

ISF TRAINING WEBINARS – Q&A FROM 2009-2013

BOND QUESTIONS

Q1: If an importer does not have a C1 Continuous Bond, can an ISF be processed without an ISF-D Single Transaction Bond to cover the transaction?

A: In CBP's FAQ dated 7/9/10, pages 51-52 contained a provision to allow this for Late ISF Filings or cargo that arrived in the U.S. with no ISF. CBP indicates this option is still valid even though the FAQ date of 6/30/11 has expired. The trade community should note that 19CFR149.5 does state "bond required" for an ISF to be eligible under the regulations. We caution the trade in using the ISF Submission Type 5 "Late ISF 10 – No Bond" unless CBP approves its usage. CBP's legal department is still reviewing the matter and should be noted that ISF with "No Bond" will be subject to a non-intrusive inspection (NII) and other delays and expense in releasing the cargo. Plus CBP does not want the "No Bond" option abused, and it should be limited to one-time importers. Avalon's Web Merlin will allow the issuance of an ISF-D Single Transaction Bond for a Late ISF that will trigger a known liquidated damage violation with \$5,000 in collateral that can be taken on-line via ACH transfer, credit card, cash, check or letter of credit. CBP FAQ's dated 7/9/10 can be found at the following link and excerpt from the FAQ is provided below along with relevant regulation: http://www.cbp.gov/linkhandler/cgov/trade/cargo_security/carriers/security_filing/10_2faq.ctt/10_2faq.doc

"H. Late ISF Filings (from page 51-52 of CBP's FAQ dated 7/9/10)

"1. I've never imported before and was unaware of the ISF requirements. I want to submit my ISF, but my shipment already departed the last foreign port and now I cannot obtain a single transaction bond to cover the ISF since I've obviously run afoul of the requirements.

Importers who are unable to secure a bond after the deadline required to file an ISF may elect to use the **ISF Submission Type 5 "Late ISF-10 - No Bond"** or **ISF Submission Type 6 "Late ISF-5 – No Bond"** (these new submission types are replacing the concept of the coded transaction ISF-10 Type 13). The usage of these new ISF submission types is an explicit acknowledgement that the ISF requirements were not properly met and that the ISF is late. CBP reserves the right to take any and all appropriate action (e.g., cargo holds and examinations) to enforce the ISF requirements in these cases. In addition, ISF Submission Types 5 and 6 are expected to be in effect for a limited amount of time. Unless otherwise noted, ISF Submission Types 5 and 6 were scheduled to expire on June 30, 2011.

Please note that ISF importers who already have coverage under an existing Type 1, 2, 3 or 4 continuous bond are not to utilize these new submission types since they already have an eligible bond on file.

In addition, CBP will closely monitor the usage of these new ISF submission types and will pay particular attention to any entity that attempts to utilize these submissions on more than one occasion."

§ 149.5 Eligibility to file an Importer Security Filing, authorized agents.

(a) *Eligibility*. To be qualified to file Importer Security Filing information electronically, a party must establish the communication protocol required by Customs and Border Protection for properly presenting the Importer Security Filing through the approved data interchange system. If the Importer Security Filing and entry or entry summary are provided via a single electronic transmission to CBP pursuant to § 149.6(b) of this part, the party making the transmission must be an importer acting on its own behalf or a licensed customs broker.

(b) *Bond required*. The ISF Importer must possess a basic importation and entry bond containing all the necessary provisions of § 113.62 of this chapter, a basic custodial bond containing all the necessary provisions of § 113.63 of this chapter, an international carrier bond containing all the necessary provisions of § 113.64 of this chapter, a foreign trade zone operator bond containing all the necessary provisions of § 113.73 of this chapter, or an importer security filing bond as provided in Appendix D to part 113 of this chapter. If an ISF Importer does not have a required bond, the agent submitting the Importer Security Filing on behalf of the ISF Importer may post the agent's bond.

Q2: How is Customs going to handle first time importers, one-time importers, and those who have cargo arrive but have never heard of ISF before?

A: Importers that have a shipment arrive with no prior ISF completed can expect CBP to withhold release of the shipment and also conduct an NII. CBP may also conduct examinations of the cargo to encourage bond usage for future shipments subject to ISF. Please see Q1 above for further details on filing an ISF without a bond. CBP acknowledges a liquidated damage claim cannot be assessed without a bond attached to the ISF transaction. If CBP requires a bond to release the cargo, Avalon will write the ISF-D Single with \$5,000 collateral to cover the liquidated damage claim that would result from a Late ISF.

Q3: What tracking has CBP done of ISF accuracy compared to entry data and what enforcement plans do they have for this aspect? Regarding accuracy or completeness of data elements are there plans for liquidated damages?

A: CBP has confirmed via webinars and calls with the NCBFAA, that there is no comparison between the ISF data and the entry data, nor is there a specific requirement that it matches. ISF is not used for trade compliance, only security. However, if a shipment is withheld due to a non-filing of an ISF, it could be subject to an NII or more detailed examination. During the examination, a comparison between the entry and ISF may be made. If during the inspection or examination, CBPs discovers that the ISF was incorrect and did not match the entry, a liquidated damage claim would be issued for both the late ISF as well as an incomplete or inaccurate ISF. A small discrepancy in the commodity may be ok; however, not a wholesale commodity change. For example, one type of wearing apparel to another type may be ok but wearing apparel vs. a food item would be considered a discrepancy and could trigger a claim.

Q4: Can we still obtain a bond if an ISF is filed late resulting in a liquidated damage claim?

A: Web Merlin allows the user to complete a bond submission even if the ISF is filed after the vessel has departed. Collateral will be required and can be processed on-line via ACH or Credit Card to expedite bond issuance and store all collateral electronically. The bond can also be referred to Avalon's Underwriting Department for further review and consideration at Bond-Underwriting@avalonrisk.com.

Q5: What bond(s) does an importer need to secure an ISF transaction?

A: *For ISF, an importer must be bonded in ONE of the following ways:*

- 1) **Activity Code 1 Continuous Import Bond (C1)** on standard 301 bond form that covers both Entry and ISF Activity. This option is encouraged for importers with more than 5 transactions per year.
- 2) **Activity Code 1 Single Transaction Bond (S1)** on standard 301 bond form can only be used to bond a Unified Entry, which requires both the ISF and Entry to be processed at the same time 24 hours prior to vessel departure. In these instances, the bond amount for the Single Transaction Bond must be increased by \$10,000 to also cover the ISF transaction. Only 2-3% of all ISFs are unified.
- 3) **Activity Code 16 – Appendix D Continuous Bond (C16)** in the minimum amount of \$50,000 per annual period. This bond is not necessary if the importer already maintains a C1 on the standard 301 bond form. The C16 Continuous Bond has separate bond language per 19CFR113-Appendix D.
- 4) **Activity Code 16 – Appendix D Single Transaction Bond (S16 ISF-D bond)** for each ISF transaction in the minimum amount of \$10,000 per bond. This option should be used for importers that have less than 5 import transactions per year including non-resident importers with DDP shipments and/or one-time importer. The S16 Single Transaction ISF-D Bond has separate bond language per 19CFR113-Appendix D. There is a flat, minimum premium for these bond types which is higher than standard import bond rates given the adverse selection that may develop from low volume importers and potential for larger liquidated damage claims. Based just on our own ISF-D STB surety data, 25% of all ISFs are filed late and have the potential to result in a liquidated damage claim.

