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Alcohol Fraud: Next Steps

Informal consultation document

Publication date: 19 August 2013

Closing date for comments: 28 October 2013

Subject of this consultation:	The Government issued a summary of responses to its 2012 consultation on alcohol fraud on 17 July 2013, and announced its conclusions and next steps. This consultation explores those next steps further, seeking the views of stakeholders.
Scope of this consultation:	<p>This consultation covers:</p> <ul style="list-style-type: none"> - policy and enforcement changes HMRC intends to make to increase its impact on alcohol fraud - the operation of a scheme to register alcohol wholesalers - new obligations on registered excise traders to undertake effective due diligence on their supply chains.
Who should read this:	This consultation is relevant to all trade representatives, businesses and individuals with an interest in the alcoholic drinks trade, including those who are currently approved by HMRC to produce, hold or move excise goods and those who trade wholesale or retail within the UK.
Duration:	19 August 2013 – 28 October 2013
How to respond or enquire about this consultation:	<p>Collated responses from relevant trade associations on behalf of their members are welcomed. Alternatively, businesses or individuals may respond separately to all, or relevant parts, of this consultation.</p> <p>Please write or e-mail your responses to: John Waller HM Revenue & Customs Excise Strategy Team 3W Ralli Quays 3 Stanley St Salford M60 9LA john.c.waller@hmrc.gsi.gov.uk</p> <p>All responses will be acknowledged.</p> <p>Any other enquiries to: Ruth Ryan on 0161 827 0340 or ruth.ryan1@hmrc.gsi.gov.uk or Samantha McKibbin on 0161 827 0319 or samantha.mckibbin@hmrc.gsi.gov.uk.</p>
Additional ways to be involved:	<p>Businesses and individuals may influence policy design and help inform decisions on the introduction of new legislation by commenting on potential impacts, costs and benefits for the legitimate alcohol trade.</p> <p>In order to reach people who would be affected by the issues under discussion in this consultation, HMRC will be organising meetings with relevant trade representatives during the course of this consultation.</p>
After the consultation:	HMRC will collate the findings of this consultation to inform further advice to Ministers on the introduction of a registration scheme for alcohol wholesalers and a new excise due diligence condition.

Getting to this stage:

A formal consultation on alcohol anti-fraud measures was conducted in 2012. A summary of responses to that consultation has been published on the GOV.UK website.

Previous engagement:

These measures are the product of the 2012 formal consultation on alcohol fraud, involving discussions with relevant trade associations and businesses from producers through to retailers of alcoholic drinks.

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On request this document can be produced in Welsh and alternate formats including large print, audio and Braille formats

1. Introduction

The Problem

- 1.1** Alcohol duty fraud in the UK is a significant problem, costing taxpayers an estimated £1.2 billion per annum. This is not a victimless crime. It deprives the Government of money that could be used to fund essential public services like schools and hospitals. The organised criminal gangs behind this fraud undercut honest businesses at all levels who are trying to compete on an uneven playing field. It also undermines consumer confidence in the products they buy. The profits from alcohol fraud also support other organised crimes including drugs, weapons and human trafficking.
- 1.2** The most prevalent form of alcohol fraud involves the smuggling or diversion of alcoholic drinks into the UK in large commercial quantities, duty unpaid. Organised criminal gangs do this by systematically exploiting the EU-wide duty suspension arrangements which allow excise goods to move between authorised warehouses duty unpaid until released for consumption onto the home market. Illicit product typically penetrates legitimate supply chains at the point of wholesale.
- 1.3** Tackling alcohol fraud is a priority for the Government. Through its 'Tackling Alcohol Fraud' strategy, launched in 2010/11, HMRC has almost tripled the amount of revenue protected through its enforcement work to over £600 million in 2012/13. However, the level of alcohol fraud remains too high.
- 1.4** In 2012, the Government formally consulted on potential legislative measures to help prevent and tackle this fraud and has recently announced the conclusions of that consultation¹ that HMRC will:
- implement a programme of changes now to strengthen existing legislation, policy and enforcement to tackle alcohol fraud
 - consult further on how a scheme to register alcohol wholesalers might operate, to better understand the potential costs and benefits of such a scheme
 - consult on new proposals to strengthen due diligence obligations for registered excise businesses.
- 1.5** The Government also confirmed that it will not proceed with beer fiscal marks or supply-chain legislation at this time; the other major legislative proposals explored through the consultation.

Purpose of this consultation

- 1.6** The purpose of this informal consultation is to:

¹ <https://www.gov.uk/government/consultations/alcohol-fraud>

- provide further detail on the policy and enforcement steps HMRC intends to take to increase its impact on alcohol fraud
- provide further detail on how an effective scheme to register alcohol wholesalers might operate
- collect further information and data to assess the costs, feasibility and effectiveness of a wholesaler registration scheme, including from large and small/medium sized enterprises (SMEs) and any other interested parties
- understand the implications of new obligations on registered excise traders to undertake effective due diligence on their supply chains
- seek views to refine the proposed policy design of both options and inform any subsequent implementation.

Next Steps

1.7 This informal consultation will run from 19 August 2013 to 28 October 2013 lasting for a period of 10 weeks.

1.8 We welcome responses from as wide a base as possible. If you responded to the 2012 consultation, please feel free to take part again. For us to gain meaningful information we would ask for your co-operation in providing responses that are specific to the questions raised wherever possible.

1.9 All responses will be collated and analysed to inform subsequent ministerial decisions and a summary of responses published on the HMRC website.

2. Strengthening HMRC's existing alcohol anti-fraud strategy

- 2.1** In responses to the 2012 consultation on alcohol fraud, there was considerable support for the view that HMRC should do more to combat the fraud through enforcement under its existing strategy - ahead of imposing new compliance requirements on the alcohol industry.
- 2.2** HMRC, with Border Force, has made considerable progress in tackling alcohol fraud in recent years. In 2012/13, HMRC enforcement activity protected revenue totalling over £600m including seizing 12.7m litres of alcohol with a revenue value of £25m, raising assessments to recover £130m of lost taxes and levying penalties for wrongdoing worth over £52m. Alcohol fraud is one of the largest tax frauds the UK faces and HMRC is committed to work to increase its impact on the fraud.
- 2.3** HMRC has been assessing options to go further in tackling alcohol fraud through strengthening its policies and enforcement work, including considering industry proposals put forward through the consultation. HMRC intends to implement the following programme of change.

Increasing collaboration with legitimate business and between enforcement agencies

- 2.4** HMRC will establish a joint alcohol anti-fraud task force (JAATF) comprising stakeholders from across the alcohol industry and enforcement agencies to achieve greater collaboration, information and intelligence sharing. Its aims will be to develop:
- a greater mutual understanding of the nature and scale of the fraud
 - better sharing of information and intelligence of fraud
 - options on how industry and authorities can collaborate to tackle fraud
 - options on how technology developments could assist with tackling fraud
 - publication of an annual update report.
- 2.5** The task force will comprise representatives from HMRC, Border Force, Trading Standards, relevant trade association representatives, and senior figures from the alcohol industry. The scope of the task force will include all alcohol commodities and sectors.
- 2.6** HMRC will launch a new programme of work this year to communicate the risks attendant in alcoholic drinks supply chains direct to businesses. As part of that, we will also work closely with large businesses to support the development of effective due diligence and risk management processes to assist businesses to protect themselves from being caught up in supply chains penetrated by illicit product, with the associated financial and reputational risks.

