

Guidance Manual on Comprehensive Guarantee

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This manual 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, Regulation 2018/1118-amending DA Art.84 and the Implementing Act (IA) Articles 147-158 & Art 162.

Published by Guarantee Section, Authorisations and Reliefs Unit, Customs Division.

Queries: E-mail: compguarantee@revenue.ie

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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 link covers EU guidelines for Comprehensive Guarantee:

[Guidance for guarantees for customs debts](#)

1. Introduction

The Comprehensive Guarantee is a customs decision introduced under the UCC to cover two or more operations, declarations or customs procedures for both debt that has been incurred and debt that may be incurred. This means that any trader who has two or more declarations may apply for a comprehensive guarantee and the reductions or waivers that may follow. A Comprehensive Guarantee is always linked to a second authorisation, for a special procedure, temporary storage facility or deferred payment following release for free circulation.

1.1 How can Operators use a Comprehensive Guarantee?

The holder of a Comprehensive Guarantee Authorisation can:

- amalgamate all their customs guarantees under one comprehensive guarantee
- apply for a reduction or waiver in the amount of guarantee for debt which may be incurred subject to meeting specific criteria as outlined in Article 84 DA
- 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 on the Customs Decision System CDS. With effect from 1 May 2016, all new applications for special procedures, temporary storage facility, transit and deferred payment 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.

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** the following conditions:

1. They are established in the customs territory of the Union- UCC Art 5 (31) & (32)
2. They fulfil the criteria outlined in Article 39 (1) (a) 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. (a) They are regular users of the customs procedures involved or operators of temporary storage facilities **or** (b) they fulfil the criteria outlined in Article 39(d) UCC regarding 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

All applications, including those for amendment to existing authorisations, must be made through the Trader Portal in the Customs Decision System - [CDS](#).

On receipt of an application/ amendment request Guarantee Section will carry out the following tasks:

- Check that all the necessary information to process the application/amendment has been supplied by the applicant
- Where additional information is required the applicant will be contacted via CDS to provide same
- Guarantee Section also notify the Special Procedures Section on receipt of the application/amendment request
- The application is formally accepted upon receipt of all relevant information
- The application must be accepted or rejected within 30 days of submission.

There is no time limit for processing amendments in the CDS

2.2 Evaluation Report

Special Procedures & Deferred Payment (AEO)

- The application and evaluation report for comprehensive guarantees covering all special procedures and deferred payment (AEO cases) are uploaded on RCM and the local AP will assign the case to the relevant Control Officer to carry out the evaluation. The list of criteria that must be assessed by the Control Officer will be dependent on what the applicant has applied for, e.g. reduction to 50%, reduction to 30% or reduction to 0% (waiver).
- If the applicant has AEO status, the AEO criteria does not have to be reassessed to grant a waiver for special procedures or a reduction to 30% for deferred payment. However, the Control officer does need to verify if the financial standing of the applicant justifies the reduction/waiver.
- The Control Officer carries out the assessment, completes the evaluation report indicating their recommendation as to whether or not the applicant has met the criteria for a Comprehensive Guarantee or Guarantee Reduction/Waiver. The completed report is then returned via RCM.
- Where it is recommended that the applicant has not met the criteria and as a result an Authorisation is denied or denied in part, the justification for same must be included in the evaluation report. This is recorded on the CDS as an intention to refuse the authorisation, which then initiates a 30 day Right to be Heard (RTBH) – See Section 4 below “Right to be Heard”.
- **It should be noted that where an applicant is assessed for Comprehensive Guarantee purposes and is deemed to have met certain AEO criteria, then those particular criteria are not re-assessed should the applicant subsequently apply for AEO status within a reasonable timeframe.**

Deferred Payment (non AEO)

Guarantee Section complete the evaluation report for applications for Comprehensive Guarantee to cover deferred payment only, from non AEO applicants, having checked Revenue Systems and other relevant areas in Customs.

- An e-mail is then sent to the local Assistant Principal Officer (AP), to advise them that a copy of the evaluation report and details of any issues discovered during the checks, have been uploaded on RCM, with a request to confirm if they are aware of any reason why the CG authorisation should not be issued. The AP will assign the case to the relevant Control Officer.

Amendment Requests

All amendment requests are sent to the Control Officer for approval (as above) before being processed.

2.2.1 Associated Trader – Deferred Payment

If a trader wishes to add an Associated Trader to their existing Comprehensive Guarantee covering deferred payment, they must submit an amendment request on the CDS, stating the name & EORI No of the trader/s they wish to add. They will also be required to provide a guarantor's undertaking stating the relevant names and EORI Nos, when asked to do so by the Guarantee Section, at a later stage of the process.

