

(2) Produce such evidence of solvency and financial responsibility as the port director may require.

(d) *Determination of financial responsibility.* An individual surety shall not be accepted on a bond until the port director is satisfied as to the financial responsibility of the individual. The port director may refer the matter to the special agent-in-charge for immediate investigation to verify the financial responsibility of the surety.

(e) *Continuancy of financial responsibility.* In order to follow the continued solvency and financial responsibility of individual sureties, the port director shall require a new oath and determine the financial responsibility of each individual surety as prescribed in paragraphs (c) and (d) of this section at least once every 6 months, and more often if deemed advisable.

§ 113.36 Partner acting as surety on behalf of a partner or on behalf of a partnership.

A member of a partnership shall not be accepted as an individual surety on a bond executed by the partnership as principal. A partner may be an individual surety for a fellow partner on a bond if (a) the transaction is in an individual capacity and unrelated to the partnership, (b) sufficient unencumbered nonpartnership property is available as security, and (c) the individual qualifies as an individual surety under the provisions of § 113.35 of this part.

§ 113.37 Corporate sureties.

(a) *Lists of corporations and limits of their bonds.* Treasury Department Circular 570 contains a list of corporations authorized to act as sureties on bonds, with the amount in which each may be accepted. Unless otherwise directed by the Commissioner of Customs, no corporation shall be accepted as surety on a bond if not named in the current Circular as amended by FEDERAL REGISTER notice and no bond shall be for a greater amount than the respective limit stated in the Circular, unless the excess is protected as prescribed in § 223.11, Bureau of Government Financial Operations Regulations (31 CFR 223.11).

(b) *Name of corporation on the bond.* The name of a corporation executing a Customs bond, as a surety, may be printed or placed thereon by means of a rubber stamp or otherwise, followed by the written signature of the authorized officer or attorney.

(c) *Name of agent or attorney on the bond.* The agent or attorney acting for a corporate surety shall have stamped, printed, or typed on each bond executed by him, below his signature, his full name as it appears on the bond.

(d) *Social security number of agent or attorney on the bond.* In the appropriate place on each bond executed by the agent or attorney acting for a corporate surety, the agent or attorney shall place his/her social security number, as it appears on the corporate surety power of attorney.

(e) *Signature and seal of the corporation on the bond.* A bond executed by a corporate surety shall be signed by an authorized officer or attorney of the corporation and the corporate seal shall be affixed immediately adjoining the signature of the person executing the bond, as provided for in § 113.25.

(f) *Two or more corporate sureties as sureties on the same obligation.* Two or more corporate sureties may be accepted as sureties on any obligation the amount of which does not exceed the limitations of their aggregate qualifying power as fixed and determined by the Secretary of the Treasury. The amount for which each corporate surety may act as surety in all cases must be within the limitation prescribed by the Secretary, unless the excess is protected as prescribed in § 223.11, Bureau of Government Financial Operations Regulations (31 CFR 223.11). Each corporate surety shall limit its liability to a definite specified amount, in terms, upon the face of the bond by attaching the following:

CORPORATE SURETIES AGREEMENT FOR
LIMITATION OF LIABILITY

____ (name of surety), ____ (surety code), a surety company incorporated under laws of the State of ____, authorized to conduct a surety business in the State of ____, and having its principal place of business at ____ (address), and ____ (names of surety), ____ (surety code), a surety company incorporated

§ 113.38

under the laws of the State of ___ and having its principal place of business at ___ (address), as sureties, and ___ (name of principal), as principal, are jointly and severally obligated to the United States in the amount of ___ (\$) on a bond executed on ___ (date of execution) with each surety jointly and severally obligate with the principal in the amounts listed below and no more:

- ___ (name of surety) ___ (\$)
___ (name of surety) ___ (\$)

By this agreement the principal and sureties bind themselves and agree that for the purpose of allowing a joint action against any or all of them, and for that purpose only, this agreement and the bond under which they are obligated and which is incorporated by reference into this agreement, shall be treated as the joint and several as well as the several obligation of each of the parties.

Signed and sealed this ___ day of ___ 19___
Principal
Surety
Surety
Port Director (Drawback Office)

(g) Power of attorney for the agent or attorney of the surety. Corporations may execute powers of attorney to act in their behalf in the following manner:

- (1) Execution and contents. The corporate surety power of attorney shall be executed on Customs Form 5297, and shall contain the following information:
(i) Corporate surety name and number,
(ii) Name and address of agent or attorney, and social security number of agent or attorney,
(iii) Port(s) where the agent or attorney is authorized to act,
(iv) Date of execution of power of attorney,
(v) Seal of the corporate surety,
(vi) Signature of any two principal officers of corporation, and
(vii) Dollar amount of authorization.

(2) Filing. The corporate surety power of attorney executed on Customs Form 5297 shall be filed with Customs. The original(s) of the corporate surety power of attorney shall be retained at the port where it(they) was(were) filed.

(3) Use at port where power of attorney not filed before receipt of computer print-out. If the grantee desires to use the power of attorney at a port covered by the power of attorney, other than the one where the power of attorney was

filed, before the first computer print-out reflecting this power of attorney is received, the Customs Form 5297, shall be filed in triplicate (original and two copies), rather than duplicate. The second copy shall be validated by Customs and returned to the grantee. The grantee, at the time of filing a bond at a port other than the port where the power of attorney was filed, shall provide this validated copy of the power of attorney as proof of the grant of authority. The validity of this copy of the power of attorney shall expire when the first computer printout reflecting this power of attorney is received.

(4) Term and revocation. Corporate surety powers of attorney shall continue in force and effect until revoked. Any surety desiring that a designated agent or attorney be divested of a power of attorney must execute a revocation on Customs Form 5297. The revocation shall take effect on the close of business on the date requested provided the corporate surety power of attorney is received 5 days before the date requested; otherwise the revocation will be effective at the close of business 5 days after the request is received at the port office.

(5) Change on the power of attorney. No change shall be made on the Customs Form 5297 after it has been approved by Customs except the following: (i) Grantee name change, (ii) grantee address change, and (iii) the addition of port(s) to the corporate surety power of attorney on file. To make any other change to the power of attorney two separate Customs Forms 5297 shall be submitted, one revoking the previous power of attorney, and one containing a new grant of authority.

[T.D. 84-213, 49 FR 41171, Oct. 19, 1984; 49 FR 44867, Nov. 9, 1984; T.D. 95-77, 60 FR 50020, Sept. 27, 1995]

§ 113.38 Delinquent sureties.

(a) Acceptance as surety when in default as principal on another Customs bond. No person shall be accepted as surety on any Customs bond while in default as principal on any other Customs bond.

(b) Acceptance as surety when in default as surety on another Customs bond. A surety on a Customs bond which is in default may be accepted as surety on