



---

## **Review of Excise Financial Securities**

---

**Consultation Document  
April 2009**

<b>Subject of this consultation:</b>	A review of the Excise Financial Security system. See Chapter 4 for details of the current system.
<b>Scope of this consultation:</b>	We are seeking comments on how the current system impacts on your business and what those impacts would be if we made any changes.
<b>Impact Assessment:</b>	A Consultation stage Impact Assessment is attached at Annex B
<b>Who should read this:</b>	Anyone involved in the holding or movement of duty suspended excise goods.
<b>Duration:</b>	23 April 2009 to 16 July 2009
<b>Enquiries:</b>	All enquiries or responses should be sent to <a href="mailto:simon.brown2@hmrc.gsi.gov.uk">simon.brown2@hmrc.gsi.gov.uk</a> .  Or Simon Brown, HMRC, 3 <sup>rd</sup> Floor West, Ralli Quays, 3 Stanley Street, Salford, M60 9LA
<b>Additional ways to become involved:</b>	We will be happy to meet with Trade Associations to discuss the consultation and, if there is sufficient demand, we will arrange workshops for businesses.
<b>After the consultation:</b>	All statements and comments will be analysed and evaluated, and a summary of responses to the consultation exercise will be published. At that time, or shortly afterwards, we will announce any changes to be made to the financial securities system.

---

# Contents

		Page
	Foreword	2
Chapter 1	Executive Summary	4
Chapter 2	The Consultation Process	6
Chapter 3	Introduction	8
Chapter 4	Content	10
Chapter 5	Options	13
Chapter 6	Summary of Consultation Questions	17
Annex A	The Government's Consultation Code of Practice	20
Annex B	Impact Assessment	22
Annex C	List of Stakeholders Consulted	33
Annex D	Relevant Legislation and Notices	34

# 1. Executive Summary

---

## **Purpose of the consultation**

1.1 This consultation document seeks information and views on how the current excise financial security (FS) system is working and on proposed changes the Government is considering. The Exchequer Secretary to the Treasury, Angela Eagle MP, has agreed to our reviewing all aspects of the FS system as part of the revised tackling alcohol fraud strategy (details of which can be found in the document titled Renewal of the '*Tackling Alcohol Fraud*' Strategy which can be found on the HMRC website). This is to ensure the system continues to be fit for purpose in providing a measure of revenue protection for excise goods held and, more specifically, transported in duty suspension and to consider options for change.

1.2 Over the past year, there has been an increase in the number of guarantees that have been invoked due to movement irregularities and in a number of cases the amount of the guarantee has been insufficient to cover the excise duty due. There are also indications that the current economic climate may be having 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.

## **Objectives of the consultation**

1.3 HMRC's objective is to consider changes that would result in an excise FS system that:

- manages revenue risk effectively and efficiently;
- is clear and simple for businesses and HMRC; and
- keeps burdens on compliant, low risk businesses to the minimum necessary.

## **Options for change**

1.4 The options for change we have identified are:

- a) only allowing the authorised warehousekeepers (or the warehousekeeper and owner of goods), to provide the movement guarantee;
- b) applying conditions restricting the use of guarantees; and
- c) increasing the minimum guarantee level.

1.5 This consultation seeks your views on:

- the current financial security arrangements;
- HMRC's suggested options for changes to those arrangements; and
- any other suggestions you may have for improving the FS system that are in line with the objectives set out at 1.3 above.

1.6 This consultation focuses primarily on the FS system covering the movement of excise goods.

1.7 A Consultation Impact Assessment in relation to this review has been published at <http://www.hmrc.gov.uk/ria/>. We are inviting comments on this impact assessment, which does not include quantified costs and benefits as these cannot be determined at this stage.

1.8 A full list of the questions asked in this document is set out in Chapter 6.

## 2. The Consultation Process

---

### 2.1 How to Respond

A summary of the questions in this consultation is included at Chapter 6.

Responses should be sent by 16 July 2009, by e-mail to [simon.brown2@hmrc.gsi.gov.uk](mailto:simon.brown2@hmrc.gsi.gov.uk) or by post to:

Mr Simon Brown  
HM Revenue & Customs  
3<sup>rd</sup> Floor, Ralli Quays West  
3, Stanley Street  
Salford  
M60 9LA

Or by fax to 0161 827 0322.

Telephone enquiries 0161 827 0372.

Paper copies of this document or copies in alternative languages and formats may be obtained free of charge from the above address. This document can also be accessed from the HMRC Internet site at [www.hmrc.gov.uk/consultations](http://www.hmrc.gov.uk/consultations). All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

### 2.2 Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These

are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs (HMRC).

