



Dated

27 October 2021

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**Due Diligence Policy**

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## 1. POLICY STATEMENT

- 1.1 It is our policy to conduct all of our business in an honest and ethical manner. We take a zero-tolerance approach to excise duty evasion and tax fraud and are committed to acting professionally, fairly and with integrity in all our business dealings and relationships wherever we operate and implementing and enforcing effective systems to counter excise duty evasion and tax fraud.
- 1.2 We will uphold all laws relevant to countering excise duty evasion and tax fraud in all the jurisdictions in which we operate. However, we remain bound by UK laws in respect of our conduct both at home and abroad.
- 1.3 Alinea London Limited is approved as a Registered Consignor under the Section 100G Customs and Excise Management Act 1979 and the Excise Goods (Holding, Movement and Duty Point) Regulations 2010 and has been authorised to start duty suspended movements from the place of release to free circulation where you have a direct link with the goods.
- Spiritous Beverages
  - Wine and Made Wine
  - Intermediate Products
  - Beer

## 2. ABOUT THIS POLICY

- 2.1 The purpose of this policy is to:
- 2.1.1 set out our responsibilities, and of those working for us, in observing and upholding our position on excise duty evasion; and
  - 2.1.2 provide information and guidance to those working for us on how to recognise and deal with excise duty evasion issues.
- 2.2 It is a criminal offence to conduct excise duty evasion. Section 8 (1) Finance Act 1994 states that in any case where:

- Any person engages in any conduct for the purpose of evading any duty of excise, and
- His conduct involves dishonesty

That person will be liable to a penalty equal to the amount of duty evaded, or as the case may be, sought to be evaded.

The reference in subsection (1) (a) to evading a duty of excise includes references to obtaining or securing without being entitled:

- Any repayment, rebate or drawback of duty
- Any relief or exemption from any allowance against duty or

Any deferral, or other postponement of liability to pay any duty or of the discharge by payment of such liability.

It also includes references to any evading of the cancellation of any entitlement to, or the withdrawal of, any such repayment, rebate, drawback, relief, exemption or allowance.

The Customs and Excise Management Act 1979 Section 50 outlines that Penalty for improper importation of goods.

(1) Subsection (2) below applies to goods of the following descriptions, that is to say—

(a) goods chargeable with a duty which has not been paid; and

(b) goods the importation, landing or unloading of which is for the time being prohibited or restricted by or under any enactment.

(2) If any person with intent to defraud Her Majesty of any such duty or to evade any such prohibition or restriction as is mentioned in subsection (1) above—

(a) unships or lands in any port or unloads from any aircraft in the United Kingdom or from any vehicle in Northern Ireland, or any other vehicle which has entered the United Kingdom] any goods to which this subsection applies, or assists or is otherwise concerned in such unshipping, landing or unloading; or

(b) removes from their place of importation or from any approved wharf, examination station, transit shed, temporary storage facility, any place specified by an officer of Revenue and Customs under Part 1 of the Taxation (Cross-border Trade) Act 2018 as a place where the goods are required to be kept, or customs and excise station any goods to which this subsection applies or assists or is otherwise concerned in such removal,

he shall be guilty of an offence under this subsection and may be detained.

(3) If any person imports or is concerned in importing any goods contrary to any prohibition or restriction for the time being in force under or by virtue of any enactment with respect to those goods, whether or not the goods are unloaded, and does so with intent to evade the prohibition or restriction, he shall be guilty of an offence under this subsection and may be detained.

(4) Subject to subsection (5), (5A) (5AA), (5B) or (5C) below, a person guilty of an offence under subsection (2) or (3) above shall be liable—

(a) on summary conviction, to a penalty of the prescribed sum, £20,000 or of three times the value of the goods, whichever is the greater, or to imprisonment for a term not exceeding 6 months, or to both; or

(b) on conviction on indictment, to a penalty of any amount, or to imprisonment for a term not exceeding 7 years, or to both.

