

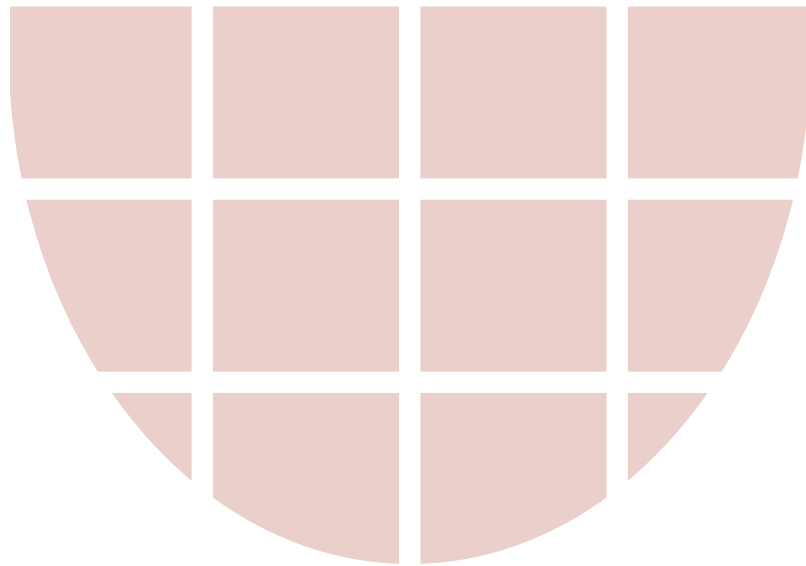


ISF Benchmark Study: From Concept To Compliance

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Sponsored By:



Executive Summary

The Basics

American Shipper, BPE and the International Compliance Professionals Association (ICPA) designed this research initiative to understand the state of Importer Security Filing (ISF) compliance, the impact this rule has (and will have) on the supply chain, the challenges that companies are facing in their attempts to comply with the ISF Interim Final Rule and the best practices importers can leverage to comply with — and ideally benefit from — ISF compliance.

From March 26 to April 10, more than 220 companies importing goods into the United States participated in this survey to understand the state of ISF regulation compliance. Their responses to a 23-question survey allow for a qualitative analysis of:

- The status of ISF compliance.
- Challenges importers face in becoming compliant.
- Impact of ISF compliance, including costs.
- Best practices for ISF compliance management.

Winners

In each of *American Shipper's* benchmarking studies the overarching goal is to provide readers with clear, actionable information and advice on how successful organizations manage the challenge at hand. To bring this information to the surface we separate out respondents that are using best practices and seeing positive results in an effort to compare these “winners” against everyone else. In the context of this study on ISF compliance “winners” meet four criteria.

Winners will:

- File ISFs for 100 percent of their U.S. imports by the Jan. 26, 2010 deadline. Eighty-three percent of respondents currently meet this measure of success.
- Pay \$50 or less in fees per ISF filing. More than 70 percent fall into this category.
- Express a high level of confidence in the accuracy, completeness and timeliness of their ISF filings. Twenty-six percent express a



high level of confidence, while 11 percent report a very high level of confidence.

- Amend their service agreements to incorporate ISF compliance. Only 36 percent of survey respondents meet this requirement.

In short, winners demonstrate the ability to satisfy ISF compliance requirements while keeping costs down and incorporating the new regulations into their business processes.

**CBP's Outreach
Admirable But Doesn't
Reach Far Enough**

A regulation such as ISF requires lots of information, technical clarity and training and this will continue for quite some time. While U.S. Customs and Border Protection's efforts to date are admirable, they haven't reached enough companies to ensure ISF's successful implementation. The industry's fear is that CBP will resort to enforcement activities to get companies' attention. Enforcement is scheduled for Jan. 26, 2010.

To summarize, the survey clearly identifies that companies filing ISFs today have a much higher chance of increased confidence in meeting the enforcement deadline, however the majority of companies are still struggling to come up to speed on ISF.

CBP has made it clear it will contact companies that are not filing ISFs. The enormity of this undertaking can be gauged by the fact that only 6 percent of survey participants have been contacted, although less than one-third of participants are actually filing all of their ISFs.

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A Long Way To Go

As of April 10, only 28 percent of survey participants were filing 100 percent of ISFs for their imports. In fact, 19 percent of participants were not filing at all. Most survey participants were filing somewhere in the middle.

Winners report they are twice as likely to file ISFs for all of their ocean imports. The study average was about four times more likely than winners to be filing no ISFs at this time.

Only 37 percent of respondents have a high or very high degree of confidence that their ISF filings are timely, complete and accurate.

Size Matters

The survey identifies that smaller companies have a higher confidence level in the timeliness, accuracy and completeness of their filings, but they're less certain about their ability to meet the 2010 deadline. Conversely, large companies are less satisfied (and in some cases completely dissatisfied) with their current ISF filing, yet they're considerably more certain in their ability to meet the 2010 deadline.

D-Day 2010

When asked if companies anticipate being able to file their ISFs by the Jan. 26, 2010 deadline, 83 percent of survey participants said they anticipate being able to meet that deadline. This may seem like a healthy percentage, but consider the penalties for 17 percent of U.S. inbound ocean shipments. The financial loss would be staggering.

\$30 Ain't What It Used To Be

Retailers appear to be far more successful in limiting — or eliminating — the hard costs associated with filing ISFs. The study suggests the average fee per ISF is about \$30. About half of retailers are filing ISFs for less than \$25 with 8 percent reporting no cost associated with filing. Third-party logistics providers, forwarders and other intermediaries seem less capable of limiting the costs with more than half paying \$25 to \$100 per filing.

More Time, Filings Are Needed

Regardless of company size, industry, or exposure to the ISF Interim Final Rule, most companies are nowhere close to filing all of their ISFs. And we haven't even begun to measure what it takes to ensure the timeliness, accuracy and completeness. The exposure to liquidated damages to all companies is immense. We need more time and the opportunity to test more transactions to adequately determine the feasibility and actual costs of ISF compliance.



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Section I: Introduction

American Shipper, BPE and the International Compliance Professionals Association (ICPA) designed this research initiative to understand the state of Importer Security Filing (ISF) compliance, the impacts this rule has (and will have) on the supply chain, the challenges that companies are facing in their attempts to comply with the ISF Interim Final Rule and the best practices importers can leverage to comply with — and ideally benefit from — ISF compliance.

ISF, also known as “10+2,” is shorthand for the advance data elements that U.S. Customs and Border Protection (CBP) is collecting for all ocean shipments:

- Importers are required to submit 10 data elements no later than 24 hours before cargo is laden aboard a U.S.-bound vessel.
- Carriers generally are required to submit two additional reports — a vessel stow plan and container status messages.

ISF, also known as “10+2,” is shorthand for the advance data elements that U.S. Customs and Border Protection (CBP) is collecting for all ocean shipments.

All ocean freight imported into the United States via ocean container, including breakbulk cargo, Foreign Cargo Remaining on Board (FROB) and goods transported under Immediate Exportation (IE) or Transportation and Exportation (T&E), requires an ISF.

All 10 data elements are required for cargo imported for consumption or entered into a foreign trade zone. There’s a list of the 10 data elements in the interim final rule at <http://edocket.access.gpo.gov/2008/pdf/E8-27048.pdf>.

CBP is phasing in enforcement, working towards a hard deadline of Jan. 26, 2010, when penalties against non-compliant organizations will begin in earnest. Under the new rule, importers can be subject to damages of \$5,000 per violation. Penalties will be issued per transmission, not just per final ISF. That means an error in a subsequent attempt to correct an ISF could subject an importer to a second penalty. Penalties will be capped at \$5,000 per transmission and CBP has said it may not penalize to the maximum extent depending on circumstances.

To avoid being assessed liquidated damages of \$5,000 per ISF filing, ISF filers will need to ensure their ISFs are:

Timely — Filed 24 hours in advance of lading on board the vessel at the foreign port.

Complete — Contain the 10 data elements for every item and party to the transaction.

Accurate — Reporting the actual items and parties to the transaction as known up to arrival of the goods at the U.S. port.

CBP is accepting comments on specific elements of the ISF Interim Final Rule until June 1.

For more information on ISF/10+2 regulations please see the resource center located in the index of this report.

Study Methodology and Timeframe

From March 26 to April 10, *American Shipper* in partnership with BPE and ICPA surveyed more than 220 shippers importing goods into the United States to understand the state of ISF regulation compliance. Their responses to a 23-question survey allow for a qualitative analysis of:

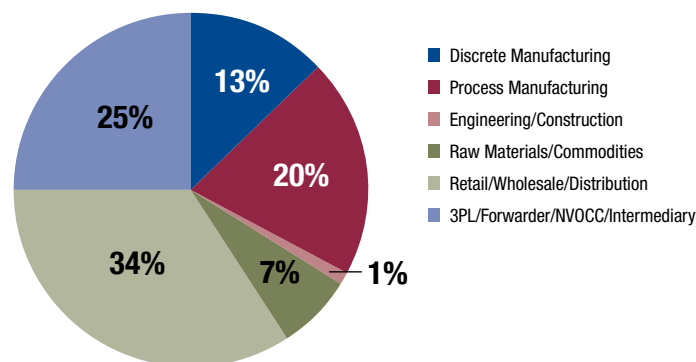
- The status of ISF compliance.
- Challenges importers face in becoming compliant.
- Impact of ISF compliance, including costs.
- Best practices for ISF compliance management.

Survey distribution channels include *American Shipper*'s subscriber and e-mail database, BPE's e-mail database, and ICPA members. Qualified respondents are limited to importers moving cargo into the United States. This includes forwarders, third-party logistics providers, non-vessel-operating common carriers, and other intermediaries in addition to shippers from all segments. Carriers and other non-qualified responses are not included in the aggregate data sourced for this report.

Survey Demographics

Study participants represent a cross section of U.S. importers. Notable segments include retail/wholesale (34 percent), freight intermediaries (25 percent), process and discrete manufacturers (13 percent and 20 percent, respectively).

FIGURE 1: INDUSTRY SEGMENTS SURVEYED



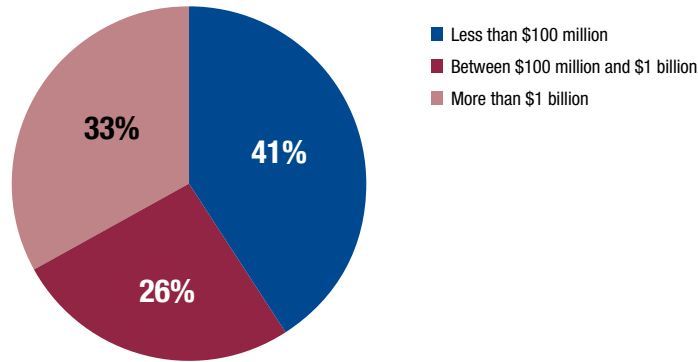
232 total respondents

Source: *American Shipper*-BPE-ICPA ISF Benchmark Survey, 2009



Company size based on annual sales varies as well. Large enterprises reporting more than \$1 billion in annual sales account for 33 percent. Medium-size companies with annual sales between \$100 million and \$1 billion represent 26 percent. Companies showing less than \$100 million in sales — small firms by our definition — account for 41 percent of the response base.

