

U.S. Importers Face Fines and Delays in July

6 Tips to Help Companies Avoid Hardship

By Matt Gersper

The Importer Security Filing (ISF) gives the U.S. government new powers to confiscate a company's cash. The ISF requires specific information from U.S. importers and additional information from carriers for vessel (maritime) cargo before it is brought into the U.S. Failure to comply could bring financial disaster to unprepared U.S. businesses. There are three major reasons – each with direct, bottom-line impact – business leaders should assure their companies are compliant.

First is the risk of significant financial penalties for non-compliance. ISF regulations, commonly referred to as “10+2”, state an importer can be fined \$5,000 per filing if an ISF is not timely, complete and accurate. The penalty phase begins July 1, 2010.

This chart shows penalties that could be incurred in just the first 60 days of the penalty phase based on company size. Penalties of this magnitude would quickly get a CEO's attention and could have a devastating impact on any business. A company can calculate its potential exposure based on the number of ocean entries it has.

The second reason is Custom & Border Protection's (CBP's) renewed commitment to enforcement and revenue collection.

ISF penalties			
	Import Value	Ocean Entries	Potential Risk *
Company 1	\$2,784,000,000	10,969	\$9,140,000
Company 2	\$1,076,000,000	39,111	\$32,592,000
Company 3	\$806,000,000	5,541	\$4,617,000
Company 4	\$104,000,000	1,306	\$1,088,000
Company 5	\$83,000,000	869	\$724,000
* 2 months of penalties (Jul 1 thru Aug 30, 2010)			

CBP's recently published *Trade Strategy for Fiscal Years 2009-2013* makes clear just how important revenue collection has become to the U.S. Government. Shockingly, CBP's report lists “Enforce US Trade Laws and Collect Accurate Revenue” as its number two strategic goal ahead of “Advance National and Economic Security.”



\$17,000,000,000

Supply chain delay costs			
	Import Value	Delay Days*	Estimated Cost**
Company 1	\$2,784,000,000	2.8	\$62,361,600
Company 2	\$1,076,000,000	2.8	\$24,102,400
Company 3	\$806,000,000	2.8	\$18,054,400
Company 4	\$104,000,000	2.8	\$2,329,600
Company 5	\$83,000,000	2.8	\$1,859,200

The third reason is the impact supply chain delays could have on a business. A study¹ by the National Association of Manufacturers (NAM) estimates the ISF regulation will create a permanent 2.8 day delay in supply chain speed, estimated to cost industry more than \$17 billion per year.

This chart applies the cost model of supply chain delays from a Purdue University study² and estimates the annual financial impact that would be incurred if these five companies suffered the

¹ Survey of U.S. Companies: Current and Potential Future Impact of the “10+2” Requirements

² Purdue study: David Hummels, “Time as a Barrier to Trade.”

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2.8 day permanent delay estimated by the NAM study. An *American Shipper* magazine study in Q4-09 estimates the over-all cycle time delay of the study average was 2.05 days and this was before the graduated enforcement phase in Q2-10 in which CBP intends to begin holding shipments for non-compliant ISF's. The potential impact of 10+2 is very serious.

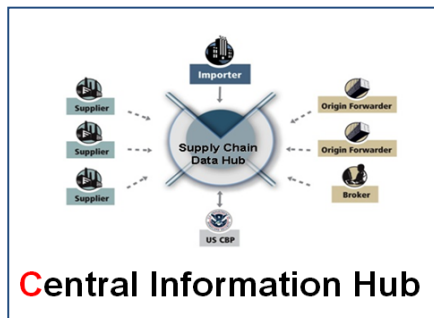
"I'd let my CFO know the penalty phase will be going into effect as scheduled and the implications could have tremendous negative impact on the bottom line," said Beth Peterson, President of BPE. Peterson has been a strong advocate representing the interests of industry to CBP regarding the impact the ISF regulations could have on U.S. businesses.

An *American Shipper* magazine research project³ revealed three of the top four challenges importers are having with 10+2 compliance are related to data management.



DATA MANAGEMENT CHALLENGES

- Nearly 60 percent of companies have challenges providing timely ISF data
- Nearly 40 percent struggle to collect complete ISF data
- Around 20 percent have problems with the accuracy of the data they are providing



These are the very three issues causing penalties to be assessed. To make matters even worse, the penalties estimated above could be twice as large since the regulations state fees can be as high as \$10,000 per filing if two or more violations occur. For example, the filing is not timely nor is it complete.

Modern database and workflow applications can dramatically improve a company's data management efficiency and significantly bolster its capacity to achieve ISF compliance. Web-portals or central information hubs allow parties around the world to collaborate and interact online, with the same information through a single platform.

