

eBond FAQ's Prepared by CSEC at Request of NCBFAA

eBond Surety FAQ Customs Surety Executive Committee

The purpose of this FAQ document, which has been prepared at the request of the NCBFAA, is to provide the customs brokerage community with answers to questions related to the eBond process set to begin on January 3, 2015. The Customs Surety Executive Committee (CSEC) is a chartered committee with representatives from surety associations that provide customs bonds for the customs broker and international trade community. It was originally chartered in 2001 and meets with CBP quarterly. Although CBP participates in all official CSEC meetings, the responses presented here are based on discussions among surety association representatives only and should not be taken to suggest CBP opinion on underwriting matters. CBP has taken no position on what data detail brokers should submit to sureties when arranging an eBond. The reader should bear in mind that descriptions of the features and functioning of eBond are based upon our understanding of development of the system to date. As additional details of eBond system design by CBP emerge, some of the assumptions embodied herein may be subject to revision.

Is this eBond module being built from the ground up?

Yes, with ongoing feedback from the trade and SMEs through the Agile development process. CBP has also visited with the various surety agents and know their systems are sufficiently robust to support an efficient eBond process.

Is CBP on track to meet the January 3, 2015 eBond deployment date?

Yes.

How does the role of the broker in the customs bond business change?

It doesn't. Customs brokers continue in an undiminished capacity as the principal facilitator of customs bonds to the importing community. A surety's ability to enforce existing underwriting rules is enhanced but eBond does not change those rules. Surety associations do not set or alter underwriting rules. They are formulated by specific sureties, their agents, and their reinsurers.

What bonds are covered in the initial deployment on January 3, 2015?

All single transaction activity code 1 bond ACE entries (entry types 01, 03, and – in limited circumstances – 11) will require an electronic STB to be filed prior to the entry filing. All continuous bonds may be filed electronically, but paper continuous bonds will continue to be accepted by the Revenue Division. For efficiency and prompt implementation purposes, electronic filing of continuous bonds should be the method of choice.

Will paper bonds still be filed after January 3, 2015?

Paper bonds will be required for any ACS entry/transactions secured by STBs.

When do eSTBs become fully mandatory?

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November 1, 2015 is the target date when all entries must be filed in ACE, at which point ACS is deactivated for entry/entry summary transactions. Paper STBs will never be acceptable in ACE. Brokers are urged to communicate with their ABI vendors to be certain that their software will be fully "ACE-ready" by November 2015. While government projections of this nature are always subject to change, it is important to note that the need for ACE readiness is critical and goes far beyond the mere context of eBond.

Can the customs broker file bonds in the electronic environment?

In the eBond environment, customs brokers continue to arrange bonds for their clients but CBP requires transmission of the bond data via the surety for various reasons. The surety/surety agent must electronically transmit the bond data prepared by the broker to CBP in much the same manner as an ABI vendor may transmit entry data to CBP. If due to underwriting reasons the surety is not ready to accept liability, it will contact the broker to rectify any deficiencies or address any underwriting issues.

What entry data will be used for eBond matching purposes in ACE?

This information is available on CBP.gov (<http://www.cbp.gov/document/guidance/customs-ebond-createupdate-catair-chapter>)

What is the process flow for eSTB?

See Appendix A "eBond Process Flow Scenarios"

How will the broker/filer transmit bond data to the surety/surety agent?

For STBs, the CSEC members have identified two methods by which to obtain bonds. The first method utilizes the surety agent's current bond issuing process. The second method utilizes the customs broker's ABI system to electronically feed the required data elements (Appendix B) to the surety agent. All continuous bonds prepared by a broker will be submitted via the surety/surety agent's current bond issuing process.

Which method of bond submission transmission would be the most efficient for customs brokers and their surety/surety agents?

ABI system data is a more efficient method, as it avoids double data entry and errors/mismatches.

Is there a "standard broker-to-surety data set" on STBs?

See Appendix B "CSEC eSTB Data Elements." While this is not a mandatory data set, it is a listing which has been generally accepted by CSEC in discussion with major software vendors. While each customs broker is free to make individual arrangements with their ABI vendors, the CSEC eSTB Data Elements were developed as a data set providing reasonable data upon which to base underwriting decisions per existing underwriting rules and in an effort to help minimize broker/surety programming costs.

How was the Appendix B list arrived at?

CSEC assembled information provided by member associations, sureties represented thereby, various customs brokers doing business with those sureties, and the CATAIR. The list provides

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data which will enable sureties to be better informed as to the risk to be undertaken and to address increased expectations regarding the vetting of importers in the modern customs commercial operations environment. The list has been provided to NCBFAA as a part of the formulation process.

What else is accomplished by use of the CSEC eSTB Data Elements?

