



HM Revenue
& Customs

Fulfilment House Due Diligence Scheme

Consultation document

Publication date: 16 March 2016

Closing date for comments: 30 June 2016

Subject of this consultation:	A new due diligence scheme for UK fulfilment houses handling goods imported from outside the European Union (EU).
Scope of this consultation:	The Government announced at Budget 2016 its intention to introduce a new online scheme for UK fulfilment houses from 2018, which will set out standards of due diligence and record-keeping, and introduce penalties for non-compliance. This consultation invites views on the proposed scheme, to ensure that it addresses the abuse identified and minimises any additional costs for businesses. It also explores ways to deter goods being delivered to non-registered fulfilment houses.
Who should read this:	The scheme may directly affect all UK-based businesses that fulfil orders of imported goods. Some rules may also apply to businesses that import goods or those that transport imported goods to and from fulfilment houses.
Duration:	15 weeks, starting on 16 March 2016 and closing on 30 June 2016.
Lead official:	Lara Pritchard: HMRC Indirect Tax Projects
How to respond or enquire about this consultation:	Email responses to: indirecttax.projectteam@hmrc.gsi.gov.uk Please send written responses to: Lara Pritchard HM Revenue & Customs Indirect Tax Project Team Room 3/35, 100 Parliament Street London SW1A 2BQ
Additional ways to be involved:	HMRC will meet with representative organisations during the consultation period, subject to demand and availability. In order to engage directly with those affected by the proposed changes HMRC will also set up and meet with stakeholder interest groups. If you would like to arrange a meeting, or join a stakeholder interest group, please email: martin.jones@hmrc.gsi.gov.uk .
After the consultation:	Responses will be taken into account in refining the design of the scheme and a response document will be published. There will be a technical consultation on draft legislation later in the year.
Getting to this stage:	This is the first consultation on this issue. Other than the usual customs and VAT rules that apply to these businesses, there are currently no rules around the registration of, or standards for, fulfilment houses in respect of the goods they handle on behalf of their overseas clients.

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Foreword

The growth in online shopping has meant the average UK consumer can get goods faster and cheaper than ever before. According to a recent British Retail Consortium report, more than 20 per cent of non-food retail spending occurs online in the UK. This growth in online e-commerce has benefitted the wider UK economy but has also left it open to severe abuse.

Non-EU traders who sell goods (located in the UK at the time of sale) to UK consumers, mainly via online marketplaces, are not always paying the correct VAT and duty to HMRC. These goods are normally shipped to the UK prior to sale and stored in fulfilment houses close to their final delivery point. This abuse has grown significantly and now accounts for £1-1.5bn of the total VAT gap. These overseas traders are unfairly undercutting all businesses trading in the UK, abusing the trust of UK consumers and depriving the government of significant revenue.

The government has announced at Budget 2016 a comprehensive package of measures to disrupt and deter this 21st century fraud. We are targeting non-compliant overseas traders themselves by making them appoint a UK tax representative who will be liable for their VAT and/or seeking a security. If these traders fail to comply and online marketplaces do not help stop the abuse occurring, the online marketplaces themselves will become jointly and severally liable for the unpaid VAT. We will be working with international partners to try to develop solutions to this problem that affects all major economies. Work has already begun on engagement with the EU and OECD on this matter.

The Fulfilment House Due Diligence Scheme complements the above measures, equipping HMRC with the tools it needs to tackle this fraud. The government will make sure fulfilment houses who are part of this scheme perform proper due diligence on the goods that they fulfil. This will ensure that HMRC can target those traders who use this business model to undercut legitimate business and protect revenue.

This consultation will ensure we minimise as far as possible the scheme's impact on legitimate firms that import goods. It is therefore crucial that any business that is involved in storage, breaking bulk, unpacking, re-packing and/or subsequent delivery to customers of imported goods responds to this consultation. I hope that you take the time to respond fully. Your responses will help us to ensure this scheme is designed in a way that best meets its objectives, including ensuring the costs faced by firms are minimised.

David Gauke

Financial Secretary to the Treasury

1. Introduction

Background

1.1 Over the past few years, there has been a large sustained increase in online shopping in the UK and worldwide, with retail customers in the UK leading the way. Online marketplaces hosting a variety of suppliers are increasingly trusted by UK consumers to meet demand. This is helping create a global marketplace – with orders being fulfilled from suppliers all over the world. This growth in the use of the internet requires governments to adapt their controls to ensure good tax compliance and a level playing field for all businesses.

1.2 The majority of companies that import into the UK pay all the appropriate taxes and duties. But compliance checks carried out by Border Force and HMRC point to a growth in attempts to evade VAT and customs duty through abuse of reliefs to facilitate trade, and by misdeclaring and undervaluing goods imported from outside the EU by some non-EU overseas suppliers.

1.3 The subsequent onward supply of these goods within the UK is also part of the problem - with VAT not always being properly accounted for when the imported goods are supplied to the final customer in the UK.

Impact of abuse on UK

1.4 This is a growing problem which is having a significant impact on Exchequer receipts - HMRC estimates that non-EU traders selling online to UK customers are evading £1-1.5 billion of VAT this year.

1.5 Legitimate UK businesses are also increasingly frustrated at the unfair competitive advantage this gives those overseas suppliers that undercut them on price by not paying the full duty and taxes due.

Tackling the problem

1.6 The Government is introducing a package of measures to prevent overseas suppliers from evading the taxes and duty that are due and to level the playing field for businesses. As well as consulting on a scheme for fulfilment houses, the Government has also announced that it will:

- amend legislation to enable HMRC to direct non-EU businesses to appoint a VAT representative, or provide a financial security
- introduce legislation to hold online marketplaces jointly and severally liable for unpaid VAT
- work with international and EU partners to explore longer term solutions to tackling the VAT fraud.

