
STATEMENT OF PRACTICE FOR STAKEHOLDERS ON THE ADMINISTRATION OF SECURITIES AT THE CUSTOMS DEPARTMENT

1. INTRODUCTION AND OBJECTIVE

The Customs laws provide that the Director-General may require the submission of a security for the purposes of securing payment of any duty, excise duty & taxes due or for ensuring compliance with the Customs laws.

The objective of this Statement of Practice is to provide necessary guidance to stakeholders on the requirements and procedures to be followed in the administration of securities as provided in the Customs laws and processing of same.

2. UNDERLYING CUSTOMS LAWS

Pursuant to S39 of the Customs Act and to S23 of the Excise Act the Director-General may require the submission of a security for the purposes of securing payment of any duty, excise duty & taxes due or for ensuring compliance with the law. The list hereunder illustrates the sections/regulations of the Customs laws which are relevant to the administration of a security at Customs.

- a) *Sections 9A, 9B, 19, 21, 37, 66A, 70, 110, 118, 146, 149 and 154 of the Customs Act*
- b) *Regulations 13(5), 15, 26, 35A, 57, 61A, 90 & 90A of the Customs Regulations 1989.*
- c) *Sections 4(2)(b), 23 and 35 of the Excise Act 1994.*
- d) *Regulations 3, 10 and 20 of the Excise Regulations 1994.*

2.1. OTHER INSTANCES WHEREBY SECURITY MAY BE REQUESTED

Security as per Section 39 of Customs Act may be requested for the protection of revenue/compliance in other instances e.g. where payment facility is being requested or export of excisable goods.

3. TYPES OF SECURITIES ADMINISTERED

- a) *Security by Bond*
- b) *Securities in the form of bank guarantee*
- c) *Security by Cash Deposit*

Provided that the security is in accordance to Section 39 of the Customs Act.

3.1. PARTICULARS TO BE INCLUDED IN A SECURITY BY BOND

- a) Name, address, signature, status and NIC No of the principal;
 - i) In case principal is a company: ***Name, address, company seal (wherever applicable) , NIC No, photocopy of NIC and signature of an authorized representative(Director as per database of the Corporate and Business Registration Department or authorized signatory appointed by board resolution (duly executed))***;

- b) Name, address, signature, status and NIC No of the surety/sureties;
- c) In case surety is a company:
 - i) ***Name, address, company seal (wherever applicable) , NIC No, photocopy of NIC and signature of an authorized representative(Director as per database of the Corporate and Business Registration Department or authorized signatory appointed by board resolution (duly executed))***;
- d) The purpose of the Security;
- e) Amount to be subscribed;
- f) The date of commencement and expiry of the security subscribed and 3 month clause to act on security by bond after expiry date.
- g) **Hand written annotation** of both the principal and surety/sureties which is as follows '*Good for the sum of*'
- h) Date of security by bond

3.1.1 PERSONS WHO CAN ACT AS SURETY

The surety can be either of the following:

- a registered financial institution,
- an individual who is resident of the Republic of Mauritius, or
- a company.

No additional documents are required where the surety is a recognized financial institution (Bank or Insurance Company).

3.1.2 IN CASE THE SURETY IS NOT A RECOGNIZED FINANCIAL INSTITUTION, ADDITIONAL DOCUMENTS TO BE SUBMITTED WITH THE SECURITY BY BOND

The surety will, in addition be required to submit either a sworn affidavit or a certificate of soundness from a recognized financial institution.

3.1.3 PARTICULARS REQUIRED ON A SWORN AFFIDAVIT OF THE SURETY

- a) *Name of surety, Date of Birth, Profession, Address*
- b) *Oath / Affirmation of the Credit worthiness*
- c) *Assets/liabilities pertained to the surety*
- d) *A clause mentioning the agreement and willingness to stand as surety for the principal*
- e) *Signature & stamp of Court Manager and proof of payment*

3.1.4 PARTICULARS OF A CERTIFICATE OF SOUNDNESS

Issued from recognized financial institution or from a Bank with the hereunder details;

- i. *Name & Address of surety*

- ii. *The certificate of soundness should be as per the template. (Annex 1)*
- iii. *Statement as to whether the surety is financially sound to stand as surety for the principal for the same amount mentioned in the security*

3.1.5 PROCEDURES

I. In case a security is required to be submitted, the concerned stakeholder shall contact the section concerned for the following:.

- a) *The relevant section of the law pursuant to which the 'Security by Bond' is required;*
- b) *The amount, period and purpose for which the 'Security by Bond' is required.*
- c) *The required amount could represent duty, excise duty and taxes involved for a particular purpose, or in compliance with the law or any other purpose.*
- d) *The requirement for the submission of any other related documents such as either an 'Affidavit sworn at the Supreme Court' by the surety or a 'Certificate of Soundness' in the name of the surety from a recognized financial institution.*
- e) *A format of the required Security by Bond.*
- f) *A format of the required Affidavit as well as the Certificate of Soundness*

II. The stakeholder may submit a first draft of the unsigned version of the 'Security by Bond' for a pre-vetting at section concerned.

