



# Office of Registration

## Broker and Freight Forwarder Rule Notification Educational and Compliance Guide

### Broker and Freight Forwarder Financial Responsibility Rule

**1. What is the purpose of this regulation?**

The rule was created to better protect motor carriers from instances of nonpayment by brokers and freight forwarders.

**2. How can I find this rule?**

A copy of the Broker and Freight Forwarder Financial Responsibility rule is available in the Federal Register at [www.federalregister.gov/documents/2023/11/16/2023-25312/broker-and-freight-forwarder-financial-responsibility](https://www.federalregister.gov/documents/2023/11/16/2023-25312/broker-and-freight-forwarder-financial-responsibility).

**3. When does the rule become effective?**

The rule was effective on **January 16, 2024**. As originally published, the rule had two compliance dates: January 16, 2025, and January 16, 2026. However, FMCSA subsequently extended the compliance date for all requirements to January 16, 2026, creating a single compliance date for all provisions of the rule.

**4. What is the regulation about?**

The rule modifies five regulatory areas relating to broker and freight forwarder financial responsibility. Below is a summary of the five sections:

<i><b>Rule Requirements</b></i>
Immediate suspension of broker or freight forwarder operating authority
Surety or trust provider responsibilities in cases of broker or freight forwarder financial failure or insolvency
Enforcement authority — suspension of surety or trust provider's authority
Assets readily available
Entities eligible to provide trust funds for brokers and freight forwarders for BMC-85 filings

**5. Who is covered by this rule?**

Brokers of property, freight forwarders, providers of BMC-84 surety bonds, and financial institutions eligible to file BMC-85 trust agreements.

**6. Who is a broker?**

As defined in 49 U.S.C. § 13102(2), the term “broker” means a person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.

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### 7. Who is a freight forwarder?

As defined in 49 U.S.C. § 13102(8), the term “freight forwarder” means a person holding itself out to the general public (other than as a pipeline, rail, motor, or water carrier) to provide transportation of property for compensation and in the ordinary course of its business—

- (A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;
- (B) assumes responsibility for the transportation from the place of receipt to the place of destination; and
- (C) uses for any part of the transportation a carrier subject to jurisdiction under this subtitle.

### 8. What impact will the new rule have on brokers or freight forwarders?

- It will help prevent brokers or freight forwarders from engaging in fraudulent behaviors, such as contracting with motor carriers with no intention to pay them.
- The new rule aims to reduce fraud by:
  - Limiting the time brokers or freight forwarders can continue to operate when they are not able, or have no intention, to pay motor carriers for their services.
  - Helping to reduce the number of brokers or freight forwarders with no financial responsibility.
  - Limiting the list of assets readily available, which will provide clarity for brokers and freight forwarders about the specific categories of assets they may keep in trust funds to satisfy the minimum required amount of \$75,000.

### 9. What are the applicable forms\*?

- **BMC-84:** Broker’s or Freight Forwarder’s Surety Bond under 49 U.S.C. § 13906
- **BMC-36:** Motor Carrier’s, Broker’s, or Freight Forwarder’s Surety Bonds under 49 U.S.C. § 13906, Notice of Cancellation
- **BMC-85:** Broker’s or Freight Forwarder’s Trust Fund Agreement under 49 U.S.C. § 13906 or Notice of Cancellation of the Agreement

**\*All forms should be submitted to FMCSA electronically through FMCSA’s registration system.**

### 10. Who can file these forms?

Only a surety provider can file a BMC-84 or BMC-36. Only a trustee can file a BMC-85.

## Section 1: Immediate suspension of broker or freight forwarder operating authority

### 11. What are the brokers’ and freight forwarders’ requirements?

To be registered with FMCSA, brokers and freight forwarders are required to maintain \$75,000 of financial security, either in the form of a surety bond or a trust fund.

**As of January 16, 2026**, if the available financial security falls below \$75,000 and the broker or freight forwarder does not replenish funds within seven business days of the notice from FMCSA, the Agency will issue a notification of suspension of operating authority to the broker or freight forwarder.

### 12. What will cause the trust or bond to be reduced below the required \$75,000?

The surety or trust provider determines the bond, or security will be reduced below the requirement when one of the following occurs:

- a. The broker or freight forwarder consented to drawdown of available financial security to below \$75,000 and the funds were not replenished within seven business days;
- b. The broker or freight forwarder did not respond or provided inadequate response to notice of a claim by the provider and the provider paid claims that reduced the security below \$75,000;

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- c. The trust provider is paying a claim due to a judgment and financial security will consequently fall below \$75,000; or
- d. The broker or freight forwarder is experiencing financial failure or insolvency and drawdown below \$75,000 is inevitable once all claims are received.