Due diligence scheme for fulfilment houses

1.7 Registering fulfilment houses is another part of the solution. Many overseas suppliers that trade online make use of UK-based fulfilment house businesses to store, pack and/or deliver their online orders. A due diligence scheme will make it

more difficult for non-compliant suppliers to trade in the UK and will enable HMRC to identify and tackle them more easily.

1.8 HMRC will consult later this year on draft legislation for the scheme for implementation of a new register in 2018.

1.9 The scheme will set out 'fit and proper' standards that fulfilment houses will need to meet in order to operate. Fulfilment houses will have an obligation to register and maintain accurate records. They will also have to evidence the due diligence they have undertaken to ensure that their overseas client is a *bona fide* supplier. A *bona fide* overseas supplier is one that is either VAT registered in the UK, or legitimately non-registered here either because they make no supplies in the UK or operate from an establishment in the UK and are trading below the registration threshold (see [VAT Notice 700/1: should I be registered for VAT?](#)).

1.10 Businesses using fulfilment houses for the storage and distribution of their goods will need to comply with their obligations to register for VAT and declare the correct amount of VAT and duty if they want to continue operating through legitimate fulfilment houses.

1.11 HMRC will publish a list of registered fulfilment houses so that freight and customs agents, Fast Parcel Operators, Express Industry and other businesses will know whether the fulfilment house they are consigning goods to or from is registered or not. This consultation seeks views on how to deter or prevent deliveries of goods to an unregistered fulfilment house.

What is a fulfilment house?

1.12 The definition of a fulfilment house - and therefore the scope of the due diligence scheme - is a key part of this consultation. HMRC's working definition, which focuses on the target population, is:

A fulfilment house is a business that provides services of storage, breaking bulk, unpacking, re-packing and making (or arranging) subsequent delivery to its clients' customers of goods imported from outside the EU which have been cleared for customs purposes.

1.13 HMRC wants to minimise burdens on legitimate business and one of the key issues to establish as part of the consultation is whether the fulfilment house definition should include businesses supplying imported goods to customers on their own behalf. A business may call itself a fulfilment house or fulfilment centre (also known as affiliate or toll trading) or could simply be a warehouse or small storage facility for imported goods. HMRC encourages all businesses in these categories to contribute to (and follow the outcome of) this consultation.

2. About you

2.1 Businesses, organisations and individuals may have different perspectives and HMRC is interested in understanding the context of the answers you give to all the questions in this consultation.

Q1 - Are you:

- a UK fulfilment house or business providing fulfilment services
 - a) on behalf of third parties
 - b) on your own behalf (i.e. your business fulfils its own orders of imported goods)
 - c) a mixture of the above
- a freight forwarder
- a Fast Parcel Operator (FPO) (Express Industry)
- a transport logistics operator - please state
- a customs agent or intermediary
- another UK business - please state
- an overseas supplier of goods using a UK fulfilment house/centre
- a trade representative body/organisation
- a member of the public
- other - please state

Q2 - If you are in business, where is your business established?

- UK (please state if in the Isle of Man)
- Other EU - please state
- Non EU - please state

Q3 - If you are in business, how many staff do you employ across the UK?

- Fewer than 10
- 10 - 100
- 101 - 500
- More than 500

Fulfilment houses

2.2 The following questions are for fulfilment houses and business that fulfil orders of imported goods. Please see para 3.8 below for a working definition of a fulfilment house.

Q4 - What is the annual turnover of your business?

Q5 - Approximately how many orders did you fulfil on behalf of other businesses over the past 12 months?

- Please state the value of those goods (if known).

Q6 - Do you import and/or sell your own goods?

- a. **Approximately how many orders did you fulfil on your own behalf over the past 12 months?**
- b. **What was the value of those goods?**

Q7 - How many UK-based premises do you provide fulfilment services from?

Q8 - What is the square footage of your fulfilment premises?

Q9 - Please provide any other details about how your fulfilment business operates that might help us understand your business model.

Q10 - What type of consignment are deliveries into your premises generally? e.g. large containers, parcels etc.

Q11 - How do these normally arrive into the UK? e.g. by air or sea freight

Q12 - What type of business do you use for delivering the consignments of goods to and from your fulfilment house/centre? e.g. freight forwarder, FPO

Q13 - If you are handling goods on behalf of a third-party supplier:

- a) **are you the importer of the goods you handle?**
- b) **who has title to the goods (at the time you handle them)? e.g. your overseas client, the final customer**
- c) **who pays the import VAT and duty on these goods? e.g. you, your overseas client, another UK business**
- d) **if you pay the import VAT and duty on behalf of someone else, how is this reimbursed to you and from whom?**

Customs agents and intermediaries, transport and logistics operators

2.3 The following questions are for customs agents, Express Industry, carriers, freight forwarders and other transport and logistics operators.

Q14 - Are you currently aware if you are delivering to, or importing goods destined for, a fulfilment house?

If yes, please go to question **Q15**

If no, please go to question **Q16**

Q15 - If you can identify when you deliver to, or import goods for, a fulfilment house:

- a) **how do you currently identify goods which are destined for delivery to a fulfilment house?**
- b) **what percentage of your business relates specifically to handling freight destined for fulfilment houses?**
- c) **how do these goods normally arrive into the UK? e.g. by air or sea freight**
- d) **what type of consignment are your fulfilment house deliveries/imports? e.g. large containers, parcels etc.**
- e) **who engages your services for delivering/importing these types of goods? e.g. overseas business, UK business etc.**

- f) if you are handling goods on behalf of a third-party supplier:
- who has title to the goods (at the time you handle them) e.g. the overseas business, the final customer?
 - who pays the import VAT and duty on these goods? e.g. you, the overseas business, another UK business?
 - if you pay the import VAT and duty on behalf of someone else, how is this reimbursed to you and from whom?