FIGURE 2: COMPANY SIZE

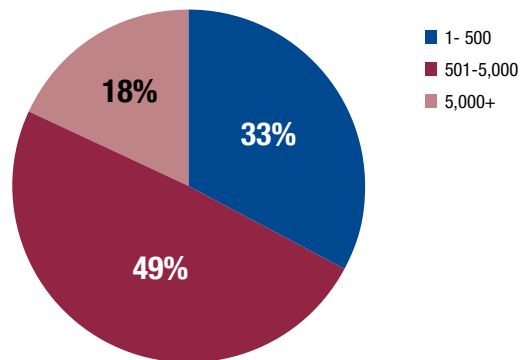


217 total respondents

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009

Using annual ocean shipment volumes as a measure, respondents comprise importers managing less than 500 ocean bills of lading (B/Ls) per year (33 percent), between 500 and 5,000 ocean B/Ls (49 percent), and more than 5,000 ocean B/Ls (18 percent).

FIGURE 3: OCEAN BILLS OF LADING PER YEAR

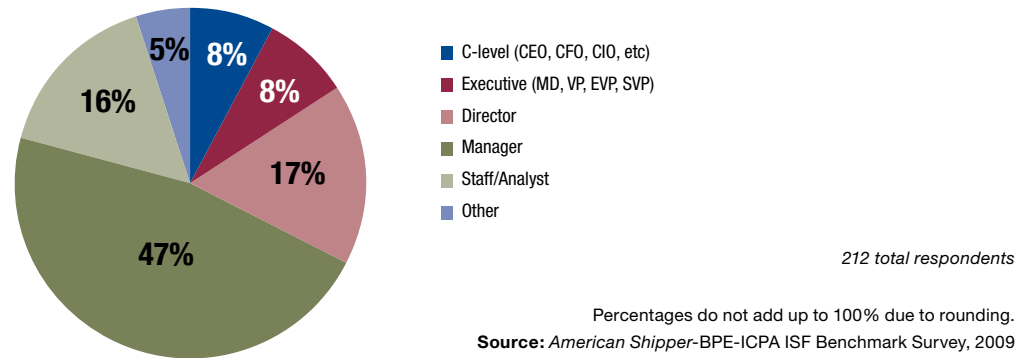


213 total respondents

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009

Respondent job titles represent a wide organizational range but center heavily on the manager/director level with 61 percent of the responses.

FIGURE 4: RESPONDENT JOB TITLES



Winners

In each of *American Shipper's* benchmarking studies the overarching goal is to provide readers with clear, actionable information and advice on how successful organizations manage the challenge at hand. To bring this information to the surface we separate out respondents that are using best practices and seeing positive results in an effort to compare these “winners” against everyone else; or the “also-rans.” In the context of this study on ISF compliance “winners” meet four criteria:

In each of American Shipper's benchmarking studies the overarching goal is to provide readers with clear, actionable information and advice on how successful organizations manage the challenge at hand.

- File ISFs for 100 percent of their U.S. imports by the Jan. 26, 2010 deadline. Eighty-three percent of respondents meet this measure of success.
- Pay \$50 or less in fees per ISF filing. More than 70 percent fall into this category.
- Express a high level of confidence in the accuracy, completeness and timeliness of their ISF filings. Twenty-six percent express a high level of confidence while 11 percent report a very high level of confidence.
- Amend their service agreements to incorporate ISF compliance. Only 36 percent of survey respondents meet this requirement.

In short, winners demonstrate the ability to satisfy ISF compliance requirements while keeping costs down and incorporating the new regulations into their business processes.

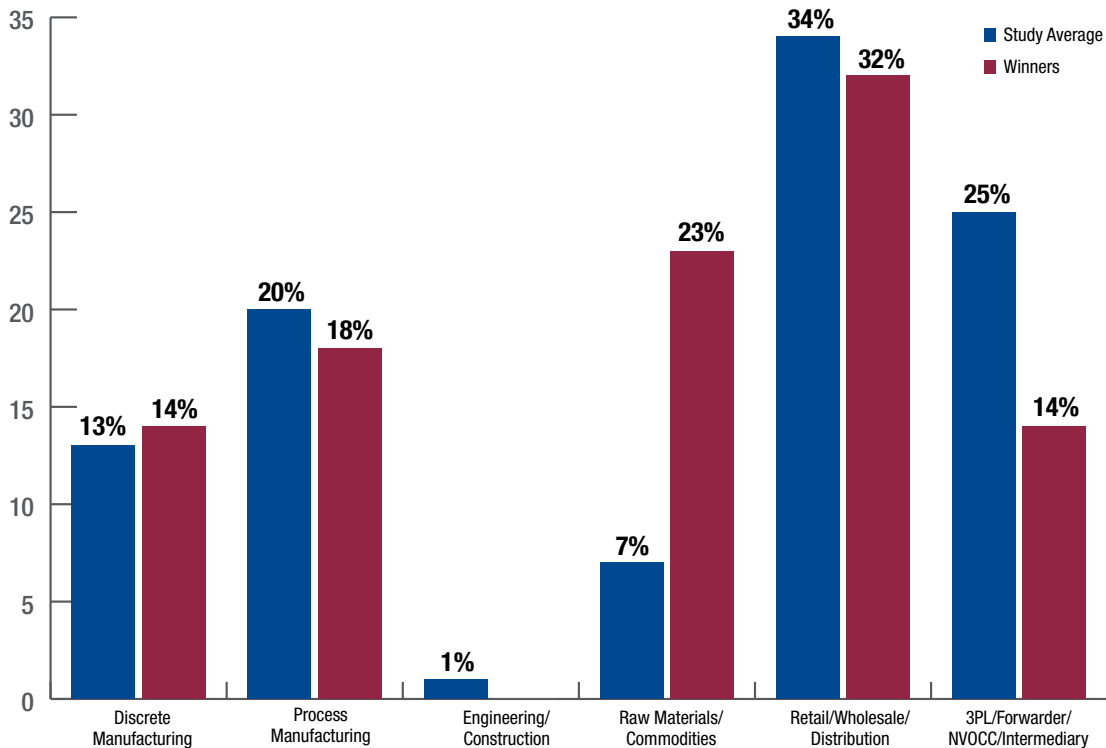




Winners as we have defined them represent about 10 percent of the study response base. This group includes manufacturers, retailers and freight intermediaries in roughly the same percentages as they're represented in the total response. The one notable exception comes from the materials/commodities segment that represents 23 percent of winners but only 7 percent of the study's whole.

Winners include companies of all sizes measured both by annual sales and annual ocean B/Ls. However, 45 percent of winners generate \$1 billion or more in annual sales, considerably more than the 33 percent of the study average. Winners look slightly different when defined by annual ocean B/Ls with more than half reporting they manage between 500 and 5,000. Winners were noticeably less likely to manage more than 10,000 ocean B/Ls per year than the study average.

FIGURE 5: INDUSTRY SEGMENTS - WINNERS VS. STUDY AVERAGE



232 total respondents

Percentages do not add up to 100% due to rounding.

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009

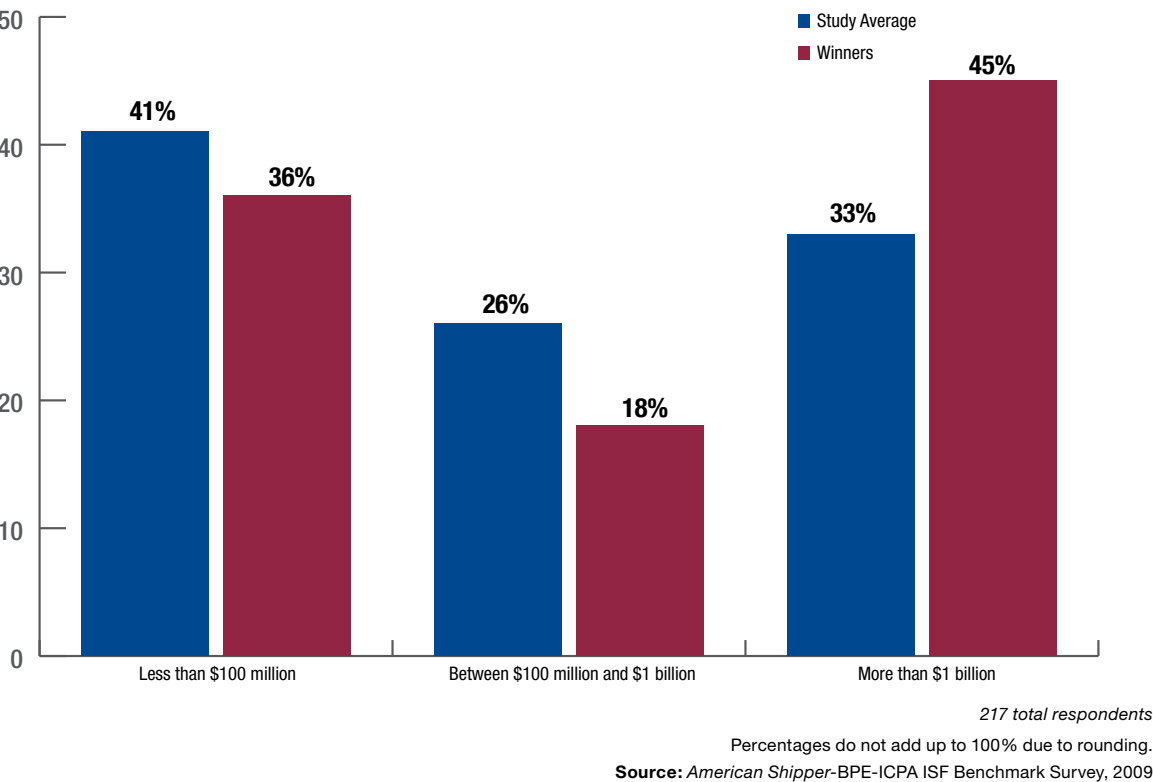
This concept of comparing “winners” against “also-rans” will be revisited throughout this report in order to provide readers with the context to gauge their progress in managing this new regulation. Readers should review each segment and ask themselves how they would have answered the questions highlighted and understand whether that answer would place them ahead or behind the curve.

This concept of comparing “winners” against “also-rans” will be revisited throughout this report in order to provide readers with the context to gauge their progress in managing this new regulation.

It’s important to note that the average used in many charts in this study is inclusive of all respondents, including the segments being compared against it. For example, in the chart immediately below, respondents qualified as winners are also included in the study average figures.



FIGURE 6: COMPANY SIZE - WINNERS VS. STUDY AVERAGE



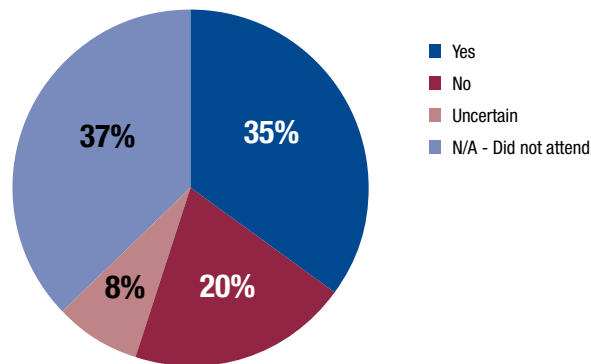
Section 2: Aware but Not Filing

Survey participants are certainly aware of ISF regulations. Fifty-five percent of survey participants actually participated in a CBP ISF outreach event. However, 20 percent of those who did attend an outreach event don't feel it provided them with enough information to begin filing ISFs.

What does this mean? The reality is that outreach events are very broad and of relatively short duration. Many times a company's specific situations are not addressed during the outreach events. Supply chains that include resellers and distributors, customer returns, and less than-containerload (LCL) shipments are all very unique situations that CBP has not addressed and for which the trade needs clarification.