HMRC will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

### **2.3 The Government's Consultation Code of Practice**

This consultation is being conducted in accordance with Government's Code of Practice on Consultation. A copy of the Code of Practice criteria and a contact for any comments on the consultation process can be found in Annex A.

### 3. Introduction

---

3.1 The aim of the excise Financial Securities (FS) system is to provide a measure of revenue protection for excise goods held or transported in duty suspension. In the event of an irregularity it identifies the person who provides the guarantee as the person primarily liable to pay the duty - whether or not they caused the irregularity.

3.2 Articles 13 and 15 of Council Directive 92/12 on the arrangements for products subject to excise duty and on the holding, movement and monitoring of such products require the UK to have a FS system in place.

Section 157 of the Customs and Excise Management Act 1979 (CEMA) gives effect to this requirement and states:

*The Commissioners may...require any person to give security...by bond, guarantee or otherwise...for the observance of any condition in connection with customs or excise.*

3.3 Under the Directive there is a mandatory requirement for a FS to cover the movement of excise goods and an option, which the UK exercises, for Member States to require a FS for the storage of excise products :

Section 92 of CEMA 'Approval of warehouses' gives effect to this requirement and states

*The Commissioners may approve...subject to such conditions as they think fit...an 'excise warehouse'.*

3.4 The following UK statutory instruments also apply:

Regulation 15 (a) of the Excise Warehousing (etc) Regulations 1988 states

*The occupier shall ensure that...no goods are removed until any duty chargeable has been paid, secured or otherwise accounted for.*

The Excise Goods (Holding, Movement, Warehousing and REDS) Regs 1992 states:

*Regulation 10(1) (a): a consignment of excise goods may not be moved under duty suspension arrangements unless...the duty chargeable on the excise goods...is secured.*

*Regulation 10(4): the duty...shall be secured by an approved guarantee or bond and any charge...that may arise in another member state...shall also be secured by such a guarantee or bond.*

3.5 The current excise FS system has been in place since January 2001 when several changes were introduced, one of which was the introduction of a new form of guarantee which became the only recognised excise form of FS in the UK. We also centralised the FS processing function in Glasgow.

3.6 In the context of the refreshed tackling alcohol fraud strategy, we now wish to examine how effectively the system is working and to make any necessary changes. This review will focus mainly on the effectiveness of the movement guarantee, as the greatest risks to revenue lie in the movement, not the holding, of duty suspended excise goods. We wish to gain a better understanding of the impact of any changes: for example concerning who may provide the guarantee, the level of the guarantee and any conditions on the use of guarantees. To this end we would welcome full and comprehensive answers to the questions posed throughout this document and summarised in Chapter 6.

3.7 As part of this consultation, if requested, we will be happy to discuss the issues covered by this document with any affected Trade Associations and if there is sufficient demand, we will arrange workshops.

## 4. Content

---

### **Types of Guarantees**

4.1 Under the current FS system there are two types of guarantee – a premises guarantee which can only be provided by the authorised warehousekeeper and a movement guarantee that can be provided by the authorised warehousekeeper, registered owner of goods in a warehouse or transporter of those goods. It is possible for an authorised warehousekeeper to have a combined premises and movement guarantee. It will help us to understand your interest in this subject if you would answer the following questions:

Q1. Are you an authorised warehousekeeper, a registered owner or a transporter of excise goods or any combination of these?

Q2. What type of excise products do you deal in?

Q3. Do you have a premises or a movement guarantee or both?

### **Operation of the guarantee system**

4.2 The level of the premises guarantee is based on the potential duty due on the average end of month stock calculated over a 12 month period and allowing for seasonal variations. In the case of a new applicant this calculation is based on the anticipated stockholding. For an established compliant business the warehousekeeper can apply for a 50 per cent reduction after 2 years and a further reduction to 0 per cent after 4 years.

4.3 For movement guarantees the requirements are based on the potential duty due on the average one week's movements calculated over a year, with the minimum set at £20K and the maximum at £1m. The method of calculating the value and the process of reduction is similar to the premises guarantee. Exceptionally, HMRC may allow a lower value than £20K for one off low risk removals.

4.4 We currently allow a combined, single guarantee to cover both premises and movement liability. The aim of this is to reduce business costs.

4.5 Guarantee holders should review the level of guarantee at least every 6 months and should contact the Financial Securities Centre (FSC) if trading patterns change. Any increase in trade may result in a higher guarantee being required. Conversely, a lower level may be permissible if levels of trade have decreased. HMRC may also increase guarantee levels if we have identified weaknesses or irregularities in business' systems.

