



Software to Accelerate Global Trade & Logistics

Whitepaper

Customs Brokers at the Helm of 10+2



U.S. Customs and
Border Protection

“10+2” Rule
Importer Security Filing and
Additional Carrier Requirements



Overview

Trading Partners need to be pro-actively planning for this change in order to be ready when CBP pulls the trigger.

As the industry sits and waits for CBP's final ruling to come out on 10 + 2, the focus should be on the opportunities and challenges that need to be addressed. Whether we like it or not, the change will happen yet the industry is in turmoil on what to do. Trading Partners need to be pro-actively planning for this change in order to be ready when CBP pulls the trigger. The Customs House Broker has a key role with this initiative and must take a leadership role in defining how to position and implement 10 + 2.

History

The Safe Port Act of 2006, was passed by Congress to enhance national security in our ports while protecting the economic vitality of the United States. Specifically advance electronic data must be filed in order for CBP to use an automated targeting system for identifying high risk containers moving through the supply chain.

The law was passed in October of 2006 however the notice of proposed rule making for implementation was not delivered until January 2008. The public comment period ended on March 18, 2008 and now the industry waits for CBP to respond to the overwhelming comments in order to submit their final ruling. The ruling is expected late summer or early fall with a 90- day window for implementation.

The ruling requires Importers or their designated agents to file "10" types of data elements 24 hours prior to vessel lading overseas. The vessel operator will have to submit the other "2" data elements 48 hours from the vessel departure from the foreign port.

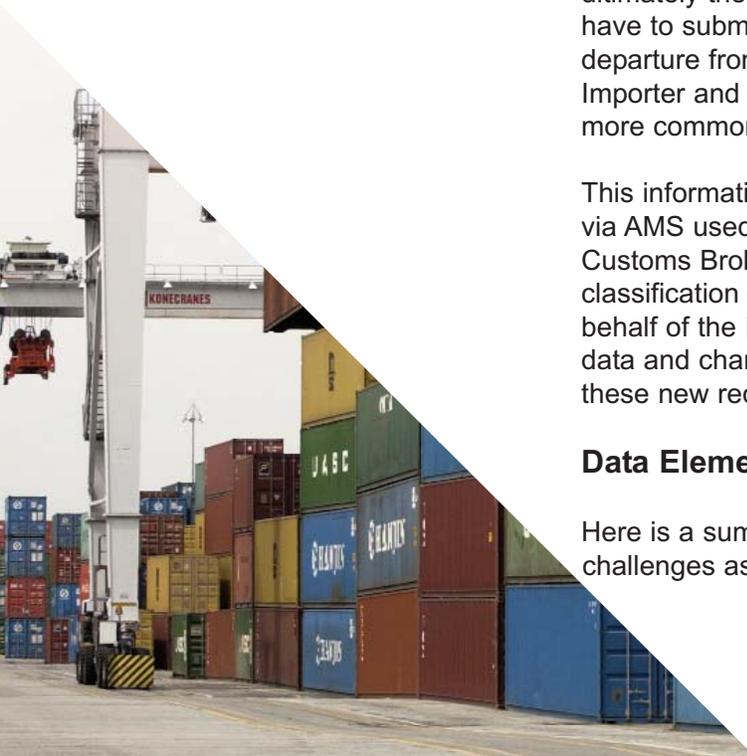


The ruling requires Importers or their designated agents to file "10" types of data elements 24 hours prior to vessel lading overseas. The Importer is ultimately the responsible party for this transaction. The vessel operator will have to submit the other "2" data elements 48 hours from the vessel departure from the foreign port. The 10 data elements required by the Importer and the 2 by the vessel operator are known as the 10 + 2 rule or more commonly known as the ISF (Import Security Filing).

This information can be sent via ABI for those authorized licensed brokers or via AMS used by ocean carriers to file advance cargo declarations. The Customs Broker is in the best position to gather the information, use their classification expertise and use their ABI transmission process to file on behalf of the Importer. The challenge for the Importer is to help secure the data and change their process flow in the supply chain to accommodate these new requirements.

