

Commercial Customs Operations Advisory Committee (COAC) Trade Enforcement /Revenue Subcommittee / Bond Work Group

July 2018



U.S. Customs and
Border Protection



Trade Remedy Law Enforcement /Office of Trade
Bond Work Group
July 17, 2018

Action Required:

- Informational

Background:

- Section 115 of the Trade Facilitation and Trade Enforcement Act (TFTEA) requires CBP to develop importer risk assessment guidelines to adjust bond amounts.
- Validated Customs-Trade Partnership Against Terrorism (C-TPAT) Tier 2 and Tier 3 participants are excluded from this requirement.
- Statistically valid risk-based bonding scheme development began in July 2016 in response to two Government Accountability Office (GAO) recommendations.
- The Court of International Trade (CIT) has been clear in past rulings that adjustments to bond amounts must be based on an actual assessment of the importer's likelihood / ability to pay and not just raised because there is the mere possibility that deposit rates could change.
- 9.1 million records of Anti-Dumping/Countervailing Duty (AD/CVD) modeling data has been standardized, merged, and loaded into the programming software.
- CBP will continuously refine and update risk-based models releasing sequential versions as additional datasets are loaded, with each version of the model to be statistically valid so as to limit litigation risk.
- Long-term enhancements will leverage social network analysis, spatial analysis, and interactive modeling to further segment risk.
- CBP has been developing a risk-based bonding framework initially for AD/CVD entries that is statistically-based and uses actuarial science.

Issue:

- Risk-based bonding was initiated by CBP in response to three items that call on CBP to develop and apply risk assessments to improve collections:
 - TFTEA, Section 115 (February 2016)
 - GAO Report (August 2016) - *AD/CVD: CBP Action Needed to Reduce Duty Processing Errors and Mitigate Nonpayment Risk*
 - Executive Order 13785 (March 2017) - *Establishing Enhanced Collection and Enforcement of AD/CVD and Violations of Trade and Customs Laws*
- The proposed supplemental continuous bond will be required when an importer begins to file entries subject to AD/CVD.
- The new working draft version of the bond formula is built on insurance concepts and actuarial science (see Figure 1).

Figure 1: New Supplemental AD/CVD Continuous Bonding Framework Formula:



- CBP conducted tabletop exercises with four sureties from the COAC Trade Enforcement and Revenue Committee’s Bond working group to capture their feedback.
- Three items discussed/reviewed with the working group:
 - The bond formula: Exposure rate * Base Rate * Relevant Factors = Bond Amount;
 - Guidelines around the supplemental continuous bond; and
 - Recommendations on how to make the framework operationally feasible.
- CBP will develop and publish guidance for the sureties and CBP on using the bond formula and move forward toward implementation.
- Sureties and the broader trade community will continue to play an important role throughout this process and CBP is grateful for their continued collaboration.

Next Steps:

- Develop criteria for bond framework implementation.
- Review of draft guidelines for supplemental continuous bond.
- Identify CBP automation requirements.

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