ICAEW
REPRESENTATION 75/22

THE UK SINGLE TRADE WINDOW: CONSULTATION ON FEATURES TO INFORM DESIGN AND LEGISLATION

ICAEW welcomes the opportunity to comment on The UK Single Trade Window: Consultation on Features to Inform Design and Legislation, published by the Cabinet Office and HMRC on 21 July 2022, a copy of which is available from this link.

For questions on this response, please contact the ICAEW Tax Faculty at taxfac@icaew.com quoting REP 75/22.

The consultation period has been short, particularly as it has been conducted over the summer holiday period. Therefore, please note that our ability to respond has been limited by the amount of feedback we could gather from members in this period, and we have not been able to respond as fully as we may have liked to in other areas.

This response of 15 September 2022 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the ICAEW Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

ICAEW is a world-leading professional body established under a Royal Charter to serve the public interest. In pursuit of its vision of a world of strong economies, ICAEW works with governments, regulators and businesses and it leads, connects, supports, and regulates more than 157,000 chartered accountant members in over 147 countries. ICAEW members work in all types of private and public organisations, including public practice firms, and are trained to provide clarity and rigour and apply the highest professional, technical, and ethical standards.

KEY POINTS

1.   Thank you for this opportunity to comment on the design of and legislation required for the UK Single Trade Window (STW). We understand that the government is seeking views in four principal areas:

     a)   Data Collection, Use and Sharing;

     b)   Supply Chain Data;

     c)   International Data Sharing; and

     d)   Transitioning to the Single Trade Window.

2.   This response has been informed by discussions we have had with ICAEW employees, members, and volunteers with expertise in these areas, particularly around the collection, use and sharing of data.

3.   The key points arising from those discussions are set out below:

     •   Any attempt by government to streamline trade and customs processes is likely to be welcomed by businesses involved in this area.

     •   However, any new system needs proper testing and piloting before it is launched more widely and especially before it is imposed on businesses. Testing of the system should include agents, as well as traders. Lessons must be learnt from the introduction of RTI, CGT 60-day reporting and, most recently, the VAT registration service for agents. Lessons should also be learnt from the development of MTD ITSA and the CDS.

     •   It is likely that the best way to minimise disruption from the introduction of the STW is to use a staged approach. This will allow businesses time to adjust to the new system and allow HMRC to ensure each element of the STW works before the next element is switched on. Ultimately, businesses will want a system that works and serves its intended purpose above anything else.

     •   Many businesses may question why there is not already legislation that allows data sharing between government departments (particularly data not defined as 'sensitive personal data' under UK GDPR). That being said, businesses will expect transparency and clarity in terms of what information is being provided to who and for what purpose (particularly if this involves sharing data internationally or with private companies).

     •   We note that HMRC is also consulting on Improving the data HMRC collects from its customers, which the ICAEW Tax Faculty will also be responding to. Data is valuable and often commercially sensitive and HMRC should not be collecting additional data unless there is a specific reason to do so and/or the collection of that data can ease the administrative burden for businesses. As a general principle, and in line with GDPR, specific (rather than aggregate) data should only be shared where it is necessary to do so.

     •   It is noted that the current HMRC agent services account lacks multi-factor authentication, though we note a solution is being worked on. The STW must use improved login security from day one. We note the 2025 UK Border Strategy proposes the creation of a single sign-on for traders, which is to be welcomed.

     •   Streamlining the number of persons involved in generating just one customs declaration is a "must" for the STW (see Question 6 for more detail).

ANSWERS TO QUESTIONNAIRE

Data Collection, Use and Sharing

1. Whether the proposed changes will enable the functionality industry would expect to see from a STW?

4. We anticipate that the proposed changes would enable the functionality industry would expect to see from a STW. We note that the consultation already notes the need for sufficient flexibility to be built into the design of the STW to allow for continued streamlining of the system in future. This is welcome, but the system must also be fit for purpose from day one.

2. Whether you have concerns about the collection of the data required for other government departments and public bodies' border processes by HMRC, via the STW? If so, please provide details as to what the concerns are and how they could be addressed or mitigated?

5. ICAEW's concerns regarding the collection of data via the STW are primarily regarding whether HMRC has the funding and time required to deliver a working system that operates to the highest data security standards. Given the costs of, and delays to, other government and HMRC IT systems, £180m to deliver 'a world-leading Single Trade Window' seems insufficient. The timetable for delivery also seems too short.

6. For reference, the Customs Declaration Service (CDS) was supposed to cost £157m but ended up costing £226m. All traders were expected to be using the CDS by January 2019 but the final stage of transition is now due at the end of March 2023.

7. Lessons must also be learnt from the introduction of PAYE RTI, Trust Registration, CGT 60-day reporting and, most recently, the VAT registration service for agents. Lessons should also be learnt from the current development of MTD ITSA and the CDS. The system must be properly tested and piloted, by agents as well as traders. The ICAEW and its members will fully support HMRC in the design and testing of STW.

8. Many businesses may be surprised that there is not already legislation that allows data sharing between government departments. That being said, businesses will expect complete transparency as to why data is being collected and with who it is being shared (particularly where this data may be shared with private companies or internationally).