CBP is undertaking one of its biggest outreach efforts for the ISF — and kudos to them. A regulation such as ISF requires lots of information and training and this will continue for quite some time. CBP has also made it clear it will contact companies that are not filing ISFs. The enormity of this undertaking can be gauged by the fact that only 6 percent of survey participants have been contacted, although only 28 percent of participants actually file all of their ISFs.

FIGURE 7: DID THE CBP OUTREACH EVENTS PROVIDE ENOUGH INFORMATION TO BEGIN YOUR ISF FILING?



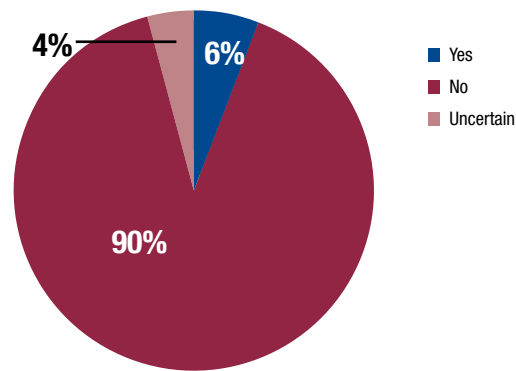
213 total respondents

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009

Further analysis of the companies CBP contacted did not uncover any data indicating level of ISF filing in relation to the study average. This demonstrates CBP's focus on outreach and not on enforcement at this time.



FIGURE 8: HAVE YOU BEEN CONTACTED BY CBP REGARDING YOUR ISF FILING?



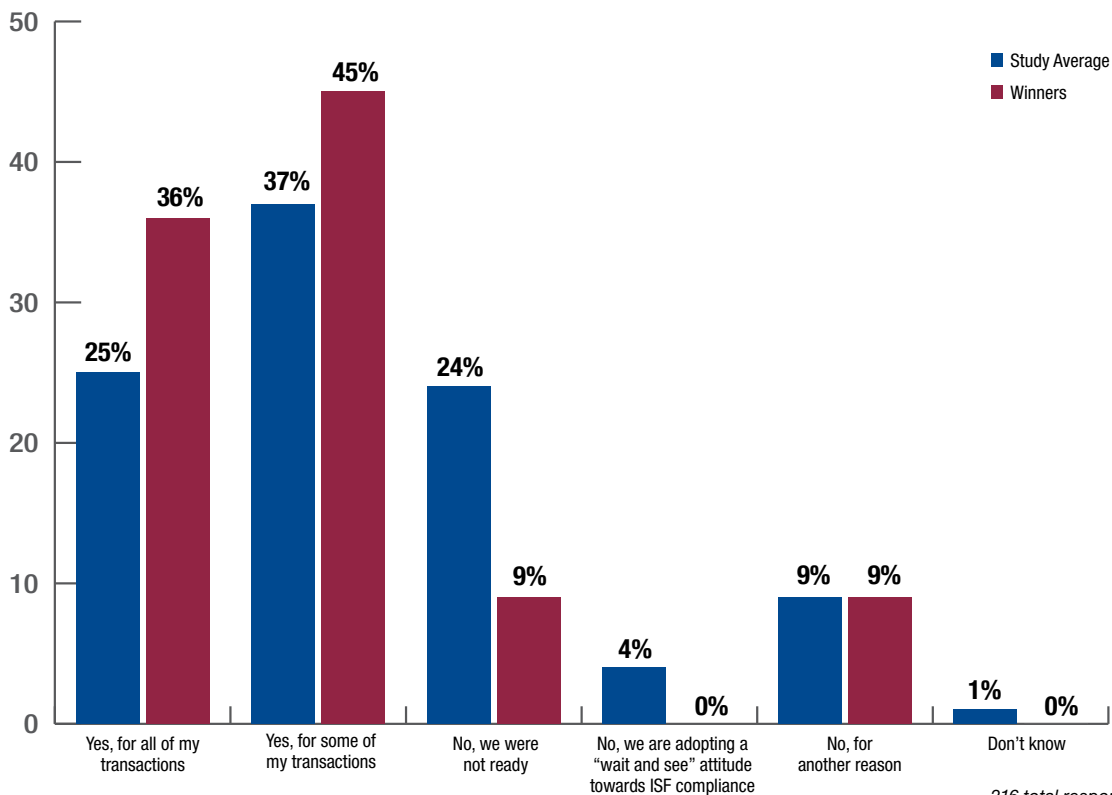
213 total respondents

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009

So how did companies fare in meeting the Jan. 26, 2009 ISF filing date?

Sixty-two percent of survey participants actually filed some or all of their ISFs starting on the implementation date. This is an amazing feat given the challenges that collecting, compiling and filing ISFs present. Only 4 percent of survey participants are adopting a “wait and see” attitude.

FIGURE 9: DID YOU BEGIN FILING ON JAN. 26, 2009?



216 total respondents

Percentages do not add up to 100% due to rounding.

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009

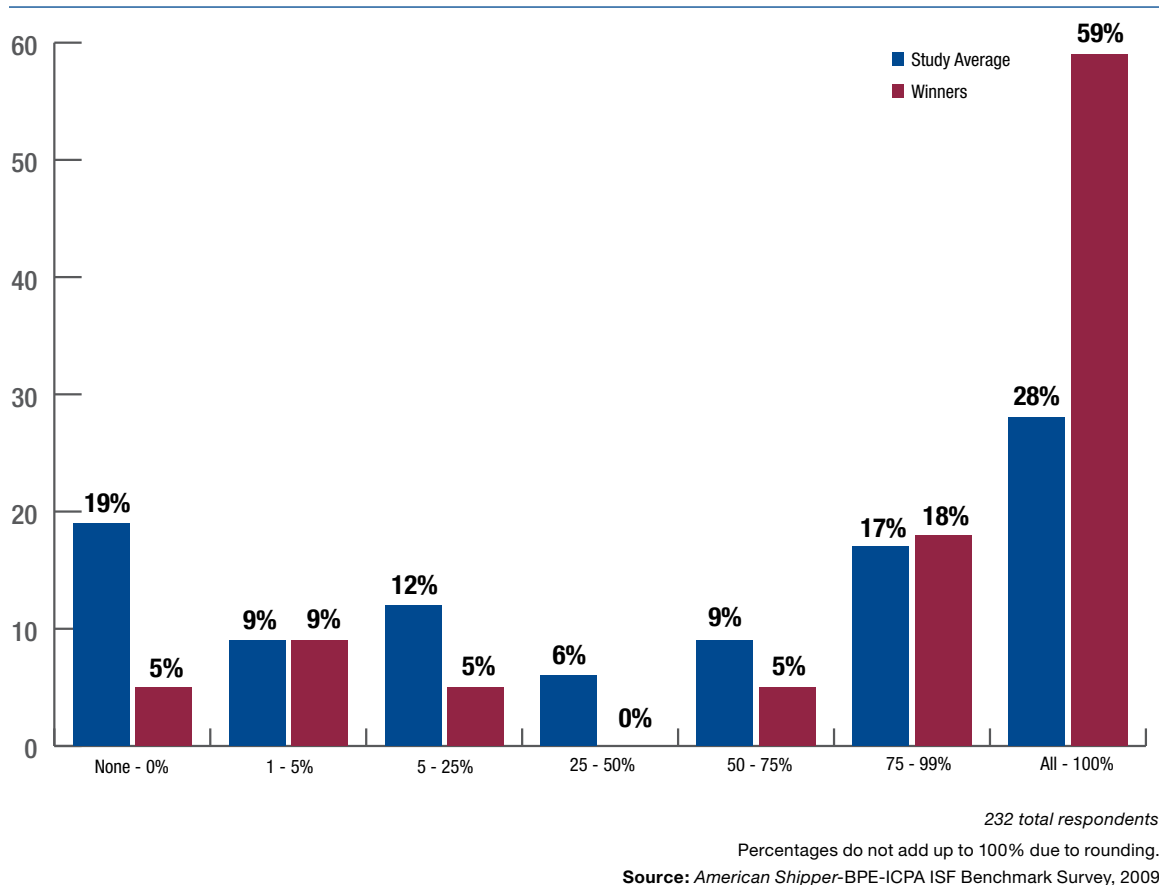




More than 80 percent of winners were filing ISFs for all or some transactions by Jan. 26, 2009. This represents a significant increase from the roughly 60 percent of the study average reporting the same.

As of April 10, only 28 percent of survey participants were filing 100 percent of the ISFs for their imports. In fact, 19 percent of participants were not filing at all. Most survey participants were filing somewhere in the middle.

FIGURE 10: WHAT PERCENTAGE OF OCEAN IMPORTS ARE YOU CURRENTLY FILING ISFs?



Winners report they are twice as likely to file ISFs for all of their ocean imports. The study average was about four times more likely than winners to be filing no ISFs at this time.

The study also seeks to understand if the companies that participated in CBP's Advance Trade Data Initiative (ATDI) testing found that it prepared them for the ISF implementation. One-third of survey participants participated in the ATDI pilot program. The bottom line is that 61 percent of the ATDI participants said it prepared them for filing the ISF. The results were also confirmed by CBP, that ATDI participants are on top when it comes to filing ISFs in a timely manner.

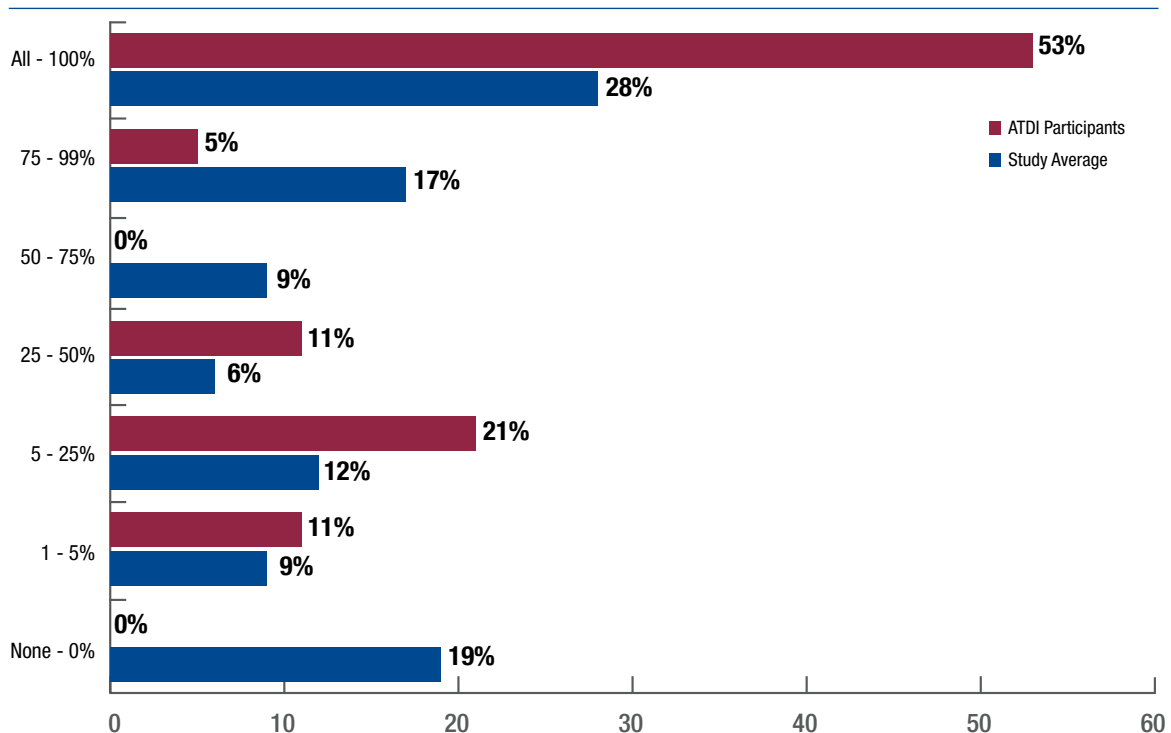
The study determined companies that participated in ATDI are all filing ISFs. ATDI participants actually file considerably more ISFs with more than half filing for all transactions.