4.6 If you are a warehousekeeper and you are despatching excise goods using either the owner's or transporter's movement guarantee you should ensure that their guarantee is valid by contacting the FSC who will confirm its validity or otherwise. The FSC maintains a record of all checks made.

4.7 As part of our review of the current system it would be helpful to gather views on the operation of the current system and we would appreciate your answering the following questions:

- Q4. Have you experienced any difficulties in complying with the requirements of the current FS system? Are there any aspects of it that could be clearer and better publicised?
- Q5. How many times (approximately) have you needed to change the level of your guarantee? What were the reasons for this?
- Q6. Have we ever called on your guarantee? What were the circumstances and what was the outcome?

#### **Alternative forms of financial security**

4.8 Guarantees can only be provided by a recognised third party approved financial institution. They have been our preferred form of security as they:

- provide flexibility and reliability when used to discharge a debt;
- are independent of the financial affairs of the principal to the guarantee;
- are indefinite and can only be cancelled with our knowledge;
- enable debts to be quickly discharged and levels to be flexibly changed; and
- offer a guaranteed sum that is not subject to fluctuation.

4.9 We previously accepted Bonds but dispensed with them when the current system of guarantees was introduced because they were inflexible, complicated and costly to administer. As part of this review we may consider alternative forms of security.

4.10 Fixed assets are considered unacceptable because they may be re-mortgaged, their value may decrease and, again, are not easy to administer. An insurance policy is an agreement between the policy provider and the holder paying the premiums and its validity depends on the payment of the premiums by the policy holder. As the agreement is between provider and holder, even though HMRC may be made a beneficiary under the policy terms, insurance policies are considered unsuitable as they depend in part, on the policy holder's continued payment of premiums and could be cancelled without HMRC's knowledge.

4.11 Alternative forms of acceptable security which HMRC may wish to consider are cash securities, i.e. cash or guaranteed cheque, un-cashed Banker's Drafts and undertakings.

Q.7 If we were to allow alternative forms of security, what form would you consider most appropriate and why?

## 5. Options for change

---

5.1 As well as consideration of alternative forms of security we have identified a number of more fundamental options for change to the FS system:

- a) only allowing the authorised warehousekeeper (or the authorised warehousekeeper and the owner of the goods) to provide the movement guarantee;
- b) applying conditions restricting the use of guarantees; and
- c) increasing the minimum guarantee level.

***Option A: Only allowing the authorised warehousekeeper (or the authorised warehousekeeper and the owner of the goods) to provide the movement guarantee***

5.2 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.

5.3 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 exercise due diligence in respect of their business relationships and specific transactions, and to exert greater control over the transport of the goods.

5.4 It will help us to evaluate the feasibility and impact of this option if you answer the following questions in as much detail as possible:

- Q.8 If you are an authorised warehousekeeper, do you allow registered owners storing goods in your warehouse to use your movement guarantee? If so:
- (a) what risks do you see in allowing this?

(b) how do you assess and manage the risks?

(c) do you charge for this facility?

(d) what other conditions do you apply?

Q.9 If you are an authorised warehousekeeper and the movement guarantee is being provided by the registered owner or the transporter of the goods, how do you ensure the movement guarantee is fit for purpose? In particular, how do you make sure:

(a) it is valid;

(b) the level is sufficient; and

(c) they (the owner or transporter) have permission to use the guarantee?

Q.10 If we were to restrict the provision of a movement guarantee to the authorised warehousekeeper only, what impact would this have on your business? Please be as specific as you can and provide details of the following:

a) any increase or decrease in the financial cost of the FS;

b) any additional costs or savings in terms of staff time; and

c) any additional one-off costs.

Q.11 If we were to restrict the provision of a movement guarantee to either the authorised warehousekeeper or registered owner of the excise goods being moved, what impact would this have on your business? Please be as specific as you can and provide details of the following:

a) any increase or decrease in the financial cost of the FS;

b) any additional costs or savings in terms of staff time; and

c) any additional one-off costs.

### ***Option B: Applying conditions restricting the use of guarantees***

5.5 There is evidence to suggest that some transporters sub-contract the use of their guarantee to other transporters and have no control over the movement of the goods. By the time we have identified any irregularities the transporter that moved the goods will

have disappeared or the business wound up. The first transporter will have no assets and any claim will be restricted to the amount of the guarantee, which is often only £20,000 and insufficient to cover the excise duty due. One possible option to address this is to limit the use of the guarantee to the first transporter and thereby stop transporters subcontracting their guarantee.