The following bond types also cover ISF transactions:

- 1) **Activity Code 2 Bonded Carrier Continuous Bond (C2)** on standard 301 bond form subject to \$50,000 bond minimum.
- 2) **Activity Code 3 International Carrier Continuous Bond (C3)** on standard 301 bond form. This bond is also required of any AMS filers that want to transmit ISF transactions to CBP subject to \$50,000 bond minimum.
- 3) **Activity Code 4 Foreign Trade Zone Continuous Bond (C4)** also on standard 301 bond form subject to \$50,000 minimum.

Q6: If an importer has a \$50,000 continuous C1 bond, do they need a separate ISF-D Single?

A: No, the Activity Code 1 Continuous Import Bond (C1) in the minimum amount of \$50,000 is sufficient to cover ISF activity. At this time, CBP has not revised its current bond formulas for determining the C1 bond amount. Liquidated damages can only be assessed up to the bond amount. In the case of a \$50,000 continuous bond, this represents the maximum liquidated damage claim CBP can assess during any one annual bond period. This is why we encourage importers to secure a continuous bond if they have more than 5 import transactions per year to avoid potential for additional liquidated damage liability. Please refer to the CBP website for the current bond sufficiency formulas. Direct link is: http://www.cbp.gov/xp/cgov/trade/trade_programs/bonds/pilot_program/

Q7: Is there any benefit to maintaining a separate C16 ISF-D Continuous Bond?

A: There is no benefit since CBP can assess ISF claims against both the ISF-D Continuous Bond and the C1 Import Bond. If one bond is exhausted, CBP would be able to collect from the other bond so there is no benefit to maintaining a separate ISF-D Continuous Bond as it only presents potential for CBP to assess more liquidated damage claims. 19CFR113 bond regulations were updated to allow CBP to assess liquidated damages against any valid C1, C2, C3, C4 or C16 continuous bonds. The only time a C16 ISF Continuous Bond may be needed is for those bond principals transmitting ISFs that don't already have a valid C1, C2, C3, or C4 on file with CBP. Should you require a C16 ISF continuous bond for any reason, please contact your local Avalon office or Bond-Underwriting@avalonrisk.com to assist you.

Q8: Will CBP consider ISF transactions in determining C1 Continuous Bond Sufficiency?

A: ISF transactions are not currently included in the calculation for a C1 Continuous Bond, which is still subject to a \$50,000 minimum and CBP has not indicated any desire to increase the minimum at this time. To the extent there are a large number of ISF claims that may result in the future, CBP's posture could change. In addition, the Revenue Division Bond Team can evaluate continuous bond sufficiency based on the Analytical (2) bond formula that contemplates any paid or outstanding bond claims. Please refer to: http://www.cbp.gov/linkhandler/cgov/trade/trade_programs/bonds/pilot_program/bond_form.ctt/bond_form.pdf.

Q9: Is the bond amount different for an S1 Single Entry Bond on the 301 bond form that includes a unified ISF with the entry?

A: Yes, when issuing a Single Entry Bond on the standard CBP 301 Bond form to cover a Unified ISF and Entry, the bond amount should continue to be determined at Value + Duty + \$10,000 to cover the ISF. If another government agency is involved on the entry, the bond amount should continue to be 3 times value + \$10,000 to cover the ISF. The ISF-D Single Transaction bond is always set at \$10,000 minimum.

Q10: Can we use an ISF-D Single Transaction Appendix D bond to clear the shipment and cover an entry?

A: No, an ISF-D Single is only used for securing the ISF transaction and not the entry. If the importer does not already have an active C1 import bond, the importer will need to obtain an S1 Single Entry Bond on the standard CBP Form 301 to clear the entry and a separate S16 ISF-D Single Transaction Bond for ISF.

Q11: For importers with C1 Continuous Bonds, if an ISF has not been filed and only the customs entry is filed against the C1 bond, is the Continuous Bond still liable if no ISF has been filed?

A: Yes, the C1 continuous bond is still liable for the ISF not being filed and subject to a liquidated damage claim for \$5,000 due to non-file of an ISF.

Q12: If an importer with a C1 Continuous Bond has not filed an ISF prior to arrival, can the ISF now be filed and a Single Entry Bond (SEB) just for the customs entry only so there is no ISF penalty under the importer's C1 Continuous Bond?

A: If the C1 Continuous Bond was active at the time the ISF was filed, CBP can pursue that bond for liquidated damages per CBP regulations even if an SEB was filed for the entry. If an ISF-D Single Bond was issued and transmitted with the ISF, the continuous bond would not be held liable. However, the importer does not need a separate ISF-D Single if they already have an active C1 Bond and issuing the ISF-D Single only increases the importer's potential exposure for liquidated damage claims.

Q13: Will CBP begin to review ISF-D Singles for rejections again or require them to be filed within 12 hours of the ISF transmission?

A: CBP does review ISF-D Singles for rejection and whether they are filed within 12 hours of the ISF transmission, but would not be subject to liquidated damage claims during this initial enforcement period since the main priority is non-files and late-files. Our Web Merlin technology will provide users with a reminder message if the ISF-D Single has been approved but not filed within 12 hours of the ISF transaction date to help comply with these requirements and avoid bond rejections.

Q14: When can an ISF-D Single be voided?

A: An ISF-D Single is obligated at the time the ISF transaction is filed and can only be voided when there is a duplicate ISF. CBP prefers that ISFs be amended or updated vs. deleted if changes to the ISF are required to make it accurate and complete. An ISF can always be updated with current information provided the ISF is being updated timely (i.e., 24 hours prior to vessel departure or if filed timely with updates made 24 hours prior to cargo arrival in the U.S.).

Q15: What if the ISF-D Single has already been submitted to CBP with the ISF transaction and there needs to be a change to the bond principal, the principal name or address and/or other ISF information?

A: Per CBP, the ISF transaction should be updated vs. voided or cancelled. If the ISF is not updated 24 hours prior to vessel departure or at least 24 hours prior to cargo arrival in the US, the ISF is considered late and the original ISF importer and ISF-D Single retain any associated liability. If the ISF-D Single is submitted timely, the ISF transaction should be updated with any current information rather than delete it and risk filing a late ISF.