A particularly interesting answer that the study uncovers is the fact that five survey participants actually received ISF Performance Reports (also called “report cards”) from CBP. As of April 2, CBP had not issued Performance Reports; however a few Tier-3 Customs-Trade Partnership Against Terrorism (C-TPAT) members have received draft Performance Reports. Four of the five companies reported that the Performance Report was helpful.

One of the most remarkable takeaways from this survey is that only 37 percent of respondents have a high or very high degree of confidence that their ISF filings are timely, complete and accurate. The survey identifies that smaller companies have a higher confidence level in the timeliness, accuracy and completeness of their filings.



FIGURE 11: ATDI PARTICIPANTS FILE MORE ISFs



232 total respondents

Percentages do not add up to 100% due to rounding.

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009



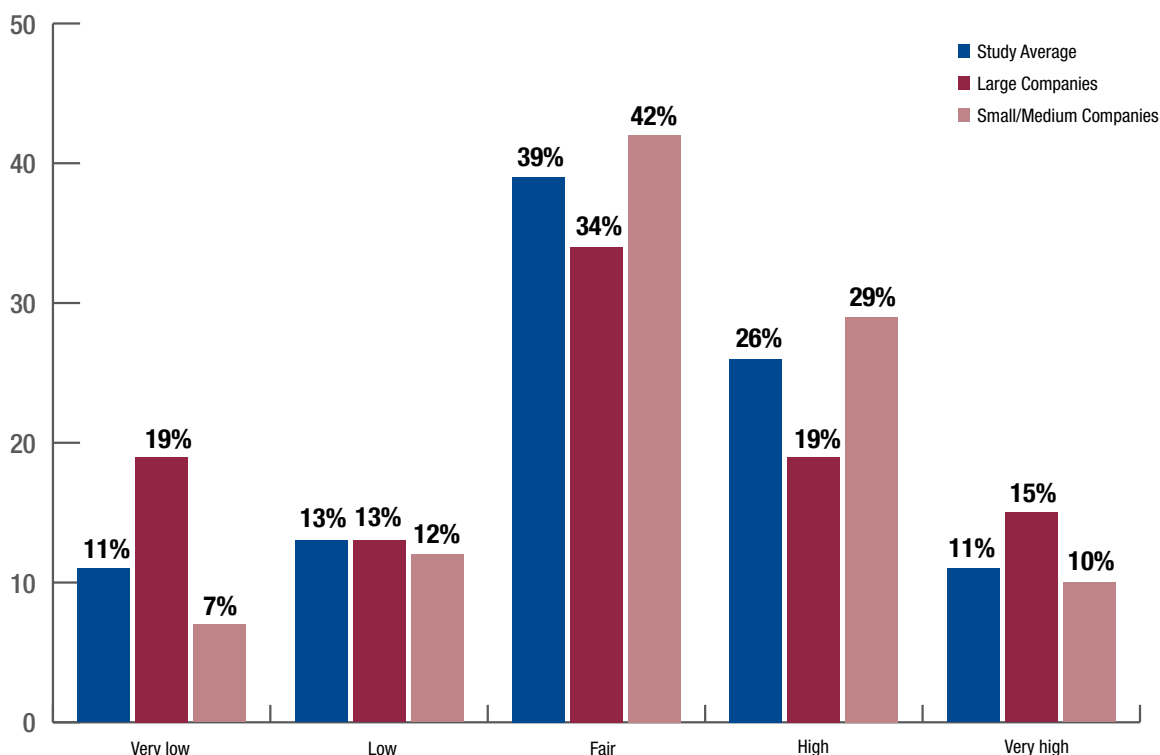
This is a significant issue, with the looming enforcement date of Jan. 26, 2010 — if companies cannot file 100 percent of their ISFs in a timely, complete and accurate manner, potential penalties will be enormous.

In fact, 83 percent of survey participants anticipate being able to meet the Jan. 26, 2010 deadline to file their ISFs.

With 7 percent of companies predicting they will be unable to file all of their ISFs by the deadline and 10 percent of companies uncertain, there's significant risk of piling up penalties.

Charts 12 and 13 may appear to contradict each other, but upon deeper investigation they paint an interesting picture. Small and medium companies demonstrate a higher level of confidence (81 percent high

FIGURE 12: LEVEL OF CONFIDENCE ISF FILINGS ARE TIMELY, ACCURATE AND COMPLETE



197 total respondents

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009

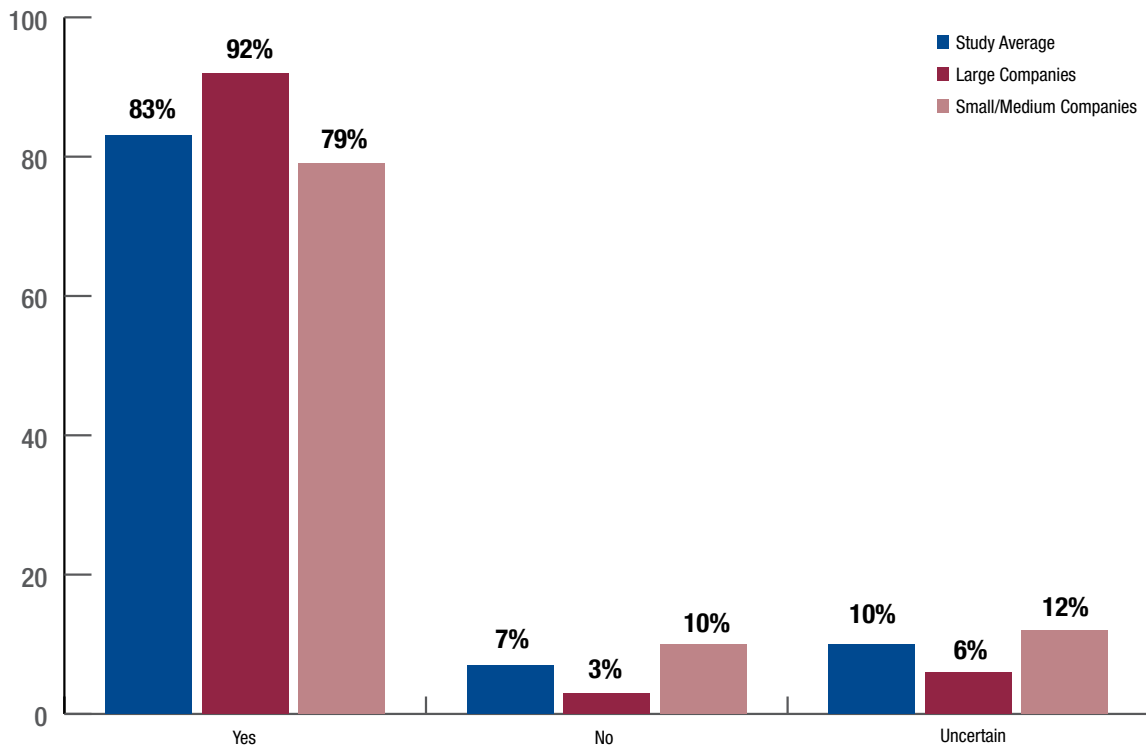
or very high) in the timeliness, accuracy and completeness of their ISFs. Yet, they express less certainty (79 percent) in their ability to meet the 2010 enforcement deadline. Large companies tell the opposite story with less confidence (68 percent high or very high) in the timeliness, accuracy and completeness of their filings, but more than 92 percent say they will be able to meet the 2010 enforcement deadline.

The study also asks companies how they file their ISFs.

This is a significant issue, with the looming enforcement date of Jan. 26, 2010 — if companies cannot file 100 percent of their ISFs in a timely, complete and accurate manner, potential penalties will be enormous.



FIGURE 13: WILL YOUR COMPANY MEET THE JAN. 26, 2010 DEADLINE?



221 total respondents

Percentages do not add up to 100% due to rounding.

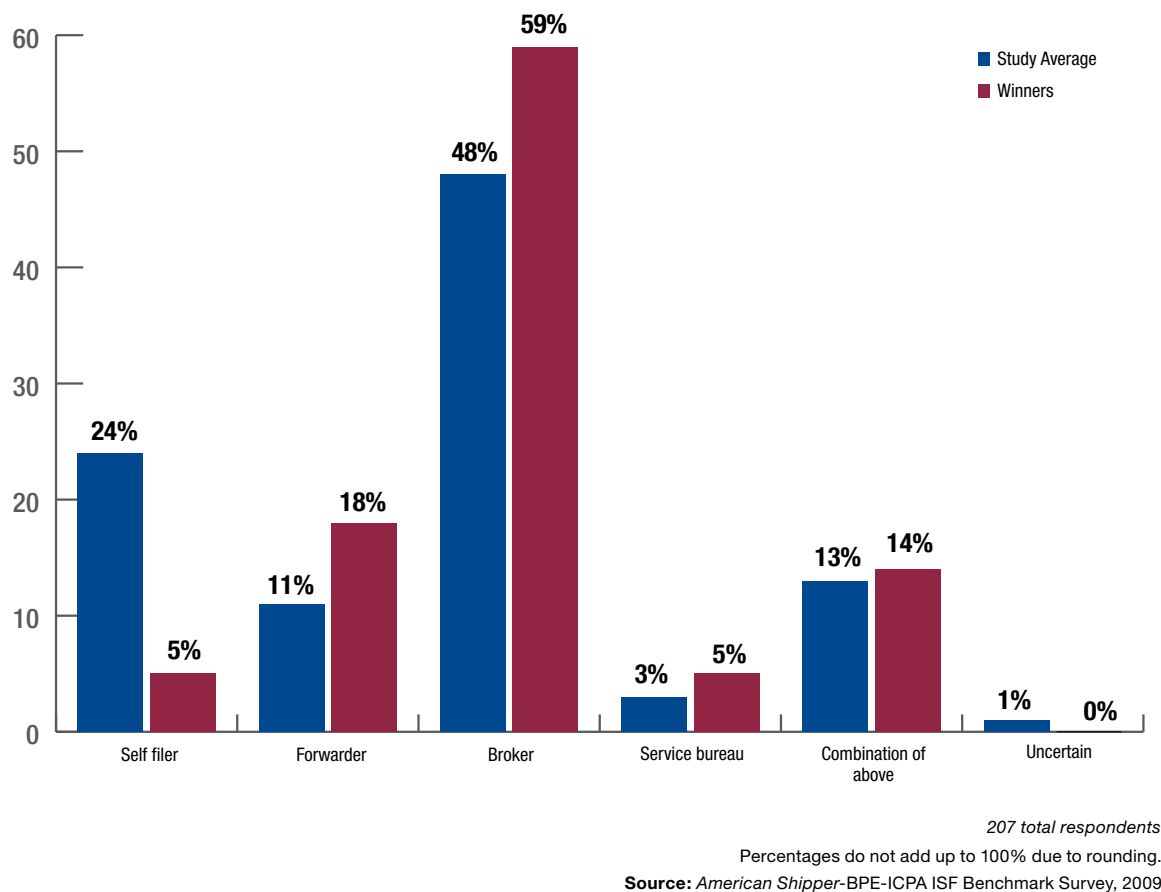
Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009



Brokers are capturing more ISF filing activity than any other avenue with nearly half of the study respondents selecting that option. Self-filers make up a surprising 25 percent of the total. Winners clearly prefer using a broker with nearly 60 percent going that route.

