretion of the local FP&F port to provide any consideration outside of what the mitigation guidelines state as referenced above.

Q44: We heard that in the future there will be a similar filing for exports. Is this correct?

A44: There are no current plans by CBP to launch ISF for exports. However, there are countries, such as Japan, that are starting to implement their own requirements that would apply to U.S. exports. Effective March 2014, Japan announced the Advanced Filing Rules on container cargo requiring shipping lines and NVOCCs to electronically submit cargo information 24 hours before loading at the origin ports abroad. Referred to as JP24 by the trade, the regulation is considered the equivalent to Ocean AMS. The ability to conduct advanced targeting and risk assessment prior to cargo arrival is a trend that will continue for the trade. There are also several export initiatives being discussed with CBP through COAC, such as the [Advanced Export Information \(AEI\)](#) pilot and [C-TPAT for exporters](#). Please refer to the CBP website links for more information.

Q45: ACE Reports: How do we find our ISF compliance rates in ACE Portal? Have to say that we have had problems getting our reports out of the Portal. ACE help desk was not much help.

A45: The ISF Progress reports were first announced in [CSMS #11-000155](#) effective 7/13/11. Within this message are instructions for running the [ISF Progress Report in ACE](#). Companies that are C-TPAT Tier 2 or 3 certified can also receive the line item transactional details behind the progress report. On 2/1/12, additional ISF reports were made available per [CSMS #12-000031](#), which provides the **Late ISF Report** by ISF Importer or ISF Filer along with ability to run reports in PDF or Excel format to obtain transactional details. Any questions or problems trying to access this information should be sent to the ACE Help Desk at ACE.support@cbp.dhs.gov or call 866-530-4172. If you are not receiving support from the ACE Help Desk, try reaching Chuck Miller at 703-533-1772 for ISF Reports or your ACE Client Representative for ACE reports in general.

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