

Guidance Manual

on

Comprehensive Guarantee

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This manual, which has immediate effect, provides direction and guidance on the authorisation of Comprehensive Guarantees

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Definitions

In the context of this instruction:

“Union Customs Code” refers to EU Council Regulation 952/2013 establishing the Union Customs Code;

“DA” refers to the Delegated Act; Commission Regulation (EC) No. 2015/2446

“IA” refers to the Implementing Act; Commission Regulation (EC) No. 2015/2447

“Customs Procedure” means any of the following procedures under which goods may be placed in accordance with the Code:

- release for free circulation;
- special procedures (transit, warehousing, temporary admission, end-use, inward processing and outward processing) and
- export.

The following links cover training, guidelines, application and SAQ for a Comprehensive Guarantee:

- **On-line training**

<http://moodlekoha.revenuedomain.ie/moodle/course/view.php?id=258>

- **Guidelines**

<http://www.revenue.ie/en/customs/comprehensive-guarantee/comprehensive-guidelines.pdf>

- **Comprehensive Application**

<http://www.revenue.ie/en/customs/comprehensive-guarantee/application.pdf>

- **SAQ**

<http://www.revenue.ie/en/customs/comprehensive-guarantee/questionnaire.pdf>

- **Explanatory Notes for SAQ**

<http://www.revenue.ie/en/customs/comprehensive-guarantee/index.html>

Officers are directed to use this suite of documentation in relation to applications and guidelines for Comprehensive Guarantee. A Comprehensive Guarantee is always linked to a second authorisation.

1. Introduction

This instruction, which has immediate effect, provides a guide to the interpretation of the law governing Comprehensive Guarantees which are provided for in the Union Customs Code (UCC), Article 89-100, the Delegated Act (DA) Articles 81-86 and the Implementing Act (IA) Articles 147-158.

1.1 What is a Customs Comprehensive Guarantee Authorisation?

A Comprehensive Guarantee may cover the amount of existing and potential customs debt and other charges, where applicable, corresponding to more than one customs operation, declaration or procedure of the economic operator. Upon application, an economic operator who fulfils the conditions may be authorised by Revenue to provide a comprehensive guarantee.

The holder of a Comprehensive Guarantee Authorisation can:

- amalgamate all of their current customs bonds and guarantees under one comprehensive guarantee
- subject to meeting specific criteria, apply for a reduction or waiver in the amount of guarantee for debt which may be incurred
- reduce to 30% the amount of guarantee for debt which has been incurred where the operator holds the status of Authorised Economic Operator Simplified (AEOC)

Applications for Comprehensive Guarantee require the completion of the application form along with the Self Assessment Questionnaire (SAQ). With effect from 1 May 2016, all new applications for special procedures, temporary storage facility, transit and deferred payment will require an associated application for comprehensive guarantee (subject to the exception of a single operation or Customs Declaration for which an individual guarantee may be used).

It is suggested that both applications are submitted at the same time as this will assist in the efficient handling of the assessment process.

1.2 What is the applicant applying for?

Authorisation for Comprehensive Guarantee covers two elements, namely:

- Authorisation to hold a comprehensive guarantee **and**
- Possibility to have a reduction or waiver in the amount of the guarantee as follows
 - **a reduction to 50% in the amount of the guarantee**
 - **a reduction to 30% in the amount of the guarantee**
 - **a full waiver of the amount of the guarantee**

The list of criteria that must be assessed by the Control Officer will be dependent on what the applicant has applied for.

