

Summary: Intervention & Options

Department /Agency: HM Revenue & Customs	Title: Strengthening the Financial Security System within the excise warehousing regime	
Stage: Consultation	Version: 1.0	Date: 22 April 2009
Related Publications: Consultation Document: Review of Excise Financial Securities		

Available to view or download at:

<http://www.hmrc.gov.uk/better-regulation/ia.htm>

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What is the problem under consideration? Why is government intervention necessary?

The excise Financial Securities System requires excise goods held or transported without the UK duty being paid (i.e. in duty suspension) to be secured by a guarantee. If there is an irregularity, the person providing the guarantee becomes primarily liable to pay the excise duty - whether or not they caused the irregularity. In these cases an assessment is issued and if it is not paid, HMRC call upon the guarantee. The number of guarantees called upon (due to movement irregularities) has increased; in most cases the amount guaranteed was significantly less than the amount due to HMRC.

What are the policy objectives and the intended effects?

HMRC's objective is to consider changes to the excise Financial Security System that:

- manage revenue risk effectively and efficiently;
- are clear and simple for businesses and HMRC; and
- do not increase burdens on compliant, low risk businesses.

The intended effect is a greater measure of revenue protection for excise goods transported in duty suspension.

What policy options have been considered? Please justify any preferred option.

- A. Allow only the authorised warehousekeeper (or owner) to provide the movement guarantee – thereby encouraging them to exercise stricter control over transporters by making them primarily responsible for movement risks.
- B. Apply conditions restricting the use of guarantees, e.g. to eliminate the risks in transporters "hiring out" their guarantee.
- C. Increase the guarantee level – to more accurately reflect the revenue at risk.
- D. We have no preferred option at this time; 'doing nothing' remains a possible outcome.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The costs and benefits of the implemented changes will be reviewed within two years of any changes having been made.

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:



Date: 06/04/2009

Summary: Analysis & Evidence

Policy Option: A	Description: Allow only the authorised warehousekeeper (or owner) to provide the movement guarantee.
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' Additional cost of providing movement guarantees to warehouse keepers or owners. Additional warehouse keeper or owner staff time to assess legitimacy of transporters.
	One-off (Transition) Yrs	
	£ To be quantified	
	Average Annual Cost (excluding one-off)	
£ To be quantified	Total Cost (PV)	£ To be quantified
Other key non-monetised costs by 'main affected groups' Risk to warehouse keepers or owners of being unable to secure movement guarantees or of loss of guarantee following invocation and consequent loss of ability to trade. Potential cost of insuring against risk.		

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' Reduction in costs to transporters of providing movement guarantees.
	One-off Yrs	
	£ To be quantified	
	Average Annual Benefit (excluding one-off)	
£ To be quantified	Total Benefit (PV)	£ To be quantified
Other key non-monetised benefits by 'main affected groups' Increase in legitimate trade for hauliers, wholesalers and retailers as a result of reduction in fraud.		

Key Assumptions/Sensitivities/Risks

This change is expected to increase the amount of excise duty collected by reducing fraudulent movements. This assumes warehouse keepers or owners are able to identify fraudulent transporters and cease trading with them.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ To be quantified	NET BENEFIT (NPV Best estimate) £ To be quantified
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What is the geographic coverage of the policy/option?	United Kingdom			
On what date will the policy be implemented?	tba			
Which organisation(s) will enforce the policy?	HMRC			
What is the total annual cost of enforcement for these organisations?	£ tbc			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	No			
What is the value of the proposed offsetting measure per year?	£ Not applicable			
What is the value of changes in greenhouse gas emissions?	£ Not applicable			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro tbc	Small tbc	Medium tbc	Large tbc
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of £ 0	Decrease of £ tbc	Net Impact	£ tbc

Key: Annual costs and benefits: (Net) Present

Summary: Analysis & Evidence

Policy Option: B

Description: Apply conditions restricting the use of guarantees.

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£ To be quantified		Loss of revenue to guarantee holders from subcontracting. Additional cost of providing guarantee and administration burden for transporters who currently use subcontracted guarantees.
	Average Annual Cost (excluding one-off)		
£ To be quantified		Total Cost (PV)	£ To be quantified
<p>Other key non-monetised costs by 'main affected groups' Some traders who currently use subcontracted guarantees may be unable to secure adequate guarantees and lose trade as a result of being unable to transport excise goods.</p>			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£ Nil		
	Average Annual Benefit (excluding one-off)		
£ To be quantified		Total Benefit (PV)	£ To be quantified
<p>Other key non-monetised benefits by 'main affected groups' Increase in legitimate trade for hauliers, wholesalers and retailers as a result of reduction in fraud.</p>			