Data Elements

Here is a summary of the 10 required data elements as well as some of the challenges associated with each.



| Data Element | Brief Description | Challenge |
|-----------------------------|---|---|
| Manufacturer Name & Address | The entity that last manufactures, assembles, produces or grows the commodity | This is one of the most controversial and difficult parties to gather. Often the manufacturer and actual plant address may not be known. Or the supplier does not want the importer to know the final source. |
| Seller Name & Address | The last known entity by which the goods are sold or agreed to be sold. If not sold the owner is to be reported. | Typically known through the commercial invoice and/or purchase order issued by the Importer. |
| Buyer Name and Address | The last known entity to whom the goods are sold or agreed to be sold. | Typically known through the commercial invoice and/or purchase order issued by the Importer. |
| Ship To Name and Address | The first deliver-to party scheduled to physically receive the goods after release from Customs' custody | Unique to the ISF |
| Container stuffing location | Name and address of the physical location(s) where the goods were stuffed or if break bulk goods where they were made shipment-ready. | This is one of the data elements that is only known at the origin typically by the supplier/agent/FF and unique to the ISF |
| Consolidator Name & Address | The party who stuffed the container or arranged for its stuffing. For break bulk goods, it is again the shipment-ready party. | Like the element above, this will provide a challenge to get this from the origin. |
| Importer of Record Number | For IOR, the IRS, EIN, SSN or CBP assigned number of the entity liable for payment of duties and responsible for meeting all requirements as a result of importation. | Typically known by the Custom Broker |
| Consignee Number | The IRS, EIN, SSN or CBP assigned number of the entity on whose account the merchandise is shipped. | Typically known by the Custom Broker |
| Country of Origin of Good | Clarified to include the country of manufacture, production, or growth, based upon the import laws, rules and regulations of the US. | Typically known by the Custom Broker |
| Commodity HTS number | Still required to the six-digit level, but allowed to be reported to the 8 or 10-digit level. Same as HTS number on entry/entry summary. | The classification is typically done by the Custom Broker. |

The most challenging data elements will be securing the manufacturer, container stuffing location and consolidator names.

One major change that is not evident when you review the data elements is the requirement to link certain required information. CBP is requiring that the manufacturer name and address and country of origin be linked to each of the commodity HTSUS numbers. For many suppliers, this will require a change to their commercial invoice format to make sure this data is available at the line item level.



In summary the most challenging data elements will be securing the manufacturer, container stuffing location and consolidator names. They will be either difficult to secure or there will be reluctance from the parties to give this information. The more controversial data element will be the HTS number. Traditionally this has been done by the Customs Broker. There is a strong likely hood that this component will remain the responsibility of the Customs Broker.

Changes to the Supply Chain

Without a doubt, the timing of the supply chain will have to change to accommodate this new ruling. In order to minimize any delays in the supply chain, data will need to flow differently as well as much earlier in the cycle. This will require both process and technology changes in order for this to occur.

The majority of the data elements come from the commercial invoice prepared by the Seller or Manufacturer. These documents are typically prepared after the container is stuffed or loaded on the vessel. Traditionally there has been plenty of time to get the documents done and sent to the Broker during the transit period without any affect on the supply chain. Now it will be necessary to change the process to get the commercial invoice produced much earlier in the cycle.

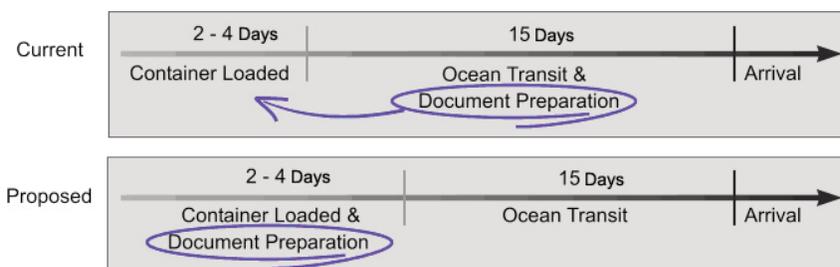
Much of the data (7 data elements) could come from the purchase order if importers could change their ERP systems to both retain and provide this information. Not only would it require technology changes it would also require new data elements. Most importers have their product classification information contained in spreadsheets. If this information could be made a part of the ERP system, the PO could provide the HTS number. The other alternative would allow the Importer or Broker to get the Commercial Invoice and have it match up with their parts classification system to get the HTS numbers.

