

**DEPARTMENT OF THE TREASURY  
UNITED STATES CUSTOMS SERVICE**

**IMPORTER SELF-ASSESSMENT PROGRAM**

**AGENCY:** United States Customs Service, Department of the Treasury.

**ACTION:** General notice.

**SUMMARY:** This document advises the public of the implementation of the Importer Self-Assessment (ISA) program and describes the requirements for participation in, and benefits under, the ISA. The ISA, which was developed by Customs under its regulatory audit authority, allows interested importers to assess their own compliance with Customs laws and regulations. Participation in the ISA is open to all importers who are participating members in the Customs-Trade Partnership Against Terrorism.

**DATE:** Participation in the ISA will be open to all qualified importers beginning on June 17, 2002.

**FOR FURTHER INFORMATION CONTACT:** Customs Internet website

(<http://www.customs.gov/imp-exp1/comply/isa.htm>) or Russell Ugone, Director, Trade

Agreements Branch, Regulatory Audit Division (202-927-0728).

**SUPPLEMENTARY INFORMATION:**

**BACKGROUND**

As a consequence of the passage of the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act (Public Law 103-182,

107 Stat. 2057), an important objective of Customs in the trade compliance process has been to maximize importer compliance with U.S. trade laws while, at the same time, facilitating the importation and entry of admissible merchandise. To meet this goal, Customs has made a comprehensive effort to review, improve, and redesign, on an ongoing basis, the trade compliance process using established business practices, reengineered tools, and new methodologies that improve customer service without compromising the enforcement aspect of the Customs mission.

In order to enable interested importers to participate in a program that would allow them to assess their own compliance with Customs laws and regulations on a continuing basis, Customs on April 24, 1998, published in the **Federal Register** (63 FR 20442) a notice of a plan to conduct a test regarding the Importer Compliance Monitoring Program (ICMP). On April 30, 2002, Customs published a notice in the **Federal Register** (67 FR 21322) advising the public of the termination of the ICMP test because importer participation in the ICMP remained below the level anticipated by Customs when the ICMP procedures were developed. That notice stated that the ICMP was being discontinued in favor of a new program. The new program, Importer Self-Assessment (ISA) will continue the self-assessment principles of the ICMP while relying on new methodologies which provide upfront benefits and a more flexible approach.

The purpose of this notice is to describe the operation of the ISA, including the requirements for participation in, and benefits under, the ISA program.

## **DESCRIPTION OF THE IMPORTER SELF-ASSESSMENT PROGRAM**

### **OVERVIEW**

The ISA program is a joint government-business initiative designed to build cooperative relationships that strengthen trade compliance. It is based on the premise that importers with strong internal controls achieve the highest level of compliance with Customs laws and regulations. The ISA program provides a means to recognize and support importers that have implemented such systems.

All importers who are current members of the Customs-Trade Partnership Against Terrorism (C-TPAT) may apply for ISA by signing an ISA Memorandum of Understanding (MOU) and completing an ISA questionnaire. Customs will then assess the applicant's readiness to assume the responsibilities of ISA. When signed by both parties, the MOU will establish a partnership between the importer and Customs and will provide further benefits as described below. ISA applications will be accepted beginning on June 17, 2002.

### **ISA PARTICIPATION REQUIREMENTS**

In order to participate in the ISA program, an importer must:

1. Become a member with full benefits of the C-TPAT.
2. Be a resident importer in the United States with a minimum of two years importing experience.
3. Agree to comply with all applicable Customs laws and regulations.
4. Have and maintain a system of business records that demonstrates the accuracy of Customs transactions.

5. Complete an ISA questionnaire and sign an ISA MOU under which the importer agrees to:
  - a. Establish, document, and implement internal controls;
  - b. Perform periodic testing of the system based on risk;
  - c. Make appropriate adjustments to internal controls;
  - d. Inform Customs through appropriate disclosures of material errors identified through company reviews;
  - e. Maintain an audit trail from financial records to Customs declarations;
  - f. Maintain results of testing for five years and make test information available to Customs on request; and
  - g. Submit an annual written notification to Customs to confirm the identity of the company ISA contact, and confirm the importer continues to meet the requirements of the ISA program as specifically listed here and in the MOU.
6. Have the ability to connect to the Internet.

#### APPLICATION PROCESS

##### 1. Required Information

Each application for participation in the ISA program must include the following information and documentation:

- a. The importer's name;
- b. A unique importer number (for example, SSN, EIN, Customs Assigned Importer#, DUNS#);
- c. A statement certifying to the importer's participation in C-TPAT;

- d. A statement certifying to the importer's ability to connect to the Internet; and
- e. A signed ISA MOU and completed ISA questionnaire.