2.3 Excise Notice 196, Section 10 outlines that as of 14 November 2014, a condition of approval to act as an authorised consignor to move duty suspension goods in the United Kingdom using the Excise Movement Control System, the authorised consignor must:

- Objectively assess the risks of alcohol duty fraud within the supply chains in which they operate
- Put in place reasonable and proportionate checks in their day-to-day trading activities to identify transactions that may lead to fraud or involve goods on which duty may be evaded

- Have procedures in place to take timely and effective mitigating action where a risk of fraud is identified
- Document the checks intended to be carried out and have appropriate management governance in place to make sure that these are, and continue to be, carried out as intended.

2.4 In this policy, **third party** means any individual or organisation you come into contact with during the course of your work, and includes actual and potential clients, customers, suppliers, distributors, business contacts, agents, advisers, warehouse keepers, owners of goods, transport companies and consignors.

### 3. WHO MUST COMPLY WITH THIS POLICY?

This policy applies to all of our clients and business partners in any capacity, including employees at all levels, directors, officers, agency workers, seconded workers, volunteers, interns, agents, contractors, third-party representatives, distributors, warehouse keepers, owners of goods, transport companies and consignors, or any other person associated with handling excise goods, wherever located.

### 4. WHO IS RESPONSIBLE FOR THE POLICY?

4.1 The board of directors has overall responsibility for ensuring this policy complies with our legal and ethical obligations, and that all those under our control comply with it.

4.2 The compliance manager has primary and day-to-day responsibility for implementing this policy, monitoring its use and effectiveness, dealing with any queries about it, and auditing internal control systems and procedures to ensure they are effective in countering excise duty fraud.

4.3 Management at all levels are responsible for ensuring those reporting to them understand and comply with this policy and are given adequate and regular training on it.

4.4 You are invited to comment on this policy and suggest ways in which it might be improved. Comments, suggestions and queries should be addressed to the compliance manager.

5. **WHAT IS EXCISE DUTY FRAUD?**

5.1 **Excise duty fraud** is the illegal evasion of import duties and VAT at customs through the dishonest or deceitful diversion of goods into the UK market while under temporary duty suspension. It may also refer to the illegal manufacture of excise goods and or the importation and exportation of prohibited items.

5.2 Without effective **safeguards** in place, there are considerable risks to all businesses along alcohol supply chains of becoming implicated in illicit trading.

5.3 The main risk in the alcohol sector are:

- involvement in the supply of goods for fraud,
- receiving goods that have been inadvertently smuggled or diverted into the UK,
- inadvertently facilitating fraud by providing import or warehousing services

5.4 A key feature of the **smuggling or diversion** of alcohol to the UK market is the ability to source product either where the excise duty has been suspended or it has been refunded under drawback provisions.

5.5 Fraudsters may exploit import and warehousing procedures to provide cover for the illicit movement of goods. Fraudsters will seek to distribute duty evaded goods as well as counterfeit alcohol into legitimate retail supply chains.

**Examples:**

**Providing false values:** You import goods into the UK and declare a lower quantity of goods than are actually imported.

This would be an offence as you are mis-representing the amount of goods imported to

gain a commercial advantage and deprive HMRC of excise tax. Where smuggling occurs a crime is committed with the potential of up to 7 years imprisonment. It may also be an offence for a potential warehouse-keeper or client to accept your goods or for our company to act as your representative to commit the crime. Companies that are involved in excise duty evasion may also be involved in other types of corruption, money laundering or illicit activities.

**Receiving excise gifts:** A supplier gives your company free samples or makes a gift of alcohol. In this circumstance they may or may not detail the gift on your commercial invoice, and as you did not expect or request the gift you may claim that you were ignorant of the transaction, or do not wish to claim responsibility for the goods.

Excise duty is a hypothecated tax calculated on specific duties based upon the volume and ABV of the products imported - not the transaction value. It is an offence for an importer not to declare all excise goods which are imported therefore it is advisable to maintain awareness of any 'gifts' and make appropriate arrangements with your supplier to prepare accurate documentation and with customs and excise to pay or suspend the excise duty payable as appropriate.

**Alinea** offer consultancy services and expertise within the excise sector, including training in excise compliance management and are on hand to answer any excise queries and concerns that your company may have.