2.7 HMRC will also aim to progress with the brewing industry specific commitments made in their [British Beer and Pub Association \(BBPA\) ten point anti-fraud plan](#), including:

- BBPA to collate duty suspended sales from brewers by trade channel to assist in (a) monitoring the volume and trends in this market and (b) producing a robust industry upper and lower bound estimate of beer fraud
- individual brewers to continue to supply HMRC with a regular detailed breakdown of duty suspended sales to customers to both UK and EU, including volumes
- brewers to continue to review due diligence processes and implement rigorous know-your-customer programmes. BBPA to develop minimum recommended requirements commensurate with size and risk
- brewers to provide timely information and intelligence on suspicious trading patterns and from due diligence actions²
- brewers to investigate cost-effective technologies and how voluntary UK-specific labelling could enhance tracking capabilities and respond in a timely manner to track-and-trace requests from HMRC.

Q1. What further steps could the alcohol industry take to reduce the scope and opportunity for fraud in alcohol products?

Tightening policy and regulations to reduce opportunities for fraud

2.8 The Government is committed to addressing the abuse of UK legislation which facilitates alcohol fraud and will seek to tighten the law to make it harder for organised criminals to commit fraud wherever possible.

2.9 HMRC is consulting on the introduction of new due diligence provisions which would become a condition of trading for all excise businesses approved by HMRC. This will require that businesses take all reasonable steps to ensure that they operate within wholly legitimate supply chains. It will also give HMRC greater power to act in instances where a business is engaged in activity that lacks commercial rationale and clearly risks tax losses in the UK or other EU Member States. For further details please see Chapter 4.

2.10 There are indicators that the UK brewing regime is being exploited by fraudsters who abuse the facility provided by a brewery registration to hold and dispatch beer duty unpaid. HMRC will tighten its policy regarding breweries which hold and dispatch beer from third parties. Where HMRC considers that the principal nature of the business has the attributes of an excise warehouse and not a brewery, approval under the brewery registration system will be denied. Instead, a business may submit an application under the excise warehouse provisions which includes appropriate controls to address the risks of fraud. HMRC will also amend existing legislation so that we can revoke an existing brewer's registration³

² HMRC will ensure that any such information or intelligence is handled appropriately in line with current legislation.

³ Alcoholic Liquor Duties Act 1979, Section 47.

for reasonable cause, for example, fraud or non-payment of duty. Draft legislation will be published for consultation prior to implementation.

Q2. Does the change in criteria for brewery registration have any implications for the operation of your business?

2.11 HMRC will introduce changes to financial guarantee requirements that will make it harder for fraudulent owners and transporters of excise goods to gain a guarantee. New applicants will be subject to more rigorous tests and conditions and the minimum level of guarantee will also be increased. We will also continue to work to identify and close down any abuses of the UK excise drawback and warehousing provisions to facilitate fraud.

2.12 Additionally, the UK will continue to press for changes to the EU legal framework in particular to prevent the current abuse of the EU-wide duty suspension system by criminals. The most significant issue leading to duty evasion is the movement, illegally, of multiple illicit alcohol loads under the cover of a single legitimate movement document. To address this we are seeking changes to requirements and procedures relating to the acceptance and refusal of loads arriving at UK warehouses, as well as the recording of more accurate details of vehicles undertaking those movements.

Q3. Are there any other changes to the EU legal framework that you think would be useful in addressing alcohol fraud?

Dealing more robustly with those found holding or moving illicit goods

2.13 Many stakeholders have pressed HMRC to make better use of the Excise Movement & Control System (EMCS) to tackle alcohol fraud. Additional funding provided through Autumn Statement 2012 has enabled HMRC to develop a risk capability for EMCS. This will provide HMRC with the capability to exploit the data within EMCS to improve the targeting and risk assessment of illicit alcohol movements. This risk functionality will become operational in 2014.

2.14 The majority of respondents to the 2012 consultation commented that UK borders are not secure enough and the risks associated with being caught smuggling are insufficient to deter fraudsters. Both HMRC and Border Force already take significant action at the border to tackle alcohol fraud and ensure that those involved are brought to account. However, it is recognised that more needs to be done. Wherever illicit goods are intercepted they will be seized and HMRC will seek to recover lost taxes and levy heavy penalties for wrongdoing. To increase the deterrent effect of enforcement at the border, HMRC will also tighten its policies so that restoration occurs in fewer instances where a vehicle used to move illicit goods is seized. Additionally, we will increase the number of vehicles destroyed on non-restoration to prevent the re-purchase of lorries and trailer units cheaply by criminals at auctions.

2.15 HMRC will extend the reach of sanctions that can be applied against those businesses transporting illicit goods through a new Memorandum of Understanding (MOU) with the Traffic Commissioners, the Vehicle and Operator Services Agency

(VOSA) and the Traffic Regulation Unit in Northern Ireland. These sanctions include the potential for revocation of HGV operators' licences. This would prevent someone from operating as a haulier. We have significantly increased the number of these referrals since the introduction of the MOU.

Increasing co-operation with other EU Member States

2.16 HMRC has built up excellent working relationships with its counterparts in other Member States in recent years through its Fiscal Crime Liaison network. We are committed to increasing cooperation with other Member States to tackle alcohol smuggling through further exchanges of information on suspect persons and movements as well as joint, often multi-lateral, interventions on high risk operators.

Reporting fraud

2.17 To report any kind of fraud, smuggling or tax evasion you can contact HMRC with the information, in confidence at www.hmrc.gov.uk/reportingfraud.

3. Registration of alcohol wholesalers

Background

3.1 Registration of alcohol wholesalers, including new powers to remove or reject a business's approval to trade in alcohol, was proposed by the Federation of Wholesale Distributors as a means to address high levels of illicit trading in alcohol evident particularly within the cash and carry and retail sectors. Nearly all responses to the 2012 consultation were positive about the potential benefits of such a scheme, with many seeing the current lack of wholesaler registration as a blind spot for authorities in which criminals could more easily operate. Some respondents considered it inconsistent not to authorise this part of the alcohol supply chain, particularly as it was often the point at which criminals penetrate legitimate supply chains with illicit product.

3.2 The Government agrees that the introduction of a new scheme to register alcohol wholesalers has potential to offer significant protection for legitimate businesses facing unfair competition from the illicit trade and to reduce overall levels of alcohol duty fraud. It is also recognised that this scheme would introduce significant changes for legitimate businesses in alcohol supply chains and to police it robustly would have significant impacts on HMRC resources. A fuller assessment of potential impacts and further consultation on policy design is required to inform final decisions by ministers on whether to proceed with a registration scheme.

How would a wholesaler registration scheme help address fraud?

3.3 Honest businesses at wholesale and retail levels face unfair competition from others in the sector that source untaxed goods from organised criminal supply chains. It is evident that the wholesale / cash & carry sector has become a vital link for criminals to distribute their illicit products on to legitimate retailers. However, at present there is no register or any requirement to be approved by any UK authority in order to trade 'wholesale' in alcohol products. This hampers effective risk assessment of the sector. It also weakens HMRC's ability (relative to other parts of the alcohol supply chain) to remove a business's approval to trade where that might be the most appropriate response to continued illicit trading.