## 2. Customs Review of Application

After the importer has submitted an application, Customs will review the company submission. This review will include a risk assessment of the applicant and review of the application to determine the applicant's readiness to assume responsibilities for self-assessment. In some cases a Customs multi-disciplinary team may visit the applicant to consult with the company, to discuss and review the company's internal controls. This will not be an audit and will not involve extensive testing. The purpose of the consultation is to determine if the applicant is ready to assume the responsibilities of self-assessment and to provide Customs assistance and training as appropriate. If Customs determines that the company is not ready to assume the responsibilities of self-assessment, Customs will continue to work with the company to strengthen and improve their program. If Customs determines the applicant is ready to assume the responsibilities of self-assessment, Customs will sign the MOU.

Customs reserves the right, in its discretion, to approve or disapprove an application. Further, in selecting applicants for participation in ISA, Customs reserves the right to establish priorities for the processing and approval of applications based upon the volume and/or nature of each applicant's Customs transactions and other factors, including whether the applicant had a previous designation as a low-risk importer, whether the applicant made a prior application under the ICMP test, and

whether the applicant was engaged in management processes involving a full-time Account Manager from Customs. First priority will be given to importers with low-risk designation.

### ISA POTENTIAL BENEFITS

Once accepted into the ISA program, the importer becomes eligible for the following benefits:

1. The importer will be entitled to receive entry summary trade data, including analysis support, from Customs.
2. Consultation, guidance, and training by Customs will be available to the importer as requested and as resources permit (for compliance assistance, risk assessments, internal controls, Customs audit trails, etc.).
3. There will be an opportunity to apply for coverage of multiple business units.
4. The importer will be exempt from all comprehensive compliance audits (accounts may be subject to onsite examinations for specific reasons but will not be subject to comprehensive assessments of all Customs operations).
5. The importer will be able to use a hotline to Regulatory Audit Division key liaison officials.
6. With respect to an importer's right to make a prior disclosure pursuant to 19 U.S.C. 1592(c) or 1593a(c) and 19 CFR 162.74 when the importer becomes aware of facts that may represent a violation of 19 U.S.C. 1592 or 1593a, an ISA participant may utilize the following process: Unless, during Customs assistance, consultation or training with an ISA participant, Customs becomes aware of errors in which there is an indication of a fraudulent violation of 19 U.S.C. 1592 or

1593a, Customs will provide a written notice to the participant of such errors and allow 30 days from the date of the notification for the participant to assess and, if determined necessary, to file a prior disclosure pursuant to 19 CFR 162.74. This benefit does not apply if the matter is already the subject of an on-going Customs investigation.

7. In the event that civil penalties or liquidated damages are assessed against an importer, the importer's participation in ISA will be considered in the disposition of the case.
8. The importer will have access to a Customs team consisting of an Account Manager, an auditor and a trade analyst assigned to service ISA participants;
9. Additional benefits may be made available, tailored to industry needs (by mutual agreement).

#### ISA CONTINUING PARTICIPATION REQUIREMENTS

ISA participants must remain in compliance with the requirements of the ISA MOU, which include the annual notification to Customs. In connection with this notification, Customs will determine if additional discussions or reviews of company controls or documentation are necessary. In addition, ISA participants are responsible for making appropriate ongoing changes to internal controls as needed.

As indicated above, ISA participants as a general rule will not be subjected to any routine or periodic on-site reviews or audits, other than consultations with Customs account managers and auditors for training, support and compliance improvement purposes. However, a participant may be subject to an audit or on-site review of a

specific issue related to an identified trade compliance risk. In such instances, Customs and the participant will work together to determine a mutually acceptable course of action wherever possible.

If a participant fails to follow the terms of the MOU, fails to exercise reasonable care in the execution of participant obligations under the program or fails to abide by applicable laws and regulations, the participant may be subject to removal from the ISA program. If Customs believes that there is a basis for proposing the removal of a participant from the ISA program, a written notice of proposed removal will be provided to the participant and will apprise the participant of the facts or conduct warranting removal. The participant may respond to the proposed removal by writing to the Director, Regulatory Audit Division, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229, within 15 days of the date of the notice of proposed removal. The participant's response should address the facts or conduct charges contained in the notice and should state how compliance will be achieved. A final written decision on the proposed removal will be issued to the participant by Customs after the 15-day response period has closed. However, in the case of willfulness or where public health interests or safety are concerned, a removal from the ISA program may be effective immediately as a final action and without opportunity for written response.

Detailed information concerning the ISA program is maintained at the Customs Internet website (<http://www.customs.gov/imp-exp1/comply/isa.htm>). The ISA



Handbook available at that website contains general information and forms needed to apply for the program and specific information and details about program requirements and benefits.

Dated: June13, 2002

Douglas M. Browning  
Deputy Commissioner of Customs