## 6. WHAT YOU MUST NOT DO

6.1 It is not acceptable for you (or someone on your behalf) to:

- 6.1.1 Provide inaccurate descriptions, quantities, weights, commodity codes and otherwise misleading portrayals of excise goods to be declared to customs and excise and moved into duty suspension using a commercial invoice, packing list or other accompanying document;
- 6.1.2 give or accept an alcohol gift during any commercial negotiations or tender process, and not declare the quantity, commodity code, product description, net weight, and tax rate to customs and excise;

- 6.1.3 remove excise goods that are moving under duty suspension without declaring the full amount to customs and excise and ensuring appropriate payment of duty;
- 6.1.4 purchase from or work within supply chains, including alcohol wholesalers and producers, warehouse keepers, transport companies, authorised consignors and retailers that you suspect may be committing excise duty evasion.
- 6.1.5 threaten or retaliate against a company who has refused to commit a excise duty offence or who has raised concerns under this policy; or
- 6.1.6 engage in any other activity that might lead to a breach of this policy.

## 7. FITTED DUE DILIGENCE TEST

- 7.1 HMRC due diligence requirements are summarised within the acronym 'FITTED' and also referred to as the due diligence condition.
- 7.2 FITTED also applies to duty paid traders as part of the Alcohol Wholesalers' Registration Scheme (AWRS). This is established in HMRC Excise Notice 2002 at section 12. Enhanced due diligence checks are tax tribunal approved. If HMRC revoke an AWRS number, this means that the company if it trades solely in alcoholic wholesale drinks will be forced to stop trading.
- 7.3 **Financial** health – when you open a new customs clearance and / or duty suspension representation account with Alinea, we will request for your Registered Business Name, Companies House registration number, and inspect the past three years of your trading accounts. Subject to our discretion, we may request further information from your accountants. We will conduct period checks throughout our business relationship to confirm financial health and compliance.
  - Alinea will get and undertake credit checks and other background checks on potential and existing clients
  - Where a poor credit rating is identified we will establish how the transaction is funded and what security is offered.

- We will examine who is providing credit and the movement guarantee to the company
- We will examine the payment terms offered and whether they are commercially viable.

7.4 **Identity** – when you open a new customs clearance and / or duty suspension representation account with Alinea, our legal department will request for you to provide:

- a passport or driving license
- a recent utility bill identifying your registered business premises
- evidence of a UK bank account.
- VAT and excise registration details.
- Evidence of whether our clients are members of relevant trade associations

We may request signed letters of introduction on headed paper when dealing with associated supply chain providers such as the transport company moving the goods, the warehouse keeper, the movement guarantor and customers.

We may insist on personal contracts and introductions to all those involved in your supply chain activities in the course of conducting business activities, if the sum of your transactions is above £10, 000.

We may wish to confirm details of the person who will be paying and establish evidence that this is the same person as handling the transactions.

7.5 **Terms** of any contracts, payments and credit transactions. We will request to view the commercial invoices, packing lists, contracts and agreements involved within your excise transactions, may request evidence of how they are funded.

- We may challenge any elements that appear unusual and check what recourse if the goods are not as described.

- We may decide to visit the premises to check to see that the goods are as described.
- We will check that normal commercial arrangements are in place for the financing of the goods.
- We will confirm that the goods are adequately insured.
- We will be suspicious of any high value deals in place without formal contractual arrangements and insurance,
- When you are purchasing from a broker we will wish to confirm what value this link in the supply chain adds,
  - Whether it's possible to source more directly
  - How competitive the broker's pricing is to those from a more direct route
  - How savings are made in a longer supply chain to make it viable
  - Check where transactions are being financed by a third party, and if this third party is a reputable institution – such as a bank.

7.6 **Transport** when goods arrive at the UK border and enter into a duty suspended movement, they must be collected from the relevant port. In advance of the goods arrival, Alinea will request to obtain due diligence materials from your associated transport company, and request for them to review and sign our due diligence policy.

- Alinea will check who is responsible for the transport
- Alinea will check whether the cost of goods is inclusive of transport
- Alinea will check whether the potential logistical costs make the unit price realistic

- Retain details of delivery vehicles and any expected variations to recorded transport arrangements.

7.7 **Existence** or provenance of goods.