3.4 A new wholesaler registration scheme would introduce a central register of those trading alcohol 'wholesale' including an online look-up system which would be publicly available and accessible. The scheme would impose similar requirements as currently exist for others whose trade involves excise goods - notably a requirement to meet certain standards and be approved by HMRC prior to trading. An alcohol wholesaler would be required to demonstrate they are 'fit and proper' to trade and their supply chains would be tested to ensure they are legitimate. Where standards fall short of those expected, a wholesaler's right to trade legally in alcohol products may be refused or revoked.

3.5 A wholesaler that dealt in alcohol without registration would be liable to tough penalties and sanctions. The absence of a valid registration would enable HMRC

and enforcement partners to deal with illicit activity much more quickly and effectively. For example, any alcohol goods found in unregistered premises would be immediately subject to seizure.

3.6 Most importantly, a register would bring transparency to trading at wholesale level, providing legitimate businesses with more certainty of the status and legitimacy of the businesses they transact with and removing the excuse of ignorance for businesses who take the risk of dealing in illicit product. Any business supplying or purchasing alcohol from an unregistered wholesaler would be liable to financial penalties and sanctions.

3.7 Tackling illicit trading in the wholesale sector effectively has potential to significantly reduce tax losses across all categories of dutiable alcohol. It would also be expected to stimulate legitimate business growth and secure employment across the sector, benefiting the UK's economy.

Q4. What further data can you provide to help us assess the overall impact that alcohol fraud has on legitimate businesses (for example, the effects on turnover, jobs, growth and the prevalence of suspected illicit trading in your area)?

Who would be required to register?

3.8 The intention is that anyone whose trade involves the 'wholesale' of duty-paid alcohol to another UK trader for their commercial use would be required to register with HMRC to operate.

3.9 This would include businesses that already hold an alcohol retail licence under the Licensing Act 2003 or other HMRC excise approval.

Legal definition of wholesale activity

3.10 The Licensing Act 2003 already defines the type of activity we want to capture. Section 192(2) of the Licensing Act 2003 defines sales that are **not** retail sales which by default defines what we mean by wholesale activity:

“the sale of alcohol to –

- a) a trader for the purposes of his trade
- b) a club holding a club premises certificate⁴
- c) the holder of a personal licence for the purpose of making sales authorised by that licence, for example a pub manager or supervisor
- d) the holder of a premises licence for the purpose of making sales authorised by that licence⁵, or
- e) the premises user in relation to a temporary event notice for the purpose of making sales authorised by that notice.⁶”

⁴ Qualifying clubs run by members, for example, working mens' clubs, political clubs.

⁵ Premises include pubs, night-clubs, off-licences, restaurants, hotels, theatres etc.

⁶ The temporary carrying on of licensable activities not authorised by a premises licence or club premises licence.

Further guidance on any of the terms used above is available at: www.gov.uk. (Search for alcohol licensing.)

Q5. Do you consider this definition from the Licensing Act 2003 to define wholesale activity is appropriate?

Legal definition of who is a wholesaler

3.11 HMRC would define who is a wholesaler in law, basing this on the definition of anyone dealing in alcoholic liquors which fall under Section 1 of the Alcoholic Liquor Duties Act 1979 after the duty point (excluding any alcohol which carries a particular duty exemption or duty free, for example, denatured alcohol or spirits used for medical or scientific purposes) and who is carrying out any of the activities described in paragraph 3.10.

3.12 An approved wholesaler would also have all the premises in which they sell, supply or store alcohol linked to their approval.

Q6. Do you agree with our proposed definition of a wholesaler?

Q7. Are there other generic descriptions for wholesalers of alcoholic beverages that we could consider (apart from standard dictionary definitions)?

Would there be any exemptions from registration?

3.13 Concerns were advanced during the previous consultation that exemptions might introduce opportunity for fraudsters to avoid registration, undermining the anti-fraud benefits of introducing the scheme. Administering exemptions is also likely to be problematic for HMRC and adds burdens on industry to check the legitimacy of any exemptions and monitor trading levels.

3.14 To ensure the scheme we introduce is robust and to reduce the opportunities for fraudsters to exploit any loopholes to a minimum, we are proposing there are no specific exemptions for businesses that hold themselves out to be wholesalers. However, please see paragraph 3.62 onwards regarding retailers that make incidental wholesale supplies.

Q8. Do you agree with our proposal not to introduce any specific exemption from scheme requirements apart from our proposals for the treatment of retailers at paragraph 3.62 onwards? If you do not agree, please explain why you think an exemption is appropriate, how you think it might operate and the impact on the specific trade sector of not having an exemption.

What if I already hold an alcohol retail licence under the Licensing Act 2003, or HMRC excise approval?

3.15 It is important to the integrity and transparency of the scheme that all businesses trading 'wholesale' - including those who already have a retail licence and excise registered businesses who also trade in goods after the point that duty

should have been paid - are registered and approved to do so. This is to allow businesses in onward supply chains to be able to simply identify and demonstrate (by interrogation of a central database and registration numbers on commercial documents) that they are buying from, or selling / supplying to, someone who is approved to be an alcohol wholesaler.

3.16 It is also appropriate that any new penalties and sanctions under the scheme should apply equally to all businesses involved in the wholesaling of alcohol.

Q9. Do you agree with the proposal that businesses that already hold a retail licence and / or excise approval will be required to register if they 'wholesale' alcohol? Please give reasons for your answer.

What about importers?

3.17 Importers⁷ who:

- buy alcohol duty paid in another EU member state or
- import alcohol into the UK from outside the EU

with the aim of selling / supplying UK duty paid alcohol to UK trade customers would also be carrying out a wholesale activity and would need to register and be approved by HMRC.

Q10. Do you agree with the proposal that importers will be required to register if they deal in alcohol wholesale? Please give reasons for your answer.

Q11. Are there different impacts for importers when compared to businesses buying alcohol in the UK for wholesale sale?

Retailers that sell to retailers

3.18 Retailers, including shopkeepers, supermarkets, public houses, restaurants, etc., who sell alcoholic drinks to other retailers for their onward sale would also find their activities fall within the definition of wholesale activity. For example:

- supermarkets who sell alcoholic drinks to other retailers for their onward sale
- retailers who buy alcoholic drinks in bulk then sell those goods to other retailers for their onward sale (regardless of how the bulk purchase was funded, for example individually or co-operatively with other retailers).

3.19 To create a level playing field with the wholesale sector and to avoid unfair competition, we believe retailers who sell alcoholic drinks to other retailers or wholesalers for their onward sale would also need to be approved by HMRC as wholesalers although we are proposing to exclude retailers that only make incidental wholesale supplies from the requirement to be registered. How we

⁷ For example as a registered commercial importer

would expect the scheme to work for retailers is explained at paragraph 3.57 onwards.

Q12. Do you agree with the proposal that retailers selling alcohol to other retailers or wholesalers will be required to register as they deal in alcohol wholesale?

Examples of “wholesale” activity

3.20 To summarise, here are some examples of wholesale activity which would require registration. This is not an exhaustive list.

