



## Brexit: Movement of excise goods as from 1 January 2021

### 1 Background

On 31 December 2020 the agreed Brexit transition period will come to an end. Thereafter, the EU legislation on excise duties will no longer apply in the United Kingdom (UK). From an excise duty perspective, it will no longer be possible to directly dispatch or receive untaxed or taxed goods subject to excise duty to and from the UK. In future, these transactions will be treated as exports or imports pursuant to customs law, to which the respective customs and excise regulations of the EU and UK will apply. A possible free trade agreement would have no effect on excise duty issues. Affected companies are therefore recommended to observe the new UK regulations, review their processes and contractual agreements and adapt them to the new requirements.

### 2 Importing excise goods into the UK

As from 1 January 2021, imports of excise goods from the EU to the UK will be treated the same as imports of goods from third countries and must be formally registered with the customs authorities (see KMLZ Customs Newsletter 04 | 2020). In addition to import duties, excise duty will then also become due. The EU distance-selling arrangements for excise goods will no longer apply. The use of the so-called "Simplified Accompanying Administrative Document" (SAAD), when moving excise taxed goods out of the EU, will also no longer be permitted. However, this will not apply to goods that are dispatched from the EU prior to 31 December 2020 but which are not received in the UK until after 1 January 2021. A customs declaration is not required in this case. For tobacco and alcohol, simplified customs declarations are available, namely the so-called "Customs Freight Simplified Procedures" (CFSP). All other excise goods are excluded from being



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processed using the CFSP. The use of the CFSP, however, requires a customs authorisation for simplified customs declarations. Only companies established in the UK can obtain these authorisations (see KMLZ Customs Newsletter 04 | 2020). Further, using the simplified declaration for imports is only possible if the importer has a deferment account. Companies, which are not established in the UK, cannot obtain their own deferment account. They will need to depend on the use of a third party's deferment account i.e. a customs agent (see KMLZ Customs Newsletter 06 | 2020).

### 3 Movement of excise duty suspended goods within the UK

In order to move goods from the place of importation to their final destination within the UK, the "Excise Movement and Control System" (EMCS) must be used. To do so, the importer will need to appoint a registered consignor or become one himself. The registration process can take up to 45 days. It is not yet clear whether the option to register as a consignor is also available to companies which are not established in the UK. However, excise warehouse operators or customs agents can be registered consignors and enter the corresponding transport declaration in the EMCS for third party goods. The registered consignor must create an "electronic Administrative Document" (eAD) in the EMCS. By entering the transport in the EMCS, each transport operation is assigned an individual reference code ("Administrative Reference Code (ARC)), which is comparable to an MRN. This code must accompany the goods. The carrier must have available the printed eAD or any other commercial document indicating the ARC. Furthermore, as from 1 January 2021, registered consignees will no longer be authorised to receive excise goods from the EU under duty suspension in the UK.

### 4 Import into the UK via a border without a customs control system

If the goods reach the UK at a border without a customs control system, subsequent registration in the EMCS is possible. The importer must indicate his excise guarantee reference number on the customs declaration. He has until the end of the next working day to inform the British tax authorities ("HMRC") of the import of excise goods. Similarly, the EMCS declaration can be made by the end of the next working day. In this case, the box "deferred movement" must be ticked in order to indicate the subsequent registration.

### 5 Export from the UK into the EU

The EMCS must also be used to transport the goods from the place where the goods are located in the UK to the border. An export declaration must also be submitted. The following steps will be required to be taken in the export procedure:

- Issuance of an electronic administrative document (eAD) through the EMCS, prior to the movement of the goods taking place. Subsequent creation of the eAD, as in the case of imports, is not possible in the export procedure.
- Generation by the EMCS of an Administrative Reference Code (ARC) for the particular movement of goods.
- Preparation of an export declaration using the National Export System (NES). The ARC must be entered in box 40.

After the goods have been cleared by the customs authorities, the EMCS will generate and issue the "accepted for export" declaration to the declarant. This message will only be generated if the ARC in the EMCS corresponds to the information entered in box 40 of the export declaration. The customs export procedure and the excise transport procedure will be linked by this ARC. Following exportation, a "report of export" will be generated. In the EMCS the status of the consignment will be "delivered", even if the goods have only left the UK but have not yet reached their destination.