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Title: **10+2 update: New bond information posted**

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Further to Avalon's continued updates on the Importer Security Filing (ISF, "10+2"), U.S. Customs and Border Protection (CBP) has released an updated ISF FAQ on its Web site to help clarify the uncertainty regarding the rulemaking's implementation.

All ISFs must be secured by a bond once CBP's flexible enforcement period ends on Jan. 26, 2010. CBP will allow ISF to be filed under the following CBP Form 301 Bond Types:

- Activity Code 1 - Importer or Broker Single Transaction or Continuous Bond
- Activity Code 2 - Bonded Custodian Bond, Continuous Bond Only
- Activity Code 3 - International Carrier Bond, Single or Continuous Bond
- Activity Code 4 - Foreign Trade Zone Operator Bond, Continuous Bond only

A new ISF stand-alone bond was previously created under Appendix D to Part 113 of the Customs Regulations. CBP indicates the Appendix D ISF-only bond will be updated to reflect that the bond may be filed as either a single transaction or continuous bond. Single entry ISF-only bonds will be set at \$10,000 per bond and CBP has not yet issued guidelines on how the bond amount would be determined for a single transaction bond that secures a unified entry and ISF filing.

The bond amount formula for an ISF-only continuous bond is still being considered by CBP. According to a recent Customs Surety Executive Committee (CSEC) meeting held on 9/16/09, CBP officials indicated that larger importers who choose to file ISFs under existing continuous bonds may require a potential adjustment to the continuous bond amount because of the additional liability being assumed. According to CBP officials, the current rule as drafted contains a provision to do so. At this point in time, the Revenue Division has not amended its guidelines for determining continuous bond amounts so it remains to be seen how this will be determined.

#### **Unified filings under a single entry bond on the CBP Form 301**

For ISF purposes, the use of single entry bonds on the CBP Form 301 is only allowed with unified entry filings (a combined entry and ISF filing). Should a single entry bond be used in a unified filing, the filer must identify Activity Type 1 (basic importation), bond type 9 (single entry), the surety code and the bond reference number. The bond reference number is a unique serial number appearing on the CBP Form 301 and is used for surety purposes. It should be noted that this is not the same as the field marked "Bond Number assigned by CBP," which is found in the "CBP use only" block.

In addition, the unique ISF transaction number should be noted in block 29 of the CBP Form 3461 Customs entry, upon paper document submission to CBP for unified entry filings. This will alert CBP that the single entry bond covers both the ISF and the entry. CBP is still considering how the limit of liability will be set on single entry bonds filed on the CBP Form 301 for unified entry filings.

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### **Filing procedures with an ISF-only single entry bond**

As noted above, the limit of liability for this bond must be \$10,000. CBP requires an electronic copy of the single entry ISF-only bond to be created and sent to CBP within 12 hours of receipt of an accepted filing. The filer must identify the bond as Activity Code 99, bond type 9 (single entry), and include a valid surety code and bond reference number, which ensures that CBP will not receive the same bond twice for multiple transactions. After CBP receives and accepts the ISF, the filer will receive a unique ISF transaction number and must affix a legible copy of this number (e.g., typed and 12-point font) onto the bond.

An electronic copy of the bond containing the ISF transaction number must be created in PDF format and e-mailed to [ISF\\_Bond@cbp.dhs.gov](mailto:ISF_Bond@cbp.dhs.gov) within 12 hours of receipt of the unique ISF transaction number. The subject line of the e-mail must reference the unique ISF transaction number (and only the unique ISF transaction number).

### **Filing procedures with an ISF-only continuous bond filing**

Continuous ISF-only bonds must be submitted to and approved by CBP's Office of Finance in advance of ISF filings. Once approved, CBP will record the bond information within the Automated Commercial System (ACS) and issue a unique bond identification number. The filer must identify Activity Code 99, bond type 8 (continuous) and the importer ID number that the bond was recorded against.

### **Avalon's Surety Viewpoint**

The ISF bond continues to present additional risk to the surety community and will be conservatively underwritten until more clarification can be obtained from CBP on bond and enforcement guidelines. Avalon is working closely with the NCBFAA 10+2 subcommittee to evaluate the needs of the brokerage industry, especially for ISF-only single transaction bonds.

At this juncture, the continuous import bond remains the easiest and most flexible means for brokers to accommodate ISF filings and be prepared for full implementation once the flexible enforcement period ends on Jan. 26, 2010. At such time, CBP will begin to assess liquidated damages for inaccurate or untimely ISF filings up to \$5,000 per filing with a maximum of \$10,000 per filing for multiple violations. Mitigation guidelines allow violations to be reduced to \$1,000 to \$2,500 for first or subsequent offenses with CTPAT members eligible for up to 50% reduction of the mitigated amount. Full details on the mitigation guidelines are available in [CBP Decision 09-26](#).

To view CBP's revised FAQ in full, visit:

[http://www.cbp.gov/linkhandler/cgov/trade/cargo\\_security/carriers/security\\_filing/10\\_2faq.ctt/10\\_2faq.doc](http://www.cbp.gov/linkhandler/cgov/trade/cargo_security/carriers/security_filing/10_2faq.ctt/10_2faq.doc)

Avalon is committed to supporting the concerns of customs brokers and critical logistics providers affected by ISF. We continue to communicate with major associations of customs brokers, freight forwarders and Foreign-Trade Zones to ensure our understanding of clients' concerns. We are a leading provider of U.S. Customs bonds and other surety and insurance products for customs brokers and transportation providers.

For more information, contact your local Avalon office or Andriana Davis, Product Manager at (847) 700-8087 or at [adavis@avalonrisk.com](mailto:adavis@avalonrisk.com). A list of our North American offices may be found at [www.avalonrisk.com](http://www.avalonrisk.com).

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