Q16 - If you are not aware whether you are delivering to, or importing goods destined for, a fulfilment house:

- a) what do you know about where you are delivering the goods?
- b) what type of consignment generally are the goods you handle? e.g. large containers, parcels etc.
- c) how do these normally arrive into the UK? e.g. by air or sea freight
- d) who engages your services for delivering/importing the consignments of goods? e.g. overseas business, UK business etc.
- e) if you are handling goods on behalf of a third-party supplier:
 - who has title to the goods (at the time you handle them)? e.g. the overseas business, the final customer
 - who pays the import VAT and duty on these goods? e.g. you, the overseas business, another UK business
 - if you pay the import VAT and duty on behalf of someone else, how is this reimbursed to you and from whom?

Q17 - Do you also supply your own fulfilment house services?

Q18 - Do you collect goods from fulfilment houses for onward delivery?

- How do you currently identify whether you are collecting goods from a fulfilment house?

3. Due diligence scheme

3.1 The Government announced at Budget 2016 that it will legislate for a new due diligence scheme for fulfilment houses. The Fulfilment House Due Diligence Scheme (FHDDS) will help to protect revenue and level the playing field between businesses that operate here legitimately and those who seek to abuse the system by evading the correct VAT and customs duty on the goods they import and sell in the UK.

Why register fulfilment houses?

3.2 Fulfilment houses in the UK are in a strong position to help evaluate whether an overseas supplier - their client - is operating legitimately here. They are at the hub of the activity in the UK - with an established business relationship with the overseas client.

3.3 Currently, not all of the UK's fulfilment houses keep adequate records about the goods they handle. Having fulfilment houses perform due diligence checks on the overseas suppliers (their clients) and requiring them to maintain and produce adequate records for the sales they facilitate will help to ensure legitimate trade while limiting the opportunity for abuse or fraud.

What would a register achieve?

3.4 The FHDDS will include new powers to remove or reject a fulfilment house's approval to trade if they do not comply with the specific rules. Failure to register or continuing to trade (by fulfilling orders of imported goods) following their removal or rejection from the register will incur penalties, including possible criminal sanctions. The scheme will therefore deter abuse in the sector by allowing key businesses in the supply chain to work only with legitimate and compliant suppliers.

Impact on business

3.5 It is important that the FHDDS helps to target the abuse and works - alongside other measures - to prevent the revenue loss. HMRC acknowledges that requiring businesses to register and comply with new rules will place costs and administrative burdens on them. Your views on the impact of the proposals for your business are invited at section 5.

3.6 HMRC believes that the scheme is a necessary and proportionate response to the revenue loss arising from this sector and the impact of non-compliance on legitimate business. With the volume of imports increasing each year, it is vital that we engage key parts of the supply chain to support compliant trade.

3.7 HMRC will work closely with stakeholder groups to ensure that the scope of the scheme provides certainty for business and minimises as far as possible the administrative burdens to legitimate businesses. We will work with stakeholders to ensure registration is as straightforward as possible for compliant businesses. We will also ensure that we take full account of the impact on small and micro businesses in this sector, and provide where possible measures to mitigate the effects. There is more information on this at section 5.

Who will have to register under the FHDDS?

3.8 HMRC's current working definition of a fulfilment house is:

A fulfilment house is a business that provides services of storage, breaking bulk, unpacking, re-packing and making (or arranging) subsequent delivery to its clients' customers of goods imported from outside the EU which have been cleared for customs purposes.

3.9 Under this definition, the scope of the scheme would be limited to the handling only of goods imported from outside the EU which have been cleared for customs purposes. For VAT purposes, imported goods are goods entering the UK from non-EU countries.

It would apply to:

- any business¹ with premises, warehouses, storage facilities in the UK that handles (by way of storage etc) any customs cleared imports of goods for third parties from outside the EU.

It would not apply to businesses that handle only:

- goods produced and supplied in the UK
- goods produced and supplied within the EU
- goods that are not cleared for customs purposes

Q19 - Do you think your business will fall into this definition?

Q20 - Do you think this definition:

- a) captures all the particular features of a fulfilment house (if not, please specify)?**
- b) makes it clear what sort of business is required to be registered?**

Q21 - Do you have an alternative/preferred definition (if so please provide)?

Q22 - By this definition, approximately how many fulfilment houses do you estimate operate in the UK? Please answer this question only if you have any evidence or information to support your answer. Please provide the source of the evidence or information.

Widening the definition

3.10 It is essential that, in developing this scheme, the abuse identified is not driven elsewhere, for example, if an overseas supplier currently using a fulfilment house (or several fulfilment houses) decides to fulfil its own orders in the UK. It would then import, store, unpack/repack and deliver its own goods to its UK customers to avoid the compliance rules of the scheme.

¹ For VAT purposes only, business means any continuing activity which is mainly concerned with making supplies to other persons for a consideration. The activity must have a degree of frequency and scale and be continued over a period of time. Isolated transactions are not normally business for VAT purposes.

3.11 While we do not think it likely that small overseas suppliers will have the resources to achieve this, there may be a risk of this from larger suppliers. There is also a particular risk from organised criminal networks and we have evidence to suggest this is an area which fraudsters are increasingly focusing on because of the competitive advantage over legitimate suppliers.

3.12 HMRC also wants to provide certainty for all those involved in the movement and storage of imported goods in the UK.

3.13 Taking these factors into account, HMRC wants to consult on whether the scope of the scheme should be widened to include businesses that fulfil their own orders i.e. *Fulfilment houses for this purpose include entities supplying to customers and customers of associated businesses on their own behalf.*

The scheme would therefore also apply to:

- any business with premises, warehouses, storage facilities in the UK that handles (by way of storage etc) any customs cleared imports of goods whether on their own behalf or for third parties.