- A cash and carry selling UK duty paid alcoholic drinks:
 - to off-licences or supermarkets for consumption off the premises
 - to be consumed in other trading premises such as restaurants, hotels, public houses, night clubs, private members clubs, corporate entertainment, or
 - to another wholesaler for resale.
- A merchant or broker who buys alcoholic drinks direct from a producer and then supplies them UK duty paid to retailers for resale to the public.
- A merchant or broker who buys alcoholic drinks from a supplier other than the producer and then supplies them UK duty paid to another UK trader for resale.
- A drinks merchant who specialises in supplying UK duty paid alcoholic drinks to the on or off-trade.
- A drinks merchant, such as a specialist wine merchant, supplying UK duty paid alcoholic drinks to a business enterprise that does corporate entertainment.
- A ‘dry dealer’ such as a broker, buying agent or drop shipper who trades in UK duty paid alcohol goods but never takes physical possession or ownership of them.
- A drinks manufacturer who also buys UK duty-paid goods for onward sale.
- A drinks manufacturer supplying their own products duty paid to trade customers.
- A retailer who also sells duty paid to trade customers.
- Online sales of duty paid alcohol to trade customers.
- Importers supplying duty paid alcohol to UK trade customers.

Q13. Taking into account the description of who would be required to be registered and the examples given above, are there any trade types that you think should be excluded and why? Are there any trade types not covered above that you think should be included on the list?

Q14. We estimate there are 20,000 businesses that may meet the definition of an alcohol wholesaler and therefore would need to register with HMRC. Taking into account the description of who would be required to be registered, approximately how many businesses do you estimate would be included in the registration requirements of the new scheme?⁸ If possible break this down into categories (for example, cash and carries, excise approved businesses, retailers, importers or any other types of business you are aware of that should fall under the definition of wholesale).

Operation of the scheme: Registration

Basic principles

3.21 In general terms, HMRC's objectives would be to ensure all businesses requiring registration apply standards that might be reasonably expected of a legitimate well run enterprise that:

- is compliant in its tax affairs
- takes care to get things right and comply with their legal obligations
- maintains business records to enable audit of trading activity
- regularly carries out due diligence checks on suppliers and customers.

3.22 The effectiveness of a wholesaler registration scheme in tackling fraud is wholly dependent on first identifying and then 'rooting out' any businesses intent on gaining a competitive advantage by trading in illicit alcohol. To ensure only compliant businesses are entered onto a register, HMRC would need to conduct rigorous pre-registration checks for all existing businesses during the introduction of the scheme.

3.23 After introduction of the scheme, HMRC activity would switch to focus on preventing new fraudulent businesses gaining approval to trade, managing the compliance of those who have been approved to prevent any re-emergence of illicit trading and applying robust sanctions to those who attempt to trade as a wholesaler of alcohol outside of the scheme.

3.24 New record-keeping requirements aimed at making it difficult to conceal duty unpaid stock would also be introduced.

Legal base

⁸ We are happy to receive responses to this question from individual businesses but it may need trade associations to compile the necessary data.

3.25 The Customs & Excise Management Act 1979 already provides the legal base to register and approve wholesalers and introduce regulations.⁹ However, new primary law would be required to define what we mean by a wholesaler and introduce any new sanctions.

Applying for registration

3.26 All businesses and persons currently involved in the wholesale of alcohol would be expected to apply to HMRC for registration and gain approval in order to continue trading in alcohol products. Further information on when to apply would be provided, but it is expected that a transition period of more than 12 months will be required to conduct all necessary pre-registration checks and register the current population of alcohol wholesalers. The scheme will then commence from a specified date when the obligations outlined in paragraphs 3.40 to 3.54 will come into force.

3.27 Application to register would be online and businesses would be asked to provide details including (but not limited to):

- legal entity and trading name
- address of premises they intend to use to either supply or store alcohol
- details of trading activities
- details of any excise approvals already held
- information on their expected level of trade
- credible business case supporting the level of trade
- an outline of their due diligence policy (further information on due diligence is in Chapter 4).

Q15. Do you have any comments regarding our proposed method of applying for registration online?

Pre-registration checks

3.28 HMRC will assess the risk of all applications received and, only when satisfied that all relevant risks to the revenue are managed appropriately and that all key persons are 'fit and proper' to carry on such a business, will we process the application to register.

3.29 A visit by HMRC officers to an applicant's trading premises may be required, for example, to interview directors and verify information provided. Certain other business information may be required at this stage which has not already been provided as part of the application process. This could include details of suppliers and customers, evidence of undertaking appropriate due diligence, accounting and stock control systems, financial viability and so on.

3.30 Existing businesses should not assume that approval would be automatic. Following pre-registration checks, alcohol wholesalers would either be registered or, where there is reasonable cause, they will be refused registration and required

⁹ CEMA 79 100G – J.

to cease trading in alcohol products in addition to any other sanctions HMRC might apply. Where an applicant's request for registration is refused, the applicant will have the right to appeal.

Grounds for refusal/revocation of a registration

3.31 HMRC would be entitled to refuse, revoke or vary registration if they have reasonable cause to doubt the 'fit and proper' nature of the applicant to carry on trade in excise goods. The following list is not exhaustive, but reasonable cause would include if:

- evidence is uncovered of trading in illicit goods
- the legal entity (including the director or key employees in the case of a company) has been involved in any revenue non-compliance or fraud
- there are links between the legal entity or key employees with other known non-compliant or fraudulent businesses
- the legal entity (or director in the case of a company) has unspent convictions¹⁰
- there are outstanding debts to HMRC which are of a serious nature
- the application is incomplete, inaccurate or contains false information
- there are serious record-keeping deficiencies, for example, non-compliance with HMRC requirements regarding purchase, sales, stock, cash records etc.
- failure to undertake satisfactory due diligence on suppliers and customers
- insufficient evidence of legitimate commercial activity.

Q16. Do you agree with our proposals to check all applications for registration prior to approval?

Q17. Do you agree with the criteria for acceptance or refusal of applications for registration? What other criteria should be considered?

(i) Registration: Existing wholesalers

3.32 Existing wholesale businesses that are already trading before the scheme is introduced would be required to apply for registration within a specified 'application window'. HMRC would conduct a programme of pre-registration visits to validate each application over a specified time period.

3.33 HMRC would confirm the approval or refusal of the application to register at least three months prior to the implementation of the scheme.

(ii) Registration: New businesses

3.34 New businesses would be required to apply to HMRC **before** they commence trading.

¹⁰ See Rehabilitation of Offenders Act 1974 for definition of unspent convictions.

3.35 An application to become a registered wholesaler must be submitted to HMRC at least 45 days prior to commencing wholesaler activities. This is to allow HMRC time to carry out the necessary verification and pre-approval checks. New businesses should not assume that approval would be automatic.

Confirmation of registration

3.36 All businesses approved to trade will be issued a certificate of registration and their details entered onto a central register maintained by HMRC. The registration certificate would include a unique reference number (afterwards referred to in this document as a URN) and any specific conditions which we may impose. One certificate may be issued in respect of any number of premises if the wholesaler is trading from more than one location. Only when a wholesaler had their certificate and URN would they be able to legally trade wholesale in duty paid alcoholic drinks.

3.37 HMRC would create an on-line look up service on its internet site through which businesses in the alcohol supply-chain would need to validate that the wholesalers they are trading with are appropriately registered.

3.38 Responsibility would be with both suppliers and retailers alike to ensure they are only dealing with HMRC approved traders and failure to do so would result in heavy penalties. Please see paragraph 3.65 onwards.