Q.12 Does your guarantee provider (i.e. the financial institution) currently place any conditions on the use of your guarantee?

Q.13 What are those conditions?

Q.14 If you are a transporter, how would the option suggested above impact on your business? Please be as specific as you can and include any details of any additional costs, benefits, staff time or one off costs.

***Option C: Increase the guarantee level to more accurately reflect the revenue at risk***

5.6 There is evidence that new owners and transporters automatically apply for the minimum movement guarantee and as a new business they have very little in the way of trading figures to justify HMRC imposing a larger guarantee amount. Currently more than 50 per cent of movement guarantees are for the minimum amount. Increasing the level would more accurately reflect the revenue at risk and in the case of an irregularity if the business disappears resulting in any assessments not being paid then the guarantee is more likely to cover the debt.

5.7 In the current economic climate, we recognise that this option could increase the financial burdens on business. It will help us to evaluate the impact of this if you answer the following questions in as much detail as possible:

Q.15 What form of collateral does the financial institution accept to secure your guarantee?

Q.16 How much does the provision of your movement guarantee cost your business?

Q.17 If you have a combined premises and movement guarantee, does this reduce your business costs? If so, by how much?

Q.18 Have you had any difficulties obtaining a guarantee from a financial institution and what were those difficulties? When was this?

Q. 19 What impact would you expect this option to have on your business?

Please be as specific as you can and provide details of the following:

- a) any increase in the financial cost;
- b) any additional costs in terms of staff time; and
- c) any additional one-off costs.

### ***Other Options***

5.8 We should be interested to hear of any other ideas or suggestions you may have for improving the FS system that are in line with the objectives set out in paragraph 1.3 of this document.

## 6. Summary of Consultation Questions

---

- Q1. Are you an authorised warehousekeeper, a registered owner or a transporter of excise goods or any combination of these?
- Q2. What type of excise products do you deal in?
- Q3. Do you have a premises or a movement guarantee or both?
- Q4. Have you experienced any difficulties in complying with the requirements of the current FS system? Are there any aspects of it that could be clearer and better publicised?
- Q5. How many times (approximately) have you needed to change the level of your guarantee? What were the reasons for this?
- Q6. Have we ever called on your guarantee? What were the circumstances and what was the outcome?
- Q.7 If we were to allow alternative forms of security, what form would you consider most appropriate and why?
- Q.8 If you are an authorised warehousekeeper do you allow registered owners storing goods in your warehouse to use your movement guarantee? If so:
- (a) what risks do you see in allowing this?
  - (b) how do you assess and manage the risks?
  - (c) do you charge for this facility?
  - (d) what other conditions do you apply?
- Q.9 If you are an authorised warehousekeeper and the movement guarantee is being provided by the registered owner or the transporter of the goods, how do you ensure the movement guarantee is fit for purpose? In particular, how do you make sure:
- (a) it is valid;

(b) the level is sufficient; and

(c) they (the owner or transporter) have permission to use the guarantee?

- Q.10 If we were to restrict the provision of a movement guarantee to the authorised warehousekeeper only, what impact would this have on your business? Please be as specific as you can and provide details of the following:
- a) any increase or decrease in the financial cost of securing the FS;
  - b) any additional costs or savings in terms of staff time; and
  - c) any additional one-off costs.
- Q.11 If we were to restrict the provision of a movement guarantee to either the authorised warehousekeeper or registered owner of the excise goods being moved, what impact would this have on your business? Please be as specific as you can and provide details of the following:
- a) any increase or decrease in the financial cost of securing the FS;
  - b) any additional costs or savings in terms of staff time; and
  - c) any additional one-off costs.
- Q.12 Does your guarantee provider (i.e. the financial institution) currently place any conditions on the use of your guarantee?
- Q.13 What are those conditions?
- Q.14 If you are a transporter, how would the option suggested above impact on your business? Please be as specific as you can and include any details of any additional costs, benefits, staff time or one off costs.
- Q.15 What form of collateral does the financial institution accept to secure your guarantee?
- Q.16 How much does the provision of your movement guarantee cost your business?
- Q.17 If you have a combined premises and movement guarantee, does this reduce your business costs? If so, by how much?

- Q.18 Have you had any difficulties obtaining a guarantee from a financial institution and what were those difficulties? When was this?
- Q. 19 What impact would you expect this option to have on your business? Please be as specific as you can and provide details of the following:
- a) any increase in the financial cost;
  - b) any additional costs in terms of staff time; and
  - c) any additional one-off costs.