Only 12 percent of respondents are using a foreign agent to file ISFs.

FIGURE 14: HOW DOES YOUR COMPANY FILE ISFs?

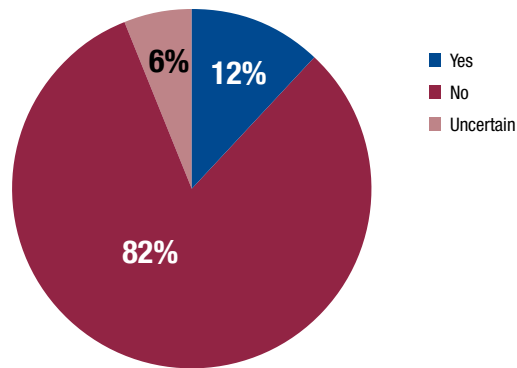


It appears companies that are not using a foreign agent have fewer issues with timeliness, completeness and accuracy of ISFs.

Sixty-three percent of those using a foreign agent are filing ISFs for 25 percent of their U.S. imports. In addition, respondents using foreign agents express less certainty in their ability to meet CBP's 2010 enforcement deadline.

Only 15 percent of survey respondents are filing Unified Entries for ISF filings.

FIGURE 15: IS YOUR COMPANY USING A FOREIGN AGENT TO COMPLY WITH ISF?



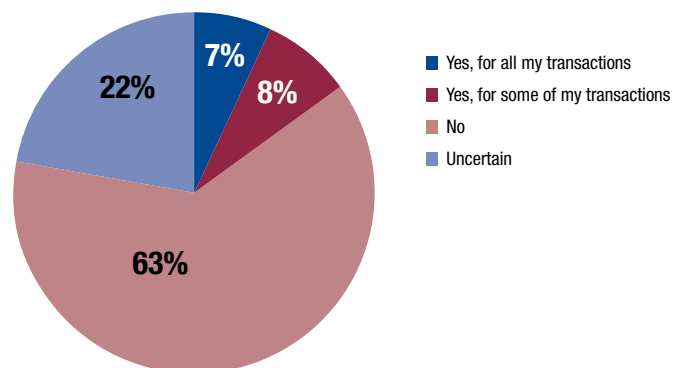
208 total respondents

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009

The data suggests two reasons for this:

- The Unified Entry filing is not available from all ISF filers. This is an area of contention for many importers.
- CBP has stated that ISF data will be subject to compliance measurement if ISF filers submit a Unified Entry.

FIGURE 16: IS YOUR COMPANY FILING UNIFIED SECURITY FILINGS?



212 total respondents

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009



Section 3: File Now, Refile Later

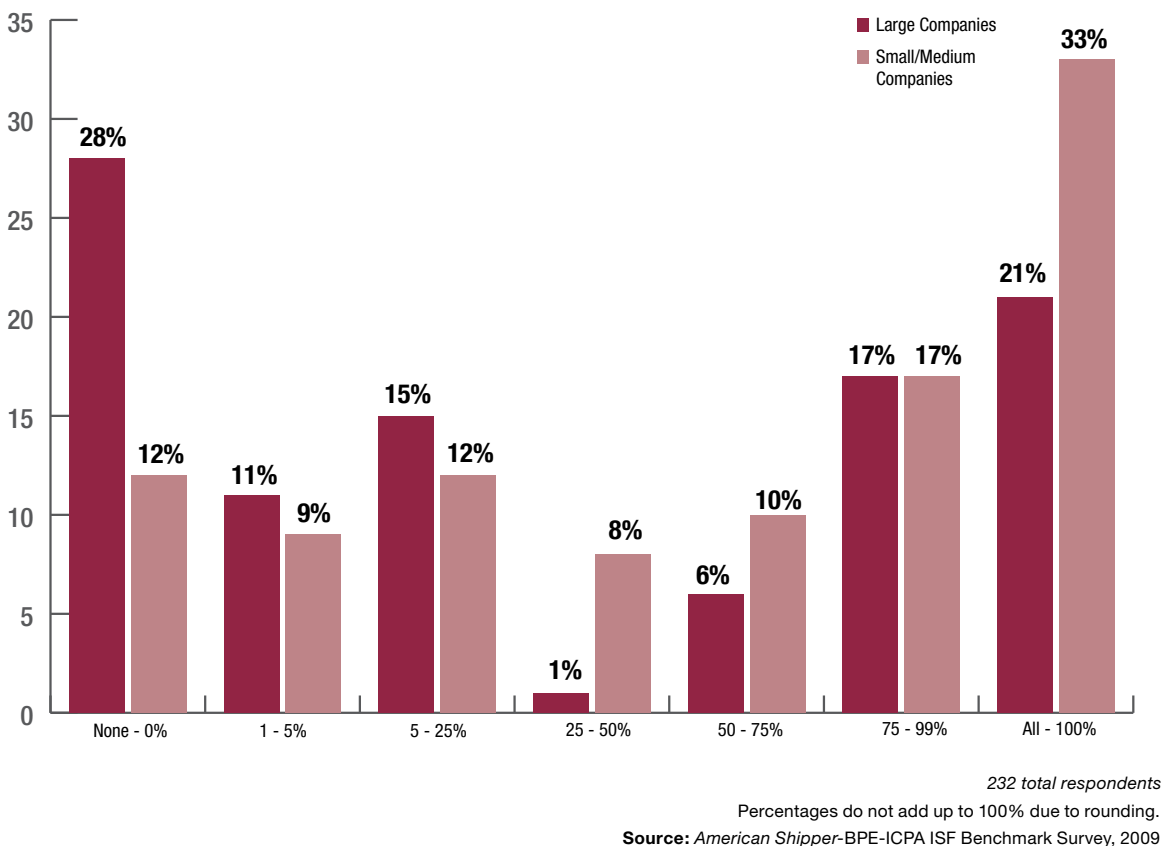
CBP has repeatedly stressed to companies to file ISFs immediately for all of their imports. CBP confirms that companies that are succeeding with filing ISFs are submitting something for every shipment and are refining their ISF process from that point.

CBP said C-TPAT Tier-3 importers are the largest filers of ISFs. One of the trade's fairly significant worries when the ISF Interim Final Rule was issued was that small to medium-size companies would not be aware nor ready to file ISFs. This study illustrates that small to medium-size companies are actually filing ISFs and the data is consistent with what CBP is seeing.

However, further analysis shows small to medium-size companies are managing to file all of their transactions, while large companies are struggling to file all of their ISFs. This is most likely due to the complexity of larger companies' supply chains.



FIGURE 17: PERCENTAGE OF ISFs FILED FOR OCEAN IMPORTS BY COMPANY SIZE



Survey respondents filing ISFs for 75 percent or more of their ocean imports report a considerably higher level of confidence in the accuracy, timeliness and completeness of their ISF filings. There is clearly a correlation between the volume and quality of filings.

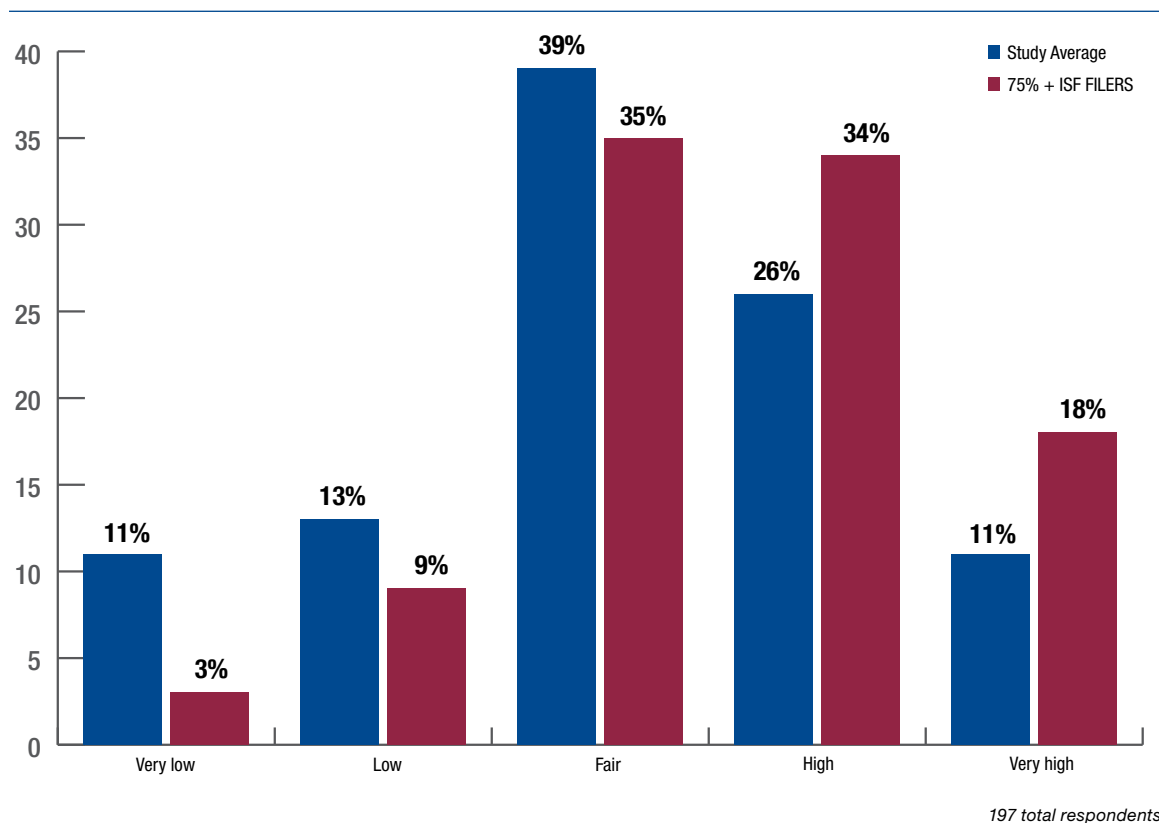
To provide a perspective, CBP issued its fiscal year in review on Nov. 5, 2008, which identified that the agency continued to process a large volume of commercial imports.

Year-end analysis of CBP data shows entry counts and revenue collections of nearly 31 million entries with \$32.5 billion in revenue collections. Import value for fiscal year 2008 grew to about \$2.2 trillion.