Q16: Can ISFs be changed to a C1 Continuous Bond that goes on file after the ISF was filed but with an effective date prior to the ISF transaction?

A: Per CBP, the ISF-D Bond that was originally transmitted with the ISF prior to the C1 Continuous Bond being on file cannot be voided since that is when ISF liability attaches, 24 hours prior to departure so the bond has already been obligated and ISF liability cannot be transferred even if the C1 Continuous Bond goes on file before the ISF transaction date. In these instances, no premium refund for the ISF-D Single would be due even if CBP's system provides an acceptance for a change in the bond. This is a programming glitch in the system, CBP will always make a claim against the bond that was originally filed with the timely ISF submissions regardless of any updates made prior to the cargo's arrival.

Q17: CBP's system currently accepts an ISF when a C1 Continuous Bond is updated as the bond attached to the ISF transaction even when the Continuous Bond is not in effect yet. In this instance, will the ISF liability be covered by the ISF-D Single or the C1 Bond?

A: Per CBP, the ISF-D Single retains liability even if the AMS system allows a change to a C1 Continuous Bond that is not in effect yet. Please refer to Q16 above for further details.

Q18: How can an ISF-D Single be voided if the ISF was deleted and re-filed?

A: The ISF-D Single can only be voided if the ISF was deleted because there was a duplicate ISF on file with bond already attached to it. CBP needs to confirm the process that would be followed to void the ISF-D Single so sureties can provide a return of premium. In order to do so, sureties would require proof that the ISF transaction and associated bond liability were deleted.

BOND CLAIM QUESTIONS

Q1: When does the effective date of ISF enforcement apply? Does the July 9th date apply to the loading date, sailing date, or arrival date? In other words, are shipments that sail on 7/1/13 and scheduled to arrive in the U.S. after 7/9/13 subject to liquidated damages? Or is it just shipments that sail on or after 7/9/13, the date of enforcement?

A: If the vessel is being loaded on or after July 9, 2013, it would be subject to liquidated damages for any violations for CBP regulations. ISF liability attaches 24 hours prior to the vessel's departure date, if the ISF is not filed 24 hours prior to this date starting July 9th, the ISF will be considered late and subject to a claim.

Q2: What is the potential exposure for ISF penalties to the industry?

A: Based on Avalon's surety book alone, which represents over 1/3 of the Customs Bond market, we estimate the potential exposure for liquidated damages could reach a staggering \$122 million depending on how aggressively CBP enforces ISF and how mitigation for ISF claims will be afforded.

CBP states that ISF bond obligations commence 24 hours prior to vessel departure and terminates at the U.S. port of arrival. Under the ISF Rule, the ISF importer of record is liable for up to \$10,000 maximum per any one ISF transaction for any of the following reasons:

- *Late ISF:* \$5,000 per late filing which includes non-filing of the ISF, late filing of the ISF or untimely filing of an ISF update and/or untimely update to a Flexible ISF.
- *Inaccurate or Incomplete ISF:* \$5,000 per inaccurate or incomplete filing, this can include failure to update a Flexible ISF 24 hours prior to vessel departure, or not securing a match to the bill of lading record in AMS.
- *Amended Filing:* \$5,000 for the first inaccurate ISF update including incorrect update to a flexible filing.

CBP indicates the maximum penalty will be \$10,000 for multiple violations under a single ISF transaction and liquidated damages would be limited to the bond amount for any claims that result from multiple ISF transactions.

CBP has indicated that only 85% of importers are actually filing ISFs, and our own ISF-D data indicates that 25% of all ISFs are filed untimely based on CBP's formula of Vessel Departure Date – 24 hours. The liquidated damage amounts for ISF are also much larger than entry violations and mitigation guidelines are not as generous.

Q3: Can ISF claims be mitigated? If so, what are the guidelines?

A: The mitigation guidelines can be found at www.avalonrisk.com/questnewsletter/news/mitigation.pdf, they can be summarized as follows, however please refer to the CBP guidelines for exact information:

- **First Time ISF Violation:** Can be reduced to \$1,000-\$2,000, 50% reduction for C-TPAT
- **Subsequent ISF Violations:** Can be reduced to \$2,500 with 50% reduction for C-TPAT (\$1,250).
- **Vessel Stow Plans:** \$50,000 initial claim, can be reduced from \$5,000 to \$25,000 range for non-file and \$2,500 to \$10,000 for late file with 50% reduction for C-TPAT on first time violations. All subsequent violations are \$25,000 for non-file and \$5,000 for late files with 50% reduction for C-TPAT.
- **Container Messages:** \$5,000 per late filed message and \$5,000 for inaccurate filed message up to \$100,000 per any one vessel with mitigation in the \$1,000 to \$2,000 range for first time violations and \$5,000 for subsequent violations with 50% reduction for C-TPAT participants.

Q4: Will CBP accept an offer in compromise for ISF claims similar to Option 1 amounts?

A: No, there is no opportunity to pay a lower Option 1 amount through an Offer in Compromise. All ISF claims must be petitioned in a timely and accurate manner. Please note, the mitigation guidelines specify certain criteria that must be met to afford any mitigation and no mitigation will be afforded if enforcement measures were compromised. Please refer to the mitigation guidelines for further details: www.avalonrisk.com/questnewsletter/news/mitigation.pdf.

Q5: For the 50% mitigation for C-TPAT, does the importer have to be C-TPAT, the filer, or both, to qualify? How do we determine if an importer is certified as C-TPAT Tier 2 or Tier 3?

A: To mitigate claims for ISF-10 submission types, the ISF Importer must be C-TPAT certified in order to qualify for the lower mitigation amounts afforded. For ISF violations resulting from vessel stowage plans and container status messages, the carrier responsible for providing the stowage plans and status messages must be C-TPAT certified to receive the lower mitigation amounts. Currently, there is no way to verify on-line if an importer is C-TPAT certified. Tier 2 would mean the importer has been validated for C-TPAT and Tier 3 is an additional compliance threshold that must be met to qualify for the highest Tier 3 status.

Q6: When does an ISF liquidate?

A: An ISF does not liquidate. CBP has stated there is a six-year statute of limitations on penalties, however CBP still has not confirmed what the "right of action is." Typically, it is the date the violation occurs, which under ISF, we believe is the time of untimely and/or inaccurate filing 24 hours prior to vessel departure. CBP has yet to confirm this and will likely be determined once penalties are issued.