Reporting of this data facilitates the automation of certain aspects of the customs bond underwriting process, expediting approval of bonds within the issuing authority already agreed to by brokers and their sureties/surety agents. It provides a means for sureties to furnish assistance to brokers in enforcement of internal controls, as requested by certain brokers consulted in the list assembly process. It also provides sureties information necessary to measure compliance as they evaluate broker requests for modifications to issuance authority.

The vast majority of entries are Type 01 rather than 03 (ADD/CVD). Why would HTSUS information and line item value detail be needed on Entry Type 01?

Entry Type 01 does not automatically equate to "routine" for underwriting purposes. Most sureties conducting extensive customs bond business may also have underwriting conditions that apply to certain high-risk commodities other than those subject to ADD/CVD. FDA underwriting restrictions are a case in point. Not all FDA goods are subject to special underwriting but, without HTSUS data, the surety cannot identify which STBs should be "automatically" approved by the system and which should not. Supplying HTSUS data will enable software to expedite approval of the more routine risks

How will the broker know STB data has been accepted by CBP and the entry transmission is good to go?

Brokers filing STBs will receive an acceptance in the form of a dated/time-stamped message from the surety. Any secondary notify party (SNP) identified in the STB submission to the surety will also receive an acceptance notification from CBP.

Will there be the ability to secure and send an STB independent from the entry filer and still link to the entry for release? (Broker A/Broker B relationships)

How to handle this situation is a matter for CBP to respond; however, there is nothing in the current eBond functionality that would prohibit one broker to request a bond to be used on another broker's entry.

Can the broker amend an STB after release?

In recognition of the fact that there can be differences between information available at the time of release and filing of entry summary, the eBond process provides for certain post-release changes to be made per the current CATAIR (provided they continue to be within the customs broker's underwriting authority as extended by the surety). The following are "Bond Designation Codes" relating to certain situations:

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A = An additional bond; the bond that secures an AD/CVD, PGA or any other aspect not covered by the basic bond requirement. Additional bonds may be STB only.

C = Adjust the bond amount of the STB on file.

- *Allowed only during 10 day window between release and entry summary.*
- *Only the Bond Amount field can be changed.*
- *All other fields must remain the same as originally transmitted.*
- *The Adjusted Bond Amount assumes liability for the entire transaction starting with 3461 filing.*

When executing STBs and contemplating use of Bond Designation Code "C," brokers need to realize that sureties can be expected to place practical parameters upon how much of a change to a bond amount is acceptable and should therefore make reasonable efforts to arrive at a viable STB amount at the outset. Gross errors in bond amounts at release can result in uncomfortable consequences later on.

U = Substitute for the bond STB presented at time of release. (Substitution bonds may be STB only.)

- *Assume liability for transaction when substitution bond filed.*
- *Original bond maintains liability for the timeframe prior to the Substitution Bond being filed.*
- *Substitution bonds must be filed in the window between release and entry summary.*
- *Substitution STBs will be treated as new bonds in ACE.*
- *No restrictions to match details between old/new bond.*
- *Both bonds logged to a single transaction for liability.*
- *Surety on original bond notified of change.*

The following are additional Bond Designation Codes:

B = Add a new basic bond. (This may not be used once an STB of the same designation has been filed for the transaction cited.)

E = Supersede the bond presented at time of entry. This is available for STBs only. Note that specific regulatory provisions apply to superseding bonds, in which instance the bond must be filed within 90 days from the time of entry. Also, the declaration required by 19 C.F.R. § 141.20(a) must have been provided at the time of the filing of the entry summary or entry documentation.

T = termination of a continuous bond.

V = Void the STB on file. (Voiding of an STB will not be permitted after release has taken place.)

R = Rider (e.g., US Virgin Islands, Reconciliation)

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How will sureties respond when I want to file an additional bond?

There are instances when an importer already has a valid continuous bond on file and CBP requests an additional STB, typically to cover targeted or high-risk merchandise. In these instances, each surety's underwriting practices will determine if more underwriting information is required to approve the STB and a decision is likely to be dependent on the bond amount and the nature of the transaction.

If the importer doesn't have a continuous bond on file, will an eSTB be an option for the ISF coverage on ocean shipments?

eBond will accommodate both unified entry/ISF (Activity Code 1 Single) or, eventually, a separate ISF D Single (Activity Code 16). A unified entry/ISF or ACE Cargo Release may be filed only if the entry/release and 10+2 elements are transmitted 24 hours prior to vessel departure (updates allowed up to cargo arrival in USA).

CBP requires a bond in order for an ISF to be filed but does not provide an ISF number to the filer until the ISF transmission has been accepted by them. How can I request approval of an ISF D eSTB (non-unified filings only) without knowing the ISF number at time of data transmission to surety?