- We will expect the full quantity of goods to be declared, whether entering or exiting the UK as duty paid or duty suspension.
- We will request for our clients to evidence a statement on origin if claiming preferential tariffs.
- Within the terms of our contract as your authorised consignor, under the usual course of business, we may decide to visit your business premises to conduct compliance checks.
- As a condition of contracting our services we will not accept goods arriving at the UK border as duty paid unless Alinea's services have been used to declare the products to customs and excise.

7.8 The **deal**, understanding the nature of the transaction itself, including:

- how the costs are built up and the calculation of appropriate taxes, transport and the likes
- Why the transaction has occurred
- Whether the price paid is realistic and appropriate to the market and trading profitability
- How the deal compares to the market generally – the demand for the type of alcohol and the reason for the offer

7.9 We will conduct routine due diligence checks on both new and existing clients to ensure customs and excise compliance takes place. We will assign a compliance manager to your company and request for you to assign a compliance manager on behalf of your company to ensure cooperative transactions and record keeping.

## **8. RECORD-KEEPING**

- 8.1 We must keep financial records and have appropriate internal controls in place which will evidence the goods that have moved into duty paid and goods that have moved into duty suspension and fees charged to and paid by our clients.
- 8.2 You must declare and keep a written record of excise goods that move into duty paid and duty suspended procedures, will we may request to inspect for periodic review to confirm alignment.
- 8.3 You must keep a written record and document trail of agreements across your supply chain, which should include details of suppliers, wholesalers, movement guarantors, authorised consignors, transport companies and freight forwarders, warehousekeepers, retailers and clients, which we may request to inspect for periodic review.
- 8.4 All accounts, invoices, and other records relating to dealings with third parties including suppliers and customers should be prepared with strict accuracy and completeness. Accounts must not be kept "off-book" to facilitate or conceal improper payments.

## **9. YOUR RESPONSIBILITIES**

- 9.1 You must ensure that you read, understand and comply with this policy.
- 9.2 The prevention, detection and reporting of excise duty evasion and other forms of corruption are the responsibility of all those working for us or under our control. You are required to avoid any activity that might lead to, or suggest, a breach of this policy.
- 9.3 You must notify the compliance manager as soon as possible if you believe or suspect that a conflict with this policy has occurred, or may occur in the future.

## **10. RESPONSES TO IDENTIFIED RISKS**

- 10.1 It is expected that our due diligence procedures will prevent and / or provide effective control over risk of fraud within supply chains. Where our checks indicate real concerns, we would usually expect aspects of the supply chain to be changed to

address this, e.g. the supplier or the destination of the goods, or amount of declared values.

- 10.2 If our checks lead us to expect duty fraud we will inform HMRC via the Customs Hotline, contact number: 0800 595 000, by completing the secure online form or mailing a postal notification to:

HMRC

Freepost NAT22785

Cardiff

CF14 5GX

We will not inform you that this will take place, nor do accept any legal, financial or fiduciary responsibility for the outcome of any action that HMRC may take against your company.

- 10.3 By entering into a representation agreement with Alinea London Limited you accept that these terms are a condition of our services.

- 10.4 If you are unsure about whether a particular trading activity may be subject to excise duty evasion, raise it with the compliance manager.

## **11. TRAINING AND COMMUNICATION**

- 11.1 Training on this policy forms part of the induction process for all individuals who work for us, and regular training will be provided as necessary.

- 11.2 Our zero-tolerance approach to excise duty evasion must be communicated to all clients, suppliers, contractors and business partners at the outset of our business relationship with them and as appropriate thereafter.

- 11.3 Only senior members of our company are permitted to use the Excise Control Movement System following undergoing training and supervision. We operate a zero-tolerance policy towards bribery and corruption, and ensure that our staff undertake rigorous training and appropriate supervision.

## **12. BREACHES OF THIS POLICY**

- 12.1 Any client who breaches this policy will have their agreement with Alinea terminated with immediate effect.
- 12.2 Any client who breaches this policy will be reported to HMRC for suspicion of excise duty fraud, alongside presentation of all documentation.
- 12.3 Any employee who breaches this policy will face disciplinary action, which could result in dismissal for misconduct or gross misconduct.
- 12.4 We may terminate our relationship with other individuals and organisations working on our behalf if they breach this policy.