Per 19 USC § 2415(a), the timeframe for commencing actions by the United States in short states the following:

"a) Subject to the provisions of section 2416 of this title, and except as otherwise provided by Congress, every action for money damages brought by the United States or an officer or agency thereof which is founded upon any contract express or implied in law or fact, shall be barred unless the complaint is filed within six years after the right of action accrues or within one year after final decisions have been rendered in applicable administrative proceedings required by contract or by law, whichever is later..."

Q7: How soon after the 7/9/13 enforcement date will liquidated damages to be issued?

A: CBP indicates most claims may be issued by the port within one (1) month but could take up to six (6) months or one (1) year depending on the workload of the port. CBP headquarters will also review each

liquidated damage claim before the port issues and additional time will be needed to file a petition to mitigate an ISF claim. The ports will issue ISF claims using the standard 5955A protocol and all petitions would be filed with the port as with other liquidated damage claims. Some ports can take up to one (1) year to rule on a petition. HQ plans to review all ISF claims for at least the first 12 months of enforcement to ensure a common-sense, measured approach. Since an ISF does not liquidate, CBP indicates that a six-year statute of limitations will apply to any ISF transactions per 19 CFR 2415(a). CBP would have this amount of time to assess an ISF claim, which they indicate would be used in cases of egregious errors and/or fraud. In such instances, CBP can assess claims against all claim violations made over the 6 year statute period.

Q8: If an importer has a \$50,000 continuous bond, can CBP sanction the importer if there are liquidated damages that exceed the amount of the bond? For example, if an importer has a continuous bond effective 1/26/13 through 1/25/14 and pays \$50,000 in liquidated damages during that bond period for ISF violations, can Customs come back against the bond period at a future date and sanction the importer for not paying?

A: Liquidated damages for entry or ISF violations can only be assessed up to the bond amount since the definition of a liquidated damage claim is violation of the bond contract itself. Thus, a liquidated damage can never exceed the amount of the bond for the importer or the surety. On behalf of surety, we would deny **any** liquidated damage claims where the bond amount has been saturated due to claim payments made within the bond period, we would encourage brokers and importers to dispute also. In the above described scenario, CBP could not claim more than \$50,000 for liquidated damage violations that occurred during the bond period from 1/26/13 through 1/25/14. In the case of ISF Bonding, the importer is limiting its liability to \$50,000 per continuous bond period vs. \$10,000 per ISF Bond using ISF-D singles. It should be noted that an importer's obligation to pay duties is absolute and never limited by the bond amount. In addition, if an importer is assessed with 592(d) penalties for fraud or negligence, this is separate from liquidated damage claims and is not limited by the bond amount. When duties are not paid, a liquidated damage claim is also assessed for violating the bond contract and not paying the duties on time in accordance with CBP regulations. If an importer is on sanction, it is typically as a result of non-payment of duties which are absolute and never limited by the bond amount.

** The above details were verified with CBP and our Customs Attorney, Sandler & Travis & Rosenberg P.A.*

Q9: Will the surety handle protest mitigation of penalties as a measure of self-protection?

A: Yes, as a matter of self-protection when a claim escalates to formal demand on surety (status 3600), Avalon will take all measures possible to mitigate claims on behalf of the surety and to the benefit of the bond principal. It is, however, incumbent upon the bond principal to make reasonable efforts to mitigate their claims and manage their exposure before it gets to this advanced stage in the claim process since the surety has strict guidelines to pay a bond claim and risk surety sanction for failure to do so. A bond is not insurance and the importer of record as the bond principal is fully and ultimately liable for any and all liquidated damage claims assessed against ISF Bonds and/or other related Customs Bonds.

Q10: What is the maximum liquidated damage that CBP can assess against an ISF?

A: In accordance with ISF regulations, CBP may assess a claim for liquidated damages as follows: \$5,000 for non filing of ISF, \$5,000 per late ISF, \$5,000 per inaccurate ISF, and \$5,000 for the first inaccurate ISF update. While there may be multiple errors on an ISF transmission, CBP has agreed to cap the maximum liquidated damages per ISF transaction to a \$10,000 cap regardless if filed under a C1 Continuous Bond or ISF-D Single.

Q11: At a NJ meeting, CBP advised all deleted ISFs would be treated as non-files. Is this true?

A: This statement is taken out of context since a deleted ISF is not always a non-file although it can be in certain circumstances. Per Craig Clark from CBP HQ: “It is certainly best to amend an ISF rather than delete and re-add, amendments to the original ISF help establish timeliness. Not all deleted ISFs are considered non-files. In cases where multiple bonds are submitted for an ISF, the bond that was obligated at the time the ISF was required (no later than 24 hours prior to departure of the vessel destined for the U.S.) will be the bond against which CBP will assess damages. If no bond is in place before 24 hours prior to the departure of the vessel destined for the U.S., but one is obligated after that time, this will be the bond against which CBP will assess damages.

Q12: There are still problem tickets in ACE on programs for the ISF in matching HBLs to the Manifest. Will CBP issue penalties for these ongoing program issues?

A: Per CBP, if a liquidated damage claim does get issued for this type of unintentional or programming error, it would be considered during the mitigation process to cancel the claim. CBP HQ is also reviewing the problem to take into consideration of their review of liquidated damage claims during the first 12 months of enforcement.

Q13: What will CBP target when issuing liquidated damage claims and what will be considered during the mitigation process if or when a claim is issued?

A: Per CBP, good performance and past performance to provide a good faith effort to comply with ISF regulations since 2009 will be considered to avoid issuance of liquidated damages and/or considered during the mitigation process.

Q14: When issuing claims, will CBP distinguish between ISFs filed 1 vs. 30 days late?

A: CBP is not willing to provide an acceptable range for ISFs that are late and violate current regulations. CBP’s expectation is that ISF importers be 100% compliant. If not 100% compliant, importers will be exposed to liquidated damage claims and can petition to mitigate or cancel a claim based on their prior ISF record and performance.

Q15: We know that CBP has informally told the trade that initially they will penalize non-filers and negligent filers, rather than the occasional late filings. Some in the trade have heard that CBP will only issue penalties against cargo where no ISF has been filed prior to arrival or perhaps only if no ISF is filed 2 days prior to arrival?

A: CBP expects 100% compliance and ISF importers that don’t fully comply expose themselves to liquidated damages. All violations are eligible for liquidated damages because ISF is in full enforcement effective July 9, 2013. That said, CBP has advised that negligent importers will be the highest enforcement priority. Past ISF performance will always matter and be taken into consideration during the mitigation process. HQ will review all claims issued by the ports for 12 months, and possibly longer if necessary. After the initial review by HQ over the next 12 months, ports would issue liquidated damages within their regulatory authority. Even when the ports are handling all liquidated damage claims without review by HQ, past ISF performance will matter and be a mitigating factor.

Q16: Who will be responsible to pay the ISF penalty?