The biggest change to the timing of the supply chain is getting the supplier to prepare the commercial invoice 5 to 15 days earlier than what has been done in the past.

Traditionally the supplier would prepare the commercial invoice while the goods were en route to the final destination. Now this will need to be prepared before the goods are even loaded onto the vessel. In addition, if the party entering the data is in the US, you could conceivably need to move this up in the process by another day or two to accommodate US working hours. The diagram below shows the changes and timing of a proposed process flow change.

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Who will do the Security Filings?

Most of the small to mid-size importers are still in the dark as to what is required or even how they will go about getting the security filings done. Most of these importers will turn to their trusted partner for this expertise, the Custom Broker. Even the larger importers will rely on the Custom Broker to perform this work. They understand that the Customs Broker may often have close relationships with the freight forwarder or with Global Freight Forwarders who own freight forwarding offices overseas. This relationship allows the entity to get access to the data or change the process to have access to the data. In cases where the US Customs Broker is not part of a global freight forwarding organization, there will be the following situations:

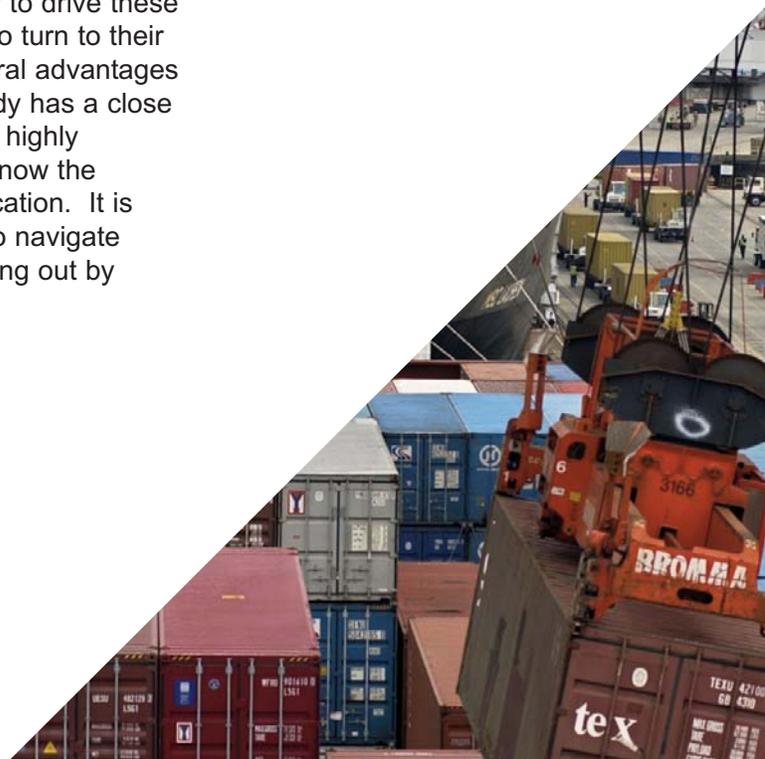
- The Import Freight Forwarder and the Customs Broker are housed in one facility. The Import Freight Forwarder will need to leverage the Agent relationship with the Export Freight Forwarder, to capture the required data for the ISF.
- Then there's the case where the Customs Broker and the Import Freight Forwarder are separate organizations. The Importer will need to be the driving force that brings these 2 organizations together to meet the ISF requirements.