It is likely these survey results report a higher level of ISF filing compliance than the entire population of ISF importers due to the fact that the survey respondents are aware of the ISF regulation. While it's impossible to calculate the total number of ISFs that should be filed, if we apply the rate of 28 percent of survey filers are actually filing ISFs, that leaves 72 percent of filers failing to file ISFs. If we take 72 percent



FIGURE 18: CONFIDENCE IN ACCURACY, TIMELINESS AND COMPLETENESS OF ISF STUDY AVERAGE VS. 75% + ISF FILERS



Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009

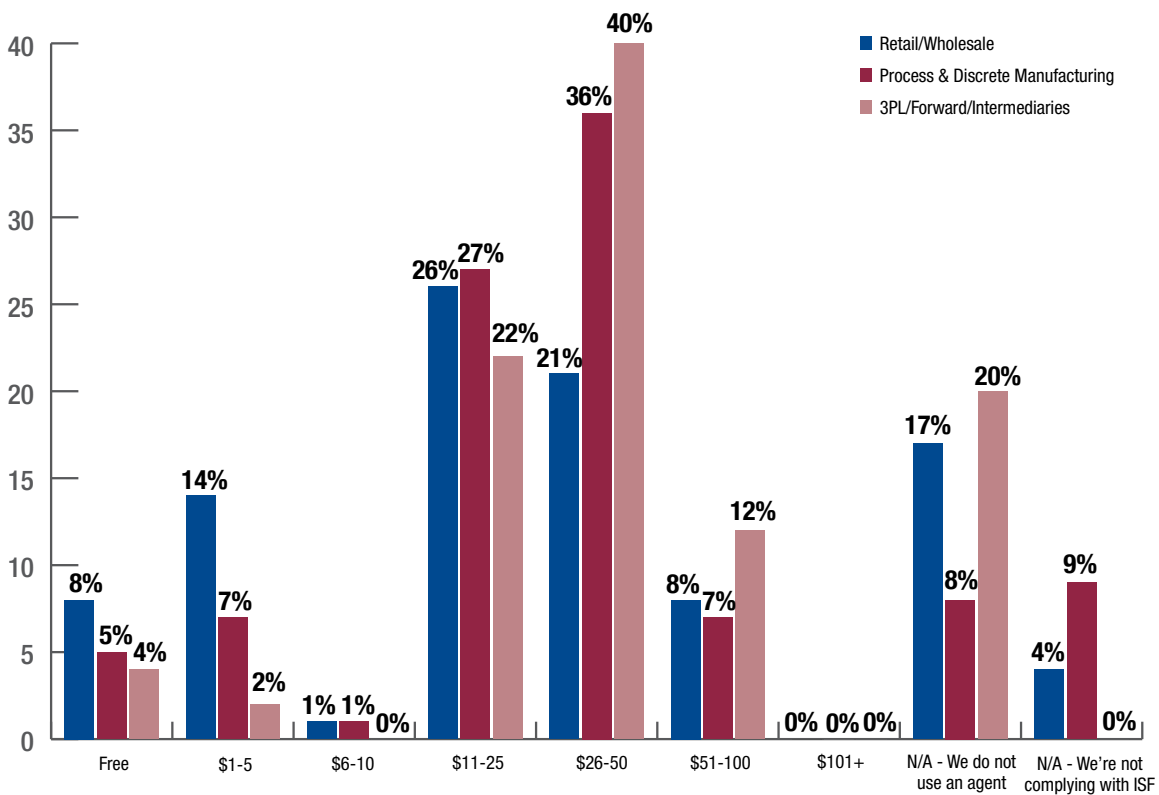
of the customs entries filed in fiscal year 2008, we're looking at 22.32 million entries that could be unfilled ISFs. If CBP was enforcing the ISF today, this could potentially represent \$111.6 trillion in penalties. Clearly no one is going to allow a scenario like that to play out, but in an already crippled economy, fiscal exposure measuring a small fraction of that figure would be devastating to the United States.

We won't know what the true exposure will be until the structured review period is over and actually enforcement begins. But if we wait until then, it will already be too late for many businesses.

Section 4: Cost of ISF

One of the topics CBP has invited companies to comment on is the cost of ISF compliance. The study demonstrates that companies pay anywhere from nothing to \$100 per ISF filing.

FIGURE 19: COST OF ISF FILING



218 total respondents

Percentages do not add up to 100% due to rounding.

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009



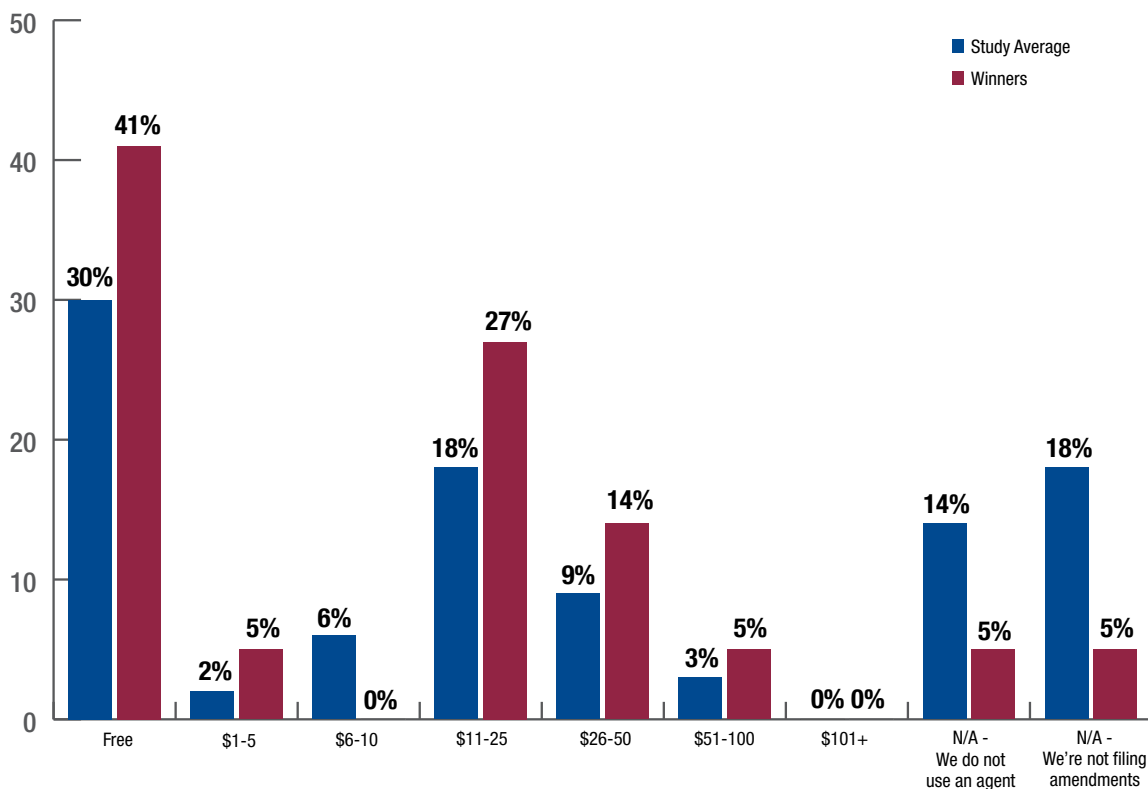
Retailers appear to be far more successful in limiting — or eliminating — the hard costs associated with filing ISFs. The study suggests the average fee per ISF is \$30. About half of retailers file ISFs for less than \$25 with 8 percent reporting no cost associated with filing. Forwarders, 3PLs and other intermediaries seem less capable of limiting the costs with more than half paying \$25 to \$100 per filing.

Retailers appear to be far more successful in limiting — or eliminating — the hard costs associated with filing ISFs.

The data suggests this is because companies aren't filing a high volume of amendments. Readers can expect to see the cost of amendments increase and not stabilize until the enforcement period begins. Note that winners are substantially more likely to make amendments at no charge.



FIGURE 20: COST PER AMENDMENT



217 total respondents

Percentages do not add up to 100% due to rounding.

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009

Section 5: ISF Issues

This benchmark initiative seeks to demonstrate that most companies are struggling with all aspects of the ISF Interim Final Rule. Companies that actually manage to file ISFs are not able to ensure timeliness, accuracy or completeness of their filings — each of which is a requirement to avoid the \$5,000 penalty per ISF filing.

This benchmark initiative seeks to demonstrate that most companies are struggling with all aspects of the ISF Interim Final Rule.

When asked, “what are your biggest challenges in complying with ISF regulations,” 58 percent of survey participants reported lack of timely data. Forty-two percent reported issues with the inability to collect complete ISF data, 28 percent reported issues with inaccurate data, and 20 percent had issues with visibility to ISF filings.

Determining the timeliness of an ISF is an elusive process. Matching the ISF to the carrier’s Electronic Data Interchange (EDI) 315 “Status details” message advising when ocean containers are loaded on board is proving to be an issue.

On April 2, CBP said the biggest ISF errors and/or rejections from Jan. 26 to March 23 were:

- 10,000 “Duplicate ISF filing.”
- 3,800 “Invalid Harmonized Tariff System (HTS).”
- 3,500 “Invalid ISF transaction” (error 113).
- 3,500 “Invalid ISF transaction” (error 108).
- 3,200 “Invalid Importer of Record numbers.”

The duplicate ISF filings errors are the primary issue CBP has identified. This is a significant concern because ISF filers should be aware of when they are filing ISFs.

The issue with invalid HTS and Importer of Record number errors appears to be with ISF filers typing in invalid rather than wrong numbers. There are also issues with no 5106 transmission on file for Importer of Record numbers submitted in ISFs.

Many respondents wrote they are experiencing issues with the B/L, including:

- No B/L number is provided until after the load has been shipped.

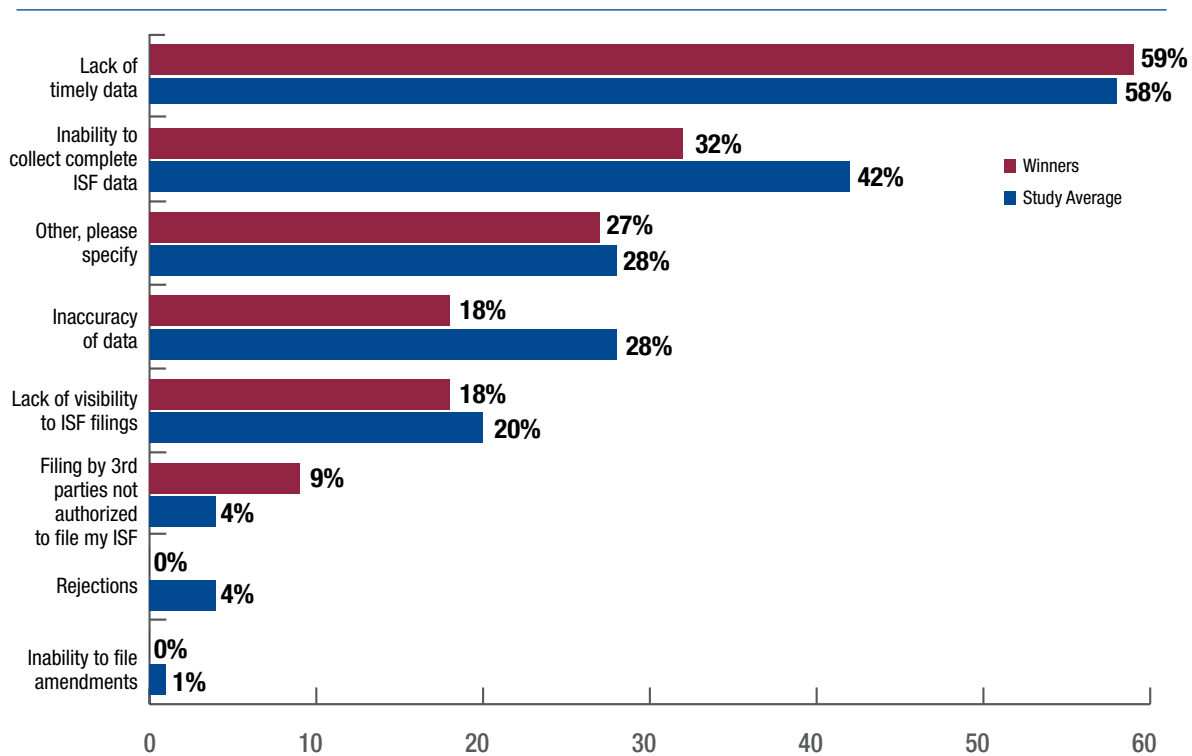


- Difficulty obtaining house B/L number from freight forwarders.
- Delay in the Container Freight Station (CFS) providing B/L information.
- Not receiving B/L number from the steamship line.
- B/L comes back as “Not on File.”
- Advanced Manifest System (AMS) response states there is no B/L match even when it’s confirmed that the AMS B/L has been filed.

