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Now that the Transportation Security Administration ("TSA"), has begun to officially designate locations as being Certified Cargo Screening Facilities ("CCSFs") in support of the TSA's Certified Cargo Screening Program, now is a good time remind owners/operators of CCSFs of their eligibility to receive critical liability protections. CCSFs may receive liability protections under the Support Anti-Terrorism By Fostering Effective Technologies Act of 2002 (the "SAFETY Act"). As we have previously noted, companies that operate a CCSF are entitled to a shortened SAFETY Act review process, and now is the time for owners/operators of CCSFs to file an application for this valuable protection.

Under the SAFETY Act, the seller of an "anti-terror technology" (which is either a product or a service) may apply to the Department of Homeland Security ("DHS") for protection from civil claims following a terrorist attack. If the protections of the SAFETY Act are awarded, *sellers and customers* of anti-terror products and services are protected from liability arising out of terrorist attacks. SAFETY Act protections apply regardless of whether the customer is a government or private entity.

DHS has set up a "Pre-Qualification" process for CCSFs, allowing owners/operators of those facilities are entitled to an abbreviated SAFETY Act review process. Now that the TSA is announcing which facilities have become a CCSF, the owners/operators of such facilities have the ability to move ahead and obtain SAFETY Act protections.

Potential applicants should remember that even though DHS has set up an easier process for obtaining a SAFETY Act approval, there are still critical issues that require careful thought. Key among these issues is negotiating the proper insurance requirement with DHS. Applicants will want to make sure that the insurance requirement is at an appropriate level, because if it is too high then the applicant will be functionally left in the same place as if they did not have SAFETY Act protections.

If there are any questions, please feel free to contact Brian Finch at finchb@dicksteinshapiro.com or 202-420-4823.

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