The full, widened definition would read:

A fulfilment house is a business that provides services of storage, breaking bulk, unpacking, re-packing and making (or arranging) subsequent delivery to its clients' customers of goods imported from outside the EU which have been cleared for customs purposes. Fulfilment houses for this purpose include entities supplying to customers and customers of associated businesses on their own behalf.

Q23 - Do you think your business will fall into this definition?

Q24 - Do you think this wider definition will help prevent the abuse being driven to own-goods fulfilment centres and warehouses?

Q25 - Do you think it is necessary to widen the definition to include own-goods fulfilment centres and warehouses? Please give your reasons.

Q26 - By this wider definition, approximately how many fulfilment houses do you estimate operate in the UK? Please answer this question only if you have any evidence or information to support your answer. Please provide the source of the evidence or information.

Exclusions from requirement to register

3.14 HMRC is keen to provide certainty to business and to make the application of the FHDDS as simple as possible. There may be justification for excluding certain types of business from the requirement to register, for example, small or micro businesses where the impact of complying with the scheme is disproportionate to the benefits it achieves. Similarly, we could exclude fulfilment houses whose handling of relevant goods is only incidental - for example, a small business that exceptionally handles an imported consignment but does not intend to do so in the future.

3.15 We seek the views of stakeholders on whether such exclusions should be introduced and, if so, what form they could take. For example, a *de minimis* limit could be set, below which there is no requirement to register for the FHDDS. This could be determined by sales value, or consignment numbers or by some other method.

3.16 Specifying a limit could, however, leave scope for fraudsters to continue to trade. It could also lead to the possibility of value or quantities of supplies being artificially adjusted so as to avoid the requirement for registration. HMRC will balance all these factors when introducing the scheme.

Q27 - Do you think there is a need to exclude certain businesses from registration or certain activities that trigger the requirement to register? If so,

a) please give your reasons

b) what form could an exclusion from registration take? (Please provide detail - if, for example, your preference is for a *de minimis* limit at what level should it be set?)

Due diligence conditions

3.17 The register of fulfilment houses will contain only businesses that have shown they can comply with the due diligence conditions and record-keeping requirements to be set out under the scheme. The detail of the conditions will be determined following consultation and stakeholders will have an opportunity to comment on the draft legislation before it is implemented.

3.18 HMRC currently envisages that it will be a condition of approval for the fulfilment house to demonstrate that it has:

- objectively assessed the risks of fraud and abuse within the supply chain
- put in place reasonable and proportionate checks in day-to-day trading to identify transactions that may lead to abuse or involve goods on which VAT and customs duty may have been evaded
- have procedures in place to take timely and effective mitigating action where a risk of fraud or abuse is identified
- document the checks it intends to carry out and have appropriate management governance in place to make sure that these are, and continue to be, carried out as intended.

The precise checks required of a registered fulfilment house will be determined following the consultation but may include:

- checking whether the overseas supplier (on whose behalf you are fulfilling orders) provides a valid VAT registration number (if applicable) and an EORI (Economic Operator Registration and Identification) number
- checking goods held/handled against customs declarations and online sales information to ensure the goods are as described and valued appropriately
- examining the customs declarations to ensure that goods claiming a relief are entitled to that relief. E.g. Low Value Consignment Relief.

3.19 There is more information about the obligations of overseas suppliers to register and account for VAT in [VAT Notice 700/1: should I be registered for VAT?](#)

Q28 - Are the checks outlined above straightforward or difficult to comply with? Please explain.

Q29 - Do you think any other checks should be undertaken?

Q30 - If you are a fulfilment house or a fulfilment centre, do you already undertake any checks similar to those outlined above?

Record-keeping conditions

3.20 Poor or non-existent records can often be used to disguise fraud. HMRC finds that poor records can hamper inspection and audit work, most particularly in attempting to identify the origin, description and value of the goods handled at fulfilment houses, and determining whether the overseas supplier has registered for VAT and paid the VAT and duty on the goods they sell.

3.21 The potential benefits of good record-keeping will include the ability for officers to check the provenance of stocks during their inspections and work with the fulfilment house to ensure the overseas suppliers are compliant with our rules.

3.22 The precise record-keeping requirements of a registered fulfilment house will be determined following the consultation but may include:

- copies of delivery documents
- a stock control system which should include values
- details of any premises
- name, addresses and any VAT registration numbers of overseas suppliers on whose behalf the fulfilment house handles goods
- date goods arrive, import and retail values etc.
- accounting records for the fulfilment house services to the overseas supplier (the fulfilment house's client)
- customs declaration

and that any record that is required to be kept is preserved for a specified period and maintained on site.

Q31 - Are the record-keeping requirements outlined above straightforward or difficult to comply with? Please explain.

Q32 - Are there any solutions (for example, electronic stock systems) already within the sector to match goods stored to specific import declarations and/or online sales? If yes, please explain.

Q33 - Do you think any other records should be maintained?

Q34 - If you are a fulfilment house, do you already maintain records similar to those outlined above? Please describe.

Online applications for registration

3.23 The Government is committed to minimising burdens for taxpayers and building a transparent and accessible tax system fit for the digital age. Accordingly, HMRC will develop an online due diligence scheme which is simple to use and accessible to all user groups.

3.24 Under HMRC's current plans, registration will open in 2018 and those businesses in scope will have a 3 month period to register, with HMRC undertaking the verification process and confirming approval within a 12 month period.

3.25 New businesses that commence after the application window for existing businesses closes will need to apply in advance of the date they wish to commence trading. HMRC currently envisages that applications would need to be made between 45 and 75 calendar days in advance, and will refine this based on the outcome of this consultation.