CBP has yet to fully address this problem and whether true ISF D eSTBs will be available on the January 3, 2015 launch date is uncertain. As of the drafting of this document, CBP has advised that, until further notice, ISF bonds should be created as they are today, i.e.:

- *ISF filer receives surety reference number*
- *ISF filer then sends ISF data in ATS and receives ISF transaction number for bond*
- *ISF filer obtains STB, indicating the ISF transaction number and surety submits eSTB to CBP*

Note that this is not an issue for any ISF importer who already has a continuous bond (usually an Activity Code 1 CB) on file.

Will the broker have to submit any documentation regarding STB with the entry package?

With eBond, the entire entry process will be paperless since the entry is filed in ACE (vs ACS) just as it is with a continuous bond. The underwriting process should not change from what customs brokers or importers are accustomed to, especially if ABI vendors can transmit data electronically and/or via surety systems.

What is the effective date of an ebond?

In the case of STBs, the bond is actually completed when the CHB files an entry, immediate delivery, or entry/entry summary matching the bond data already transmitted by the surety/surety agent. If no matching entry transmission is made to CBP, no bond exists and no premium is owed. Continuous bonds require an effective date specified by the principal (importer) and requested by the broker to the surety/surety agent within the bond submission.

If an eBond is prepared prior to the arrival of the cargo and it is dated earlier than release, will this cause a problem as the dates will not match? (Bond Date vs. Arrival Date?)

No, eBond anticipates that brokers may request bond approval prior to the arrival of the cargo. The business rules for eBond will be the same as they are today: Issue Date on or before Effective Date.

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When would a bond or entry be rejected?

A bond submission by a customs broker to a surety/surety agent may be rejected for a number of reasons, for example, due to underwriting insufficiencies or invalid submission validations. Should a broker's bond submission to a surety/surety agent be rejected, your surety/ surety agent will provide an explanation of the rejection. The method for delivery of such a message will be predetermined by surety/surety agent and their broker partner.

A rejection of a bond submission by CBP will generate a CBP coded rejection message to the surety/surety agent noting the reason for CBP's rejection. The method for delivery of such a message will be predetermined by surety /surety agent and their broker partner.

Has the impact in the change in port of entry been discussed in connection with eBond? The broker would file the cargo release and STB prior to cargo arrival, and the STB would be approved by both CBP and the surety under eBond. How is a change in port of entry to be handled? Would the broker have to resubmit the STB or would CBP accept it as originally presented and accepted since ultimately CBP approved the change in port of entry?

Sureties are generally making port code an "optional" data element with eBond, and it is not transmitted to CBP for any match with the entry. However, if CBP is rejecting the entry due to a port code change, this is something that will need to be addressed separately and is not impacted in any way by eBond. Note that some sureties use port codes for premium tax reporting and licensing compliance purposes.

Shouldn't smaller bond amounts on non-ADD/CVD transactions simply be given an "underwriting pass" by sureties in an eBond environment?

As a practical matter, most sureties conducting extensive customs bond business do employ penalty amount thresholds on many restricted commodities/transaction types and will continue to do so in eBond. Specific limits will vary by surety.

Shouldn't importer history (principal record, repeated activity on similar commodities) be taken into account in underwriting and eBond programming?

Most sureties conducting extensive customs bond business do take such factors into account. Providing HTSUS data will facilitate doing so on a broader, more automated basis.

If you are still filing entries via ACS, will you be able to use eBond?

No, because there will be no paperless entry to link the eBond to in ACE. If a paper entry is submitted via ACS, a paper bond will need to accompany it and sureties will continue to allow their bond issuing systems to do so only up until November 2015 when all entries must be processed in ACE.

Will it still take 3-5 days for a continuous bond to be approved by CBP?

No. Provided all surety/surety agent and CBP validations are compliant, CBP's acceptance of continuous bonds submissions will be virtually instantaneous.

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Will CBP still require an application and 5106 to be filed with the continuous bond?

No. However individual sureties/surety agents may still require an application process as they do today and the customs broker and/or principal must ensure a CBP-5106 is on file with CBP for any co-principal(s) and/or users of the bond.

If CBP does not require a 5106 at bond filing, will they no longer require riders for name and address changes?

CBP has stated that name and address change riders will no longer be required. Riders that are still required (e.g., division add, division delete, reconciliation rider, Virgin Islands rider) will be filed electronically.

How will conditional termination and replacement bonds be handed in eBond?

There are not complete details on this. However, since continuous bonds can be put into effect on an essentially instantaneous basis in eBond, the expectation is that the need for conditional termination and replacement will be substantially reduced if not eliminated altogether.

How will a termination by a principal (as opposed to a termination by surety) be handled in eBond?

CBP has not yet provided full details on this.