Please Note the criteria for Comprehensive Guarantee are the same as those for AEO and therefore, when the Control Officer is carrying out the assessment of

the applicant, the standard for each criterion is that required for AEO. *It should be noted that where an applicant is assessed for Comprehensive Guarantee purposes and is deemed to have met those criteria, then those particular criteria are not re-assessed should the applicant apply for AEO status within a reasonable timeframe.*

1.3 Who can apply for Comprehensive Guarantee Article 95 (1) (a), (b) and (c)?

The Comprehensive Guarantee shall be granted only to persons who satisfy all of the following conditions:

1. They are established in the customs territory of the Union
2. They fulfil the criteria laid down in point (a) of Article 39 of UCC - *The absence of any serious infringements or repeated infringements of customs legislation and taxation rules including no record of serious criminal offences relating to the economic activity of the applicant;*
3. They are regular users of the customs procedures involved or operators of temporary storage facilities or they fulfil the criteria laid down in point (d) of Article 39 UCC with regard to AEOS status and practical standards of competence or professional qualifications directly related to the activity carried out.

Applicants will be assessed against the criteria based on data for the previous 3 years. If a trader has not been established for 3 years then they will be assessed against the criteria using the information and records that are available.

2. Application for Comprehensive Guarantee

2.1 Application Procedure

- a) Applicant submits all the information required in the official Application Form and a Self Assessment Questionnaire (SAQ) to Guarantee Section, Applicant should be advised to also submit the application for the Special Procedure (e.g. Inward Processing, Outward Processing, End- Use, Temporary Admission, Warehousing or Transit), Deferred Payment or Temporary Storage for which the Comprehensive Guarantee is being applied.
- b) Guarantee Section will examine the Application and SAQ before it is 'accepted' - timeframe for making the decision starts at this stage (when the application is accepted).
- c) The Application and SAQ are then forwarded to the Control Officer to carry out the evaluation. Guarantee Section also notify the Special Procedures Section/Deferred Payment Section on receipt of the application.
- d) The Control Officer carries out the assessment, completes the Evaluation Report and submits it along with their recommendation as to whether or not the applicant has met the criteria for a Comprehensive Guarantee or Guarantee Reduction/Waiver to Guarantee Section.
- e) The Authorisation for Comprehensive Guarantee and draft Guarantors Undertaking are issued from Guarantee Section to the applicant on receipt of a positive recommendation.

- f) If a cash deposit is selected as the form of guarantee only the Authorisation for Comprehensive Guarantee is issued to the trader. Please refer to paragraph 6.2 for further details.
- g) The Comprehensive Guarantee becomes valid when the Undertaking is completed by a bank/surety provider, returned to Revenue and approved by Guarantee Section. A 'hard' copy of the Guarantors Undertaking must be submitted.
- h) Confirmation is sent to the trader that the Comprehensive Guarantee is now in place. A copy of this confirmation is sent to the Control Officer and to the relevant section dealing with Special Procedures, Temporary Storage or Deferred Payments.

The application form and SAQ are available at <http://www.revenue.ie/en/customs/comprehensive-guarantee/index.html>. Completed application forms should be submitted to aeo@revenue.ie and **Guarantee Section, Authorisations & Reliefs Unit, Corporate Affairs and Customs Division, Office of the Revenue Commissioners, St. Conlon's Road, Nenagh, Co. Tipperary.**

At step b) above, Guarantee Section examines the application and checks that all the necessary information is supplied by the trader to process the application. If the application does not contain all of the particulars required, Guarantee Section will, within 30 days of receipt, request the additional data from the applicant. If this additional data is not supplied within 30 days of notification Guarantee Section will confirm in writing that as the necessary information to process this application has not been submitted this application cannot be processed and the file is now closed.

At step e) above Guarantee Section are required to notify the applicant within 120 days of the date of acceptance of the application whether or not they are authorised for a Comprehensive Guarantee. Where Customs authorities are unable to comply with the time-limit for taking a decision, they shall inform the applicant of that fact before the expiry of that time-limit, stating the reasons and indicating the further period of time which they consider necessary in order to take a decision. Except where otherwise provided, that further period of time shall not exceed 30 days. However, as the time limit for taking a decision on the authorisations for Special Procedures is 30 days and the authorisations for Comprehensive Guarantee and Special Procedures will be required simultaneously we need a recommendation within 30 days. If the application for a comprehensive guarantee is valid in more than one MS then the relevant OMS will have to be consulted to ensure the necessary conditions are complied with. If there are no objections or communication from the OMS within 30 days the authorisation will issue. When the guarantee is provided in the form of an undertaking by a guarantor and is valid in more than one MS, the guarantor shall indicate an address for service or appoint an agent in each MS in which the guarantee is valid.