3.26 HMRC expects that registrations will be made via HMRC Online Services (with users having a Government Gateway account), which will be accessed by a responsible person in the business who will be required to provide certain information, for example:

- trading name & legal entity name
- details of any partners
- VAT and Company Registration numbers, if registered
- Self Assessment or Corporation Tax Unique Taxpayer Reference (UTR) number, if registered
- addresses
- estimated/actual annual turnover
- who goods or services are provided to (e.g. private individuals, overseas or UK businesses)
- how many trading premises are operated and their addresses
- business names, addresses and VAT numbers (if registered) of overseas suppliers for whom orders for imported goods are fulfilled
- whether or not goods are imported to fulfil orders on own behalf

3.27 There may be further information required from sole proprietors, for example, National Insurance number, date of birth etc.

Q35 - Should HMRC gather any further information upon registration?

Q36 - Do you envisage any difficulties in supplying information of this nature at the registration stage?

Q37 - Do you have any comments about online systems applications that you would like HMRC to take account of when it is developing this solution?

Registration verification

3.28 After the online application is received, HMRC will undertake checks to ensure that the fulfilment house can comply with the requirements of the scheme.

3.29 The checks are likely to include a detailed verification of the information on the application, checks against other systems and registers (including criminal records, credit reference agencies, other government departments and agencies) and visits to premises.

3.30 HMRC will set out a number of 'fit and proper' standards against which applicants will be assessed. Again, these are subject to change but may include that:

- there is no history or evidence of illicit trading, fraud or significant non-compliance with revenue matters, or connection to other known non-compliant or fraudulent businesses
- there is no history of poor record-keeping or outstanding/unmanaged HMRC debts or a history of poor payment
- there has been no attempt to deceive or to trade (or attempt to trade) unapproved
- the business has provided sufficient evidence of its commercial viability/credibility.

Fulfilment houses accepted onto the register will be required to:

- comply with the due diligence conditions
- comply with the record-keeping conditions
- in certain cases, comply with additional specific conditions or restrictions, where HMRC considers that a fulfilment house is 'fit and proper' to be approved but some additional controls are still needed.

Q38 - Are there other requirements that you think should be included as part of a 'fit and proper' standard?

Q39 - Do you envisage any difficulties for compliant fulfilment houses upon registration?

Q40 - Do you envisage any benefits for fulfilment houses that are on the register?

Refusal to register or removal/withdrawal from register

3.31 HMRC will refuse an application to register if it has reasonable cause and there is a potential threat to the tax revenue. HMRC will advise the applicant if the application is refused, giving reasons.

3.32 Refusal of a FHDDS approval may also lead HMRC to review whether the business is fit and proper in relation to any other approvals it holds.

3.33 HMRC will consider whether to remove a registered fulfilment house if it has reasonable cause, for example, if there is evidence of fraudulent activity or in light of

new information or changes in business activity. Removal from the register will also be considered where the fulfilment house persistently fails to meet the conditions of the scheme or where the business appears to have ceased trading or has been dormant for some time.

3.34 Businesses may withdraw from the scheme if they intend to cease handling goods on behalf of overseas suppliers. HMRC anticipates that in such cases the fulfilment house will be expected to give advanced notice and will dispose of any stock stored and handled in the business. A penalty or detention of the goods may be applicable (see below).

3.35 Businesses not on the register, whether because of refusal, removal or withdrawal, will not be permitted to handle goods (e.g. accepting delivery, storage etc of imported goods) on behalf of an overseas supplier. A decision to refuse an application or remove a fulfilment house from the register will be subject to a review and appeals process.

Q41 - Are the proposals - in respect of rejection, removal and withdrawal - proportionate?

Q42 - Do you foresee any difficulties for a legitimate fulfilment house with the proposals to reject, remove or withdraw?

Q43 - Should HMRC consider other sanctions?

Q44 - Are there any other issues HMRC needs to consider around the rejection, removal and withdrawal from the register?

Penalties

3.36 HMRC proposes to introduce new penalties and sanctions for failure to comply with the scheme.

3.37 A specific new offence will be introduced for fulfilment houses (that are required to be registered) that trade (by handling goods from overseas suppliers) when not on the register.

3.38 There may be penalties for other breaches of the conditions of the scheme, for example, failure to keep proper records, failure to undertake due diligence checks, failure to register at the correct time etc.

Penalties and sanctions could include:

- criminal prosecution
- civil penalties - HMRC is considering a financial penalty for each breach of the regulations or conditions of approval
- detention/seizure of goods
- restriction of approval on the register
- naming and shaming
- removal from the register

3.39 The new penalties will not prejudice any potential liability to other penalties which already exist. HMRC has been consulting on a wider penalty review. Any penalties introduced as part of the FHDDS will be consistent with the outcome of this review.

Q45 - Should HMRC consider any other offences not outlined here?

Q46 - Should HMRC consider any other penalties not outlined here? e.g. suspension of registration

Q47 - Do you think the penalties above are appropriate and proportionate?

Q48 - At what value should the civil penalty outlined above be set?

Appeals and review

3.40 Certain aspects of the scheme will be subject to a review and appeals process. The decisions likely to be covered by the process include refusal or removal of an approval, the application or amount of a penalty, the application of additional conditions or restrictions, as well as other decisions which may be adverse to parties.

3.41 A review request would need to be made in writing within 30 days of the date of the decision letter, and the review normally completed within 45 days. The review decision can be appealed by writing to the Tribunal within 30 days of the review decision.

Q49 - Do you have any comments in respect of an appeals and review process for this scheme?

4. Handling goods: deliveries to and from fulfilment houses

4.1 As well as introducing a register for fulfilment houses, HMRC will consider ways in which it can deter or prevent deliveries of goods imported from outside the EU to and from non-registered fulfilment houses.

4.2 Businesses in the supply chain can help disrupt the abuse by handling goods imported from outside the EU only on behalf of legitimate fulfilment houses that comply with the rules: registered fulfilment houses.

