❖SPC&B Update❖

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CBP Publishes Formulas for Determining Amounts of Importer/Broker Continuous Bonds

U.S. Customs and Border Protection (CBP) has published five formulas that it is now using to determine the amounts of Activity Code 1 (Importer/Broker) continuous customs bonds. The document containing the five formulas amends two previous CBP directives which concerned monetary guidelines for setting bond amounts and bond sufficiency. CBP advises that a new, comprehensive directive will be forthcoming.

The first formula, identified as the "Reviewers" formula, is a basic formula whereby the minimum bond amount is set at 10 percent of the duties, taxes, and fees incurred over the previous twelve months, but not less than $50,000. Amounts over $50,000 are rounded up by increments of $10,000 up to $100,000, and then by increments of $100,000 after that. This formula differs from the formula previously used in that the previous formula was based on 10 percent of the duties, taxes, and fees incurred over the previous calendar year, rather than the previous twelve months.

A second formula, designated as the "Analytical" formula, takes payment delinquencies into account. It sets the minimum bond amount by using the amount determined under the first formula (rounded up as appropriate) as a base, and adding to it the following: (1) 10 percent of unpaid bills for entries that are *either* not protested and less than 210 days old *or* protested; (2) dollar-for-dollar (*i.e.*, 100 percent) of delinquent bills for entries that are *either* not protested and over 210 days old *or* the subject of a denied protest; (3) dollar-for-dollar of debit vouchers unpaid; and (4) dollar-for-dollar of bills paid by surety. The total amount is rounded up by increments of $10,000 up to $100,000, and then by increments of $100,000 after that.

The third formula is used where antidumping (AD) or countervailing duty (CVD) orders are involved. Like the second formula, it sets the minimum bond amount by starting with the amount determined under the first formula (rounded up as appropriate) as a base, but then it adds to that an amount equal to the value of the importer's imports of merchandise over the previous twelve months which are subject to the AD or CVD case multiplied by the AD or CVD rate set forth in the applicable Order. The total amount is rounded up by increments of $10,000 up to $100,000, and then by increments of $100,000 after that.

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A fourth formula addresses the situation where a preliminary determination has been made in an AD or CVD case and the importer has a history of importations of the covered merchandise. The minimum bond amount is set using the amount determined under the first formula (rounded up as appropriate) as a base, and adding to it an amount equal to the value of the importer's imports of merchandise over the previous twelve months which are subject to the AD or CVD case multiplied by the preliminary rate determined by the Commerce Department. The total amount is rounded up by increments of $10,000 up to $100,000, and then by increments of $100,000 after that.

The fifth formula is for the same situation as the fourth formula, except that the importer does not have a history of importations of the covered merchandise. Accordingly, the same formula is used, except that the added amount is calculated by multiplying the estimated annual value of the importer's imports of merchandise subject to the AD or CVD case by the preliminary rate.

Anyone wishing additional information about these new bond formulas should contact Gail Cumins at gcumins@spcblaw.com or Kenneth Paley at kpaley@spcblaw.com, or call us at 212-425-0055.