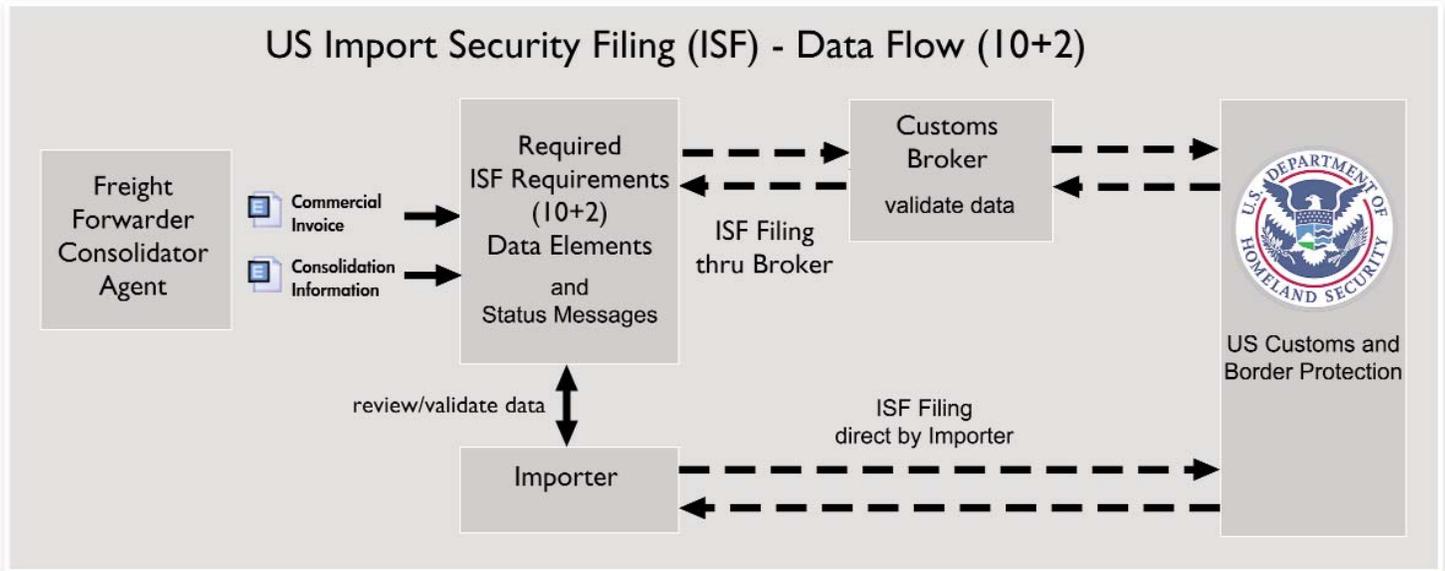
In addition to gathering the data, there is still the issue of doing the classification if it is not provided by the importer. This has always been the role of the broker which will not be changing in the future. CBP regulations have always restricted the licensed Customs House Brokers to conduct US Customs Business. In the current regulations, the Security Filing (10 + 2) is not deemed to be Customs business despite that fact that the regulation precluded foreign entities from developing the necessary knowledge to classify the goods. Realistically speaking, it is the Broker who has been entrusted by the Importer to do this work and with the relationship overseas, is the most likely candidate to continue to do this work.

A small percentage of Importers in the US who are self filers are likely to do their own ISF. They have the staff, resources, and technology to drive these changes. The rest of the importers (large to small) are likely to turn to their Broker to provide this service. The Customs Broker has several advantages in securing this role. The first is the fact that the Broker already has a close relationship with the importer. They can be entrusted with the highly confidential nature of data as required by law. They already know the products being imported and are best suited to do the classification. It is their business to keep current with changes and will be able to navigate through the rulings and requirement changes that will be coming out by CBP.

Most importers will turn to their trusted Customs Broker to get the security filings done.

Importers understand that the Customs Broker may often have close relationships with the freight forwarder or with Global Freight Forwarders who own freight forwarding offices overseas.





Challenges

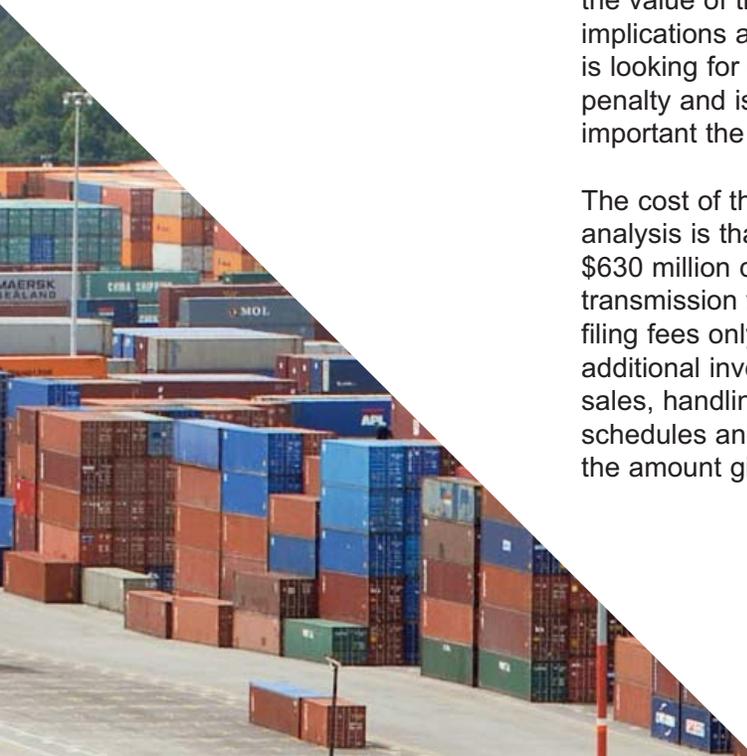
One other grave concern by everyone is the penalty associated with not doing the proper filings.

