Customs Bonds – An overview

An importer must provide CBP with an **importer customs bond** as a condition of processing a **formal entry** for customs clearance of imported cargo. This is so that CBP can release merchandise prior to the determination of all duties that may be owed and the importer ensures their payment and compliance with other applicable laws and regulations.

A **formal customs entry** is required for commercial goods valued at US$2,500 or more ($10,000 or more for returned U.S. products).

There are two basic types of importer's bonds: **continuous bonds** (the most widely-used type) and **single transaction bonds**. In certain cases, CBP may require that an importer's continuous bond be extended to cover additional amounts and types of liability via riders (for example, a countervailing duty bond rider). But this is a rare occurrence for us at FNA.

Most importer's bonds are arranged by a customs broker acting as both the agent of the importer as well as the agent of the surety. Before "executing" (signing a bond on behalf of an importer and surety) and filing an importer's bond with CBP, a customs broker must have an importer power of attorney from the importer. An insurance broker can also arrange a bond for an importer and can even sign the bond on behalf of the importer under proper power of attorney, but cannot file the bond with CBP, as this constitutes "customs business" for which a customs broker license is required.

Before preparing a formal entry, a customs broker must either have the importer's existing continuous bond information, if the importer has one, or must execute a single transaction bond if the importer does not already have one. This should be programmed at time of account setup, but an importer bond query should always be done for more infrequent importers.

<u>More about Single Transaction Bonds and Continuous bonds</u>

Single Transaction Bond (STB)

This is a type of customs bond required from a CBP-approved surety in order for the principal on the bond to process a *single* customs formal entry or other customs transaction for which CBP requires a customs bond. It is used by a one-time or occasional importer when it is not cost-effective for such importer to obtain a continuous bond, or when CBP may require this type of bond on a particular customs entry when the required bond amount exceeds the amount of an importer's continuous bond.

In most cases, the amount of the bond must be equal to the customs entered value of the goods, plus estimated duties thereon. In certain cases, the bond may be for a lesser amount, such as in the case of certain temporary importations (see temporary import bond). Or, a bond in a higher, perhaps much higher, amount than entered value may be required in the case of merchandise subject to Partner Government Agencies such as

FDA and EPA (triple entered value), or for goods subject to an antidumping duty (ADD) or countervailing duty (CVD) (see countervailing duty bond) investigation or finding.

An importer normally obtains a single transaction bond from the customs broker processing the customs entry.

As an alternative to a single transaction bond, **an importer having more than approximately five formal customs entries per year will typically obtain a continuous bond** since the annual premium cost will be lower than obtaining separate single transaction bonds for each entry.

Bond Amounts for Single Entry Bond

To determine the correct bond amount, calculate the entered value of the goods and add applicable duties and fees. Fractional parts of a dollar are disregarded in computing the amount of a bond. The bond is always stated as the next highest dollar. **At FNA we round the Bond up to the next $1,000.** Here are some examples of calculations for certain merchandise:

- General Merchandise - entered value plus any duties, taxes and/or fees that apply. This category includes U.S. goods returned (USGR), Preferential and Free Trade Agreements.
- Antidumping or countervailing (AD/CVD) duty – amount equal to the duties
- Merchandise subject to Partner Government Agencies (PGAs) – three times the entered value.
- Quota and/or visa merchandise – amount three times the entered value
- Temporary Importation Bond – 110% or 200% of estimated duties, dependent on TIB type
- Unconditionally free merchandise – not governed by any PGA, but the district director may allow the bond to be set at 10% of the entered value
- Warehouse – two times the duties, taxes and/or fees that apply

Continuous Bond (CTB)

This is a type of surety bond which an importer, transportation carrier, CFS and/or bonded warehouse operator (as bond "principal") may obtain from a CBP-approved surety in order to process a customs formal entry or other customs transaction or business for which a customs bond is required, including transportation under bond and bonded warehousing.

A *continuous* bond differs from a single transaction bond in that it remains in effect for an indefinite period of time, until either it is cancelled by either the issuing surety or the principal (*i.e.*, importer, carrier, CFS, warehouse, etc.). It may be used with *all* the principal's customs transactions for which a bond is required during the period it is in effect unless CBP calls for an increase in the bond amount or other change in bond conditions. This can typically be accomplished either via electronic filing by the surety to the ACE system, as in the case of an increase in bond amount.

Once posted to the ACE system, a continuous bond can be used for customs entries and other customs transactions made in the name of the bond principal (importer, carrier, etc.) on a national basis. In the case of an importer, the bond may be used for entries filed by any number of customs brokers which the importer authorizes.

Prior to the initial filing of a continuous bond by an *importer*, the importer or his agent (typically a customs broker) must provide CBP with an application providing importer information, the type of goods to be imported, special import circumstances such as quota merchandise, countervailing duty and/or anti-dumping duty, with the prior year's annual total customs entered value and customs duty and IRS tax paid. For new importers, the projected first year information must be provided.

Upon receipt of the application, CBP will then set the required bond amount. For most importers (*i.e.*, those judged to be low risk, and not having quota merchandise, and not facing countervailing duty or anti-dumping duty), this will be approximately 10% of the estimated annual customs duty + IRS tax due based on the prior's years importations.

A continuous bond premium is paid once each year, though it may be subject to an added premium payment if the bond amount or an additional rider is required during the annual period.

An importer normally obtains a continuous bond from the customs broker processing the customs entry, though one may also be obtained from a specialized insurance broker.

An importer with more than a few importations per year will probably find the premium on a continuous bond to be less than the total premium otherwise payable for a single transaction bond for each shipment. Since the premium is paid once a year, some customs brokers will handle continuous bond filing at a centrally located facility. This way, one department can handle the yearly billing and follow-up. The same department will usually keep the ABI filer's computer system database updated with the importer, power of attorney, and bond information for use in filing the release and entry summaries.