2.2.2 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. (2-month period)

The reference amount which is to cover customs debt which **may be** incurred shall be established by the Control Officer in collaboration with the applicant. 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 and Temporary Storage Manuals which are available on the [Revenue Website](#)

2.3 Forms of Guarantee

A guarantee can be provided either in the form of a guarantor's undertaking **or** a cash deposit. UCC Article 92.1 (a) & (b)

On receipt of a positive recommendation from the Control Officer,

- a) A guarantor's undertaking is issued from Guarantee Section to the applicant and must be completed by an approved financial institution, established in the EU. A list can be found on the [financial regulator](#) website. This is checked by Guarantee Section on receipt of application.

A 'hard' copy of the guarantors undertaking completed by a bank or surety provider must be returned to Guarantee Section where it will be approved if everything is in order (undertaking must be stamped with the guarantor's official stamp). A scanned copy of the approved undertaking is then sent to the applicant and the bank or surety provider for their records.

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.

Note: The Comprehensive Guarantee may only be provided in the form of an undertaking by a guarantor for the transit procedure. Article 162 IA.

- b) If a cash deposit is selected as the form of guarantee this is now requested from the applicant by Guarantee Section. The following are issued to the applicant via “My Enquiries”
- Details of Revenue bank a/c ([Appendix 1](#)) and email address of Accountant General’s (AG) cash office
 - Template for Customer Contact Details for completion ([Appendix 2](#))

Applicant makes the cash deposit by **an electronic transfer of funds (EFT)** to Revenue a/c.

Applicant sends an email via “My Enquiries” to the AG’s Cash Office confirming transfer and with the following details.

Customer contact details (Appendix 2). These details will be held on file by the AG’s Cash Office and can be used for refund purposes.

Guarantee Section receives Deposit No from the AG’s Cash Office confirming receipt of the deposit.

2.4 Authorisation

The application is then finalised on the Customs Decision System and the comprehensive guarantee authorisation is issued to the applicant on the CDS

Confirmation is sent to the applicant that the Comprehensive Guarantee is now in place. A copy of this confirmation is sent to the Control Officer (Special Procedures cases) and to the relevant section dealing with Special Procedures, Temporary Storage or Deferred Payments.

Guarantee Section are required to notify the applicant within 120 days of the date of acceptance of the application if 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 to take a decision. Except where otherwise provided, that further period 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 a decision is required within 30 days.

3. The Self-Assessment Questionnaire (SAQ)

Since the introduction of the CDS in October 2017 applicants are no longer required to submit an SAQ when applying for a Comprehensive Guarantee. However, if any **non-AEO** applicants are requesting a reduction or waiver, the relevant section of the SAQ may be requested from the applicant by Guarantee Section. The SAQ will be forwarded to the Control Officer with the evaluation report.

If the Control Officer considers the completion of Part 1 of the SAQ necessary to evaluate and make a recommendation, they may request completion of this part of the SAQ when arranging a date for a meeting with the company. The applicant may be requested to submit this information in advance of the visit to the premises.

Part 1 may be requested by the Control Officer in the following cases if he or she wishes (see above).

- If the application is for an Authorisation for a Comprehensive Guarantee with no reduction or waiver.
- If the applicant is an Authorised Economic Operator Simplified (AEOC) applying for an Authorisation for a Comprehensive Guarantee and a reduction to 30% for debt that **has been** incurred (Deferred Payments).
- If the applicant is an Authorised Economic Operator Simplified (AEOC) applying for an Authorisation for a Comprehensive Guarantee and waiver for debt that **may be** incurred (Special Procedures).

4. 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. If the applicant is still dissatisfied with the decision at that stage, they have the right to appeal the decision.

5. Cancellation & Release of Guarantee (Article 98 UCC)

The cancellation of the undertaking by the guarantor shall take effect on the 16th day following the date on which the cancellation is notified by the guarantor to the customs office where the guarantee was provided (DA Art 82.3)

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.

When the guarantor's undertaking is cancelled or a request for a refund of the cash deposit is received, a full assessment needs to be carried out within the following 30 days to ensure that a debt can no longer arise for the period covered by the guarantee. Guarantee Section will request the local Control Officer to carry out this assessment.

If a debt arises for the period of the guarantee it is essential that the debt is collected without delay.

6. Monitoring

6.1 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 or level of the guarantee is no longer enough to cover the amount of the potential or 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 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.

6.2 Monitoring of the reference amount by the Control Officer

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. The reference amount for all Special Procedures should be checked annually to ensure it is adequate.

7. Suspension, Revocation and Amendment of Comprehensive Guarantee

An authorisation for a Comprehensive Guarantee may be revoked or suspended at the request of the holder of the authorisation or by the Customs Authority if one or more of the conditions required for the authorisation are no longer fulfilled.

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.

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 – Template for Customer Contact Details

Contacts must be valid to enable refunds so please inform Revenue of any changes

Taxpayer / Customer Name:	
Revenue /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:	