Issues with filing the ISF 24 hours prior to lading the goods on board the vessel at the foreign port of lading begins with the lack of availability of the B/L data. This is a key barrier to a company’s ability to file the ISF at all. CBP has offered to work directly with carriers to help resolve this issue. This issue is not limited to carriers but extends to CFSs and freight forwarders.

The issue with no match to the B/L and the duplicate ISF filing errors is also a significant issue that has yet to be fully addressed and resolved.

FIGURE 21: COMMON CHALLENGES WITH ISF COMPLIANCE



213 total respondents

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009





There are large concerns with the timing of ISF filing by the importer and the carrier's timing of filing of the manifest through AMS. There are clear risks of penalties for companies because of vague or incomplete guidance from CBP.

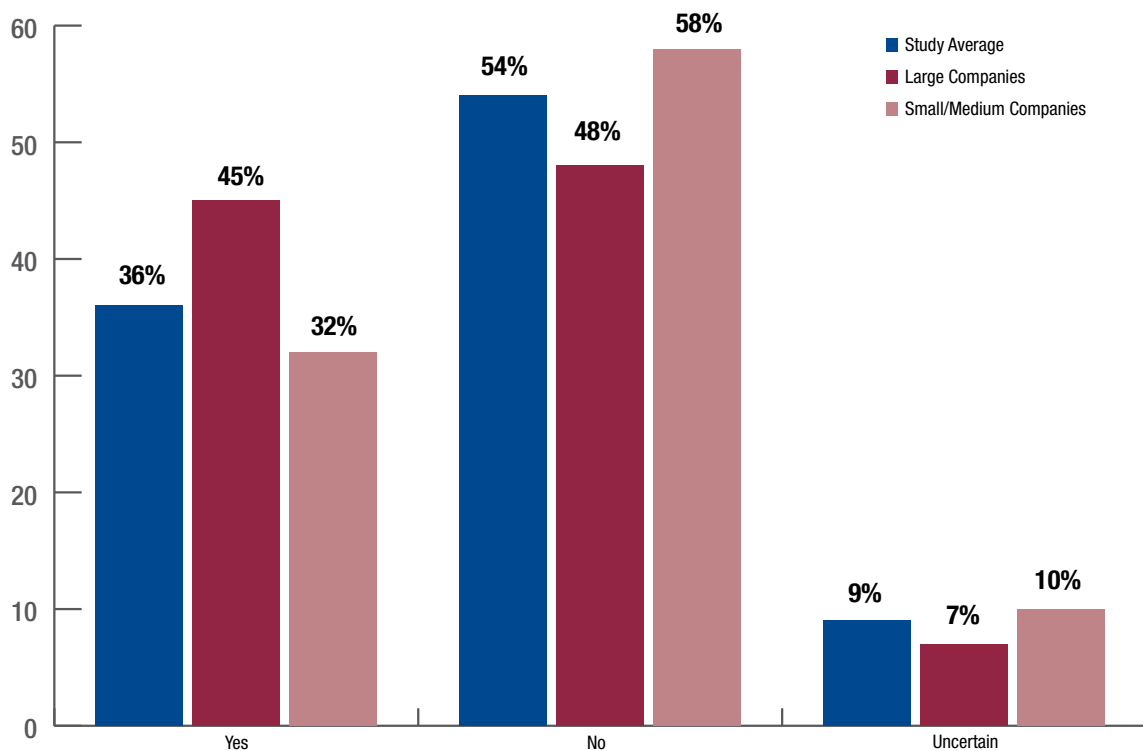
Respondents identify issues with technology spanning from software acquisition, significant systems programming, IT prioritization, training 3PLs on their own system, and lack of data validation.

Respondents report concerns with the additional cost of complying with the ISF interim final rule, the time and personnel needed to handle ISF filing and the lack of manpower to keep up with ISF filing.

Winners are amending their contracts to include ISF compliance.

Ninety-two percent of companies that are amending their service agreements and contracts to incorporate ISF compliance are confident in their ability to meet the 2010 enforcement deadline. This is larger than the 83 percent of the study average who report the same.

FIGURE 22: IS YOUR COMPANY MAKING AMENDMENTS TO CONTRACTS AND SERVICE AGREEMENTS TO INCORPORATE ISF COMPLIANCE?



212 total respondents

Percentages do not add up to 100% due to rounding.

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009

Section 6: Flexibility

Another area that companies are invited to provide comments to CBP is the six data elements which CBP allows for flexible interpretation or timing. Four data elements which CBP is providing flexible interpretation for are the manufacturer (or supplier), ship to party, country of origin, and commodity HTS number. The data shows that companies are taking advantage of this.

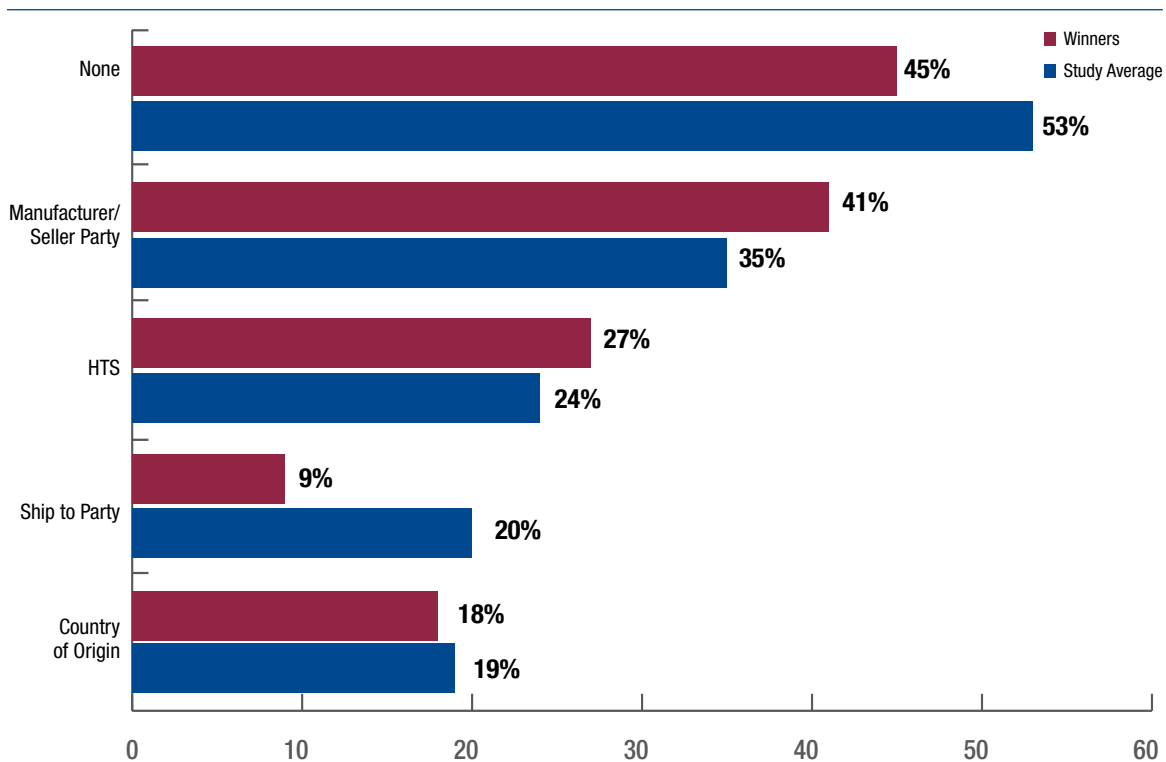
The other two data elements that CBP is providing flexible timing are the container stuffing location and the consolidator (or stuffer) and the study shows companies are taking advantage of flexible timing at an even higher rate.

Winners are more likely to take advantage of flexible interpretation rules especially as they pertain to the manufacturer/seller party and HTS.

Winners are more likely to take advantage of flexible interpretation rules especially as they pertain to the manufacturer/seller party and HTS.



FIGURE 23: IS YOUR COMPANY USING FLEXIBLE INTERPRETATION FOR ISF FILINGS?



215 total respondents

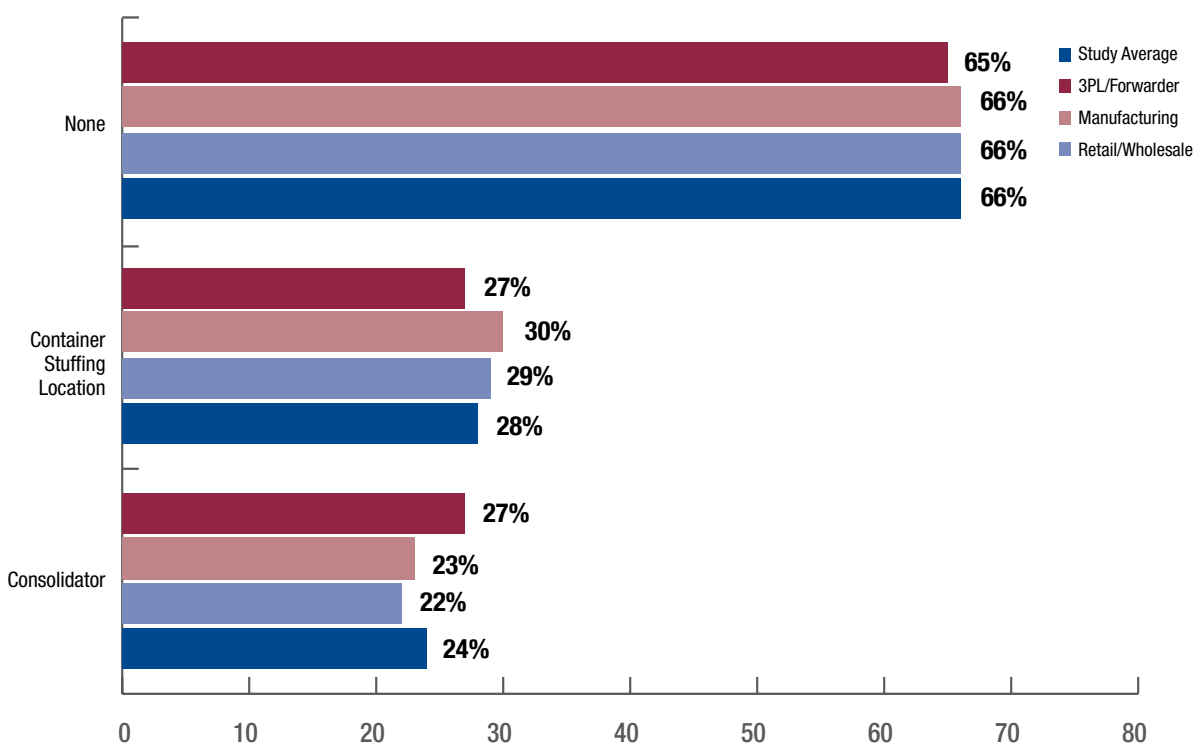
Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009



CBP reviewed these findings and expressed concern that the study indicates many more companies are utilizing the flexibility than CBP announced on April 2 at the annual C-TPAT conference in New Orleans. CBP's data shows a rate of less than 1 percent of amendments being filed. In fact, CBP stated that the errors and/or changes made in the flexible fields were as follows (and many were just tests to the system):

- Ship to party, 0.6 percent.
- Manufacturer, 0.5 percent.
- HTS, 0.7 percent.
- Country of origin, 0.1 percent.
- Consolidator, 0.6 percent.
- Stuffing location, 0.6 percent.