9. We note there is a general trend towards HMRC asking for more data from businesses. HMRC should demonstrate for what purpose this data is being used to improve services for taxpayers. Data is valuable and, often, commercially sensitive and should not be collected or shared without specific reason to do so.

3. What safeguards would you expect to see in relation to the sharing of data between HMRC and other government departments and public bodies?

10. Businesses may initially expect to 'opt-in' to the sharing of data with other government departments. This would allow the business to see what data is being shared with other departments, and why, before that data is shared.

11. At some point in the future, this may then change to an 'opt-out' if the business does not want certain data to be shared with certain departments.

12. The sharing of data between government departments must meet the highest available data security standards. In line with GDPR principles, specific (rather than aggregate) data should only be shared where it is necessary to do so.

4. Any other views you have on the proposed changes.

13. Access to the Single Trade Window - whether to view, edit or submit data – must meet a higher standard of security than is currently available on other HMRC systems. For example, we note that HMRC's agent services account currently lacks multi-factor authentication,

though we note this is being worked on. We note the 2025 UK Border Strategy proposes the creation of a single sign-on for traders, which is to be welcomed.

14. We note these questions focus on the collection, use and sharing of data. However, it is also paramount that the data is stored securely.

15. As an aside, we note that HMRC already has limited access to data filed for declarations for the Fast Parcel Operators under a Memorandum of Understanding where the value of the goods is less than £900. Are there any plans to increase the value under the MOU or expand it so that HMRC has real time access to the software to verify transactions?

5. How they envisage liability could be retained with the party responsible for submitting the border data required by the government, when there are multiple providers of the data or data is obtained through supply chain systems?

16. The party responsible for submitting the border data required by the government must have the ability to review, and correct if necessary, data provided by other parties or pulled from other sources, before it is submitted.

17. See Question 6 for more information, but we note that there can be several parties involved in a customs declaration.

6. Whether border users and their commercial partners would be willing for HMRC to share data:
   a. to complete different border data obligations,
   b. where there are data fields common across different declarations; and,
   c. the data has been provided by different parties and can be reused to support the completion of a different declaration related to the same movement of goods?

18. We cannot comment on border users' willingness for HMRC to share data for the purposes listed above, though we expect that most would welcome a change that reduces their compliance burden and speeds up the processing of border transactions.

19. However, we would stress that systems must communicate automatically. For example, the interface between the Home Office and declarations for controlled drugs currently requires a manual enquiry from the Home Office to see if a drug licence has been exhausted.

20. We note that there can be several parties involved in making a declaration. For a simple cross-Channel movement of goods, there are currently up to three other parties to the declaration (in addition to the supplier and customer). These are the haulier (responsible for logging the movement on the Goods Vehicle Movement Systems on each side of the border), the declaring agent, and a software supplier in order to file the declaration. This is increased if the port used is inventory-linked, as there would also be a Community Service Provider, involving more software, and also the vessel operator involved.

21. Streamlining the number of persons involved in generating just one declaration is a "must" for the new STW.

7. Whether border users and their commercial partners have any concerns with this proposal? If so, could you please provide details as to what the concerns are and how you feel they could be addressed or mitigated?

22. We consider that there would be two main concerns with this proposal:
   1) The border user may not wish its commercial partners to see certain information (see Question 13 for more detail). This could be mitigated by the ability to set permissions. For example, the border user could grant permission for a commercial partner to view, enter, or edit data on a line-by-line, transaction-by-transaction and/or partner-by-partner basis (where it works with more than one commercial partner to enter border data).
   2) There must be functionality for the border user to edit pre-populated data (or data entered by a commercial partner). We have seen in the past that it can be difficult to

change incorrect data held on government systems, which can mean pre-populated data is consistently incorrect.

8. Whether border users and their commercial partners would be supportive of STW functionality that would enable them to collaborate on the completion of a declaration (i.e., multi-filing), on the understanding that legal responsibility for completing border obligations would remain in the same place?

23.   We expect that border users and their commercial partners would be supportive of such functionality, noting the concerns already raised.

24.   HMRC should continue to make clear to traders that the declarant retains legal responsibility for the import, even where the declaration itself may be delegated (though an agent or representative may take on joint liability depending on the type of representation).

9. What safeguards would you expect to see in relation to:
   a.   The sharing of data from the supply chain and between traders, intermediaries and their commercial partners in the completion of a declaration?
   b.   Enabling two or more parties to collaborate on a declaration?
   c.   The sharing of data between declaration types?

25.   The party that bears ultimate responsibility for the declarations must have flexibility when sharing access to its declarations with commercial partners.

26.   The sharing of data itself must meet the highest available security standards.

10. Any other views you have on the proposed changes.

27.   We would reiterate that there needs to be a clear overview of the data 'journey'. Parties that enter data should not necessarily be able to view other data (that may have been pre-populated or entered by another party). It should also be clear what data is being shared with who and for what purpose.