4.3 We seek the views of affected businesses to ensure this aspect of the scheme is practical and effective.

Checking the online register

4.4 HMRC wants businesses in the supply chain, such as the Express Industry and/or customs agents, to undertake an online check of the register before allowing the delivery of goods to fulfilment houses. If the online register shows that the fulfilment house was registered, then the goods could be delivered there.

If not, HMRC does not want the delivery to take place.

Who would check the online register?

4.5 The responsibility for checking the online register could rest with one or both of the following parties in the supply chain:

The importer or their representative

This is the person/business responsible for completing the import declaration either on their own behalf or on behalf of their client. It could be a customs agent, a carrier or a freight forwarder. HMRC might require the declarant to evidence that the online register has been checked by ensuring completion of Box 44 of the declaration with the valid registration number of the fulfilment house.

Transport and logistics operators

These include freight agents, carriers and the Express Industry. These parties in the supply chain could be central to the solution, having direct contact with both the goods and the premises they deliver to and from. These operators could check the online register and take appropriate action where the fulfilment house is not registered.

Q50 - Will these businesses be able to determine whether a consignment is destined for a fulfilment house?

Q51 - How will the transport and logistics operator (e.g. FPO) know whether a consignment is being collected from a fulfilment house?

Q52 - Are there any practical difficulties for businesses in checking an online register?

Q53 - What risks do you see to this aspect of the proposal?

Q54 - Do you have an alternative suggestion as to how to prevent delivery to or from an unregistered fulfilment house? Please provide details.

Q55 - What should happen to the goods if a business refuses to handle/deliver them?

Q56 - Should other businesses be required to undertake these checks?

Penalties

4.6 HMRC wants to explore as part of this scheme whether to introduce sanctions and/or penalties for failure to undertake the necessary online checks or for delivering to an unregistered business. These could include:

- civil penalties
- detention/seizure of goods
- other options that have a deterrent effect.

4.7 HMRC has been consulting on a wider penalty review. Any penalties introduced as part of the FHDDS will be consistent with the outcome of this review.

Q57 - Do you have any views on the proposal to introduce possible penalties/sanctions for the businesses outlined above? If so, please provide.

Q58 - What penalties/sanctions do you think are appropriate for non-compliance?

5. Impact on business

5.1 HMRC acknowledges that requiring businesses to register and comply with new rules will have an impact on businesses, in terms of their administrative burdens. While it is important to take decisive action to tackle the abuse and disrupt the revenue losses, HMRC will seek to understand the impact and mitigate as far as possible any adverse costs and impacts.

5.2 HMRC invites respondents to join its stakeholder groups by emailing: martin.jones@hmrc.gsi.gov.uk . These groups will be used to communicate with interested parties as the scheme develops, as well as to test ideas and understanding. This consultation and the groups will allow stakeholders to influence the shape and scope of the scheme to ensure HMRC develops an effective and workable scheme, that takes account, as far as possible of the impacts on business.

Impacts of the scheme on fulfilment houses

5.3 At paragraph 3.8, HMRC outlined a working definition of a fulfilment house. Businesses falling within this definition would be required to be registered for the scheme.

Q59 - If your business falls within this definition, what impact is the proposed scheme likely to have on your business? Please provide details of both the anticipated one-off and the ongoing costs and burdens for:

- a) Familiarisation with the new scheme and registering for the scheme
- b) Maintaining accurate records
- c) Providing evidence to HMRC of due diligence undertaken to ensure goods are handled only for *bona fide* suppliers
- d) Any other impacts related to the scheme not covered above.

5.4 At paragraph 3.13, HMRC outlined a wider definition of a fulfilment house. Businesses falling within this definition would be required to be registered for the scheme.

Q60 - If your business falls within this WIDER definition, what impact is the proposed scheme likely to have on your business? Please provide details of both the anticipated one-off and the ongoing costs and burdens for:

- a) Familiarisation with the new scheme and registering for the scheme
- b) Maintaining accurate records
- c) Providing evidence to HMRC of due diligence undertaken to ensure goods are handled only for *bona fide* suppliers
- d) Any other impacts related to the scheme not covered above.

5.5 There is no need to answer this question if your business fell within the definition at paragraph 3.8 and you answered Q59 above.

Impact of proposals on importers or their representative and/or transport logistics operators

5.6 HMRC acknowledges that the proposal in section 4 to require an online check will have an impact on legitimate and compliant businesses. However, like fulfilment houses, they are a key part of the supply chain and can contribute to preventing fraud and abuse in this sector by undertaking checks on the fulfilment houses they transport or import the goods for.

Q61 - What administrative burdens and costs do you envisage in having to check an online register for the fulfilment houses you deliver goods to or for?
Please provide details of anticipated one-off and on-going costs and burdens (separately).

Impacts on small and micro businesses

Q62 - Are there any specific impacts on small and micro businesses that are not covered above? If so, please provide details of the anticipated one-off and on-going costs and burdens.

Q63 - Do you think that small and micro businesses should be excluded from registration? If so:

- a) please give your reasons
- b) what form could an exclusion from registration take? (Please provide detail - if, for example, your preference is for a *de minimis* limit at what level should it be set?).

Business benefits

Q64 - Please tell us what benefits you see for your business in the FHDDS generally or on any specific feature of it.

General impacts

Q65 - Please tell us if you think there are any other impacts not covered above.

Summary of Impacts

Exchequer impact (£m)	2016 -17	2017-18	2018 -19	2019 -20	2020 - 21
	0	+65	+130	+315	+365
	These figures are set out in Table 2.1 of Budget 2016 and have been certified by the Office for Budget Responsibility. They cover both the new HMRC powers to deal with overseas businesses announced at Budget 2016 and the new scheme considered in this consultation document. More details can be found in the policy costings document published alongside Budget 2016.				
Economic impact	The measure is expected to slightly increase CPI inflation from 2018/19.				