Here are six tips that can help companies select the right Business Intelligence technology to achieve ISF compliance and improve enterprise-wide data management efficiency:

³ ISF Benchmark Study: From Concept to Compliance

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- I. The solution should provide a unique and secure state-of-the-art website **accessible worldwide** by any authorized user through the Internet. The manager should have complete control of multi-party collaboration including the functions any given user may perform, the data any given user may see, and the responsibilities any given user may have based on the unique role each person provides the company.
- II. The solution should provide a database or portal that becomes the system of record or the “**single version of the truth**” for 10+2 and other customs information about every item enterprise-wide. It should include powerful tools for document management and storage. The database should be capable of growth beyond ISF to meet unforeseen business or government requirements that may arise in the future.
- III. It should be easy to **upload data** from any system, from any business unit or supplier around the world. It should provide features to normalize data into one company-wide standard and functionality for viewing, sorting, filtering and working with data that is easier to use than Excel. In addition, it should automatically update the database as tariffs change for different countries at different times around the world.
- IV. The technology should easily **integrate** with existing computer systems and should make it easy to create and manage 10+2 and other data for use by various business applications that require reliable global trade data. Few companies have one single system to manage their entire enterprise. The solution should become the enterprise-wide database providing accurate trade data to every system that needs it.
- V. Ensure the solution leverages **best-practice functionality** that can drive up productivity. Web-based applications can automatically update users with the latest enhancements installed since their last login. The staff and supplier network should be empowered to create and maintain trade data more efficiently and enable each person to work dramatically more effectively.
- VI. Look for **powerful oversight tools**. The ability to keep automatic records of the critical data elements created in each step of the workflow in every business unit around the world helps meet the reasonable care standards of customs agencies. Workflow applications can also be used to establish enterprise-wide process controls and to measure performance of global trade staff, suppliers, or third party service providers.

Applying these six tips will dramatically improve a company's enterprise-wide data management efficiency, help achieve 10+2 compliance and avoid financial penalties. In fact, 10+2 can be a hidden opportunity for strategic thinking companies. Optimizing currently inefficient data



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management processes can improve supply chain performance and deliver a positive return on investment.

This timeline represents CBP's graduated, escalated enforcement policy:

January 26, 2009 began a trial period to allow the trade to work through various problems and to come into compliance with the new requirements. CBP began conducting analysis of ISF data generated or lack of data submitted and began analyzing it from an enforcement perspective. Therefore, lack of filing or inaccurate filings after this date can be held against the filer when CBP moves toward stricter enforcement of the ISF requirements.

Graduated, Escalated Enforcement

Timeline	Description	Action
1/26/09	"trial period"	one year delayed enforcement period
1/26/10	"full enforcement"	Analyzing data from an enforcement perspective
Q1-10	Analysis	Issue warning letters
Q2-10 & Q3-10	"supply chain" penalties	holds on shipments, NITs, document reviews, and/or physical examinations
Q3-10 & Q4-10	"financial penalties"	issue liquidated damages

During **Q1-10**, CBP began identifying importers that are not filing and filers that are having issues with their ISFs. CBP started issuing warning letters and/or calling the importers to communicate with them about what they are lacking or issues with their ISFs. This effectively put the trade on notice that their data has been reviewed "in an enforcement light."

Moving into **Q2-10**, importers that do not file will see holds on shipment, document reviews, and/or physical examinations.

By **Q3-10**, the ISF data generated will be used and CBP will begin to issue liquidated damages claims (fines). There will likely be more frequent holds on shipments that should have an ISF, but do not. In addition, during Q3-10 and Q4-10, CBP will begin to look at data accuracy as a key point and make sure that filers have bonded their ISF submissions appropriately.

Executives of companies importing into the U.S. should act with urgency. Best-in-class companies are funding cross-functional teams to develop a strategic enterprise-wide solution, using 10+2 as a catalyst to optimize currently inefficient global trade business processes and creating competitive advantage for their company at the same time. The Purdue Study works in the positive direction also. Improving supply chain speed by just one day would be worth \$800,000 per year for a company importing \$100 million annually.

Matt Gersper, founder and president of Global Data Mining and co-owner of CUSTOMS Info, has over 20 years of experience optimizing processes and helping customers turn unorganized data into information that managers and executives can leverage to improve performance. For more information on Global Data Mining contact Matt at mattgersper@gdmlc.com or visit <http://www.gdmlc.com>

Additional references: Beth Peterson, president of BPE: beth@bpeglobal.com