3.39 Registered wholesalers would also be legally obliged to notify HMRC in writing of any changes to their registration, for example, changes to legal entity, changes to premises used for the sale, supply or storage of alcohol or an intention to cease trading to ensure the register is accurate for those checking a wholesaler's registration number.

Q18. Do you agree with the proposals for registration? If not, please give details and suggest ways we could mitigate any problems.

Obligations of the scheme – wholesalers

Due diligence

3.40 One of the standards expected of a registered wholesaler will be to carry out due diligence checks on their supply chains and we intend to include a requirement for alcohol wholesalers to carry out reasonable checks on their supply chains as a condition of their approval. This is intended to deter those businesses that are prepared to ignore the credibility of their supplier or customer or may be tempted to deal with illicit suppliers or customers but have not already done so. It is also designed to protect the majority of businesses who carefully consider who they trade with and already have appropriate business controls in place to help protect themselves from fraud.

3.41 Please read Chapter 4 for an explanation of the due diligence checks we intend to implement and for an opportunity to comment.

Need to display/furnish and check reference numbers

3.42 Once a URN is allocated it would be either displayed at the premises or produced on request if the wholesaler does not have physical premises, for example if the wholesaler is a broker.

3.43 When purchasing alcoholic drinks, a wholesaler would be required to produce their URN to allow their supplier to validate registration details before any transaction takes place. Likewise, when supplying alcoholic drinks a wholesaler would provide their URN to their customers to allow them to validate registration details before a transaction takes place.

3.44 This procedure would also be followed when a wholesaler supplies to another wholesaler, i.e. a URN is presented to both the buyer and the supplier and they check each other's details.

3.45 We propose the frequency of checking a URN should be based on a check on every new customer and at least a monthly check for existing customers. The URN's would be validated by checking the on-line look-up service.

3.46 We also proposed in the formal consultation that the scheme may require inclusion of the URN on invoices to cross-refer supplier to wholesaler and to assist HMRC in establishing the duty status of the goods. Those who responded said this would not cause any significant costs or impacts.

Q19. Do you have any comments regarding the means and frequency of checking registration numbers?

Q20. We envisage the inclusion of the URN would be a requirement of the final scheme, can you confirm the costs and practical impacts of including this on your sales invoices/purchase orders?

3.47 Registered wholesalers would also have to inform any changes to their registration details as outlined in paragraph 3.39 and retain the records detailed below.

3.48 We are proposing to introduce civil sanctions if a registered wholesaler fails to comply with the conditions and restrictions of the scheme. More details of the full range of sanctions are contained in paragraph 3.65.

Record Keeping

3.49 Poor or non-existent records are often used to disguise fraud and frustrate HMRC's efforts to demonstrate the provenance of goods.

3.50 We propose that, as a minimum, certain records must be kept and certain systems put in operation by an alcohol wholesaler as a condition of their approval, including:

- daily records of payments to suppliers and from customers, including cash control systems
- copies of delivery documents, accessible to HMRC on-site
- details of delivery vehicles, for example, registration numbers
- name and URN of suppliers
- name and URN of customers who are wholesalers, and
- a basic stock control / rotation system i.e. ability to demonstrate and manage what is being purchased, what is being supplied and stock on hand.

These requirements would be in addition to any other business records that a revenue trader is legally required to keep¹¹. A serious failure to keep the specified records could lead to us placing additional conditions or even revoking an approval. A failure to keep and preserve such records would also lead to a liability to increased civil penalties (see paragraph 3.65).

Q21. What are the additional costs and impacts on your business of maintaining these records?

3.51 Wholesalers would also be expected to retain documentary evidence that they checked their supplier's URN on the proposed online database and found the details to be valid.

3.52 In addition, where the customer of a wholesaler is:

- another wholesaler, we would expect the customer to present their URN to the supplying wholesaler and we would expect the supplying wholesaler to retain documentary evidence that they checked the URN of their customer on the proposed online database and found the details to be valid;
- a retailer (but not also a wholesaler), we would expect the supplying wholesaler to retain documentary evidence of their customer's retail licence unless the supply was only incidental in character (see paragraph 3.62 onwards); or,
- a member of the public, we would expect the supplying wholesaler to keep a record that the supply was to a member of the public and we would expect them to perform due diligence checks for supplies over a certain quantity¹² (i.e. query repeated sales; check customer is bona fide etc.).

Q22. Do your business records differentiate between supplies to wholesalers, retailers and members of the public?

Q23. If not, how much would it cost you to introduce a system that allowed you to do this?

¹¹ Notice 206 Revenue Trader's Records

¹² We would suggest quantities over those specified in Article 32 of Council Directive 200/118/EC which provides EU guidelines as to what levels of importations by an individual may be considered as indicative of personal use – these levels could be considered equally relevant for purchases made in the UK.
<http://www.hmrc.gov.uk/customs/arriving/arrivingeu.htm>

Q24. What would be the costs and impacts of keeping a record of checks on registration numbers?

3.53 We previously proposed other record-keeping requirements including:

- more detailed stock records which allowed reconciliation of purchases to sales and detailed amounts of products in stock at a given time
- markings applied to alcohol at pallet/crate level and introduction of systems for matching goods in stock to specific sales invoices.

3.54 Those who responded said it was difficult to match stock records to specific purchases as it is common practice to buy the same brands from a number of sources. We were also told that an electronic solution to match goods in stock would be too expensive.

Q25. Can you suggest how stock records could be improved to allow reconciliation of purchases to sales to check their authenticity?

Returns

3.55 We do not envisage a requirement to provide periodic declarations to HMRC of sales and stock levels for example, as is required of many excise traders. However, we may consider introducing this requirement in the future if necessary to control the risk within the sector more efficiently and it would be helpful to understand the implications for your business.

3.56 The type of information we may ask you to provide could be stock on hand at the beginning and end of the period, stock received direct from the manufacturer, stock received from other suppliers and details of new suppliers in the period. We may also ask for details of your customers.

Q26. What would be the costs and impacts on your business of collating the requested information and submitting stock returns to HMRC on either a quarterly or monthly basis?

Obligations of the scheme - Retailers

Obligations for retail customers of wholesalers

3.57 Retailers would be obliged to ensure that they are only sourcing products from wholesale suppliers who are appropriately registered (however also see paragraphs 3.62 onwards). It would therefore be an obligation of the retailer to check the wholesale supplier has a bona fide registration.

3.58 We would consequently expect a retailer to use the proposed online database to check the registration of every new wholesale supplier they deal with and check existing suppliers on a regular basis (a check for every new customer and at least once a month for existing customers). Failure to do so could result in a financial penalty as outlined in paragraph 3.65.

3.59 Retail customers would also be obliged to retain documentary proof they have checked the authenticity of their supplier as proposed at paragraph 3.57. This is in addition to any other record-keeping requirements they may have for other taxes.

Obligations for retailers selling to retailers

3.60 Retailers distributing illicit product wholesale to other retailers is a common method of fraud in alcohol goods. Registration of retailers that have a significant wholesale aspect of their business is necessary to deal with this aspect of the fraud adequately to prevent retail businesses being used by fraudsters to sell and distribute illicit stock.