Key Assumptions/Sensitivities/Risks The effectiveness of the change in reducing fraud depends on the deterrent impact of HMRC's ability to identify 'hidden' transporters and place a requirement on them to provide a guarantee.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ To be quantified	NET BENEFIT (NPV Best estimate) £ To be quantified
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What is the geographic coverage of the policy/option?		United kingdom	
On what date will the policy be implemented?		tba	
Which organisation(s) will enforce the policy?		HMRC	
What is the total annual cost of enforcement for these organisations?		£ tbc	
Does enforcement comply with Hampton principles?		Yes	
Will implementation go beyond minimum EU requirements?		No	
What is the value of the proposed offsetting measure per year?		£ Not applicable	
What is the value of changes in greenhouse gas emissions?		£ Not applicable	
Will the proposal have a significant impact on competition?		No	
Annual cost (£-£) per organisation (excluding one-off)	Micro tbc	Small tbc	Medium tbc
Are any of these organisations exempt?	No	No	N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of	£ tbc	Decrease of	£ 0
		Net Impact	£ tbc

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Summary: Analysis & Evidence

Policy Option: C

Description: Increase the guarantee level – to more accurately reflect the revenue at risk.

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Increased cost to holders of guarantees as a result of the need to secure higher value guarantees.
	One-off (Transition)	Yrs	
	£ To be quantified		
	Average Annual Cost (excluding one-off)		
£ To be quantified		Total Cost (PV)	£ To be quantified
Other key non-monetised costs by 'main affected groups' Some holders may be unable to meet the revised guarantee requirements and therefore be forced to cease trading.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£ Nil		
	Average Annual Benefit (excluding one-off)		
£ Nil		Total Benefit (PV)	£ Nil
Other key non-monetised benefits by 'main affected groups'			

Key Assumptions/Sensitivities/Risks The change is expected to increase the amount of revenue collected as a result of compliance activity by ensuring the level of guarantee is sufficient to cover the liability.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ To be quantified	NET BENEFIT (NPV Best estimate) £ To be quantified
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What is the geographic coverage of the policy/option?			United kingdom		
On what date will the policy be implemented?			tba		
Which organisation(s) will enforce the policy?			HMRC		
What is the total annual cost of enforcement for these organisations?			£ tbc		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			No		
What is the value of the proposed offsetting measure per year?			£ Not applicable		
What is the value of changes in greenhouse gas emissions?			£ Not applicable		
Will the proposal have a significant impact on competition?			No		
Annual cost (£-£) per organisation (excluding one-off)		Micro tbbc	Small tbc	Medium tbc	Large tbc
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)		
Increase of	£ tbc	Decrease of	£ 0	Net Impact	£ tbc

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

The Issue

1. The excise financial securities system aims to provide a measure of revenue protection for excise goods held or transported in duty suspension. In the event of an irregularity, the person providing the guarantee (either a premises guarantee or a movement guarantee) becomes primarily liable to pay the duty - whether or not they caused the irregularity.
2. The greatest risks are considered to be when goods are transported in duty suspension. To comply with EU requirements, enacted into UK law, all such movements must be covered by movement guarantees, which currently may be provided by either the warehouse keeper of despatch, the owner of the goods or the transporter of the goods.
3. The level of security required is based on the potential duty due on one week's average movements calculated over a year, with the minimum set at £20,000 and the maximum at £1 million. Only in exceptional circumstances will HMRC accept a lesser amount, for example, a winery that only undertakes a small number of duty suspended movements each year. For these types of businesses, the level of the guarantee must cover the total liability of the duty suspended movements.
4. However, HMRC can assess the likely risk to the revenue in each circumstance and retain the right to require greater levels of security.
5. For all new guarantee holders, HMRC will base their calculations on the anticipated level of duty-suspended in one average week's movements, subject to the requirements of the minimum level of guarantee.
6. As mentioned, for any duty suspended movement, the guarantee may be provided by the warehouse keeper of dispatch, the owner of the goods or the transporter. There is evidence that criminals perpetrate fraud via the owners of goods in warehouse and the transporters of those goods who are presented to HMRC with a clean compliance history. By the time irregularities are identified, these businesses have often disappeared or are quickly wound up. They have no assets for us to recover and our only recourse is to claim on the guarantee, which in many cases is insufficient to cover the full extent of the liabilities.
7. During the past 12 months, HMRC has had to make a claim against a number of guarantees used to secure the excise duty during a duty suspended movement. In some instances the amount of the guarantee has been considerably less than the duty due.

Policy objectives and Intended effects.