### **13. When must a surety or trust provider notify FMCSA of a security reduction below \$75,000?**

As of January 16, 2026, the surety provider or trustee must notify FMCSA within two business days of any of the following occurring:

- I. A drawdown on a broker or freight forwarder financial responsibility below the \$75,000 requirement. The notification must include:
  - a. The broker's or freight forwarder's MC Number, USDOT Number, and
  - b. A description of the reason for the notification, and
  - c. Either
    - i. Evidence of the date and dollar amount of payments made, or
    - ii. A list of currently pending claim amounts and evidence that the surety company or financial institution notified the carrier of pending claims.
- II. The financial responsibility provider makes a determination the broker or freight forwarder is insolvent or experiencing financial failure.

The surety provider or trustee must notify FMCSA within two business days when a broker or freight forwarder satisfies all pending claims or is no longer experiencing financial failure or insolvency.

### **14. How will surety or trust providers notify FMCSA?**

Details on how the surety and trust providers will notify FMCSA of the drawdown below \$75,000 or the replacement of the security are found on the Broker and Freight Forwarder Financial Responsibility Rule Overview and Compliance Requirements webpage at <https://www.fmcsa.dot.gov/registration/broker-and-freight-forwarder-financial-responsibility-rule-overview-and-compliance>. A cancellation of the security due to broker or freight forwarder financial failure or insolvency should be submitted electronically on prescribed forms BMC-36 or BMC-85 through FMCSA's Registration System.

### **15. What is FMCSA's Response to the Financial Security Provider's Notification?**

When FMCSA is notified by the financial security provider that a broker's or freight forwarder's financial security balance has decreased below \$75,000, FMCSA will notify the broker or freight forwarder by mail or by electronic means (if the broker or freight forwarder opted in to receive electronic communications) that its operating authority will be suspended within **seven** business days of the date of the notice.

### **16. How do brokers or freight forwarders respond to notice of pending suspension?**

Within seven business days of service of the pending suspension notice from FMCSA, brokers or freight forwarders must provide written evidence that:

- a. The notification was sent in error; or
- b. The surety bond or trust fund has been restored to the required \$75,000. \*; or
- c. Pending claims have been satisfied without the use of surety bond or trust fund. \*

\* FMCSA must receive verification from the surety or trust provider.

For additional information on how to respond please visit the Broker and Freight Forwarder Financial Responsibility Rule Overview and Compliance Requirements webpage at <https://www.fmcsa.dot.gov/registration/broker-and-freight-forwarder-financial-responsibility-rule-overview-and-compliance>.

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### **17. What happens if the broker or freight forwarder does not respond within seven business days to FMCSA's notice of pending suspension?**

If a broker or freight forwarder does not respond within seven business days to FMCSA notification of pending suspension, FMCSA will suspend the broker's or freight forwarder's operating authority. FMCSA will issue a notification of suspension of operating authority to the broker or freight forwarder.

## **Section 2: Surety's or trust provider's responsibilities in cases of financial failure or insolvency**

### **18. What are the surety's or trust provider's responsibilities in cases of broker or freight forwarder financial failure or insolvency?**

If a surety or trustee becomes aware that a broker or freight forwarder is experiencing financial failure or insolvency, the surety or trustee must notify FMCSA and initiate cancellation of the broker's or freight forwarder's financial responsibility on prescribed forms BMC-36 or BMC-85.

### **19. When may the surety or trust provider determine that the broker or freight forwarder is experiencing financial failure or insolvency?**

The surety or trust provider makes this determination when:

- (A) It receives one or more claims that, if paid, would reduce the balance of the trust fund or surety bond below the required minimum;
- (B) It has notified the broker of such claims and provided seven business days for the broker to respond to the determination; and
- (C) Either the broker fails to respond within the time period or provides a response, and the surety company or financial institution nevertheless determines that the claim is legitimate, and that the surety company or financial institution expects to make one or more payments on the claim from the bond or trust fund.

### **20. What is FMCSA's response to provider notices of broker or freight forwarder financial failure or insolvency that will result in a cancellation of the financial security?**

FMCSA will provide written notice of the cancellation in the FMCSA register on its public website.

In addition, FMCSA will notify the broker or freight forwarder by mail or by electronic means (if the broker or freight forwarder opted in to receive electronic communications) that it received the provider's notice of cancellation, and the broker or freight forwarder's operating authority will be suspended within 30 calendar days of the date of the notice unless FMCSA is notified by a financial security provider that its financial security was replaced.