3.61 Retailers that make sales to the public covered by their retail licence, but also have a deliberate business activity of selling alcoholic drinks to other retailers for their onward sale are carrying out a wholesale business activity. In those circumstances, the retailer would need to register as a wholesaler and comply with the proposed pre and post registration obligations described for wholesalers in paragraphs 3.40 onwards. For example, they will be required to apply for registration and allow HMRC to carry out verification and approval checks (which may include a visit to the place of business), they will need to display and furnish their URN and they will need to check the validity of their suppliers and trade customers and so on. They would also be required to maintain the records outlined in paragraph 3.50.

3.62 However, we are aware that the activity of the majority of retailers is primarily aimed at retail sales to end consumers but there may be occasions where a retailer makes an incidental wholesale sale which is not a deliberate wholesale business activity, for example:

- a supermarket selling special offer beer to a customer who happens to be a retailer who will sell that beer in their shop or
- a corner shop selling a few bottles of wine to a customer who happens to be the manager of a local restaurant who will sell that wine in their restaurant.

In some cases where the purchaser is unknown to them the only indication a retailer may have that the purchase is being made for commercial purposes is that a tax invoice is requested.

3.63 The purpose of the scheme is to capture and regulate wholesale trade in alcohol goods. It is necessary therefore to distinguish between wholesale businesses and retail businesses that conduct occasional or incidental trade with other businesses. HMRC will seek to exclude from the scope of the wholesaler registration scheme retailers that make minimal, incidental or occasional sales to other retailers.

3.64 This will require the introduction of criteria for determining what can be treated as incidental sales. Possible criteria for defining incidental sales and so providing exemption from the scheme may include:

- sales where the amount of alcohol sold to a business is less than a de minimis, for example, the EU Minimum Indicative Levels (see footnote 12)
- specifying a de minimis monetary value of sales (for example, sporadic or isolated sales of £250 to a business) below which the retailer could disregard the sale for the purposes of this scheme
- specifying a number/total value of transactions over a given period below which a retailer would not require to be registered.

Q27. If you are a retailer and would be required to be registered, what are the costs and impacts on your business of complying with our proposed obligations of the scheme?

Q28. Do you agree that retailers who make only incidental wholesale sales should not be required to be registered?

Q29. Which criteria, and at what levels, do you think is appropriate to determine incidental sales?

Q30. What other approach could HMRC take to mitigate the impact of the wholesaler registration scheme on retailers who make minimal, incidental, or occasional sales to other retailers?

Penalties and Offences

3.65 Throughout this document, we have mentioned some of the sanctions that we think are necessary as part of an effective wholesaler registration scheme. In summary these new sanctions are:

- failure to notify a requirement to be registered as a wholesaler or buying from or selling / supplying to an unapproved wholesaler - a penalty of £5,000¹³ with additional penalties for repeated/persistent cases
- general non-compliance with administrative requirements - escalating action from warning letters to civil penalties (£250 per breach)
- serious failures to keep specific trading records - an increased civil penalty, possibly up to £1000 per breach
- failure to apply effective due diligence, persistent regulatory breach and serious non-compliance - revocation of a registration / right to trade as an alcohol wholesaler
- retailers purchasing from a source they should have reasonably known was illicit – automatic referral to the licensing authorities to consider further sanctions against retail licences
- trading without registration - immediate forfeiture of relevant goods in premises / ownership / possession.

3.66 These sanctions would sit alongside other existing powers that HMRC already has including the power to criminally prosecute offences that involve fraudulent evasion of excise duty or taking steps to evade excise duty; the power to make

¹³ Penalty amounts specified could in future be increased to ensure they remain commensurate with sanctions for similar contraventions of the law.

assessments for unpaid duty, issue wrongdoing penalties for dealing in duty unpaid goods, and seize illicit stock.

Q31. What are your views on any of the new sanctions and level of penalties that we are proposing?

Q32. What other action could HMRC take either as an alternative or in addition to the proposed sanctions?

Right of appeal

3.67 A business has the right to appeal decisions made by HMRC in certain circumstances. The following decisions would be appealable:

- refusal of application to be approved including person (and premises)
- imposing restrictive conditions
- variation of conditions
- revocation
- penalties, assessments for duty
- seizure of stock.

Q33. Do you believe there are other features of this scheme that should have a right of appeal?

Summary of Impacts

3.68 The formal consultation in 2012 included an impact assessment which we need to update. It is important that we gather the financial costs and administrative impacts to businesses of our proposals so we can give Ministers a balanced view of our policy proposals. We would particularly encourage information from small to medium sized enterprises which could be affected the most.

Exchequer impact (£m)	2011-12	2012-13	2013-14	2014-15	2015-16
	+/-	+/-	+/-	+/-	+/-
	Exchequer impacts can only be assessed once the design of the scheme is finalised.				
Economic impact	Reductions in the availability of cheap illicit beer on the UK market would be expected to result in roughly corresponding increases in legitimate beer sales. This may result in marginal increases in average retail prices.				
Impact on individuals and households	This proposal will not create any additional administrative burden on individuals and households.				

Equalities impacts	This measure is not expected to have a disproportionate equalities impact.
Impact on businesses and Civil Society Organisations	<p>Reductions in the availability of cheap illicit beer should benefit the competitive position of wholesalers and retailers that trade in legitimate stock.</p> <p>Initial estimates suggest there could be 20,000 businesses that could be required to register as a wholesaler. Initial consultation identified one off costs of registration/changing signage and invoices for larger wholesalers.</p> <p>One estimate indicated a cost of £20,000 for system enhancement to include registration numbers on invoices. The level of cost per business would be dependent on the size of the business and complexity of systems. Negligible, ongoing costs identified by larger wholesalers.</p> <p>Impact on small-medium sized businesses to be assessed further through pro-active consultation with trade associations and groups specifically representing interests of small-medium sized wholesalers.</p> <p>Impact on businesses already holding an excise approval/importers/retailers to be assessed through consultation.</p>
Impact on HMRC or other public sector delivery organisations	Control and maintenance of the register for wholesalers will require additional HMRC resources and IT investment.
Other impacts	<p>There will be impacts on small wholesale businesses that will be required to register. Any impacts will continue to be assessed further through consultation.</p> <p>As part of the consultation process we are also looking for views/information from respondents on any other possible impacts.</p>

Q34. Do you agree with this impact assessment?

Q35. What impact (financial or otherwise) do you think the wholesaler registration scheme would have on alcohol fraud?

Q36. Are there any other impacts which should be taken into account?

Q37. If you are a small business (less than 50 employees) please provide details of the costs and impacts of this measure on your business.

4. Excise due diligence condition

Introducing a new excise due diligence condition

4.1 Faced with the continued threat of illicit excise goods finding their way into the UK, HMRC are concerned that some businesses are openly entering into transactions which are often too good to be true or high risk in other ways. We are seeking to change the behaviour of those businesses who enter high risk trading agreements and protect the majority of businesses who carefully consider who they trade with and already have appropriate business models in place to help protect themselves from fraud.

Who would excise due diligence apply to?

4.2 The proposed new due diligence conditions would be intended to apply to any businesses approved under Section 100G of the Customs & Excise Management Act 1979¹⁴. This would include businesses approved under Section 100G that handle tobacco as well as alcohol products. It would also be intended to apply to persons approved under the provisions of the Alcoholic Liquor Duties Act 1979 and alcohol wholesalers if the new registration scheme is introduced.

When would due diligence checks be performed?

