



# Department of Homeland Security Office of Inspector General

## Customs and Border Protection's Importer Self-Assessment Program





# Homeland Security

AUG 30 2010

## Preface

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the department.

This report addresses the need for Customs and Border Protection to strengthen key management controls for the Importer Self-Assessment program. It is based on interviews with employees and officials of relevant agencies and institutions, direct observations, and a review of applicable documents.

The recommendations herein have been developed to the best knowledge available to our office, and have been discussed in draft with those responsible for implementation. We trust this report will result in more effective, efficient, and economical operations. We express our appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in cursive script that reads "Anne L. Richards".

Anne L. Richards  
Assistant Inspector General for Audits

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## Abbreviations

CBP	U.S. Customs and Border Protection
FY	Fiscal Year
ISA	Importer Self-Assessment

# OIG

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*Department of Homeland Security  
Office of Inspector General*

## **Executive Summary**

We reviewed U.S. Customs and Border Protection's management and oversight of the Importer Self-Assessment program. The objective of our audit was to determine the efficacy of the Importer Self-Assessment program, by which U.S. Customs and Border Protection permits importers to conduct self-assessments to verify their compliance with federal trade requirements in exchange for decreased agency oversight and other benefits.

U.S. Customs and Border Protection has not fully established key management controls for the Importer Self-Assessment program. U.S. Customs and Border Protection has not clearly defined the program's purpose, established performance measures, issued operating procedures, verified the effectiveness of applicants' internal controls prior to acceptance into the program, or exercised effective oversight of participants' compliance with program requirements. As a result, the agency does not have adequate assurance that participating importers comply with federal trade requirements and, therefore, that government revenues are being protected.

We are making four recommendations to U.S. Customs and Border Protection to improve the effectiveness of the Importer Self-Assessment program. The U.S. Customs and Border Protection agreed with all four recommendations and has initiated action to implement them.

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## Background

The primary goal of U.S Customs and Border Protection (CBP) in the trade compliance process is to maximize importer compliance with U.S. trade laws, while at the same time facilitating the importation and entry of admissible merchandise. With the enactment in 1993 of the *Customs Modernization Act*, CBP<sup>1</sup> fundamentally changed its relationship with the importing community to promote greater shared responsibility for compliance with trade laws and regulations. Under the Act's provisions, importers are responsible for declaring the value, classification, and duty for imports, while CBP is responsible for informing importers of their rights and responsibilities for trade compliance. To implement these new responsibilities, CBP developed a strategy built around the concept of "informed [importer] compliance."

The Importer Self-Assessment (ISA) program was initiated in 2002 as a voluntary approach to trade compliance. It is based on the premise that importers with strong internal controls achieve the highest level of compliance with federal trade laws and regulations and require less enforcement review and oversight. Importers enrolled in the ISA

program assume responsibility for self-governance in exchange for less government oversight and other benefits.

The ISA program is administered through CBP's Office of International Trade, Partnership Programs Branch. To apply for admission into the program, an importer signs a Memorandum of Understanding with CBP agreeing to comply with ISA program requirements and submits an application package including information on its internal controls. The Office of Regulatory Audit staff within the Office of International Trade assesses the importer's application and conducts an onsite review. After CBP's

### **ISA Program Benefits**

- Consultation with CBP
- Coverage of multiple business units
- Removal from CBP's Comprehensive Audit pool
- Access to key liaison officials
- Access to summaries of participant's trade data
- Expanded prior disclosure privileges
- Mitigated penalties and liquidated damages
- Greater business certainty

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<sup>1</sup> The trade functions of the former U.S. Customs Service were formally transferred to the U.S. Customs and Border Protection upon the creation of the Department of Homeland Security in March 2003.

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review, the agency accepts or rejects the importer for the ISA program.

CBP Account Managers have primary responsibility for conducting oversight of participating ISA importers, including identifying and analyzing potential trade compliance risks. For this purpose, ISA participants are assigned either to a National Account Manager under the authority of the Office of International Trade or to a Port Account Manager under the authority of CBP's Office of Field Operations. As of fiscal year (FY) 2009, 148 ISA participating importers were assigned to National Account Managers and 47 were assigned to Port Account Managers. The 195 importers in the ISA program represented an estimated \$288 billion (17%) of the total \$1.7 trillion in imports processed by CBP that year.

