



**Steven D. Ness,
President**

June 5, 2020

via email

Mr. Doug Band, Director General
Canada Border Services Agency
222 Queen Street, 4th Floor
Ottawa, Ontario, K1A 0L8

Dear Mr. Band:

Re: Customs Notice 20-11 – Deferral of Payment of Duties and Taxes

As agreed during our discussion last Wednesday, we've gone back to our membership with queries around the issue of the surety industry's response to the deferral order set out in CN 20-11 and expanded this to include their comments regarding any potential extension of the deadline past June 30th.

Surety Industry Response – June 30th and Beyond

As part of this effort, we sought and obtained the commentary and responses of a number of surety organizations which cumulatively write a significant majority of the customs bonds currently in force. These discussions confirmed our anecdotal observation that since the issuance of CN 20-11, surety companies have become more restrictive in their risk selection practices. While none expressed the intention to pull out of the market altogether, all reported significant changes to their underwriting approaches toward this class of business.

- Members reported an expanded "threshold criteria" for any new applicants; particularly for standalone importer bonds; i.e. more stringent working capital requirements, expanded informational and backup requirements.
- Some members are implementing enhanced security requirements including personal covenants of shareholders, collateral security and parental guarantees.
- While most members don't track the exact numbers of submissions received against those accepted, most reported that since the beginning of the deferral period there have been high instances of either outright declinations or acceptance with collateral security.

During the course of our discussions, member sureties offered several observations that serve to illustrate the industry's overall position and where it could be heading. When asked about their approach to customs bonds since the beginning of the deferral period, one member told us that "...sureties have ... generally lowered their tolerance for risk, due to both the current economic circumstances and CBSA's 4-month payment deferral".

Asked about the possibility of extending the deadline, another member commented that "...the restriction or tightening of (underwriting) may result in fewer bonds submissions qualifying for credit resulting in increased pricing for the product and **bonds only being approved for best in class or very strong credit.**" (emphasis added).

After conferring with our colleagues at CSCB, it would seem that the impact of these changes is already being felt. We are given to understand that brokers for the most part are requesting payment of accounts as per agreed upon payment terms and/or tightening the terms of their credit arrangements with importer clients. When this is compounded by a reduction in the availability of surety support, it will inevitably lead to a minimizing or elimination of any benefit from the deferral order

The Liquid Security Non-option

The suggestion was made during the May 27th teleconference that if the availability of bonds is curtailed, then the affected importers could simply exercise the option of providing liquid security in the form of cash deposits or letters of credit. We submit that this completely misses the point and is simply not a workable alternative.

The group of importers most affected by any tightening of surety industry standards will be those grappling with the most serious cashflow and liquidity problems and will consist almost exclusively of SME's; the very people that the deferral policy was designed to protect. These cash-strapped smaller firms will desperately need their working capital and bank line to sustain their operation and will simply not be in a position to tie up precious liquid resources or borrowing power for use as security for payments. It's ironic that the posting of liquid security could have the counterproductive effect of bringing on the very problems it seeks to protect against.

Surety bonds by contrast, do not impinge on the client's working capital and we respectfully suggest that now, more than ever, the non-intrusive security provided by a bond must be an essential part of any sustainable solution.

Conclusion / Recommendation


All of these challenges notwithstanding, surety companies are willing and able to be part of the solution to the post COVID-19 liquidity crisis that will have a profound impact on small to mid-sized firms across all industries. That said, bonding can't be the *entire* solution and it is completely unreasonable and unrealistic to expect the surety industry to step in as a receptacle for all of the financial risk that arises from a well-intentioned, but ultimately unsustainable policy.

Put another way, deferring payment of duties and taxes for importers, without addressing the toxic side-effects of this action, will not solve the problem but only re-distribute the grief that arises from *not* solving the problem. The agency, despite its noble intention, is effectively transferring the financial risk of their actions from the importer to the custom brokers, and by extension, their sureties.

Again, SAC urges CBSA to adopt the proposal advanced by CSCB on March 31st and provide waiver of liability to customs brokers and their sureties. We reiterate that without such action, these industries will be forced into taking prudent risk mitigation measures that will result in a nullification of any benefits of the deferral policy.

As always, should you or your colleagues have any questions, or wish to discuss further, please feel free to contact me directly.

Yours Very Truly,



Steven D. Ness
President,
Surety Association of Canada.

c.c. Charles Melchers, CBSA
Michèle Gouvier, Finance
Mark Agnew, CCC

Marc Séguin, CBSA
Ian Foucher, Finance
Kim Campbell, IE Canada

Jimmy Fecteau, CBSA
Carol West, CSCB