A: The ISF importer is responsible for all ISF obligations and any liquidated damages that may result from a violation of the ISF regulations.

Q17: What liability do I assume when entries are filed under my (the broker's) bond?

A: The NCBFAA and Avalon do not recommend brokers to file ISFs or entries under their own bond as they will take on the full liability of the ISF importer. The ISF importer of record is ultimately liable for the timely and accurate filing of all ISF activity. If you obligate your own continuous broker bond for the filing, you assume the full liability of the importer of record and all liquidated damages or penalties will be made against you and it will be your responsibility to pay them. In addition, CBP has advised that bond liability cannot be transferred after the 24 hours prior to loading on the vessel or vessel departure when the filing is due. Therefore, brokers who chose obligate their own bond need to consider that the liability will not be able to be transferred back to the importer at a later time.

Q18: How can the Customs Broker as the ISF Filer be exposed to liquidated damages for ISF?

A: Customs brokers as ISF filers should not be held liable by CBP since the ISF importer of record is ultimately liable for the timely and accurate filing of all ISF activity. This, however, does not prevent the importer from holding the customs broker liable for any perceived errors or mistakes in handling the ISF transmission, or the surety from holding the broker liable for issuing ISF bonds against their underwriting authority. Because brokers are filing 85-90 percent of all ISFs, the importer is also relying on their customs broker to assist in meeting ISF requirements. It is recommended that customs brokers use the most current NCBFAA Power-of-Attorney and Terms and Conditions of Service to reduce their liability for handling ISF transactions. The NCBFAA has updated these documents to encompass ISF business since it is not currently defined as Customs Business. Customs brokers are encouraged to secure signed copies of the most current POA and Terms & Conditions forms from any customer for which they are handling ISF business. Customs brokers should also verify that their Errors & Omissions policy would respond to claims resulting from providing ISF services as well as claims from the surety for violating any underwriting authority.

Q19: Who will be responsible to pay ISF penalty if the ISF was filed "Late ISF with no Bond"?

A: This question is currently under review by CBP's legal department. 19CFR149.5 states in part "an ISF Importer must possess a basic importation and entry bond containing all the provisions of 19CFR113.62... or an importer security filing bond as provided in Appendix D to part 113 of this chapter. If an ISF Importer does not have a required bond, the agent submitting the Importer Security Filing on behalf of the ISF Importer may post the agent's bond."

Unless CBP agrees to waive this requirement and continue to allow ISF Submission Type 5 to submit "Late ISF with No Bond" as an option, there is some industry concern that the ISF Filer could be held liable under their own ISF Bond that is required to be a filer of ISFs. Until a legal opinion from CBP is provided in writing, ISF Filers should take caution in using the ISF Submission Type 5 "No Bond" option. Please see Q1 from BOND QUESTIONS on page 1 of this Q&A for more details on this.

Q20: If the ISF is submitted late after the loading time but before arrival of cargo in the U.S., if there is a bill of lading match in AMS would this still be considered late and subject to a liquidated damage claim? If there is not a match, would there be two claims one for being filed late and the other for having an error?

A: In the first instance, the ISF is late since it was not filed 24 hours prior to vessel departure, but if there is an AMS match, CBP would only assess a single \$5,000 liquidated damage claim (provided the ISF was also complete and accurate). In the second instance, CBP could assess \$10,000 in liquidated damages, one for the late ISF and one for the incomplete/inaccurate ISF because there was no bill of lading match. In all instances, the claims could be petition and mitigated if there mitigation factors are met.

UNDERWRITING QUESTIONS

Q1: Will collateral ever be required if the ISF importer has a C1 Continuous Bond?

A: This will be evaluated on a case-by-case basis, if we identify that an importer has a large number of late ISFs against their continuous bond, we may require more underwriting information such as financial statement, credit report, etc. to evaluate the importer's ability to meet ISF bond obligations for multiple ISF violations, which would be limited to the amount of the C1 Bond. We typically review financials to ensure an importer has stable revenue, healthy profit margin, good payment history, no hefty debt obligations, and a net worth from tangible assets of 3 to 5 times the bond amount depending on how many years of continuous bond aggregation or potential claim violations existing.

Q2: Can importers be pre-approved one week to one month in advance to get an idea of the underwriting requirements? It often takes one day just to receive financials.

A: Yes. Web Merlin allows the user to request approval multiple days or weeks in advance of an ISF transaction. When the user has estimated filing and departure dates, they may be entered into the portal and verified before the bond is submitted to CBP. We encourage early requests for ISF-D single transaction bonds to avoid possible late filing penalties and ensure underwriting requirements are met in advance.

Q3: Will Avalon's Underwriting Department be available 24/7 for brokers who have to work late and/or on the weekends to handle ISF transactions?

A: Avalon understands the importance of timeliness in relation to ISF. We encourage customs brokers to reach out to their clients as early as possible to ensure timely and accurate filings and allow enough time for underwriting approval. Web Merlin is available 24/7 to handle the underwriting process and accept collateral on-line to support a 24/7 operation. In instances where you want us to consider reducing or waiving the collateral requirement in Web Merlin, you can submit the bond for approval through Web Merlin. Avalon's Underwriting Department is available from 8 am until 6:30 pm CST Monday-Friday between our Chicago and West Coast Operations. We also have representatives available on Sunday to review any ISF approvals submitted over the weekend. We strive to provide an underwriting response within 12-24 hours and prioritize requests by the date of the ISF transaction to avoid potential late files.

Q4: If we are waiting on approval, can we file the ISF without the bond reference number?

A: No. CBP requires the bond reference number be submitted to CBP with the ISF in order for CBP to assign and return the unique ISF Transaction Number that must be printed on the ISF-D Single. The surety bond reference number is also unique to that ISF-D Bond. Therefore, it should not be used for multiple filings.

Q5: What about ISF Bonding for Foreign Importers?

A: We recognize that many foreign importers may require the ISF-D Single Transaction Bond for DDP shipments and/or one-time shipments. Our underwriting will vary on a case-by-case basis depending on the controls the customs broker has in place to manage this business and/or prevent loading when the ISF information has not yet been received to ensure a timely filing. We anticipate that lower volume importers may have difficulty complying with the ISF requirements and that this will lead to liquidated damage violations. In those instances, we will require collateral to secure the ISF bonding obligation.

Q6: How will Avalon evaluate the broker's ability to place a hold on shipments?

A: Avalon will evaluate a customs broker's overall ability to assist in minimizing ISF violations. Placing a "hold" on a shipment that does not meet the ISF requirements prior to vessel departure is just one means of doing so. In cases where the broker does not know the importer or have any prior working relationship, we

our clients to consider that importer's ability to meet its ISF requirements and bonding obligations. In those instances where the importer cannot, Avalon will require collateral to secure the ISF bond obligation.