III. The Stakeholder should submit the security by bond together with necessary documents to the Registry Section who shall then direct it to the Section/Unit concerned.

IV. In case of any discrepancy after documentary check of security, the applicant will be informed of the required amendments and the need for resubmission.

V. The following steps are applicable regarding the Surety:

- In case the surety submits a sworn Affidavit (**Annexes 2 & 3**), the section/unit concerned shall consult the Mauritius e- Registry- Registration of Deeds and Documents System (Registrar Department) to verify the following information:

- (a) The surety is the owner of the assets mentioned in the affidavit.
- (b) Whether there is any burden on the property mentioned in the surety's name
- (c) The **net** value of the assets sufficiently covers the security amount subscribed

- In case the report is not affirmative, the stakeholder shall be informed accordingly to either submit a fresh security by bond or provide additional documents mentioned hereunder:

- a) *Certificate of soundness; or/and*
- b) *A valuation report from a Chartered Valuer/ Land Surveyor; or*

- c) *Letter of erasure of burden on assets*
- d) *Any other document, e.g. a title deed*
- e) *Request to change the surety if needed.*
- f) *Another type of security can be submitted (Bank Guarantee if applicable or security issued by an Insurance company)*

4.2 BANK GUARANTEES

If the security submitted is in the form of a Bank Guarantee issued by a recognized financial institution, i.e. Banks or Insurance companies, the concerned Section/Unit shall outright process the security.

4.3 CASH DEPOSIT

The economic operator (EO) shall notify MRA of his intention to make a cash deposit (cash or bank cheque), or Director General may require the EO to make a cash deposit, whichever the case may be. The EO fills in the form MRA/CUS/SO/RC FORM 3 (in three original copies) and MRA/CUS/SO/RC FORM 4 (**Annexes 4 &5**). A receipt shall be issued upon payment of cash deposit. A receipt shall be issued upon payment of cash deposit; the three copies of the duly filled forms are attributed as follows:-

- (1) to Cashier
- (2) to the section /unit registering the security, and
- (3) to the EO who will have to produce this original for future transactions pertaining to the security at Customs

Note:-In case of loss of the original cash deposit form, the EO will have to produce a Police memo

Depending on the outcome of the case:

- (i) The amount of deposit is refunded to the EO;
- (ii) The amount of deposit is forfeited and paid to the Consolidated Fund; or
- (iii) The amount or part of the amount of the deposit is brought to account as Duty, Excise Duty and taxes after adjustment.

ANNEX 1 - CERTIFICATE OF SOUNDNESS

Template for Certificate of financial soundness given by a Bank

(where the surety is a *company* or a person)

Header of bank

The Director- General

Mauritius Revenue Authority

We hereby confirm that the accounts of (name of *company or person bearing NID, delete whichever applicable*)are well maintained in our books. Since it/ he has been banking with us, its/his dealings have been carried out to our satisfaction.

We are therefore pleased to confirm above company/ person, to the best of our knowledge, financially sound to stand as surety for the sum of Rs..... in relation to the general security by bond given by (Name of Principal) for the (Purpose).

Signature:

Signature:

Name:

Name:

Title:

Title:

Stamp

Stamp

ANNEX 2 - AFFIDAVIT (SURETY - INDIVIDUAL)

IN THE SUPREME COURT OF MAURITIUS

I,[●], a [OCCUPATION], residing at [●] and holder of National Identity Card bearing number [●]

MAKE OATH/SOLEMN AFFIRMATION AS A [●]¹ AND SAY THAT:-

1. I am a [●] by profession.
2. I make this Affidavit from facts within my own knowledge which I believe to be true and accurate.
3. I aver that I am the sole owner of immoveable property(ies)^{*2} in Mauritius, details of which I have listed and set-out in “**Annex 1**”.
4. I further aver that as at date, the properties and assets of [●] have been valued at around Rs.[●] (Rupees [●]) by virtue of a valuation report dated [●], enclosed at “**Annex 2**”. (To be submitted if required)
5. I aver that I have enclosed at “**Annex 3**”, a statement containing all my debts and liabilities.
6. I further aver that after payment of all debts and liabilities, the value of my assets and properties are estimated at Rs. [●] (Rupees [●]).
7. I am ready and willing to stand as surety for [●] (Principal) in the sum of Rs. [●].
8. I aver that I have the right and authority to enter into the present Surety Agreement with the Mauritius Revenue Authority and to perform my obligations thereunder and that such obligations do not conflict with or violate any provision of law,

¹ To delete as appropriate

² To delete as appropriate

ANNEX 2 - AFFIDAVIT (SURETY - INDIVIDUAL)

regulation, policy, contract, deed of trust or other instrument to which I am party or by which I am bound.