8. HMRC's objective is to consider changes to the excise Financial Security system that:
 - manage revenue risk effectively and efficiently;
 - are clear and simple for businesses and HMRC; and
 - do not increase burdens on compliant, low risk businesses.

The intended effect is a greater measure of revenue protection for excise goods transported in duty suspension.

Options

9. At this stage we do not have a preferred option for change and it is possible, as result of this consultation, that we will not make any significant changes to the Financial Securities (FS) system – the ‘do nothing’ option. In order to help our thinking on possible changes, we have developed a number of options on which we would like to consult:

Option A. Only allow the authorised warehousekeeper (or owner) to provide the movement guarantee – thereby encouraging them to exercise stricter control over transporters by making them primarily responsible for movement risks.

Evidence:

10. Warehouse keepers must fulfil certain obligations before they may allow goods to leave their premises in duty suspension. These obligations include the preparation of the accompanying documentation which must include details of the guarantee covering the movement. Under the present system, the guarantee may be provided by the warehouse keeper of dispatch, the owner of the goods or the transporter. Under the present rules, the warehouse keeper cannot refuse to allow the goods to leave his warehouse unless he is not satisfied that the guarantee is valid.
11. Whilst the warehouse keeper may obtain information from HMRC as to whether a guarantee is valid, HMRC cannot disclose any further information. The warehouse keeper, therefore, has no control over who provides the guarantee, nor any sub-contracting of the transportation contract to transporters known or unknown to him. By restricting who can provide the movement guarantee, in particular to the warehousekeeper only, this will place a firm duty of care on warehousekeepers for the security of the movement of goods in duty suspension. This is in line with what a number of EU member states do. The aim is to encourage warehousekeepers to be more selective with whom they deal, and have greater control over the transport of the goods.

Option B. Apply conditions restricting the use of guarantees, e.g. to eliminate the risks in transporters "hiring out" their guarantee.

Evidence:

12. It is not uncommon within the haulage industry for transport contracts to be sub-contracted out to second or even third hauliers. This means that the haulier who provided the guarantee will not be the haulier transporting the goods and therefore have no direct link with the movement. Restricting the use of the guarantee would limit the opportunity for fraudsters to be “hidden” and would allow greater control over the use of any one guarantee.

Option C. Increase the guarantee level – to more accurately reflect the revenue at risk.

Evidence:

13. Article 15(3) of Directive 92/12/EEC states that the risks inherent in an intra-community (duty suspended) movement shall be covered by a guarantee. Whilst the current financial security system provides for all duty suspended movements to be covered by a guarantee, the level of the guarantee does not have to equate to the amount of duty suspended. For example: a full container load of spirits contains approximately 1500 cases. The excise duty suspended on such a movement is £109,080.00. This movement can be covered by a guarantee with a value of £20,000.
14. Additionally, although guarantee holders are required to review the level of guarantee at least every 6 months to ensure that it complies with the requirement set out in para 3 above, there remains no absolute limit to the number of movements the guarantee can be used for. The amount of duty at risk in multiple movements may therefore be many times greater than the level of guarantee.

Analysis of the number of extant guarantees (as at 19 March 2009) shows that approximately 65 per cent of all guarantees are for the minimum amount (£20,000).

Increasing the level of the guarantee to more accurately reflect the level of duty suspended will provide better risk management.

Costs and Benefits / Impacts

15. All of these proposals are likely to provoke varying degrees of opposition from those most affected. The most effective measures - in particular restricting who may provide the movement guarantee - are likely to provoke the greatest ire as businesses will argue that they are the most restrictive. For this reason, and to help us gain a better understanding of the impact of the various options on businesses, we believe a formal consultation is necessary and would be useful in obtaining specific costs and administrative burdens on the trade to feed into this Impact Assessment.
16. Additionally, we believe that the current economic climate could have an impact on businesses' ability to obtain and maintain a financial security and we are seeing reluctance from some financial institutions to honour the securities they provide.

Costs and Benefits

17. The main affected groups are warehouse keepers, owners and haulage businesses involved in the movement of excise goods in duty suspension. The costs of the proposed options are dependant on:
 - The financial cost of arranging and maintaining a guarantee; and
 - The extent to which the above cost relates to the size of the guarantee and risk of invocation.
18. At present HMRC has insufficient information to assess the above factors and is therefore unable to quantify the costs associated with each option. One of the primary aims of the consultation is therefore to obtain sufficient information about the above factors to enable HMRC to quantify any adverse impact the options might have on legitimate businesses.