Q7: What type of financial statements are required? When do we request collateral?

A: Financial statements should be for the most current fiscal year end report. If the financial statements are more than 6 months old, underwriters will likely request an internal or CPA interim statement for review. We prefer audited financial statements or reviews, however CPA compilations or internal financial statements can also be provided but should be signed and dated by an officer of the company. Financial statement instructions are provided by Avalon's underwriting department when requested. A notification in Web Merlin will also advise of any collateral requirements. Full collateral is the amount of the ISF-D Single, (i.e., \$10,000) or the full amount of any Continuous Bond that requires collateral.

Q8: When does Avalon want us to start collecting a deposit for possible penalties?

A: ISF Enforcement begins on 7/9/13, which will impact ocean shipments that have ISF transactions submitted on or after this date. If the ISF has a known violation for being late or incomplete, that is when a violation could occur and collateral would be required. We rely on our customs broker clients during the underwriting process. In cases where the broker does not know the importer or have any prior working relationship, we ask our clients to consider that importer's ability to meet its ISF requirements and bonding obligations. In those instances where the importer cannot, Avalon will require collateral to secure the ISF bond obligation. In instances where the broker is aware of a known violation, such as a late filing, collateral will be needed to secure the ISF-D Bond as well.

Q9: How much do you want us to collect?

A: Web Merlin has been programmed to assist in determining the collateral amount that will be required automatically. The amount of collateral is determined on a case by case review of the importer and their ISF importing history. In most instances where there is a known violation, CBP has advised that the liquidated damage can be issued for \$5,000, and we will evaluate the collateral needed based on the amount of the potential claim and mitigating factors. The total ISF exposure is limited to \$10,000 per ISF and in some instances, full collateral will be required. If there are mitigating factors the broker is aware of, those can be submitted via Web Merlin for consideration in determining the collateral amount as well.

Q10: Will Avalon, in addition to cash, take credit cards, PayPal, etc as forms of collateral?

A: Yes, Web Merlin is automated to accept credit card and ACH payments online. A link can be provided by the broker to the importer via the system so the surety can retail all collateral information in a paperless fashion on-line. The importer will be able to complete the collateral processing online through our Web Merlin portal and once completed, the ISF-D Bond is automatically approved for issuance.

Q11: What are the fees involved?

A: Credit card transactions are subject to a 4% fee of the collateral amount, thus \$10,000 in collateral would have a \$400 transaction fee (\$10,000 x 4%). An ACH transaction is preferred and more affordable with a flat \$60 fee to cover the ACH transaction costs.

Q12: How do we account to you for the collection of collateral?

A: Yes, collateral is posted directly by the depositor (importer or broker) and sent to Avalon. Web Merlin can collect collateral online for ACH and credit card payments to help automate and expedite urgent ISFs that require collateral in a 24/7 environment. The importer can post collateral directly through our Web Merlin portal. Should there be more time, collateral can also be provided via a cash wire transfer (can take 24 hours or more), certified, corporate or personal check, or letter of credit.

Q13: Can importers make the deposit directly to you?

A: Yes an importer can do so by contacting Avalon's Underwriting Department. We have collateral instruction packets available to guide the importer on the step-by-step process to follow for each collateral type. Avalon's Underwriting Department can be reached at bond-underwriting@avalonrisk.com or via the ISF Group Line at (847) 700-8473. Our collateral packets can be found on our ISF archives at: <http://www.avalonrisk.com/isf.html>.

Q14: How long will you retain any funds as collateral for the bond? The full 6 years of liability? Who at Avalon can we talk to about obtaining a return of the collateral?

A: CBP has confirmed in recent webinars and communications that there is no liquidation or final CBP reckoning for ISF like entries or other CBP transactions. The ISF does not cancel and is subject to a statutory time frame of 6 years for which CBP could issue a liquidated damage claims. There is no other way to verify that liability is extinguished and therefore, the surety may need to retain the funds for 6 years in certain instances unless CBP will process and mitigate the claim sooner so collateral could be returned upon resolution of the claim. If CBP will provide a letter verifying that no claims will be issued against an ISF, we can also consider release of the collateral. For review of collateral levels for an importer, brokers may contact their local Avalon Office or the Bond Underwriting Department at bond-underwriting@avalonrisk.com or ISF Group Line (847) 700-8473.

Q15: Will Avalon pay interest on collateral deposits?

A: Avalon is a Managing General Agent for the sureties we represent and we collect collateral on the surety's behalf to meet bond obligations. The surety does not pay interest on the collateral deposits that are held to meet bond obligations. The ISF importer can provide a letter of credit if they prefer to retain the interest on any collateral provided to meet ISF bond obligations, this can be provided at the time the bond is written or exchanged for any cash deposit that was provided to secure the bond.

Q16: What happens if the importer provides a check for the deposit and after we write the bond and clear the shipment, the check bounces or the importer stops the payment?

A: If the importer is posting collateral via a company or personal check, it will generally take 10 days for the check to completely clear the bank once it is deposited; this form of collateral will need to be taken in advance of the ISF Bond to allow sufficient time for release of the bond. A cashier's check is a more secure and preferred method if it can be secured timely for the ISF bond obligation or guaranteed by the broker. The credit card holder could request a refund even 120 days after the transaction is processed. Before the credit card payment is processed online, the individual processing the payment must agree with the terms and conditions of our collateral agreement and provide authorization to charge the credit card. We would be able to use this authorization to dispute the charge back with the bank.

Q17: If the importer has never filed an ISF, will Web Merlin submit this to underwriting?

A: Yes, a referral to the Underwriting Department will be triggered if the importer is a new business and new to importing if no collateral is provided. This is for Avalon's reference to determine the importer's ability to meet its bond obligations. Other factors that will trigger a referral to underwriting include:

- Known Violations where the Vessel Departure Date is after the ISF Filing/Effective Date
- Non-resident importers (not based in the U.S., its territories or possessions, or Canada)
- Importers who have filed for bankruptcy or are under sanction
- Importers with unresolved or paid bond claims
- Importers that already have a Continuous Bond on file for Activity Codes 1 through 4. If importer number is queried, Web Merlin will provide a Warning Message that ISF-D Single is not required.

Q18: How do we obtain information on whether the importer's previous ISFs were late or untimely? Will this information go to underwriting review? Does Avalon have any historical data? If the importer of record has multiple filers for ISF, how will we know the accuracy? Will the customs broker be held accountable?

