

Current Laws for Broker and Freight Forwarder Questions & Answers

Question 1: Must freight forwarders and brokers register with FMCSA?

Answer: Yes. Freight forwarders and brokers are required to register with FMCSA. Freight forwarders that perform both freight forwarder services and motor carrier services must register both as a freight forwarder and as a motor carrier. Also note that motor carriers that broker loads, even occasionally, must register both as a motor carrier and as a broker.

Question 2: Does a motor carrier that participates in freight interlining have to register as a broker?

Answer: No. Anyone brokering a load must be registered as a broker, which by definition may only arrange -- *not perform* -- transportation unless the person is also separately registered as a motor carrier. A motor carrier that physically transport the cargo at some point and retains liability for the cargo and for payment of interchanged carrier, typically performs that service under its own motor carrier operating authority registration or the operating authority of the originating motor carrier. As a result, the motor carrier arranging the interline service in order to perform the transportation service requested by the shipper would not be brokering the load and would not require broker registration. If the motor carrier is not transporting cargo on its own equipment at some point, they are required to registration as a broker and maintain the proper licensing and registration requirements.

Question 3: What is the minimum level of financial security that a broker must maintain on file with FMCSA?

Answer: A general freight broker must maintain a surety bond or trust fund agreement in the amount of \$75,000 to comply with FMCSA's financial security requirements and brokers of household goods must maintain \$75,000.

Additionally, licensed freight forwarders now need to obtain and file with FMCSA a surety bond or trust fund agreement in the amount of \$75,000 to comply with FMCSA's financial security requirements.

Question 4: What is the purpose of the bond/trust?

Answer: The bond is used for carriers and shippers to gain payment for non-performance by a broker. It does not pay cargo claims.

Question 5: What is the difference between a trust and a bond/surety?

Answer: A legitimate trust by law, is a BMC85 and must be a fully collateralized trust, meaning the full \$75,000 has been deposited into a trust account and the funds must be readily available to pay claims to shippers, carriers and brokers. Trust accounts are governed by the State Secretaries.

A bond product, a BMC84 is generally underwritten more like an insurance product, with an annual premium and the entities that offer such products are licensed closely, by the US Treasury.

Background Questions about Brokers and Freight Forwarders

Question 1: What is a broker?

Answer: Generally speaking, a broker is a person or an entity other than a motor carrier that arranges for the transportation of property by a motor carrier for compensation. A broker does not transport the property and does not assume responsibility for the property.

Question 2: What is a freight forwarder?

Answer: A freight forwarder is a person or entity that holds itself out to the general public as providing transportation of property for compensation and in the ordinary course of its business:

- Assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments;
- Assumes responsibility for the transportation from the place of receipt to the place of destination; and
- Uses for any part of the transportation a rail, motor or water carrier subject to the jurisdiction of either FMCSA or the Surface Transportation Board.

Question 3: What is freight interlining?

Answer: To interline a shipment is to transfer the shipment between two or more carriers for movement to final destination. For example, where the point of origin is Washington, DC and the final destination is Los Angeles, CA, Motor Carrier "A" may transport a shipment from Washington, DC and then interline with Motor Carrier "B" in San Antonio, TX. Motor Carrier "B" will then complete the transportation of the shipment to Los Angeles, CA. MAP-21 clearly promulgates that a motor carrier must physically transport the cargo at some point and retain liability for the cargo and for payment of interchanged carrier.

Question 4: Does FMCSA require an interline carrier to obtain operating authority?

Answer: FMCSA requires all non-exempt for-hire interstate motor carriers to obtain operating authority. However, a motor carrier that is performing part of a single continuous transportation as an interline operation can perform that service under either its own operating authority or the authority of the originating motor carrier.

Question 5: Does a broker process loss and damage claims?

Answer: No, a broker assumes no responsibility for the shipment and does not touch the shipment. A claim must be filed with the appropriate motor carrier, which usually would be the delivering carrier or the carrier causing the loss. Brokers may, however, assist shippers in filing claims with the motor carrier on the shipper's behalf.