4.3 Due to the vulnerability of sectors dealing in excise goods to fraud and other criminality, businesses would be expected to carry out reasonable checks to establish the credibility and legitimacy of new customers, suppliers and supplies. These checks would need to be robust in order to protect a business from the threat of fraud. Such checks would also help businesses avoid being involved in supply chains linked to excise frauds or other criminality.

4.4 A business in an established supply chain would be expected to carry out periodic due diligence checks on the immediate supply chain to ensure that high risk changes in its trading pattern are quickly identified and can be reacted to.

Q38. Would the imposition of a due diligence condition have any positive or adverse effects on your business? If this is the case can you please advise what those effects would be?

Q39. Do you think that this condition will help improve confidence in your sector and help businesses make more informed decisions on who they trade with?

Q40. Do you think this condition will have a positive impact on fraud and reducing overall risks in your sector of trading / market place?

¹⁴ Such as Registered Commercial Importers, Registered Consignees, Registered Consignors, Registered Warehousekeepers and Registered Owners of Goods in an Excise Warehouse.

Performing due diligence checks

4.5 Although HMRC do not intend to be prescriptive as to the checks that each business must undertake, the proposed condition will ensure that each business will have sufficient checks in place to be reasonably satisfied that they are entering into arrangements with other genuine businesses and be satisfied on the provenance of the goods being traded.

4.6 Checks would focus on:

- the nature of the supply chain to be satisfied that customers and suppliers are genuine
- payment arrangement and conditions
- details of the movement of the goods involved
- the duty status of the goods you are dealing in and where you are directly dealing in “duty paid goods”, confirmation that the duty has actually been paid on those goods.

4.7 We would expect a business to ask themselves:

- do the supplies I am making make commercial sense?
- is there a legitimate, justifiable market for the goods I am supplying?
- are the purchase and sales price of the goods realistic and proportionate to the normal market or are they too good to be true?
- how am I being paid? (Cash payments may present a greater risk than other forms of payment)
- if the payment is cash, how and where was the cash generated and whether payment in this way makes commercial sense?

4.8 HMRC would not expect you to go beyond what is reasonable. However, HMRC would expect you to make a judgement on the integrity of your supply chain and the suppliers, customers and goods within it. If your checks indicate there may be a fraud, you would be expected to inform this to HMRC.

Example due diligence checks

4.9 HMRC will provide guidance on the types of checks useful in identifying high risk excise transactions. These checks will largely mirror those published in VAT Notice 726 and are already carried out by a large proportion of excise businesses, that are already aware of the risks of dealing in non duty paid goods held outside duty suspension arrangements. The following are examples of specific checks which could be carried out:

- obtain copies of Certificates of Incorporation, VAT registration certificates and excise registration certificates where appropriate
- verify VAT and/or excise registration details with HMRC
- where goods are said to be duty paid seek sufficient detail to satisfy yourself that those goods are indeed actually duty paid - in most cases the best way of demonstrating this is to gain confirmation via your supply chain and

ultimately directly from the producer or importer that the goods supplied to you are duty paid - the documentation being sufficient to identify the consignment

- where goods are travelling under control or formal excise arrangements you should be satisfied, where possible, that this is in accordance with Community rules and that goods reach their declared destination
- obtain signed letters of introduction on headed letter paper
- obtain credit checks or other background checks from an independent third party
- insist on personal contact with a senior officer of the prospective supplier, making an initial visit to their premises whenever possible
- obtain the prospective customer or supplier's bank details, to check whether:
 - payments would be made to a third party; and
 - in the case of an import, the supplier and their bank shared the same country of residence
- check details provided against other sources, for example online information (this could include the business' own website and websites such as Google Earth), letterheads, BT landline directories; Companies House and so on
- where company governance rules apply that these are complied with.

What HMRC will check

4.10 During our checks of a registered excise business, HMRC would seek to identify what actions or precautions the business took in response to any indicators of risk, focusing on the due diligence checks the business undertook and the actions taken by the business in response to the results of those checks. In each case, HMRC would consider:

- what due diligence checks are performed? This includes any checks designed to address risks identified in your specific trade areas
- to what extent were the business checks appropriate, adequate and timely in relation to addressing the risk identified?
- what did the results of the checks indicate?
- did the business take appropriate action in response to the results of the checks?
- has your business genuinely done everything it can to check the integrity of the supply chain?

Q41. Do you agree with the checks we have included?

Q42. Do you agree that carrying out these checks would help you identify fraud?

Q43. What further checks would you like to see published?

Q44. Would you prefer to see these published in a dedicated excise due diligence notice or for the detail to be included within regime specific notices?

Record Keeping

4.11 Paperwork, in addition to invoices, may be received in relation to the supplies you purchase and sell. This documentation should be kept to support your view on whether a transaction you are involved with is legitimate. The following are examples of additional paperwork that some businesses retain:

- purchase records
- pro-forma invoices
- delivery or goods received notes
- CMR (Convention Merchandises Routiers) or airway bills
- allocation notification
- inspection reports.

This list is not exhaustive but does show some of the more common subsidiary documentation.

Penalties and Offences

4.12 Where HMRC identifies instances where a business is not applying appropriate checks on the businesses it is trading with, or where it does but has failed to react appropriately to its findings, HMRC would use established, proportionate and reasonable methods to improve compliance with this condition. These include issuing warning letters and financial penalties. Where a business has been warned and it is clear that the business continues to trade in high risk supply chains and fails to change its business model to protect itself from the risk of such transactions, or where checks are a sham, HMRC will consider the revocation of that business's approval.

4.13 In addition, HMRC would consider the immediate revocation of those registered businesses who were active, knowing participants of fraud. Removing high risk businesses from the market place in this way will improve it for the majority of genuine businesses struggling to compete.

Q45. Do you agree with HMRC imposing proportionate sanctions on those businesses who fail to carry out appropriate due diligence?

Summary of Impacts

4.14 We believe that the introduction of this condition will be largely revenue neutral. This is because it will simply formalise tests businesses should already be carrying out.

4.15 Introducing this condition in this way gives HMRC the ability to react positively where businesses are operating in high risk supply chains by:

- providing guidance to businesses on checks they should carry out
- warning businesses of the consequences of trading in high risk supply chains without checking the provenance of the goods they are dealing in
- imposing financial penalties for non-compliance
- removal of non compliant high risk businesses from our register and reducing the risk to legitimate businesses of unwittingly trading with such businesses.

Although it is not possible to give a monetary value to these benefits we believe that this simple measure will significantly aid HMRC in tackling high risk supply chains.

Exchequer impact (£m)	2011-12	2012-13	2013-14	2014-15	2015-16
	-	-	-	-	-
	This measure is not expected to have an exchequer impact.				
Economic impact	This measure is not expected to have any economic impacts.				
Impact on individuals and households	This proposal will not create any additional administrative burden on individuals and households.				
Equalities impacts	This measure is not expected to have a disproportionate equalities impact.				
Impact on businesses and Civil Society Organisations	Number of traders approved under CEMA S100G approximately 3,500. Number of traders approved under ALDA 1979 approx 2500. This measure will also apply to registered wholesalers estimated at approx 20,000. No expected impact on business costs.				
Impact on HMRC or other public sector delivery organisations	No expected impact on HMRC or other public sector organisations.				
Other impacts	As part of the consultation process we are also looking for views/information from respondents on any other possible impacts.				