FIGURE 24: IS YOUR COMPANY USING FLEXIBLE INTERPRETATION FOR ISF FILINGS?



215 total respondents

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009

This inconsistency may be due to companies utilizing the flexibility but not transmitting ISFs until they have all their data. This is evidenced by the fact that 70 percent of ISFs being filed had issues with timeliness as of April 2.

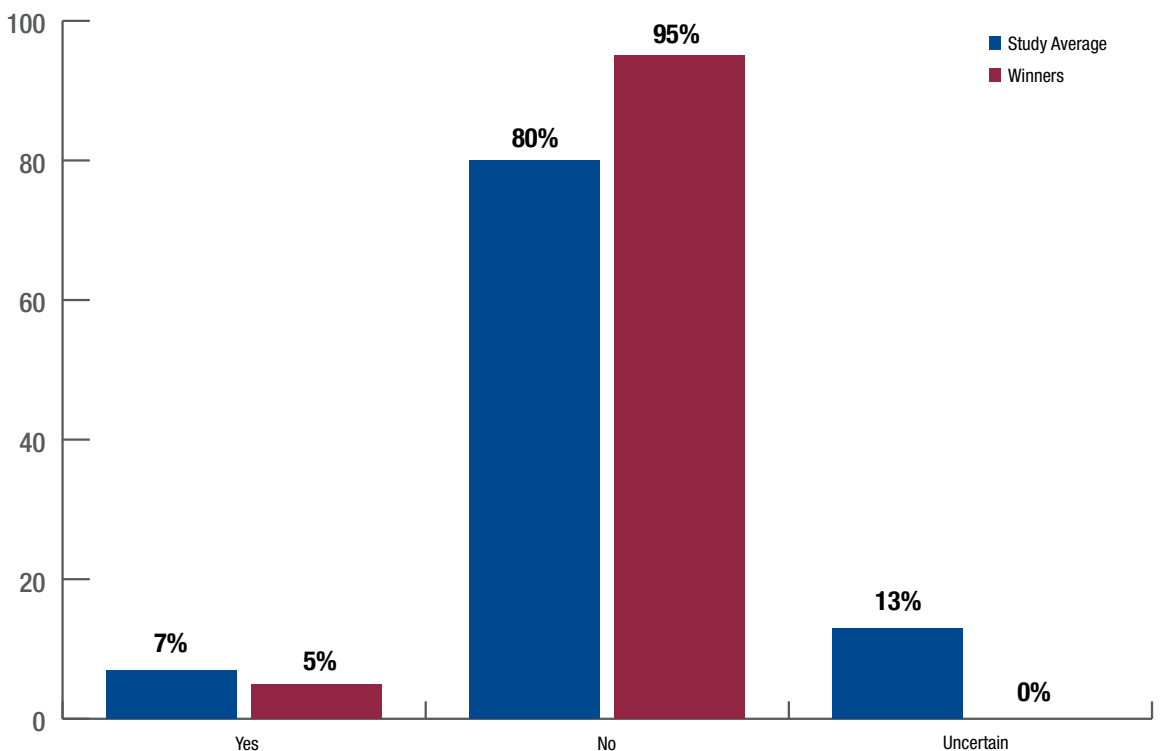
The study shows 80 percent of respondents are not experiencing delays as a result of the ISF filing. However, this does track to CBP's statement that most ISFs being filed had issues with timeliness.

The study results confirm that companies are utilizing the flexible enforcement period to ensure that their shipments are not delayed. Once enforcement begins, however, the number of companies experiencing delays is expected to increase dramatically.

The study results confirm that companies are utilizing the flexible enforcement period to ensure that their shipments are not delayed.



FIGURE 25: IS YOUR COMPANY EXPERIENCING DELAYS DUE TO ISF?



219 total respondents

Source: American Shipper-BPE-ICPA ISF Benchmark Survey, 2009

Section 7: Lessons from the Winners

Keeping with the theme of this report, it's important to review what winners are doing that others are not. What are the practices they subscribe to that make them winners?

Our study suggests that winners are doing the following:

Winners are experiencing fewer delays — 95 percent of winners report no delays due to ISF compared to 80 percent of the study total.

- Seventy-seven percent of winners are filing ISFs for 75 percent or more of their U.S.-bound cargo. Winners are more than twice as likely as the study average to file for all their transactions.
- Eighty-one percent of winners report they began filing ISFs for some portion of their volume on Jan. 26, 2009 in accordance with the soft deadline; noticeably more than the 62 percent of the study average.
- Winners are taking advantage of flexible interpretation for ISF at a higher rate than the study average. With the exception of “ship to party,” winners outpace the study average on every other category.
- Winners tend to use a broker instead of self-filing. Fifty-nine percent of winners use a broker to comply with ISF compared to 48 percent of the study average. Winners are drastically less likely (5 percent) to self-file compared to the study average (24 percent).
- Forty-one percent of winners do not pay a fee for amending ISF filings. This is considerably more than any other segment included in the study.
- Eighty-two percent of winners are not using a foreign agent to comply with ISF. This is consistent with the study average, but the numbers are so one-sided against foreign agents it is worth highlighting this best practice.
- Winners are experiencing fewer delays — 95 percent of winners report no delays due to ISF compared to 80 percent of the study total.
- Winners have trouble with timely data more than anything else. Like the study average, about 60 percent of winners report that “lack of timely data” is a big challenge in complying with ISF. What's remarkable is winners report fewer challenges with completeness and inaccuracy of ISF data than the study average.



Section 8: How to Use This Study

Measure Your Organization Against This Benchmark

Readers should review the information presented in this study carefully and at each section ask themselves:

- How would I have answered these questions?
- Where would my answers place my organization — ahead of or behind the curve?
- Is my organization a winner as defined in this study?
- How can my organization become a winner?

We recommend that importers that are not filing ISFs begin immediately. The ISF regulation will not go away. It is one of CBP's strategies to support national security and it is here to stay. It is imperative that companies determine their ability to comply with ISF and assess their risk of penalties, supply chain delays or worse before the enforcement period begins. Adopting a wait-and-see attitude carries high risk.

File Comments With CBP Before June 1

American Shipper and BPE reviewed the study's findings with CBP and have verified that the survey results are consistent with the data that CBP is seeing, with the exception of use of flexible interpretation and timing. Both organizations ensured that the survey included questions specific to the Interim Final Rule so that importers can include the survey results in their comments on the ISF to CBP.

The comment period ends June 1. CBP has rejected appeals to extend the comment period and ISFs for less than 1 percent to 30 percent of ocean imports are actually being filed. Help your company and the companies who haven't even started by filing comments.

You can submit written comments on only the six data elements for which CBP is providing some type of flexibility. You can also submit comments on the revised Regulatory Assessment and Final Regulatory Flexibility Analysis. This includes compliance costs for your industry segment, the impact of the flexibilities provided in this rule, and barriers to submitting Importer Security Filing data 24 hours prior to lading.





You may file your comments by Docket Number USCBP-2007-0077 in one of the following ways:

- Via the federal eRulemaking Portal at www.regulations.gov.
- Through the mail to the Border Security Regulations Branch, Office of International Trade, U.S Customs and Border Protection.

When you file your comments be sure to include:

- Compliance costs your company incurs, including cost of data collection, service provider fees, shipment delays, inventory carrying costs, lost sales, etc.
- The impact of the flexibilities provided in the interim rule.
- Challenges your company faces with submitting ISFs 24 hours prior to lading.
- Liquidated damages your company would have paid if CBP were not taking a flexible approach to enforcement.

ISF is not going away and it's crucial that your organization comply quickly and effectively.

All comments received will be posted without change to www.regulations.gov, including any personal information provided. There have already been over 300 comments filed, but don't let that stop you — it's critical that you file your comments as well.

Apprise Senior Management

This report is designed to give strength to your voice within your own organization as well. Using this benchmark report to raise awareness of ISF within your organization is just as important as alerting CBP to your progress and giving feedback on the interim rule. Forward this report to your managers with your comments and notes attached. Show them where your organization falls against the study average, how your company stacks up to winners and how you fare against others from your market segment. Point up the recommendations based on winning best practices and rally support for your initiatives. ISF is not going away and it's crucial that your organization comply quickly and effectively.

Section 9: Resource Center

American Shipper — www.AmericanShipper.com

“10+2: Finding A Way Forward,” Webinar (broadcast Feb. 19) — www.americanshipper.com/10+2

“10+2 + Flexibility” — feature story, March *American Shipper*, pages 12-13.

“Struggling to Make Grade on 10+2” — feature story, May *American Shipper*, pages 6-12.

“CBP Defines 10+2 Penalty” — *AS+ Shippers' NewsWire* article, April 20.

Ongoing 10+2/ISF coverage is available by searching www.AmericanShipper.com

BPE — www.BPEGlobal.com

“10+2: What Importers Need to Do to Prepare,”

http://bpeglobal.com/hottopics/Dec%20Hot%20Topic/HotTopic_Dec08_v1_skin.swf

“CBP Issues Final Interim Rule on 10+2,”

http://bpeglobal.com/hottopics/HotTopic_Nov08/HotTopic_Nov_skin.swf

Questions and Answers from the Webinar — <http://bpeglobal.com/insights.asp>

Customs Info/Global Data Mining — “10+2 Readiness ... Beware! It's strategic, not tactical.”

http://www.gdmlc.com/pdf/10_2_Readiness_Beware_Its_strategic_not_tactical.pdf

Federal Register Notice — Importer Security Filing Interim Final Rule,

<http://edocket.access.gpo.gov/2008/pdf/E8-27048.pdf>

International Compliance Professionals Association (ICPA) — www.ICPAinc.org

U.S. Customs and Border Protection — www.cbp.gov

Importer Security Filing “10+2,” www.cbp.gov/xp/cgov/trade/cargo_security/carriers/security_filing/

CBP 2008 Fiscal Year in Review, www.cbp.gov/xp/cgov/newsroom/highlights/08year_review.xml



Index: About the Partners and Sponsors



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BPE is a global trade compliance consulting and training firm with more than 40 years combined experience in global trade and logistics. This expertise brings deep regulatory understanding of global compliance operations and practical knowledge of supply chain management and logistics. BPE has developed commercial global trade management and logistics technology solutions. And BPE is recognized as a leader in training and education. BPE also brings experience as licensed customs brokers and leaders of trade associations. BPE shares its knowledge and skills as Trade Ambassador to the U.S. Customs and Border Protection service. BPE's customers range from start-ups to *Fortune 500* companies. BPE's headquarters are in San Francisco, Calif. To learn more about BPE, call (877) 264-3836, e-mail beth@bpeglobal.com or visit www.bpeglobal.com.



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ICPA was established by Ann Lister and Lynda Westerfield to serve the needs of international trade compliance professionals. It has grown from an informal e-mail list into an organization of more than 1,000 members.

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- Provide education and training, which may include wholly sponsored programs or programs in conjunction with other appropriate organizations.



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- Protect and promote the interests of the international trade compliance professional.

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