Customs Bond Purpose and Parties

A surety bond is a contract involving three parties who come together for the purpose of one party guaranteeing to another party that a third party will perform an obligation of some sort. It operates somewhat like an insurance policy. An importer's customs bond guarantees CBP that the importer will pay the customs duty due and I.R. tax on the imported shipment and comply with all other government requirements associated with the shipment. Under a surety bond, the importer is guaranteed prompt release of the cargo *before* the exact duty and/or tax have been determined by CBP, but with the goods subject to recall ("demand for redelivery") by CBP if they are subsequently found to be in violation of government law or regulations affecting importation before the customs entry is finalized by CBP ("entry liquidation").

The three parties to an importer customs bond (or any other type of surety bond) are:

- **The principal** – This is *always* the importer of record, and *typically* the owner, consignee on the transport document, ultimate consignee, and/or party in the U.S. with beneficial interest in the cargo.
  Note: It is also possible for a customs broker to be the principal on a customs bond when the broker is acting as the importer of record, though few brokers do this because it makes them, rather than the owner of the goods, *directly* liable to CBP for payment of customs duty and compliance with all other import requirements. **FNA does not do this!**
- **The surety** – This is the party, typically an insurance company that has been approved by CBP to issue customs bonds. The surety makes the guarantee of payment to CBP or any *financial* liability to CBP that may arise as a result of the importer's failure to perform its obligations, up to the full bond amount. An importer's obligations consist of payment of customs duty or IRS tax as CBP may determine due on an importation covered by the bond, and also any customs penalty, liquidated damages and/or constructive seizure amount that CBP assessed for failure to comply with importation requirements.
- **The beneficiary** – This is *always* CBP.

The principal and surety are also known as the bond *obligors*.

Bond Type Codes for Entry Summary

In Block 5 of the CBP Form, (MISC tab of the Declaration) record one of these single digit numeric codes:

0 – U. S. government shipment, or entry types not requiring a bond, such as informal

8 – Continuous bond

9 – Single transaction bond

Surety Codes for Entry Summary

Each surety company has a three-digit numeric code that identifies them to CBP. The surety code should be shown in Block 4 of the entry summary. This code can be found in Block 7 of the CBP Form 301, should be on file in the ABI filer computer system database, or through an importer bond query transaction.

- U. S. government importation – Use surety code 999.
- Cash or government securities in lieu of surety – Use surety code 998.

- Informal and other entry types not requiring a bond – Use surety code 999.

Procedure for Renewing or Terminating a Continuous Bond

1. Check the Notes tab of the importer's organization, chances are it will be noted there. If not, then you can run a search in the Customs Declarations module in CargoWise to see what the importer was charged previously for a Continuous Bond. If you cannot find a previous file, ask the team lead for that account, they may know more about it
2. Contact importer (or the importer's forwarder if applicable) to see if they wish to renew their bond, and quote the price.
3. Let the importer know that this will auto renew on (date), and that if we do not hear from them before 30 days prior, that we will be issuing an invoice to them for the bond.
4. Mark your Outlook calendar to send reminders to the importer 60 days out, 30 days out, and 1 week out.
5. If the bond must be terminated, please have a team lead/broker go through the appropriate Surety bond site, for example, Avalon or International Bond and Marine, to set up the bond termination.

Billing a Continuous Bond

1. Open a B file.
2. Add the importer in the 'consignee' box as you normally would when preparing an entry.
3. In the 'Description' field, please note 'Continuous Bond Renewal' and the year(s)
4. Make sure you are billing the correct party, at the correct rate. If the bond is for a customer who is billed in Canadian dollars (CAD), then the cost of the bond is billed to our Winnipeg office so that they can then bill the customer in the correct currency.

Terminating a Continuous Bond

1. If a) an importer requests that a bond be cancelled/not renewed, or b) if an importer does not respond to multiple phone or email messages, then it's time to terminate the bond before any proration charges accrue. Bonds take 10 days to terminate, so ideally we will be able to terminate at least 10 days prior to renewal date.
2. Ensure that the importer does not have any active, pending shipments with Frontier that may be affected by a bond cancellation.
3. If you received a cancellation by email, please print out and give to a manager, who will terminate the bond in the system and let Accounting know not to pay it.

Responding to an Insufficient Bond Notice from Customs

When a Single Transaction Bond has not been calculated properly, US Customs Revenue Division will send a letter to Frontier stating that the bond is insufficient, and that this insufficiency must be resolved. **A response must be provided to CBP within 5 days of the date of the letter. The Licensed Broker in your office MUST be notified of this letter.**

There are two ways to resolve this insufficiency:

Option 1**: **Bond Amount Adjustment:** The current bond amount can be adjusted, between the 10-day filing window of the entry and entry summary only, to reflect the full required STB amount of **$23,195.00 (example).

- To resolve this, go into Web Merlin, search for the STB, and click View/Edit. Click on the hamburger menu within the bond and you will have the option to Update Bond Amount. Enter the amount and Send to CBP. You should receive a message that the Bond has been updated in ACE and that CBP has been notified.

Option 2: Additional Bond: If outside the 10-day window, an additional bond in the amount of **$5,195.00** is required immediately.

- Within the Customs entry, go to the Bond details section. There will be an option to add Additional Bond Amount details. You can re-transmit the entry summary at that time.

For more information about bond amounts, refer to Customs Directive 3510-004 Monetary Guidelines for Setting Bond Amounts.

Updated by Lisa Bosques 12/3/2024