A: On July 13, 2011, ACE was updated with new capabilities to allow importers to access their ISF progress reports via the portal; previous to this, these reports were only available via email subscription. These ISF progress reports, previously available only to importers, are now also available via ACE to ISF filers. Sureties are able to obtain some ISF data via the ACE portal; however, the progress reports for importers or filers are not available to the surety. The data provided to the surety also lacks information to be able to determine the percentage of non-files, late files or inaccurate filings at this time. However, the sureties continue to work with CBP to see if such reports can be made available directly to the surety to assist in the ISF process. Underwriting may request the progress report to review the importer's past ISF history. As CBP has stated that past performance will be a mitigating factor in a claims situation, underwriting will also consider good past performance to determine approval of an ISF bond or multiple bonds for an importer. The customs broker is not held accountable for this information; however, our brokers receive underwriting authority to write ISF-D bonds with a clean history. Any known violations that will trigger liquidated damages during the enforcement period should be referred to Avalon's Underwriting Department for approval.

Q19: What if the onboard date was incorrectly given at the time of applying for the ISF-D Single, and we discover later that the on board date was actually after the filing date? Will collateral be required if the ISF transaction or vessel departure date change?

A: Avalon's underwriters will review and collateral will be required for any known ISF violations, in-part or in-full, depending on the importer's history, potential liquidated damage exposure, and mitigation factors.

BILL OF LADING QUESTIONS

Q1: I am having trouble matching the Bill of Lading to the ISF. I continue to receive messages that Bill of Lading is still not on file. What do I do?

A: It is the ISF importer of record that will bear the cost of noncompliance if the Bill of Lading number is not obtained in a timely fashion and matched. You may be able to query the AMS manifest and if your system has this capability, we recommend this is queried and the ISF updated. In any event, the update should be done at least 24 hours prior to arrival of the cargo in the U.S.

Q2: If the Bill of Lading can be updated with the ISF transmission, will CBP assess penalties?

A: According to CBP's FAQ, "the ISF Importer is ultimately responsible for the timely, accurate, and complete submission of the Importer Security Filing." It is best to transmit an ISF even if the Bill of Lading is missing and/or incorrect since CBP will likely place "holds" on shipments that arrive without a prior ISF notification. CBP has indicated that updates made at least 24 hours prior to arrival of cargo in the U.S. would not be subject to any liquidated damages at this time, however full enforcement begins effective July 9, 2013, and CBP expects 100% compliance. Since CBP has indicated that one of the factors they will take into account when mitigating ISF liquidated damages is whether the importer has been cooperative during the phase-in enforcement period, it is best to comply with the ISF Rule than not comply at all and prior performance is taken into consideration when assessing liquidated damage claims and affording mitigation.

Q3: For ISFs filed and accepted as “NO BILL ON FILE,” do we wait until it says “BILL ON FILE?”

A: It is CBP’s position that it is better to file the ISF timely than not at all. The bill of lading number can be updated up until 24 hours prior to arrival of the cargo in the first U.S. port of entry. Updates made after this time could be subject to liquidated damages, however mitigation guidelines will consider past and current performance to comply with the ISF Rules to get data rather than have no ISF or inaccurate data.

WEB MERLIN QUESTIONS

Q1: When will Web Merlin be updated to accept collateral on-line?

A: Our Web Merlin portal will begin to accept collateral on-line effective July 9, 2013, in order to meet the requirements of ISF enforcement that also begins on this date.

Q2: Will Web Merlin prioritize ISF Bond underwriting requests based on ETD?

A: Yes, this has been implemented into the portal’s workflow. We understand the time constraints placed on customs brokers throughout this process, and our underwriting department will be proactive and issue bond approvals as timely a manner as possible.

Q3: Is the “Merlin serial” the same as the ISF confirmation number?

A: No, the Merlin Serial is a unique reference number assigned by the Surety. To use an ISF Appendix D Bond to secure the filing, CBP requires that an electronic copy of the bond be created and sent to CBP within 12 hours of an accepted filing. This involves multiple steps as follows:

Step 1: The ISF filer must note the usage of an ISF-D Single Transaction Bond by indicating this during the ISF transmission. The filer must include the Surety Bond Reference Number that appears on the bond. This is the Merlin Serial Number, which is unique to this bond.

Step 2: After CBP has received and accepted the ISF, the filer will receive a unique ISF Transaction Number back from CBP, which should take about 15 seconds. This is the ISF Transaction Number that must be affixed to the bond. The filer must go back into Web Merlin (or minimize the screen and switch back from their ABI system) and enter the ISF Transaction Number in Web Merlin. The numbers are distinctly separate and confusing the two will result in an error.

Q4: Is the surety bond reference number aka “Merlin serial” unique to the importer?

A: The surety bond reference number is a unique serial number to the bond that is used for surety company tracking purposes. The number will never be the same for any importer or any transaction.

Q5: Do we have to update the information in Web Merlin every time we write an ISF-D Single?

A: No, Web Merlin will record the basic importer and underwriting information, only the information that will vary for each ISF transaction will be required each time.

Q6: Is there a capability of printing a copy of the ISF-D Single Transaction Bond to provide to the customer in a billing package?

A: The requestor is automatically copied when the bond is e-mailed to CBP and you can also retrieve PDF images of the ISF-D Single from Web Merlin’s Bond List.

Q7: Please explain how the ISF Transaction Number is added. Please explain the timing on how everything is filed.

A: It begins with CBP's requirement of an ISF to be filed 24 hours prior to vessel loading at a foreign port. Each ISF must be secured by a bond, so therefore, when an importer files evidence of ISF Appendix D Single Transaction bond, that bond must be sent to CBP within 12 hours of an accepted filing.

After CBP has received and accepted the ISF, the filer will receive a unique ISF transaction number from CBP. This ISF transaction number must be included when the ISF-D bond is submitted to CBP. An electronic copy of the bond containing the unique ISF transaction number must be created in '.pdf' or '.tif' format and e-mailed to ISF_Bond@cbp.dhs.gov within 12 hours of receipt of the unique ISF transaction number. Once you enter this unique ISF transaction number in Web Merlin, it will automatically e-mail the bond to CBP with a copy to the requestor.

Q8: Will Avalon notify the National Targeting Center?

A: Yes, Avalon e-mails a copy of the bond to ISF_Bond@cbp.dhs.gov. When the user enters the unique ISF Transaction Number into Web Merlin, the user will click the button marked "Save and Submit to CBP." This will automatically e-mail a copy of the bond to the designated address with a cc: to the ISF filer.

Q9: I have never used Web Merlin for ISF bonds before. Is this the same process as submitting bonds to CBP for entries?

A: We are aware that customers may file single entry bonds in their ABI system and continuous bonds with our Centralized Bond Unit. Your local Avalon office can assist you with obtaining a Web Merlin login and password and provide any local training as needed. Step-by-Step guides and video tutorials are also available in our Web Merlin portal.

Q10: What happens if we have to delete an ISF and any bond obligation attached to it?