Each ISA importer must provide annual written notification to CBP that it is continuing to meet the requirements of the ISA program. CBP Trade Liaisons analyze information provided by both the responsible Account Manager and the importer to make a risk-based determination of whether the importer should be allowed to continue participating in the ISA program.

## **Results of Audit**

CBP has not fully established key management controls for the ISA program. CBP has not clearly defined the program's purpose, established performance measures, issued operating procedures to agency personnel, verified the effectiveness of applicants' internal controls prior to acceptance into the program, or exercised effective oversight of participants' compliance with program requirements. As a result, CBP does not have adequate tools to gain assurance that participating importers comply with federal trade requirements and, therefore, that government revenues are being protected.

## **Management Controls**

CBP has not clearly defined the purpose of the ISA program, developed appropriate program performance metrics, or issued the official procedural guidance necessary to implement the program. Office of Management and Budget Circular A-123, *Management's Responsibility for Internal Control*, establishes that internal control is a major part of managing an organization and "in the broadest sense, includes the plan of organization, methods and procedures adopted by management to meet its goals.

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Internal control includes processes for planning, organizing, directing, controlling, and reporting on agency operations.”<sup>2</sup>

The purpose of the ISA program contained in agency documents differs from the purpose that CBP officials communicated to us. The ISA Handbook states that the program’s purpose is to maintain a high level of trade compliance, while agency personnel asserted that the program’s primary purpose is to allow the agency to focus its limited resources on high-risk and unknown importers. Although these purposes are not mutually exclusive, each would use different metrics to measure program success. Nonetheless, CBP has not established or used metrics to measure program performance for either purpose.

CBP does not assess the ISA program’s impact on importer trade compliance. To measure program effectiveness, CBP currently compares the collective trade compliance rate of ISA importers with that of the larger universe of all domestic importers. In FY 2009, CBP reported that ISA importers had a collective 99.5% rate of compliance with federal trade laws and regulations, while all U.S. importers had a compliance rate of 98.5%. This metric does not indicate whether the reported higher level of trade compliance among ISA participants was the direct result of their participation in the program. CBP does not prepare an assessment on the impact of the ISA program on providing oversight to other, higher risk importers.

The ISA program also does not have adequate procedures to guide agency staff in performing their program-related responsibilities. Since the program’s launch in 2002, CBP personnel have relied on either draft or insufficiently detailed guidance to implement the program. For example, the ISA Handbook provides only limited information to CBP personnel on the procedures for assessing importers’ ISA applications and conducting ongoing compliance monitoring. We previously reported that CBP was not properly reviewing ISA importers’ annual notifications of their continued compliance with program requirements and recommended that CBP update the ISA Handbook or issue other internal guidance to formalize this process.<sup>3</sup> CBP concurred with our recommendation but had not completed implementation as of June 15, 2010.

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<sup>2</sup> Office of Management and Budget Circular A-123, *Management’s Responsibility for Internal Control*, states that the term “internal control” is intended to be synonymous with “management controls.”

<sup>3</sup> DHS OIG, *Management Letter for the FY 2008 DHS Financial Statement Audit*, DHS OIG-09-46, March 2009.

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## ISA Applicants' Internal Controls

CBP's oversight does not ensure that all ISA participants have internal controls that demonstrate their ability to comply with federal trade laws and regulations. The ISA Handbook requires that CBP conduct reviews of the applicant's internal controls prior to accepting an importer into the program. In a May 2009 policy statement, CBP's Office of International Trade stated that these reviews do not include substantive testing of applicants' controls, and therefore do not provide reasonable assurance as to the effectiveness of importers' internal controls.<sup>4</sup> As a result, importers were accepted into the ISA program without adequate assurance that their internal controls would result in compliance with federal trade laws and regulations.

CBP also circumvented its official process for accepting importers into the ISA program. Since December 2005, CBP recruited 13 importers into the ISA program based on their successful completion of Focused Assessments. During a Focused Assessment, CBP evaluates an importer's internal control systems to ensure that the filing of transactions and declarations is in compliance with trade laws and regulations. In contrast to the review processes established in the ISA Handbook, Focused Assessments are based on historical information about an importer's compliance history rather than on the current state of its system of internal controls. As such, the internal controls of recruited importers were not assessed according to the same process as those of importers reviewed before being accepted into the ISA program. CBP officials told us that this recruitment process was suspended in 2008 until the agency develops specific policy and procedures for the process. However, this action did not resolve the issue of ensuring that the recruited importers are qualified for the program.