# A The Government's Consultation Code of Practice

## ABOUT THE CONSULTATION PROCESS

This consultation is being conducted in accordance with the Government's Consultation Code of Practice. If you wish to access the full version of the Code, you can obtain it online at:

<http://www.berr.gov.uk/files/file47158.pdf>

## THE CONSULTATION CRITERIA

- 1. When to consult** - Formal consultation should take place at a stage when there is scope to influence the policy outcome.
- 2. Duration of consultation exercises** - Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
- 3. Clarity of scope and impact** - Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
- 4. Accessibility of consultation exercise** - Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
- 5. The burden of consultation** - Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
- 6. Responsiveness of consultation exercises** - Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

**7. Capacity to consult** - Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you feel that this consultation does not satisfy these criteria, or if you have any complaints about the process, please contact:

Richard Bowyer, Better Regulation Unit

020 7147 0062 or [richard.bowyer@hmrc.gsi.gov.uk](mailto:richard.bowyer@hmrc.gsi.gov.uk)

# B Impact Assessment

Summary: Intervention & Options		
Department /Agency: <b>HM Revenue &amp; Customs</b>	Title: <b>Strengthening the Financial Security System within the excise warehousing regime</b>	
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>

**Contact for enquiries:** Christine Penistone

**Telephone:** 0161 827 0374

**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.**

<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups' Additional cost of providing movement guarantees to warehouse keepers or owners.
	<b>One-off</b> (Transition)	<b>Yrs</b>	
	<b>£ To be quantified</b>		Additional warehouse keeper or owner staff time to assess legitimacy of transporters.
	<b>Average Annual Cost</b> (excluding one-off)		
<b>£ To be quantified</b>		<b>Total Cost (PV)</b>	<b>£ To be quantified</b>
<p>Other <b>key non-monetised costs</b> by 'main affected groups'</p> <p>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.</p>			

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

### 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	<b>Net Benefit Range (NPV)</b> <b>£ To be quantified</b>	<b>NET BENEFIT (NPV Best estimate)</b> <b>£ To be quantified</b>
--------------------	----------------------	---	---

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.**

<b>COSTS</b>	<b>ANNUAL COSTS</b>		Description and scale of <b>key monetised costs</b> by 'main affected groups' Loss of revenue to guarantee holders from subcontracting. Additional cost of providing guarantee and administration burden for transporters who currently use subcontracted guarantees.
	<b>One-off</b> (Transition) <b>Yrs</b>		
	<b>£ To be quantified</b>		
	<b>Average Annual Cost</b> (excluding one-off)		
	<b>£ To be quantified</b>	<b>Total Cost (PV)</b>	<b>£ To be quantified</b>
Other <b>key non-monetised costs</b> 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.			

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

**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	<b>Net Benefit Range (NPV)</b> <b>£ To be quantified</b>	<b>NET BENEFIT (NPV Best estimate)</b> <b>£ To be quantified</b>
-----------------	-------------------	---	---

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 £ 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.

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

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>		Description and scale of <b>key monetised benefits</b> by 'main affected groups'
	<b>One-off</b>	<b>Yrs</b>	
	£ Nil		
	<b>Average Annual Benefit</b> (excluding one-off)		
£ Nil		<b>Total Benefit (PV)</b>	£ Nil
Other <b>key non-monetised benefits</b> 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	<b>Net Benefit Range (NPV)</b> £ To be quantified	<b>NET BENEFIT (NPV Best estimate)</b> £ To be quantified
-----------------	-------------------	--	--

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

<b>Type of testing undertaken</b>	<b><i>Results in Evidence Base?</i></b>	<b><i>Results annexed?</i></b>
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

## **C List of Stakeholders To Be Consulted**

This consultation is open to all businesses involved in the holding and movement of duty suspended excise goods or their Trade Associations.

# D Relevant Current Government Legislation

## Current Legislation and Notices on Financial Securities

### **Current UK legislation:**

The Customs & Excise Management Act 1979

Section 92

Section 157

The Excise Warehousing (etc) Regulations 1988

Regulation 15(a)

The Excise Goods (Holding, Movement, Warehousing and REDS) Regs 1992

Regulation 10(1) (a)

Regulation 10(4)

### **Current EU Legislation**

Council Directive 92/12

Article 13

Article 15

### **Relevant Notices are:**

Notice 196 - Authorisation of warehousekeepers, Approval of Premises

Notice 197 - Receipt into and removal from an excise warehouse of excise goods