## **13. POTENTIAL RISK SCENARIOS: "RED FLAGS"**

- 13.1 The following is a list of possible red flags that may arise when our company conduct 'FITTED' checks on your company, and which may raise concerns under various excise duty evasion laws. The list is not intended to be exhaustive and is for illustrative purposes only.
- 13.2 If we encounter any of these red flags while using Alinea's services as your customs and excise representative or working for us, we may decline to work as your representative or we may report you to HMRC, depending on the level of risk identified:
- 13.2.1 goods are received from unusually complex or apparently uneconomic supply routes, for example, regular supplies of UK produced goods have been exported from the UK and then reimported;
- 13.2.2 Financial Health
- there is no or poor credit rating, but substantial deals are still financed;
  - there are high levels of debt
  - high value goods are purchased on extended credit
  - the company is new with little or no trading history

- there are little or no fixed assets

#### 13.2.3 Identity of the business

- there is a lack of detail about the business - for example no address or HMRC AWR approval number
- they do not appear to be on Companies House records as described;
- they are dealing in high value goods from short term lease or residential addresses;
- there is no general visibility of the company, they do not appear to advertise and they do not have a website;
- only partially completed documentation and trading agreements have been provided;

#### 13.3 Terms of contract, payment and credit agreements

- Alinea does not accept cash payments, we will only accept bank account transfers;
- We receive an invoice from a third party that appears to be non-standard or customised;
- a third party insists on the use of side letters or refuses to put terms agreed in writing;
- we notice that payments to suppliers have been made in cash or made using money couriers;
- a third party requests or requires the use of an agent, intermediary, consultant, distributor or supplier that is not typically used within the industry, registered with a trade organisation or otherwise professionally known to us; or

- offers of credit appear to be outside normal business practice, payment terms are normally 21, 31 or 45 days but high risk transactions have shorter payment terms, for example 48 hours.
- Alinea is asked to consign goods to premises that do not appear to be related to the importer, or notice otherwise unusual supply chain terms,
- A valid pro-forma or purchase invoice is not provided.
- The circumstances of the trading arrangement seem false or contrived

#### **13.4 Transport**

- The goods are to be received from an unusual source or supply route, for example UK goods are sourced from another country and directly compete with those from a more direct supply route
- The transport company moving the goods is not part of a trade organisation such as the British Freight Forwarders Association or the Road Haulage Association.

#### **13.5 Existence or provenance of goods**

- We are requested to enter goods as duty paid when we are aware that they are not duty paid.
- We notice evidence of misleading statements, and inappropriate quantities, for example receiving a CMR describing 8 pallets but a commercial invoices describing smaller quantities.
- Individuals in your company have little knowledge of the trade sector.
- Goods appear to be counterfeit, the quality of labelling and packaging is poor.
- The supporting paperwork seems false.

- Goods are older than supporting evidence (such as documents demonstrating duty payment) suggest, for example the best before dates indicate an earlier production date whereas documentation gives the impression of purchasing newer stock.
- The company has only been trading for a very short period of time, but has managed to achieve a large income in that short period of time.

### 13.6 The deal

- Customer demand for specific brands in other countries exceeds anticipated levels.
- The goods are to be moved in an unusual supply route that in itself would add significant logistics costs and bring into question the duty that was to be evaded.
- Supplies are offered via unsolicited emails or flyers
- Goods are offered at incredibly low prices which seem too good to be true
- Free gifts of similar or other excise goods are not fully documented and in themselves would place a question over the deal as a whole.
- There are other incentives such as contingency discounts which overall make the deal seem to good to be true.

## 14. RESPONSIBLE INDIVIDUALS

Alinea's customs and excise accounts are managed by Geoff Caesar, Solicitor of England and Wales and Director of Alinea London Limited, contact email address: [geoff@alineacustoms.com](mailto:geoff@alineacustoms.com), and Holly Jade O'Leary, Director of Alinea London Limited, contact email address: [holly@alineacustoms.com](mailto:holly@alineacustoms.com).