Option A

19. HMRC expects that this option would increase excise duty revenue by encouraging warehouse keepers (or owners) to exercise greater control over movements of alcohol in duty suspension, thus reducing fraudulent movements. This assumes that warehouse keepers will undertake additional checks on hauliers transporting goods from their warehouse and that these checks will be effective.

Costs

20. HMRC has identified the following potential on-going costs to warehouse keepers (or owners):
 - Financial cost of providing movement guarantees; and
 - Additional staff time to assess transporters of goods from their warehouse.
21. There is a risk that some new warehouse keepers (or owners) will be unable to secure movement guarantees or existing warehouse keepers or owners could lose their guarantee as a result of invocation. In these circumstances the business could be forced to cease trading. Warehouse keepers may choose to insure against the risk of loss of guarantee in which case they will incur the additional cost of insurance premiums.

22. There may be some additional one-off costs as a result of setting up new procedures and training staff.

Benefits

23. HMRC expects that the reduction in illicit trade would result in some increase in legitimate trade which would benefit legitimate wholesalers, retailers and hauliers. However the complex nature of the supply chain both for legitimate and fraudulent trade in alcohol means that it is unlikely to be possible to quantify these benefits.

Option B

24. HMRC expects that this option would increase excise duty revenue by enabling it to identify all transporters of excise goods and to more accurately assess the appropriate level of movement guarantees. The removal of anonymity from hauliers who make use of subcontracted guarantees and engage in fraudulent trade is expected to provide a greater deterrent to potential fraudsters.

Costs

25. HMRC has identified the following on going costs to the main affected groups:
- Loss of revenue from hiring out of guarantees by holders of movement guarantees who currently subcontract their guarantee;
 - Increased administrative burden on transporters of excise goods who currently make use of subcontracted guarantees; and
 - Increased costs of providing guarantees to transporters of excise goods who currently make use of subcontracted guarantees.
26. There is a risk that some small hauliers who currently make use of subcontracted guarantees will be unable to secure a guarantee in their own name or that the cost of securing such a guarantee will be prohibitive. Under these circumstances the haulier would be forced to cease transporting excise goods under duty suspension resulting in loss of trade.

Benefits

27. HMRC expects that there will be some reduction in illicit trade as a result of the deterrent impact of this proposed option. However the complex nature of the supply chain both for legitimate and fraudulent trade in alcohol means that it is unlikely to be possible to quantify these benefits.

Option C

28. HMRC expects this option to increase the amount revenue collected through enforcement activity. It would achieve this by reducing the number of instances where the value of an invoked guarantee is insufficient to meet the full assessment value of the additional liabilities identified.

Costs

29. The main affected group consists of warehouse keepers, owners and transporters who move goods in duty suspension. Many will need to increase the value of their guarantees. HMRC assumes that the resulting increased risk to the financial institutions, who provide the guarantee, is likely to be passed on to the business.
30. There is a risk that some businesses will be unable to secure the higher value guarantees required and therefore the guarantee for the movement of excise goods would have to be provided by another business who could charge for this service.

Benefits

31. There may be some increase in legitimate trade as a result of the greater difficulty fraudsters may face in securing adequate guarantees but HMRC currently expects this impact to be negligible.

Specific Impact Tests.

32. Competition Assessment and 33. Small firms impact test:

Irrespective of which, if any, option is pursued there will remain the legal requirement that all movements of excise goods be underwritten by financial security. These measures do not change how or who may act as principal for the guarantee (a bank or other financial institution) and as such will have no impact on the competition in this area.

Owners of goods in warehouse and transporters may claim that restricting the provision of the guarantee to the warehousekeeper only (in particular) may restrict trade in that warehousekeepers may refuse to deal with businesses who they consider to be a financial risk.

Small businesses gain from simplifications within the current system and there are no plans to change this. If a business can demonstrate that even the current minimum movement guarantee of £20,000 is too great for the level of their movements, a lower level of guarantee can be obtained as long as the guarantee is for a minimum of the total amount of duty suspended on movements by that business.

34. Legal Aid: Not applicable. These measures do not impose new criminal sanctions or civil penalties.

35. Sustainable Development: These measures are in line with the Governments five principles of sustainable development.

36. Carbon Assessment / Other Environmental: Not applicable. These measures do not change a businesses carbon footprint or affect any other environmental issues.

37. Health Impact Assessment: Not applicable. These measures will have no impact on health issues.

38. Race Equality / Disability Equality / Gender Equality: Not applicable. These measures are race, disability and gender neutral.

39. Human Rights: Not applicable. These measures will have no impact on human rights.

40. Rural proofing: Not applicable. These measures will have no impact on rural issues.

Specific Impact Tests: Checklist

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexes

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