



Surety Insights

An Overview of U.S. Customs Bonds

► What is a U.S. Customs Bond?

According to U. S. Customs & Border Patrol (CBP) regulations, a customs bond is...“a contract which is given to ensure the performance of an obligation imposed by a law or regulation.” The parties involved in the bond contract are the principal (importer), surety company and obligee (CBP). The primary purpose of a customs bond is to guarantee the payment of import duties and taxes, as well as to assure compliance with all laws and regulations governing the entry of merchandise from foreign shipping points into the United States.

► Why is an Importer Required to Post a Bond with CBP?

A customs bond is required on all commercial shipments of goods entering the commerce of the United States. According to Customs regulations, importers are required to post a bond... “to protect the revenue of the United States and to assure compliance with any pertinent law, regulation or instruction.” When a customs bond is executed, the bond principal agrees to the following conditions:

- Agreement to pay duties, taxes and charges in a timely manner.
- Agreement to make or complete entry.
- Agreement to produce documents and evidence.
- Agreement to redeliver merchandise.
- Agreement to rectify any non-compliance with provisions of admission.
- Agreement for examination of merchandise.

- Reimbursement and exoneration of the United States.
- Compliance with special requirements on duty-free entries or withdrawals.
- Compliance with CBP regulations applicable to Customs security areas at airports.

► Determining Bond Amounts

A common misconception among the importing community is that bond amounts are determined by the surety. Actually, bond amounts are determined by CBP as set forth in CBP Directive 099 3510-004, “Monetary Guidelines for Setting Bond Amounts”.

► What Constitutes Default Under a Customs Bond?

Default under a customs bond occurs when the principal fails to comply with the conditions of the bond which provide for compliance with the law and CBP regulations. Defaults result in the assessment of liquidated damages or in the issuance of demands to pay duties, taxes and other charges guaranteed by the bond. If the principal fails to pay these liquidated damages or other lawful charges assessed by CBP, the surety must pay CBP the appropriate sum up to the bond amount.

It is important to understand that a customs bond is not insurance. With insurance, some losses are expected, and a portion of the premium is set aside to pay losses. With a surety bond, each applicant is reviewed individually, and no portion of the premium is set aside for losses; no surety would knowingly issue

a bond for a principal likely to default. A customs bond does not protect an importer, nor relieve an importer of its obligation to pay amounts due to CBP. When the surety has been forced to pay CBP amounts due under the terms of the bond, the surety has the right to demand reimbursement from the bond principal.

The importer of record is also liable for penalties assessed under Section 592 of the Tariff Act (19 U.S.C. 1592) for material misstatements of fact. Customs bonds do not cover such penalties.

▶ **What are the Alternatives to Posting a Customs Bond?**

In lieu of a bond, an importer has the option of posting cash or other U.S. government obligations (Treasury bills, notes or bonds other than U.S. savings bonds) in a sum equal to the bond amount. However, if an importer deposits money with CBP, such funds will not be released until some time after the entry is liquidated—this could take months or even years. Instead, CBP gives an importer the option of posting a bond that doesn't tie up the importer's cash supply or credit lines.

▶ **The Right Customs Bond Program Can Add Value to Your Importing Process**

Roanoke Trade's bond program can bring significant value to your or your customs bond and importing needs. For example, we can provide you or your customs broker with various reports to meet your risk management and cost control objectives. Available

reports include CBP information about unliquidated entries, increased duty bills, fines, penalties and forfeitures. We may also assist you with early identification of bond insufficiency risks and work with you promptly through resolution.

Customs bonds and related documentation submitted to CBP are under close scrutiny. Under the management of CBP's Revenue Division, rejection notices due to insufficient bond amounts, incorrect addresses and other reasons are occurring on a routine basis. Errors in bond processing could mean delays in the release of your imports unless you are working with a provider that is highly experienced in issuing bonds with CBP on a routine basis.

▶ **Roanoke Trade is the Nation's Leading Provider of U.S. Customs Bonds**

Roanoke Trade has been serving customs bond needs since 1935 and is the largest provider in the nation. A large staff located in major cities throughout the U.S. and extensive electronic capabilities for tracking import and bond activities enable Roanoke Trade to work with you or your customs broker to ensure efficient and professional handling of your bond needs. Roanoke Trade works only with surety companies financially rated as "A-" (excellent) or better to ensure long-term stable security for Customs Brokers and their clients.

In today's challenging economic environment, we encourage you to periodically review the A.M. Best financial rating of your surety. Visit www.ambest.com to search financial ratings.

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