The Bottom Line

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CONTINUOUS BOND SUFFICIENCY

Summary

Customs and Border Protection (CBP) generates a monthly report to identify importers who are running near the limit of their continuous bond coverage. Amongst the current trade wars, the number of importers who exceed the capacity of their bond is burgeoning. In June of 2018, Customs saw between 50-60 importers per month with sufficiency issues. Last month, the figure was over 1,100, and as new tariffs come online, that number

Background

When merchandise is being imported into the U.S. for commercial purposes with a value of more than $2,500, a customs bond must be posted to make sure all duties, taxes, and fees due to the federal government are paid.

A bond is a contractual agreement between the U.S. Importer, U.S. Customs and Border Protection, and the Surety. The bond is required by CBP to protect the revenue and ensure compliance with regulations of the United States pertaining to importing and related activities. A single-entry bond can be used for one transaction or for the occasional importer. A continuous bond is much more cost-effective and should be used when importing high-value merchandise or on a regular basis. An importer's continuous bond **must** cover at least 10% of the duties paid within the last 12 months. A customs bond is deemed insufficient if an importer is paying more in duty, taxes, and fees than the current bond is written to cover.

Customs can also render a bond insufficient for:
(1) Invalid or "non-deliverable" addresses for any entity using the bond, (2) failure to comply with Customs requests for information or demand for cargo re-delivery, or (3) any outstanding debt owed to Customs and Border Protection.

If Customs renders a bond insufficient, the importer has 15 days to have a new bond in place.

Current Status

The current trade war with China, and the increased duties associated with it, is exhausting the coverage of many Customs bonds. And, there's evidence that CBP is increasing its watchfulness of importers not meeting their bond requirements, with the number of notices it sent to importers with insufficient bonds growing from about 50 in June 2018 to over 1,100 in September 2019. Importers are ultimately responsible for making sure their bonds meet CBP requirements, otherwise they risk additional costs and delays of their shipments. There are a variety of reasons a bond becomes insufficient. For most importers, increasing import and duty activity requires a need for increased bonds under the basic reviewer's formula. If a bond is deemed insufficient, it must go through a termination process which can take up to 15 days. In order to replace an insufficient bond with a new bond without the 15-day waiting period, a "Fast Termination" may be requested in accordance with § 19 C.F.R. 113.27 (b). However, this is subject to CBP approval and requires a more manual process versus the automated eBond process. If an import Continuous Bond is on file, you cannot have another bond on file at the same time with the same activity code and importer number. Consequently , if circumstances complicate the replacement bond, a Single Transaction Bond (STB) must be filed to cover any entries in the interim.

Impact

Importers should note that Customs is not required to send an insufficient bond warning. Continuous bonds can be labeled insufficient without any advance notice to importers. Importers can prevent bond insufficiency by monitoring their bond's activity to make sure the amount is still suitable and increasing the bond amounts when necessary. Importers need to address issues with claims promptly and ensure Customs has their proper address and updated contact information on file.

RESOURCE: Roanoke Trade Bond Sufficiency Calculator