Impact on individuals, households and families	As this is a VAT compliance measure, it is not expected to impact on individuals, households and families, neither is it expected to impact on family formation, stability or breakdown.
Equalities impacts	It is not anticipated that the changes will have any adverse impacts on groups sharing protected characteristics but this will be confirmed through the consultation.
Impact on businesses and Civil Society Organisations	<p><u>Fulfilment houses</u> Affected businesses will incur one-off costs of registration and familiarisation with the new regime. On-going costs will include keeping accurate records and providing additional information to HMRC regarding due diligence activities.</p> <p><u>Importers and/or their representatives; transport logistics operators</u> On-going costs will include checking an online register of fulfilment houses, if this aspect goes ahead.</p> <p>The number of businesses affected and impacts on them will be reviewed in light of consultation responses.</p> <p><u>Small and micro business assessment</u> The number of small and micro businesses affected and any additional impacts on them will be explored as part of the consultation.</p>
Impact on HMRC or other public sector delivery organisations	At this stage, HMRC expects to incur one-off capital costs of approximately £7 million and on-going resource costs of approximately £6m a year from 2017-18 to implement this change. These estimates will be reviewed and updated as necessary based on the outcome of this consultation.
Other impacts	Any other impacts will be reviewed in light of consultation responses.

Q66 - Do you have any information that could inform the Impact Assessment?

Government agency or department

5.7 HMRC will work across government to determine whether the FHDDS can deliver wider benefits – for example, by incorporating other agencies/departments' requirements into the due diligence and record-keeping elements.

6. Summary of Consultation Questions

Q1 - Are you:

- a UK fulfilment house or business providing fulfilment services
 - a) on behalf of third parties
 - b) on your own behalf (i.e. your business fulfils its own orders of imported goods)
 - c) a mixture of the above
- a freight forwarder
- a Fast Parcel Operator (FPO) (Express Industry)
- a transport logistics operator - please state
- a customs agent or intermediary
- another UK business - please state
- an overseas supplier of goods using a UK fulfilment house/centre
- a trade representative body/organisation
- a member of the public
- other - please state

Q2 - If you are in business, where is your business established?

- UK (please state if in the Isle of Man)
- Other EU - please state
- Non EU - please state

Q3 - If you are in business, how many staff do you employ across the UK?

- Fewer than 10
- 10 - 100
- 101 - 500
- More than 500

Q4 - What is the annual turnover of your business?

Q5 - Approximately how many orders did you fulfil on behalf of other businesses over the past 12 months?

- Please state the value of those goods (if known).

Q6 - Do you import and/or sell your own goods?

- a) Approximately how many orders did you fulfil on your own behalf over the past 12 months?
- b) What was the value of those goods?

Q7 - How many UK-based premises do you provide fulfilment services from?

Q8 - What is the square footage of your fulfilment premises?

Q9 - Please provide any other details about how your fulfilment business operates that might help us understand your business model.

Q10 - What type of consignment are deliveries into your premises generally? e.g. large containers, parcels etc.

Q11 - How do these normally arrive into the UK? e.g. by air or sea freight

Q12 - What type of business do you use for delivering the consignments of goods to and from your fulfilment house/centre? e.g. freight forwarder, FPO

Q13 - If you are handling goods on behalf of a third-party supplier:

- a) are you the importer of the goods you handle?
- b) who has title to the goods (at the time you handle them)? e.g. your overseas client, the final customer
- c) who pays the import VAT and duty on these goods? e.g. you, your overseas client, another UK business
- d) if you pay the import VAT and duty on behalf of someone else, how is this reimbursed to you and from whom?

Q14 - Are you currently aware if you are delivering to, or importing goods destined for, a fulfilment house?

If yes, please go to question **Q15**

If no, please go to question **Q16**

Q15 - If you can identify when you deliver to, or import goods for, a fulfilment house:

- a) how do you currently identify goods which are destined for delivery to a fulfilment house?
- b) what percentage of your business relates specifically to handling freight destined for fulfilment houses?
- c) how do these goods normally arrive into the UK? e.g. by air or sea freight
- d) what type of consignment are your fulfilment house deliveries/imports? e.g. large containers, parcels etc.
- e) who engages your services for delivering/importing these types of goods? e.g. overseas business, UK business etc.
- f) if you are handling goods on behalf of a third-party supplier:
 - who has title to the goods (at the time you handle them) e.g. the overseas business, the final customer?
 - who pays the import VAT and duty on these goods? e.g. you, the overseas business, another UK business?
 - if you pay the import VAT and duty on behalf of someone else, how is this reimbursed to you and from whom?

Q16 - If you are not aware whether you are delivering to, or importing goods destined for, a fulfilment house:

- a) what do you know about where you are delivering the goods?
- b) what type of consignment generally are the goods you handle? e.g. large containers, parcels etc.

- c) how do these normally arrive into the UK? e.g. by air or sea freight
- d) who engages your services for delivering/importing the consignments of goods? e.g. overseas business, UK business etc.
- e) if you are handling goods on behalf of a third-party supplier:
 - who has title to the goods (at the time you handle them)? e.g. the overseas business, the final customer
 - who pays the import VAT and duty on these goods? e.g. you, the overseas business, another UK business
 - if you pay the import VAT and duty on behalf of someone else, how is this reimbursed to you and from whom?

Q17 - Do you also supply your own fulfilment house services?

Q18 - Do you collect goods from fulfilment houses for onward delivery?

- How do you currently identify whether you are collecting goods from a fulfilment house?

Q19 - Do you think your business will fall into this definition?

Q20 - Do you think this definition:

- a) captures all the particular features of a fulfilment house (if not, please specify)?
- b) makes it clear what sort of business is required to be registered?

Q21 - Do you have an alternative/preferred definition (if so please provide)?