To ensure that the recruited importers are adhering to ISA program requirements, CBP is conducting continuation reviews on the importers. Although no procedures exist for conducting such reviews, CBP officials told us that the process is similar to the internal control assessments conducted on importers prior to their acceptance in the ISA program. As of April 2010, CBP had completed continuation reviews on 6 of the 13 recruited ISA importers. Of these, one importer was found to have inadequate internal controls to support ongoing trade compliance self-assessment and voluntarily withdrew from the program. Although CBP plans to conduct continuation reviews on two more of these importers, no such follow-up reviews are currently scheduled for the remaining five.

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<sup>4</sup> CBP Policy Memorandum 09-04, May 18, 2009.



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## **ISA Importer Oversight**

The ISA program's organizational structure does not support consistent or effective oversight of ISA importers. CBP National Account Managers and Port Account Managers have primary responsibility for overseeing ISA program importers, including identifying and analyzing potential trade compliance risks. National Account Managers operate in the Office of International Trade, which administers the ISA program. Port Account Managers are assigned to Office of Field Operations staff. As a result, the Office of International Trade is limited in its ability to require Port Account Managers to conduct ISA program specific oversight activities.

For example, CBP's Office of International Trade issued a draft guidebook to National Account Managers identifying the protocols for conducting ISA importer oversight. Port Account Managers follow no written procedures in performing their ISA-specific oversight responsibilities. Based on our analysis of National Account Manager and Port Account Manager reviews of ISA importers' annual notification letters, we determined that National Account Managers exercised sufficient oversight over their ISA accounts in FY 2009, while Port Account Managers did not.

We are also concerned that the National Account Managers and Port Account Managers do not adequately review the results of ISA importers' annual self-assessments. The ISA Handbook requires that ISA importers assess their compliance with CBP laws and regulations by annually conducting risk-based self-testing. Importers are required to implement changes to their internal controls based on the result of their self-assessments. According to CBP, Account Managers do not routinely request importers' annual self-assessment results because of the volume of information and a lack of the skills necessary to analyze them effectively. Reviewing annual self-testing results would allow CBP to monitor ISA importers' compliance with program requirements more completely.

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## Recommendations

We recommend that the Assistant Commissioner for the Office of International Trade:

**Recommendation #1:** Establish policy and procedures that document the management controls needed for ISA program operations, including:

- The purpose, goals, and objectives of the ISA program;
- The performance metrics to measure the effectiveness of the program in meeting the established purpose, goals, and objectives; and
- The formal procedural guidance necessary to support consistent and effective implementation of the program.

**Recommendation #2:** Assess the risks to trade compliance associated with the current policies and procedures for accepting importers into the ISA program, and establish internal controls to ensure that risks identified are mitigated to provide reasonable assurance of ISA participants' compliance with trade laws and regulations.

**Recommendation #3:** Require Port Account Managers to follow the same policy and procedures for oversight of ISA importers as National Account Managers, or remove ISA program oversight responsibilities from Port Account Managers.

**Recommendation #4:** Establish policy and procedures to ensure that ISA importers' annual self-testing results are requested and reviewed for compliance with program requirements.

## Management Comments and OIG Analysis

### **CBP Comments to Recommendation 1:**

Concur. CBP plans to establish and strengthen internal controls to clearly define the ISA program's purpose and achieve more consistent and effective program implementation. Currently under development, these controls will ultimately be reflected in formal agency policy and procedures addressing program goals and objectives, appropriate measures of program performance, and uniform operational guidance to personnel.

### **OIG Analysis:**

As described in its response, CBP's current and planned actions satisfy the intent of this recommendation, which we consider resolved. However,

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this recommendation will remain open until we verify through a review of appropriate supporting documentation provided by CBP that the stated corrective actions have been fully implemented.

**CBP Comments to Recommendation 2:**

Concur. CBP plans to develop and implement improved management controls over the ISA program designed to mitigate risks to participating importers' non-compliance with trade laws and regulations. These planned improvements will provide for enhanced procedures governing the on-going monitoring and oversight of ISA importers by responsible CBP personnel. CBP's plans also describe actions it believes will help it to more proactively assess and act upon identified risks to participating importers' trade compliance as they emerge.

**OIG Analysis:**

Because CBP's response does not address risks to trade compliance posed by its current policy and procedures for accepting importers into the ISA program, we consider this recommendation to be unresolved. In our report, we indicate the internal controls of all ISA importers were not assessed consistently prior to program acceptance, which raised questions about certain participants' qualifications for admission. We further report that CBP policy does not provide for substantive testing of applicants' internal controls, which precludes CBP from providing adequate assurance as to the effectiveness of an importer's internal controls in support of on-going trade compliance self-assessment once enrolled.