Q46. Will carrying out reasonable due diligence checks provide benefits to your business? If it will, can you please provide details of these benefits?

Q47. Will carrying out reasonable due diligence checks create extra costs to your business? If they will, can you please advise what these costs will be and quantify the expected costs?

Q48. Will this condition create any burdens for your business? If it will, can you please provide details of these burdens?

Q49. If you are a small business (less than 50 employees) please provide details of the costs and impacts of this measure on your business.

5. Summary of Consultation Questions

Strengthening HMRC's existing alcohol anti-fraud strategy
Q1. What further steps could the alcohol industry take to reduce the scope and opportunity for fraud in alcohol products?
Q2. Does the change in criteria for brewery registration have any implications for the operation of your business?
Q3. Are there any other changes to the EU legal framework that you think would be useful in addressing alcohol fraud?
Registration of alcohol wholesalers
Q4. What further data can you provide to help us assess the overall impact that alcohol fraud has on legitimate businesses (for example, the effects on turnover, jobs, growth and the prevalence of suspected illicit trading in your area)?
Q5. Do you consider this definition from the Licensing Act 2003 to define wholesale activity is appropriate?
Q6. Do you agree with our proposed definition of a wholesaler?
Q7. Are there other generic descriptions for wholesalers of alcoholic beverages that we could consider (apart from standard dictionary definitions)?
Q8. Do you agree with our proposal not to introduce any specific exemption from scheme requirements apart from our proposals for the treatment of retailers at paragraph 3.62 onwards? If you do not agree, please explain why you think an exemption is appropriate, how you think it might operate and the impact on the specific trade sector of not having an exemption.
Q9. Do you agree with the proposal that businesses that already hold a retail licence and / or excise approval will be required to register if they 'wholesale' alcohol? Please give reasons for your answer.
Q10. Do you agree with the proposal that importers will be required to register if they deal in alcohol wholesale? Please give reasons for your answer.
Q11. Are there different impacts for importers when compared to businesses buying alcohol in the UK for wholesale sale?
Q12. Do you agree with the proposal that retailers selling alcohol to other retailers or wholesalers will be required to register as they deal in alcohol

wholesale?
Q13. Taking into account the description of who would be required to be registered and the examples given above, are there any trade types that you think should be excluded and why? Are there any trade types not covered above that you think should be included on the list?
Q14. We estimate there are 20,000 businesses that may meet the definition of an alcohol wholesaler and therefore would need to register with HMRC. Taking into account the description of who would be required to be registered, approximately how many businesses do you estimate would be included in the registration requirements of the new scheme?¹⁵ If possible break this down into categories (for example, cash and carries, excise approved businesses, retailers, importers or any other types of business you are aware of that should fall under the definition of wholesale).
Q15. Do you have any comments regarding our proposed method of applying for registration online?
Q16. Do you agree with our proposals to check all applications for registration prior to approval?
Q17. Do you agree with the criteria for acceptance or refusal of applications for registration? What other criteria should be considered?
Q18. Do you agree with our proposals for registration? If not, please give details and suggest ways we could mitigate any problems.
Q19. Do you have any comments regarding the means and frequency of checking registration numbers?
Q20. We envisage the inclusion of the URN would be a requirement of the final scheme, can you confirm the costs and practical impacts of including this on your sales invoices/purchase orders?
Q21. What are the additional costs and impacts on your business of maintaining these records?
Q22. Do your business records differentiate between supplies to wholesalers, retailers and members of the public?
Q23. If not, how much would it cost you to introduce a system that allowed you to do this?
Q24. What would be the costs and impacts of keeping a record of checks on registration numbers?
Q25. Can you suggest how stock records could be improved to allow reconciliation of purchases to

¹⁵ We are happy to receive responses to this question from individual businesses but it may need trade associations to compile the necessary data.

sales to check their authenticity?
Q26. What would be the costs and impacts on your business of collating the requested information and submitting stock returns to HMRC on either a quarterly or monthly basis?
Q27. If you are a retailer and would be required to be registered, what are the costs and impacts on your business of complying with our proposed obligations of the scheme?
Q28. Do you agree that retailers who make only incidental wholesale sales should not be required to be registered?
Q29. Which criteria, and at what levels, do you think is appropriate to determine incidental sales?
Q30. What other approach could HMRC take to mitigate the impact of the wholesaler registration scheme on retailers who make minimal, incidental, or occasional sales to other retailers?
Q31. What are your views on any of the new sanctions and level of penalties that we are proposing?
Q32. What other action could HMRC take either as an alternative or in addition to the proposed sanctions?
Q33. Do you believe there are other features of this scheme that should have a right of appeal?
Q34. Do you agree with this impact assessment?
Q35. What impact (financial or otherwise) do you think the wholesaler registration scheme would have on alcohol fraud?
Q36. Are there any other impacts which should be taken into account?
Q37. If you are a small business (less than 50 employees) please provide details of the costs and impacts of this measure on your business.
Excise due diligence condition
Q38. Would the imposition of a due diligence condition have any positive or adverse effects on your business? If this is the case can you please advise what those effects would be?
Q39. Do you think that this condition will help improve confidence in your sector and help businesses better make informed decisions on who they trade with?
Q40. Do you think this condition will have a positive impact on fraud and reducing overall risks in your sector of trading / market place?
Q41. Do you agree with the checks we have included?
Q42. Do you agree that carrying out these checks

would help you identify fraud?
Q43. What further checks would you like to see published?
Q44. Would you prefer to see these published in a dedicated excise due diligence notice or for the detail to be included within regime specific notices?
Q45. Do you agree with HMRC imposing proportionate sanctions on those businesses who fail to carry out appropriate due diligence?
Q46. Will carrying out reasonable due diligence checks provide benefits to your business? If it will, can you please provide details of these benefits?
Q47. Will carrying out reasonable due diligence checks create extra costs to your business? If they will, can you please advise what these costs will be and quantify the expected costs?
Q48. Will this condition create any burdens for your business? If it will, can you please provide details of these burdens?
Q49. If you are a small business (less than 50 employees) please provide details of the costs and impacts of this measure on your business.

6. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting legislation to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 2 of the process. HMRC has already consulted during 2012 on policy alternatives to counter alcohol fraud and this included an initial consultation on registering alcohol wholesalers and discussions with industry on how due diligence in supply-chains could be improved. The purpose of this consultation is to seek views on the detailed policy design and a framework for possible implementation to help inform whether these specific proposals should be adopted.

How to respond

Please respond by **28 October 2013** either by post to:

John Waller
HM Revenue & Customs
Excise Strategy Team
3W Ralli Quays
3 Stanley St
Salford M60 9LA

or by e mail to john.c.waller@hmrc.gsi.gov.uk.

Alternatively you can fax your response to 0161 827 0342.
Telephone enquiries: 0161 827 0319 or 0161 827 0340

A summary of the questions in this consultation is included at Chapter 5.

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from [HMRC Inside Government](#). 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.

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.

Consultation Principles

This consultation is being run in accordance with the Government's Consultation Principles.

The Consultation Principles are available on the Cabinet Office website: <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please contact:

Amy Burgess, Consultation Coordinator, Budget Team, HM Revenue & Customs, 100 Parliament Street, London, SW1A 2BQ.