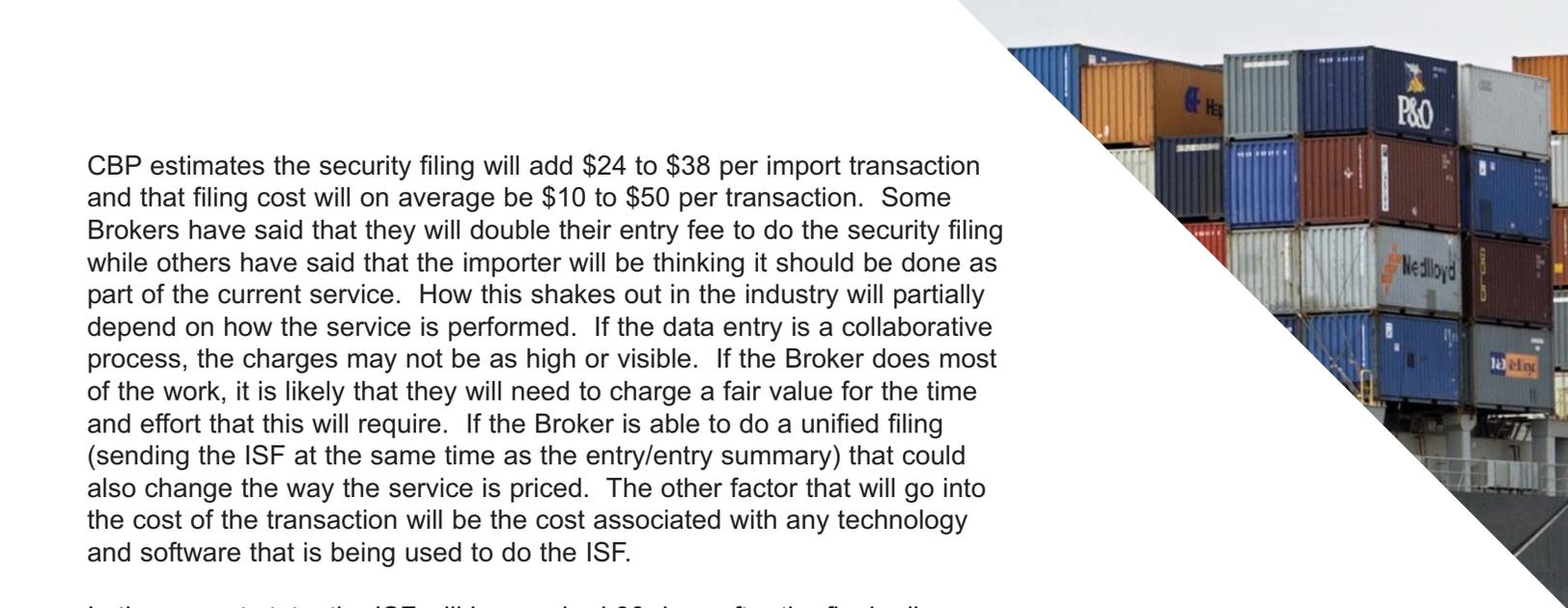
The cost of this initiative is another concern of the industry.

As mentioned above, lining up the supply chain to gather the information will be the first challenge. There are many other challenges that the community faces that are a result of the “devil is in the detail”. For example, in the release of the draft technical specifications that came out on June 2, 2008, it appears that they have listened to the community and have secured data elements to send an acceptance, rejection or acceptance with warning. We will have to wait for the final ruling to see how this is deployed. In the mean time, Importers may have to rely on a paper based audit if data is being entered overseas. Alternatively, the Customs Brokers have said that they are looking for a technology solution that requires that they confirm that the data is correct and only then will they transmit the data to CBP.