2.2 Establishing the reference amount for Comprehensive Guarantee

The reference amount which covers customs debts which **have been** incurred shall correspond to the amount of import or export duty and of the other charges which are payable.

The reference amount which is to cover customs debt which **may be** incurred shall be established by the Control Officer in collaboration with the person required to provide the guarantee. The amount of guarantee shall be sufficient to cover at all times the potential and existing customs debt and other charges which may vary in amount over time.

Calculation of the reference amount is outlined in the relevant Special Procedures Manuals which are available on RevNET, Tax & Duty Manuals under Economic Procedures.

3. The Self Assessment Questionnaire

3.1 The SAQ is divided as follows:

Part 1 - Questions relate to the application for Authorisation for a Comprehensive Guarantee

Part 2, 3 and 4 - Questions related to the application for a reduction or waiver in the amount of the guarantee

Please note the following when completing the SAQ:

- If applying for an Authorisation for a Comprehensive Guarantee with no reduction or waiver complete Part 1 only.
- Authorised Economic Operator Simplified (AEOC) applying for an Authorisation for a Comprehensive Guarantee and a reduction to 30% for debt that has been incurred are to complete Part 1 only (Deferred Payments).
- Authorised Economic Operator Simplified (AEOC) applying for an Authorisation for a Comprehensive Guarantee and waiver for debt that may be incurred are to complete Part 1 only.
- Non AEO traders applying for Authorisation for Comprehensive Guarantee and a waiver or reduction in the Guarantee amount are to complete Part 1 and the other relevant part of the form -Part 2(full waiver 100%), Part 3 (reduction to 30%) or Part 4 (reduction to 50%).

4. Evaluation Report

This report is completed by the Control Officer. The sections of the evaluation report relevant to the application must be completed. The recommendation on this report must be signed and stamped by the Control Officer before submitting to Guarantee Section.

Where an application for an Authorisation is being denied or denied in part the justification for same must be included in the evaluation report and this will be recorded on the central EU decisions system and will be visible to all OMS.

5. Right to be heard

Where it is proposed to take a decision that will adversely affect the applicant, that person must be given an opportunity to express their point of view before the decision is taken.

If this is the case, the Control Officer must inform Guarantee Section of the grounds on which they intend to base their decision. Guarantee Section will inform the applicant and the applicant then has 30 days in which to express their point of view. Following the expiry of this period the applicant must be notified of the decision.

6. Forms of Guarantee

6.1 Comprehensive Guarantee in the form of an Undertaking

A financial guarantee in the form of an Undertaking must be obtained from one of the approved financial institutions. A list can be found on the financial regulator website <http://registers.centralbank.ie/FirmSearchPage.aspx>. This is checked by Guarantee Section on receipt of application.

6.2 Comprehensive Guarantee in the form of Cash Deposit

A guarantee may be provided in the form of a cash deposit made in euro (Article 92 1(a) UCC).

The cash deposit is to be made by **an electronic transfer of funds (EFT) as follows:**

- Details of Revenue (local) bank a/c (Appendix 1) and email address of local cash office are sent by Control Office to trader
- Template for Customer Contact Details are sent by Control Officer to Trader for completion (Appendix 2)
- Control Officer should contact the Cash Office to give notice of deposit.
- Trader transfers money to Revenue a/c.
- Trader sends email to the Cash Office confirming transfer and with the following details.
 - (a) The amount of money that was transferred
 - (b) The purpose of payment and
 - (c) Customer contact details (Appendix 2). These details will be held on file by the Cash Office and Accountant General's Office and can be used for refund purposes.
- Control Office/Deferred Payment Section receives Deposit Note (with deposit no) from the Cash Office confirming receipt of the deposit (Appendix 3).
- Details of receipt of deposit sent by Control Officer to Guarantee Section outlining details for which the deposit was put in place.