This recommendation will remain unresolved until we receive a supplemental response from CBP that sufficiently addresses its plans for assessing the trade compliance risks associated with its current importer acceptance policy and procedures, and for reasonably assuring that all applicants' internal controls are verified as sufficiently effective to support on-going trade compliance self-assessment. Further, this recommendation will remain open until we verify through a review of appropriate supporting agency documentation that these and the remaining planned actions concerning improved ISA importer compliance monitoring and oversight have been fully implemented.

**CBP Comments to Recommendation 3:**

Concur. By the end of the current fiscal year, CBP plans to assign exclusive responsibility for conducting all ISA importer oversight and monitoring activities to National Account Managers.

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**OIG Analysis:**

Because CBP's stated actions satisfy the intent of the recommendation, we consider it resolved. However, the recommendation will remain open until we can verify through a review of supporting agency documentation that National Account Managers have been assigned to conduct monitoring and oversight of each importer actively enrolled in the ISA program by the end of the current fiscal year.

**CBP Comments to Recommendation 4:**

Concur. CBP plans to enhance several procedures related to ISA importers' required annual testing of internal controls and notification to CBP of their continued readiness to assume the responsibilities of trade compliance self-assessment. These planned enhancements specifically concern how participating importers are to conduct self-testing, what information they are to annually provide to CBP, and actions CBP may take to review the testing results.

**OIG Analysis:**

Although CBP's plans to take several near-term actions related to importers' annual self-testing and notification procedures, it provided insufficient details for us to resolve the recommendation. As such, the recommendation will remain unresolved until CBP provides us with additional information specifically describing what elements of ISA importers' annual self-testing results are to be reported to CBP, how CBP will annually request and review this information, and how CBP plans to respond to trade compliance risks identified during the review of importers' testing results. Further, this recommendation will remain open until we verify through a review of appropriate supporting agency documentation that these and the remaining planned actions designed to enhance CBP's review of ISA importers' annual self-testing results have been fully implemented.

## Appendix A

### Purpose, Scope, and Methodology

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The objective of our audit was to determine the efficacy of the Importer Self-Assessment (ISA) program. We obtained and reviewed Customs and Border Protection (CBP) policies and procedures pertaining to the ISA program for the period ending September 30, 2009. We also interviewed CBP personnel responsible for the management, oversight, and execution of the ISA program.

We reviewed CBP draft and official program documentation; trade compliance data; federal laws, regulations, and notices; planning documents; and status and monitoring reports related to the ISA program. We reviewed prior Government Accountability Office, DHS OIG, and other external third-party reports relating to the ISA program. In addition, we selected and reviewed a judgmental sample of ISA importer files.

We conducted interviews with officials from CBP's Office of International Trade, including Trade Facilitation and Administration, Partnership Programs Branch, and Regulatory Audit.

We evaluated CBP's internal controls to the extent necessary to accomplish our objective. Specifically, we developed an understanding of internal controls over the ISA program by reviewing the ISA Handbook and other agency guidance and interviewing CBP officials assigned to oversee the ISA program. The understanding we gained was used to plan the audit and determine the nature, timing, and extent of the tests we performed.

We conducted this performance audit between January and June 2010 under the authority of the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Appendix B Management Comments to the Draft Report


U.S. Department of Homeland Security  
Washington, DC 20229



U.S. Customs and  
Border Protection

August 4, 2010

MEMORANDUM FOR RICHARD L. SKINNER  
INSPECTOR GENERAL  
DEPARTMENT OF HOMELAND SECURITY

FROM: Assistant Commissioner   
Office of Internal Affairs  
U.S. Customs and Border Protection

SUBJECT: Response to the Office of Inspector General's Draft Report  
Entitled, "Customs and Border Protection's Importer Self-  
Assessment Program"

Thank you for providing us with a copy of your draft report entitled "Customs and Border Protection's Importer Self-Assessment Program," and the opportunity to comment on the issues in this report.

The report contains four recommendations for CBP action. A summary of CBP actions and corrective plans to address the four recommendations is provided below:

**Recommendation #1: Establish policy and procedures that document the management controls needed for ISA program operations, including:**

- The purpose, goals, and objectives of the ISA program;
- The performance metrics to measure the effectiveness of the program in meeting the established purpose, goals, and objectives; and
- The formal procedural guidance necessary to support consistent and effective implementation of the program.