## **Section 3: Enforcement authority (Monetary Penalty & Suspension of Financial Security Provider's Authority)**

### **21. What is FMCSA's enforcement authority over surety or trust providers?**

FMCSA was directed to implement this rule as part of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law 112-141. The Agency's statutory authority is found at 49 U.S.C. § 13906. As implemented through the recent rulemaking, FMCSA may begin suspending a surety or trust fund provider's authority to have its instruments filed as evidence of financial responsibility pursuant to 49 CFR 387.307 if they fail to comply with the regulations in 49 CFR Part 387 after the compliance deadline. The Agency will first provide written notice of the proposed suspension to the surety/trust fund provider, followed by 30 calendar days for the surety or trust fund provider to

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respond and provide evidence contesting the proposed suspension before a final Agency decision is issued.

### **22. What are the penalties for non-compliance?**

For each violation, there is a monetary penalty of \$12,882, as well as suspension of its authority to have its instruments filed as evidence of financial responsibility pursuant to 49 CFR 387.307 for three years.

## **Section 4: Assets readily available**

### **23. What are “assets readily available” in trust funds?**

As of January 16, 2026, FMCSA will limit the types of assets that brokers and freight forwarders who maintain trust funds in order to comply with the financial security requirements can place in those trust funds. As of the compliance date, acceptable assets will be limited to cash, irrevocable letters of credit issued by a federally insured depository institution, and treasury bonds.

## **Section 5: Entities eligible to provide trust funds for brokers and freight forwarders for BMC-85 filings.**

### **24. What entities are eligible to provide trust funds for BMC-85 filings?**

A current list of entities eligible to provide trust funds for BMC-85 filings until January 15, 2026, can be found in paragraph (c) of 49 CFR 387.307T. The recent rulemaking removes loan or finance companies from this list; thus, effective on or after January 16, 2026, loan or finance companies will no longer be eligible to file BMC-85 trust funds. The remaining types of financial institutions are regulated by the Federal depository regulators, such as the Federal Reserve, Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), or an equivalent State regulator. The following is a list of entities eligible to provide BMC-85 trust funds after January 16, 2026:

- a. A bank insured under the Federal Deposit Insurance Act,
- b. A commercial bank or trust company,
- c. An agency or branch of a foreign bank in the United States,
- d. A depository institution insured under the Federal Deposit Insurance Act,
- e. A thrift institution such as a savings bank, building and loan association, credit union, industrial bank or other,
- f. An insurance company, and
- g. A person subject to supervision by any State or Federal bank supervisory authority.

### **25. What can loan or finance companies do if they wish to continue providing trust services on or after January 16, 2026?**

If a loan or finance company wishes to continue providing BMC-85 trust funds on or after January 16, 2026, it could take steps to become a type of entity listed above (the list can also be found at 49 CFR § 387.307(c)). The requirements for each type of entity vary, so a loan or finance company would need to verify these requirements with the applicable regulator. FMCSA set an extended compliance date for this provision to allow loan or finance companies sufficient time to determine a course of action that meets their needs.

### **26. What entities are eligible to provide surety bonds as security for BMC-84 filings?**

The list of certified surety bond companies can be found on the U.S. Treasury website at <https://www.fiscal.treasury.gov/surety-bonds/list-certified-companies.html> or via this link: [Surety Bonds – List of Certified Companies \(treasury.gov\)](#).

### 27. What institutions are state bank regulators?

A list of state bank regulators can be found on the Consumer Financial Protection Bureau website at <https://www.consumerfinance.gov/ask-cfpb/how-do-i-find-my-states-bank-regulator-en-1637/>, or at this link: [Consumer Financial Protection Bureau](#).

### 28. How are credit unions regulated?

Credit unions are regulated by the [National Credit Union Administration](#) (NCUA). The official website can be found at <https://ncua.gov/>.

### 29. What is the process to become a regulated credit union?

Information on NCUA requirements can be found here:

- [Starting a New Federal Credit Union | NCUA](#)  
<https://ncua.gov/support-services/credit-union-resources-expansion/starting-new-federal-credit-union>
- [Share Insurance Fund Overview | NCUA](#)  
<https://ncua.gov/support-services/share-insurance-fund>
- [Frequently Asked Questions for New State-Charter Applicants and Federal Share Insurance | NCUA](#)  
<https://ncua.gov/support-services/credit-union-resources-expansion/starting-new-federal-credit-union/faqs-new-state-charter-applicants-and-federal-share-insurance>