7. Release of Guarantee (Article 98 UCC)

The customs authorities shall release the guarantee immediately when the customs debt or liability for other charges is extinguished or can no longer arise.

Where the customs debt or liability for other charges has been extinguished in part, or may arise only in respect of part of the amount which has been secured, a corresponding part of the guarantee shall be released at the request of the person concerned, unless the amount involved does not justify such action.

Where a special procedure other than the end-use procedure has been discharged or the supervision of end-use goods or the temporary storage has ended correctly, the guarantee shall be repaid by the customs authority of the Member State where it was provided (Article 150 IA).

8. Monitoring

8.1 Monitoring of the reference amount by the person required to provide a guarantee

- Article 156 IA

The person providing a guarantee has the obligation to monitor the reference amount and must inform the Control Officer in cases where the reference amount/level of the guarantee is no longer enough to cover the amount of the potential/existing customs debt. This communication together with the provision of additional guarantee, where applicable, shall be done prior to the exceeding of the reference amount.

The total amount of all customs debt and other charges that should be covered by guarantee shall not exceed the reference amount.

Any form of monitoring is valid provided it ensures that the reference amount is not exceeded and it may be described in the authorisation. In this respect, the Control Officer may require in particular that the person providing a guarantee at least keeps records of each declaration he has presented, where applicable, and of the corresponding amount of duties and other charges either calculated or estimated.

8.2 Monitoring of the reference amount by the Control Officer

- Article 157 IA

Article 157 IA should be interpreted as indicating the minimum monitoring requirements of the reference amount.

There are three possible ways of monitoring laid down, depending on the regime, namely:

- In case of release for free circulation: for each customs declaration at the time of placing of the goods under the procedure (in the case of standard declaration) and for each supplementary declaration (in the case of simplified procedures/entry in the declarant's records)
- In transit: for each transaction, where NCTS is available;
- In all the other cases: audit.

9. Suspension, Revocation and Withdrawal of Comprehensive Guarantee

If a trader fails at any time to meet the criteria associated with the guarantee waivers or reductions they will no longer be entitled to receive these benefits and will need to amend their Comprehensive Guarantee amount.

If at any time an AEOC authorisation is suspended or revoked by Revenue or withdrawn by the business the full guarantee requirements will need to be met as the trader will no longer be entitled to these benefits. It is important that an AEOC retains up to date information in their records in respect of reference amounts.

Appendix 1

ELECTRONIC FUND TRANSFER—BANK DETAILS

BANK:

ACCOUNT NAME:

Bank Account.

ACCOUNT NO.

SORT CODE:

BIC CODE:

IBAN CODE:

TRADER EORI NO

Appendix 2**Customer Contact Details**

Taxpayer / Customer Name:	
EORI No:	
Taxpayer / Customer Address:	
Telephone Number:	
email Address:	
Bank Name:	
Bank Address:	
Bank Account Details:	Type of Account: Name of Account Holder: Account Number: National Sort Code (NSC): BIC Code: IBAN:
Revenue Official's Name:	

Appendix 3

Cash Deposit as a Guarantee

Our Ref:
2016

,

EORI Number:
Comprehensive Guarantee Number:

Guarantee for a potential or existing customs debt (Article 92 UCC)

Dear

This cash deposit of € _____ is taken by the Revenue Commissioners from _____ as a guarantee required under the abovementioned legislation. If the business of the Economic Operator changes to the extent that it is no longer required to have a guarantee, the Commissioners will not return the cash deposit until they have ascertained that there is no customs debt outstanding on the operations/transactions covered by the guarantee. In the event of the Economic Operator ceasing to trade, or a liquidator and /or a receiver being appointed the Commissioners will not make the deposit available to the liquidator, receiver or other relevant person, as the case may be, for distribution among the creditors until they are satisfied that there is no customs debt and other charges outstanding.

Yours sincerely