**CBP Response:** CBP concurs with the recommendation. CBP is currently working on enhancing the Importer Self-Assessment (ISA) Program's Standard Operating Procedures (SOP) to clearly stipulate the program purpose, goals and objectives. As part of our ongoing efforts to strengthen the monitoring and oversight of ISA, we are identifying performance measures to validate the benefits of the ISA Program and how to improve the program. The performance measures will focus on whether the program has achieved its objectives, as expressed by measurable standards. CBP will develop formal procedures and issue guidance to the port personnel, national account managers, and other stakeholders as necessary to ensure uniformity, consistency and monitoring of the ISA Program.

**Due Date:** October 31, 2010

## Appendix B

### Management Comments to the Draft Report

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**Recommendation 2: Assess the risks to trade compliance associated with the current policies and procedures for accepting importers into the ISA program, and establish internal controls to ensure that risks identified are mitigated to provide reasonable assurance of ISA participants' compliance with trade laws and regulation.**

**CBP Response:** CBP concurs with the recommendation. The ISA program will be managed to mitigate risks to CBP by the following processes:

1. An enhanced Annual Notification Letter (ANL) will be developed that will substantively broaden the reporting information from member companies. The information will provide additional criteria to better evaluate a company's risk from the prior year. In addition, the information will enable CBP to determine if the action the company implemented to mitigate those risks meets the new standards of the ISA program.
2. Enhanced processes and procedures will be developed and implemented to provide a higher level of evaluation of the ANL. This will allow CBP to identify the emergence of risk factors from the prior year, and will aid in the selection of candidates for closer national account manager reviews or revisits by Regulatory Audit.
3. The role of the national account manager relative to ISA oversight will be formally defined and strengthened to increase the depth and scope of the membership monitoring.
4. The ISA Continuation Review Meeting (I-3) will be expanded with the development of criteria that will identify member companies subject to I-3 reviews utilizing both criteria for cause and other measures such as length of membership without any or recent review.
5. Guidelines will be established for uniformity to monitor ISA member companies by CBP which will reinforce the oversight process.

Overall, new and reinforced processes and formal procedures will be implemented to identify potential issues and adopt additional follow-up actions on member companies to mitigate risks on a continuing basis.

It should be noted that CBP has implemented several control and monitoring activities that will strengthen the monitoring and oversight of the program. Specifically, CBP:

- Modified the internal review checklist to verify that the key components of the national account manager's risk assessment and the variances, changes, and modifications reported by the company on its annual notification have been considered and adequately addressed;
- Established a uniform process which entail key factors to be included in the national account manager's annual risk assessment; and,
- Developed a process to issue timely notifications to ISA members and created standardized correspondence templates to acknowledge ISA applications received notification of incomplete applications, results of ANL review, etc.

**Due Date:** February 28, 2011

## Appendix B

### Management Comments to the Draft Report

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**Recommendation 3: Require Port Account Managers to follow the same policy and procedures for oversight of ISA importers as National Account Managers, or remove ISA program oversight responsibilities from Port Account Managers.**

**CBP Response:** CBP concurs with the recommendation. CBP is phasing out the port account manager's role in monitoring and providing annual risk assessments in regards to ISA participants. All ISA accounts will be assigned to a national account manager by the end of the fiscal year.

**Due Date:** September 30, 2010

**Recommendation 4: Establish policy and procedures to ensure that ISA importers annual self-testing results are requested and reviewed for compliance with program requirements.**

**CBP Response:** CBP concurs with the recommendation. CBP is in the process of enhancing and strengthening the ISA Annual Notification and reporting of self-testing results. Some of the enhancements include:

- Clarifying the required elements to be included in the annual notification letter.
- Initiate periodic Continuation Review Meetings (CRM) of ISA participants.
- Review of ISA participants self testing results during the CRM.

Develop and provide improved guidance on developing the self-testing plan. CBP will publish the final policy document.

**Due Date:** October 31, 2010

With regard to the classification of the draft report, CBP did not identify any information that would warrant a "For Official Use Only" classification.

If you have any questions regarding this response, please contact me or have a member of your staff contact Ms. Ashley Bush, CBP Audit Liaison, at (202) 344-2539.



**Appendix C**  
**Major Contributors to this Report**

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**Appendix D**  
**Report Distribution**

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