A: At this time, the ISF-D Single is automatically emailed to ISF_Bond@cbp.dhs.gov from Web Merlin with a cc to the requestor. There is currently no protocol provided by CBP to recall this message and void the ISF-D Single once it has been transmitted to CBP. While updates can be made to the ISF transaction itself up to 24 hours prior to cargo arrival in the U.S., the liability under the ISF-D Single will remain with the ISF importer and bond obligated at the time the ISF was first transmitted. The bond that is attached at the time of filing the ISF is the one that bears the obligation, unless changes are made 24 hours prior to vessel departure to still be a timely ISF.

CBP recognizes that not all deleted ISF Bonds are non-files and an ISF Bond can only be deleted if/when:

- It covers a duplicate ISF transaction and a previous bond was already filed with the ISF. In these instances, confirmation of the deleted ISF transmission must be provided to Avalon to cancel billing.
- CBP is still discussing bond changes in instances when a C1 Bond was already on file at the time the ISF was required and an ISF-D Single was filed in error. The Revenue Division may consider accepting the ISF under the C1 bond but only if the C1 was already in place at the time the ISF transaction was timely filed. We will provide further updates as they are received from CBP.

Q11: If we are processing an ISF-D Single in Web Merlin prior to AMS filing by the carrier, there will not be a valid "Bill on File" message. Does Web Merlin take this into consideration when we have to answer NO to the question?

A: Yes, Web Merlin will take this into consideration and will provide a warning message as it does now. We do continue to ask this question, especially if we have both a Late ISF and No AMS Match. In these instances, CBP could issue 2 liquidated damage claims: one for the late ISF and another for an incomplete/inaccurate ISF, in these instances it could trigger an underwriting referral.

Q12: Can only the custom broker prepare the collateral submission on behalf of ISF importers? Can ISF filer prepare it direct with bonding company for importer?

A: A company must be a licensed customs broker with a designated filer code to utilize Web Merlin to process ISF-D Singles and arrange for any collateral requirements. The customs broker can work with any agent or importer to provide collateral through the Web Merlin portal. An ISF Filer can also work directly with our Underwriting Department to coordinate collateral requirements. Our Underwriting Department can be reached via email at bond-underwriting@avalonrisk.com.

GENERAL QUESTIONS

Q1: If an importer receives a shipment without its knowledge and ISF is not filed timely or when the cargo arrives, what will happen?

A: Importers will ultimately be responsible for the actions of their suppliers. If an ISF is not transmitted, CBP will likely place a “hold” on the shipment. If a bond is provided, the importer will be subject to a liquidated damage claim for late filing of an ISF. In known violations of this nature, Avalon will require collateral to write the bond. It is the importer’s responsibility to know their supply chain so there are no unexpected surprises and comply with ISF requirements 24 hours prior to vessel departure.

Q2: How do we handle trans-loaded or trans-shipments? Does Avalon want the first or last Transload? Is the trans-shipment date less 2 hours the time limit or at the original port? What port is considered for the 24-hour rule when cargo is trans-shipped from one foreign port to another before arriving in the U.S.

A: Per CBP regulation, the ISF is required to be filed 24 hours prior to the container being loaded on the vessel destined for the U.S. (the mother vessel), not the feeder vessel. CBP measures the timeliness of an ISF by taking the Vessel Departure Date of the mother vessel destined for the U.S. – 24 hours to ensure the ISF transaction was submitted timely based on the date and time stamp of the ISF transmission. For trans-shipped cargo, CBP will consider the first port of departure for the mother vessel destined for the U.S.

Q3: What are the ISF Requirements for HHG/PE? Do you need an ISF Bond for HHG/PE?

A: CBP’s FAQ states, “As a matter of policy, certain types of ISF coded transactions will not require a bond to cover the ISF requirements.” The bond requirements have been waived for the following types, but please refer to CBP’s Q&A document for full clarification which can be found at the following link. We also encourage you to email CBP directly if you have any questions about ISF exemptions.

http://www.cbp.gov/linkhandler/cgov/trade/cargo_security/carriers/security_filing/10_2faq.ctt/10_2faq.doc

Type 3 “Household Goods/Personal Effects”

Type 4 “Government and Military”

Type 5 “Diplomatic”

Type 6 “Carnets”

Type 9 “International Mail”

Type 11 “Informal Shipments”

Q4: Who is the ISF Importer of Record for Immediate Exportation (I.E.) and Transportation and Exportation (T & E) in-bond movements that require the ISF 5?

A: The party that is transmitting the ISF to CBP is considered to be the ISF Importer for these transactions. If a customs broker transmits a T&E on behalf of a client, the customs broker is the ISF Importer. CBP is aware

than an update to the ISF Final Rule is necessary to clarify this, which is why ISF-5s are not subject to ISF Enforcement effective July 9, 2013. Only ISF-10s are subject to enforcement effective July 9, 2013.

Q5: If I use the flexible filing option, and later find that the information was correct as entered, am I required to update the ISF?

A: If you utilize a flexible filing option (FR = Flexible Range, FT = Flexible Timing, or FX = Flexible Range and Flexible Timing) indicator in the initial transmission, then you must send an ISF with the CT = Compliant Transaction indicator to finalize the transaction. Failure to do so could result in liquidated damages. Please consider whether you need to use the flexible filing option since you can always update an ISF with more current information, but to be timely it must be done so 24 hours prior to vessel departure. Failure to file accurate information on a timely basis could result in liquidated damages.

For more information on ISF or a Web Merlin demonstration, please contact our Marketing Department at marketing@avalonrisk.com or contact your local Avalon office.
A directory is available at www.avalonrisk.com

For any ISF Underwriting questions, please call The ISF Hotline at (847) 700-TISF (8473) or e-mail Bond-Underwriting@avalonrisk.com

Please also refer to our ISF Archives Page for most current ISF information at <http://www.avalonrisk.com/isf.html>

For CBP regulations, guidelines, or questions please refer to:

[ISF Web Page](#)
[ISF Interim Rule](#)
[CBP FAQ](#)

[ISF Mitigation Guidelines](#)
[CSMS Enforcement Message](#)

CBP Questions should be directed to: security_filing_general@cbp.dhs.gov

[Privacy Policy](#). Avalon's Industry Q&As are designed to provide critical information to the transportation and logistics industry, the content of which is based on ongoing dialogue with CBP through ITSA, NCBFAA ISF Subcommittee, and other public platforms.

Avalon Risk Management is not responsible for the accuracy or reliability of information contained herein. Only CBP rules and regulations govern ISF transactions and are subject to change and legal interpretation.

The reader assumes all risk in the use of such information and should always refer to CBP regulations, web page, FAQs and other materials available to the trade for confirmation.

To view prior issues of The Quest, visit www.avalonrisk.com/news.html