9. I state that the above information is true and correct.

Sworn/Solemnly affirmed by the above named]

Deponent at New Court House]

Port-louis, this day of [•]]

Drawn up by me,

Before me,

[Name & Signature of the person]

Supreme Court

ANNEX 2 - AFFIDAVIT (SURETY - INDIVIDUAL)

Annex 1

1. A portion of land of an extent of [●] situate at [●], as morefully set out in the title deed dated [●], registered and inscribed in TV [●], as follows:
 - (i) Description of Property: There exists on the said Portion of land, a [●], together with electricity and water supplies.
 - (ii) Cost value: The Property was purchased for the sum of [●]
 - (iii) Mode of acquisition (i.e. whether it was inherited/purchased/gifted or donated by parents and/or other persons): The Property was [●]
 - (iv) Other details: [●]

ANNEX 2 - AFFIDAVIT (SURETY - INDIVIDUAL)

Annex 3

The statement of debts and liabilities is as follows:

	Nature of Debts/ Liabilities	Banks/ Financial Institutions/ Other Parties	Amount (Rs.)	Maturity Date
1.				
2.				
3.				
4.				
5.				
6.				
7.				

ANNEX 3 - AFFIDAVIT (SURETY - COMPANY)

IN THE SUPREME COURT OF MAURITIUS

I,[●], a [OCCUPATION], residing at [●] and holder of National Identity Card bearing number [●]

MAKE OATH/SOLEMN AFFIRMATION AS A [●]³ AND SAY THAT:-

1. I am the [●] of [●] ('hereinafter referred to as the "Company") and by virtue of a board resolution dated [●], hereby enclosed and marked as "**Annex 1**", I have been duly authorized by the Board of Directors of [●] (hereinafter the 'Company') to swear/solemnly affirm the present Affidavit on behalf of the Company.
2. I make this Affidavit from facts within my own knowledge which I believe to be true and accurate.
3. I aver that the Company is the sole owner of or the sole entity having the beneficial entitlement to immovable property(ies) in Mauritius, details of which I have listed and set-out in "**Annex 2**":
4. I further aver that as at date, the properties and assets of [●] have been valued at around Rs. [●] (Rupees [●]) by virtue of a valuation report dated [●], enclosed at "**Annex 3**".
5. I aver that I have enclosed at "**Annex 4**", a statement containing all the Company's debts and liabilities.
6. I further aver that after payment of all debts and liabilities, the value of the assets and properties of the Company are estimated at Rs.[●] (Rupees [●]).
7. I am ready and willing to stand as surety for [●] (Principal) in the sum of Rs.[●]
8. I aver that the Company is a validly constituted corporate entity and has the right and authority to enter into the Surety Agreement sought to be entered into by and between it and, *inter alia*, the Mauritius Revenue Authority and to perform its obligations thereunder

³ To delete as appropriate

ANNEX 3 - AFFIDAVIT (SURETY - COMPANY)

that such obligations do not conflict with or violate any provision of law, regulation, policy, contract, deed of trust or other instrument to which the Company is a party or by which it is bound.

9. I state that the above information is true and correct.

Sworn/Solemnly affirmed by the above named]

Deponent at New Court House]

Port-Louis, this day of [•]]

Drawn up by me,

Before me,

[Name & Signature of the person]

Supreme Court

ANNEX 3 - AFFIDAVIT (SURETY - COMPANY)

Annex 2

1. A portion of land of an extent of [●] situate at [●], as morefully set out in the title deed dated [●], registered and inscribed in TV [●], as follows:
 - (v) Description of Property: There exists on the said Portion of land, a [●], together with electricity and water supplies.
 - (vi) Cost value: The Property was purchased for the sum of [●]
 - (vii) Mode of acquisition (i.e. whether it was inherited/purchased/gifted or donated by parents and/or other persons): The Property was [●]
 - (viii) Other details: [●]

ANNEX 3 - AFFIDAVIT (SURETY - COMPANY)

Annex 4

The statement of debts and liabilities is as follows:

	Nature of Debts/ Liabilities	Banks/ Financial Institutions/ Other Parties	Amount (Rs.)	Maturity Date
1.				
2.				
3.				
4.				
5.				
6.				
7.				

ANNEX 4 - CASH DEPOSIT



ORIGINAL

DEPOSIT VOUCHER

Deposit No.....

Date.....

Director-General
Mauritius Revenue Authority

I/We.....request

permission to deposit the sum of Rupees *..... for the period of
..... days/months as security for
.....

.....
Signature of Depositor or Agent

APPROVED

Date.....

.....
Director-General

RECEIVED the sum of Rupees*.....

Receipt No.....dated.....issued.

Cashier

PAYMENT VOUCHER

P.V. No.

I/We hereby acknowledge receipt of the sum of Rupeesin full
settlement of the amount deposited

Date.....

.....
Signature of Depositor or Agent

*Amount to be inserted in words

ANNEX 5 - CASH DEPOSIT



VOUCHER

MRA Voucher No	Section Head:
	Section:
	Team Leader:

To

Please receive the sum of

- Customs Duties	: (Rs)
- Excise Duties	: (Rs)
- VAT	: (Rs)
- Others	: (Rs)
Total	: (Rs)

being.....
.....

Rs (Total):Name of payer:

Date:

Signature of payer or remitter:

The person making this payment must claim an official receipt.

Custom House, Mer Rouge, Port Louis, Mauritius Tel: +230 202 0500 Fax: +230 216 7601 Website:
<http://www.mra.mu>

ANNEX 5 - CASH DEPOSIT