Q22 - By this definition, approximately how many fulfilment houses do you estimate operate in the UK? Please answer this question only if you have any evidence or information to support your answer. Please provide the source of the evidence or information.

Q23 - Do you think your business will fall into this definition?

Q24 - Do you think this wider definition will help prevent the abuse being driven to own-goods fulfilment centres and warehouses?

Q25 - Do you think it is necessary to widen the definition to include own-goods fulfilment centres and warehouses? Please give your reasons.

Q26 - By this wider definition, approximately how many fulfilment houses do you estimate operate in the UK? Please answer this question only if you have any evidence or information to support your answer. Please provide the source of the evidence or information.

Q27 - Do you think there is a need to exclude certain businesses from registration or certain activities that trigger the requirement to register? If so,
a) please give your reasons

b) what form could an exclusion from registration take? (Please provide detail - if, for example, your preference is for a *de minimis* limit at what level should it be set?)

Q28 - Are the checks outlined above straightforward or difficult to comply with? Please explain.

Q29 - Do you think any other checks should be undertaken?

Q30 - If you are a fulfilment house or a fulfilment centre, do you already undertake any checks similar to those outlined above?

Q31 - Are the record-keeping requirements outlined above straightforward or difficult to comply with? Please explain.

Q32 - Are there any solutions (for example, electronic stock systems) already within the sector to match goods stored to specific import declarations and/or online sales? If yes, please explain.

Q33 - Do you think any other records should be maintained?

Q34 - If you are a fulfilment house, do you already maintain records similar to those outlined above? Please describe.

Q35 - Should HMRC gather any further information upon registration?

Q36 - Do you envisage any difficulties in supplying information of this nature at the registration stage?

Q37 - Do you have any comments about online systems applications that you would like HMRC to take account of when it is developing this solution?

Q38 - Are there other requirements that you think should be included as part of a 'fit and proper' standard?

Q39 - Do you envisage any difficulties for compliant fulfilment houses upon registration?

Q40 - Do you envisage any benefits for fulfilment houses that are on the register?

Q41 - Are the proposals - in respect of rejection, removal and withdrawal - proportionate?

Q42 - Do you foresee any difficulties for a legitimate fulfilment house with the proposals to reject, remove or withdraw?

Q43 - Should HMRC consider other sanctions?

Q44 - Are there any other issues HMRC needs to consider around the rejection, removal and withdrawal from the register?

Q45 - Should HMRC consider any other offences not outlined here?

Q46 - Should HMRC consider any other penalties not outlined here? e.g. suspension of registration

Q47 - Do you think the penalties above are appropriate and proportionate?

Q48 - At what value should the civil penalty outlined above be set?

Q49 - Do you have any comments in respect of an appeals and review process for this scheme?

Q50 - Will these businesses be able to determine whether a consignment is destined for a fulfilment house?

Q51 - How will the transport and logistics operator (e.g. FPO) know whether a consignment is being collected from a fulfilment house?

Q52 - Are there any practical difficulties for businesses in checking an online register?

Q53 - What risks do you see to this aspect of the proposal?

Q54 - Do you have an alternative suggestion as to how to prevent delivery to or from an unregistered fulfilment house? Please provide details.

Q55 - What should happen to the goods if a business refuses to handle/deliver them?

Q56 - Should other businesses be required to undertake these checks?

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Q58 - What penalties/sanctions do you think are appropriate for non-compliance?

Q59 - If your business falls within this definition, what impact is the proposed scheme likely to have on your business? Please provide details of both the anticipated one-off and the ongoing costs and burdens for:

- a) Familiarisation with the new scheme and registering for the scheme
- b) Maintaining accurate records
- c) Providing evidence to HMRC of due diligence undertaken to ensure goods are handled only for *bona fide* suppliers
- d) Any other impacts related to the scheme not covered above.

Q60 - If your business falls within this WIDER definition, what impact is the proposed scheme likely to have on your business? Please provide details of both the anticipated one-off and the ongoing costs and burdens for:

- a) Familiarisation with the new scheme and registering for the scheme
- b) Maintaining accurate records
- c) Providing evidence to HMRC of due diligence undertaken to ensure goods are handled only for *bona fide* suppliers
- d) Any other impacts related to the scheme not covered above.

Q61 - What administrative burdens and costs do you envisage in having to check an online register for the fulfilment houses you deliver goods to or for? Please provide details of anticipated one-off and on-going costs and burdens (separately).

Q62 - Are there any specific impacts on small and micro businesses that are not covered above? If so, please provide details of the anticipated one-off and on-going costs and burdens.

Q63 - Do you think that small and micro businesses should be excluded from registration? If so:

- a) please give your reasons
- b) what form could an exclusion from registration take? (Please provide detail - if, for example, your preference is for a *de minimis* limit at what level should it be set?).

Q64 - Please tell us what benefits you see for your business in the FHDDS generally or on any specific feature of it.

Q65 - Please tell us if you think there are any other impacts not covered above.

Q66 - Do you have any information that could inform the Impact Assessment?

7. 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 stages 1 & 2 of the process. The purpose of the consultation is to seek views on the policy design, before drafting legislation to effect the proposed change.

How to respond

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

Responses should be sent by 30 June 2016, by e-mail to indirecttax.projectteam@hmrc.gsi.gov.uk

or by post to:
Lara Pritchard
HM Revenue & Customs
Indirect Tax Project Team
Room 3/35, 100 Parliament Street
London SW1A 2BQ

Telephone enquiries: Martin Jones 03000 593 311 (from a text phone prefix this number with 18001)

Please do not send consultation responses to the Consultation Coordinator.

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's GOV.UK pages](#). 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. We are extending the normal 12-week period to allow sufficient time for respondents to reply.

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:

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

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Please do not send responses to the consultation to this address.