One other grave concern by everyone is the penalty associated with not doing the proper filings. Currently the ruling calls for setting the penalty at the value of the goods. The size of this penalty has far reaching implications and has many importers very worried about their exposure and is looking for relief from CBP in the final ruling. CBP is serious about this penalty and is sending a strong statement to the community of how important the ISF will be to this country.

The cost of this initiative is another concern of the industry. CBP’s economic analysis is that this requirement will cost the industry from \$390 million to \$630 million dollars per year for security filings transaction costs or transmission fees charged to importers. This figure was inclusive of the filing fees only. It does not take into account supply chain delays or cost for additional inventory carrying cost. It also misses other costs such as lost sales, handling and storage costs, training costs, adjusting production schedules and cash flow. It is been stated that the cost could be 10 times the amount given by OMB (Office of Management and Budget).





CBP estimates the security filing will add \$24 to \$38 per import transaction and that filing cost will on average be \$10 to \$50 per transaction. Some Brokers have said that they will double their entry fee to do the security filing while others have said that the importer will be thinking it should be done as part of the current service. How this shakes out in the industry will partially depend on how the service is performed. If the data entry is a collaborative process, the charges may not be as high or visible. If the Broker does most of the work, it is likely that they will need to charge a fair value for the time and effort that this will require. If the Broker is able to do a unified filing (sending the ISF at the same time as the entry/entry summary) that could also change the way the service is priced. The other factor that will go into the cost of the transaction will be the cost associated with any technology and software that is being used to do the ISF.

In the current state, the ISF will be required 90 days after the final rulings have been published. This will likely be followed by a period of 12 months of informed compliance. Is it possible for the trading partners to redirect the flow of data in the supply chain to gather this information? Will it be possible for the software providers to have their systems ready for this change? There is obviously a lot of work that needs to be done during this waiting period in order for everyone to be ready. If the Brokers are going to be the responsible party they need to put forward solutions, work with their trading partners and be proactive in the process.

Summary

Despite all the complaints and challenges with this ruling, the ISF will have a positive impact on the Supply Chain. First it will force businesses to capture more visibility into the supply chain that will ultimately assist with their logistics flow. In the past, much of the visibility that happened overseas was nothing but a black hole until there was visibility when the goods arrived in the US. Now it will force a flow that will provide visibility right back to the origin.

The supply chain is also likely to take on a much more collaborative process than in the past. All parties will need to be working together to gather the information. In many cases, the parties may also have a part in the actual data entry of information for the ISF. A collaborative process will ultimately lead to better communications, visibility and supply chain flow required by this change. In the early phase, there may be many shipment delays but once the process is refined, the supply chain will in fact be enhanced.

The upside of this initiative provides an opportunity for the Customs Broker to grow their business by providing a strong solution to this ruling. It will require working with each importer to secure the data, collaborate with the overseas Forwarder and Supplier and potentially add staff and greater hours of coverage to accommodate this service. The opportunity is there for the Broker to provide another level of service that offers greater value to their overall service offering. This will hopefully lead to a greater reward for the Custom Broker in terms of business revenue and long term relationships with the Importers.

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About Kewill Systems Plc

Kewill Systems Plc is a leading provider of global solutions for the dynamic supply network. The dynamic supply network enables enhanced responsiveness to customers through flexible connectivity between partners and systems, providing improved visibility and effective compliance, bridging the gap from a traditional rigid supply chain.

With over 35 years experience in the supply chain space, Kewill is a long-time innovator of software focusing on business integration, order management, transportation management, international trade logistics, service logistics and visibility solutions for global trading communities.

Kewill has implemented over 40,000 systems worldwide and our global customer base which entrusts us with the management of their supply networks includes Allianz, A.N. Deringer, Atlantic Forwarding, Baltrans Logistics, BHS, DHL, DSV, FedEx, General Electric, General Motors, Glasgow City Council, JD Williams, Littlewoods, Mazda, Mitsubishi, MMA, Nintendo, Nisa Today's, Legal & General, Panalpina, Philips, Pratt & Whitney, Sainsbury's, Texas Instruments, TNT, Towergate Insurance, UPS.

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