Enabling the Use of Supply Chain Data

11. What supply chain data they hold.

28.   We are unable to comment.

12. Whether they have any concerns around introducing an optional supply chain visibility feature to the STW?

29.   We anticipate there may be concerns with an optional supply chain visibility feature (see Question 13).

13. If so, could you please provide details as to what the concerns are and how they could be addressed?

30.   We would stress the importance of the use of supply chain data remaining voluntary. There may be a concern that, although the supply chain visibility feature is optional, it de facto becomes mandatory for businesses to provide it to access the full benefits of the Single Trade Window.

31.   Supply chain information can be commercially sensitive, and it is right that businesses are given the choice whether to provide this. It should be made clear to businesses what benefits they may gain from providing the information and with who that information might be shared.

32.   The declaration system currently holds information on origin of goods, transport details, consignor/consignee information and copies of licences, as well as the commodity codes and weights of the goods. A copy of a commercial document is uploaded in order to verify the information. The issue that arises is that if the recipient needs to return the goods, the access to certain agents' portals for the software reveals the cost price of goods. This often results in

the need for another carrier to be engaged by the supplier to avoid the customer knowing the cost of the goods, especially where there may be another intermediary in the chain that marks up the value to the final customer. This concern needs to be addressed to allay fears of supply chain data leakage.

14. If the government uses data received from supply chain actors for a broad range of uses, what level of benefits would be needed to incentivise traders and other affected actors to invest in and support this approach?

33.   We anticipate that traders would be incentivised by faster clearance of their goods at the border(s) and a significant reduced administrative burden. Reduced penalties in the event of errors would also be a clear incentive for sharing this additional information.

15. Whether there are any further concerns that would need to be addressed in order for affected supply chain actors to be content with the sharing of their supply chain data with the government?

34.   As previously mentioned (Question 2), businesses will expect full transparency as to why their supply chain data is being collected and with who it is being shared. We would suggest that the supply chain visibility functionality should not be an 'all-or-nothing' approach and traders should be able to choose which supply chain data is visible/shared.

16. Whether, and under what circumstances and conditions, they would be comfortable with sharing additional supply chain data with the government?

35.   Businesses may be incentivised to provide additional supply chain data if doing so had the opportunity to reduce penalties for errors.

17. Whether and what limits should be in place for HMRC around using supply chain data?

36.   HMRC should not collect, share, or store supply chain data that is not required to complete border checks or to improve border security or efficiency.

37.   However, we note that this already happens as there is a tendency for traders to upload more data than may be required in order to pre-empt additional checks and therefore delays at the border. In addition, the evidence to back up the data may consist of more than one document.

18. Whether HMRC should share supply chain data with other government departments to perform their border activities, such as making decisions on risks or checks, and what limitations or safeguards should be in place if this was permitted?

38.   We note that the consultation refers to the use of automated risk assessments to enable more timely clearances. For this to happen effectively, and to realise the goal of making the process easier for businesses, it is important that such an automated decision-making system is appropriately tested to ensure that challenges associated with such decisions are efficiently managed. This includes 'explainability' of decisions made, allocating responsibility for such decisions, and managing bias. The effectiveness of the automated risk assessment processes should be monitored using KPIs such as 'percentage of wrong decisions made (based upon successful appeal rates).'

19. What tests or limitations should be applied to ensure that the data the government is accessing through supply chain data systems is proportionate?

39.   The data requested through supply chain data systems should be specific and requested for a specific purpose.

20. Whether they would be comfortable with government using their data for additional purposes, such as improving the UK's supply chain resilience. Are there any additional purposes you would be particularly supportive of, or against?

40. Businesses may be comfortable with providing non-sensitive data for these purposes but may not be willing to share sensitive data.

International Data Sharing

21. What standards the UK, and potentially the wider international community, ought to use moving forward to future-proof and maintain the high quality of systems?

41. There are already internationally recognised data sharing standards, such as GDPR and the OECD EASD that should be adhered to.

22. The extent to which international standards, and requirements set by other countries or territories, are influencing businesses' decisions regarding system choices and capabilities.

42. The differing levels of data security are already causing issues with cross-border data sharing, which is leading to multiple pieces of software being required. Appointing agents within each territory to use each piece of software is a deterrent to cross-border business for all parties.

23. Whether you have concerns about the adoption of WCO and UN/CEFACT data standards[footnote 10]? If so, could you please give detail as to what the concerns are and how you feel they could be addressed or mitigated?

43. We are unable to comment.

24. What safeguards would you expect to see in relation to the sharing of data between HMRC and with other countries' or territories' Single Windows?

44. 2-step verification by the supplier to confirm data being submitted would help data resilience. The customs authorities can then be sure that the supplier intended to share the data. This could be via an agent or via the supplier directly if software were more accessible.

25. What are your views on the benefits and/or concerns regarding the potential different forms of interoperability identified above, and any other ways that government may be able to support international data sharing where it may benefit trade?

45. We are unable to comment.

26. Any other views you have on the proposed changes.

46. We have no further comments.

Transitioning to the STW as the Sole Point of Entry for Transactional Border Data

27. Whether the criteria proposed above – user take up, and integration of declaration and licence types – are appropriate to consider for the point at which the STW becomes the sole point of entry?

47. We consider user take up, and integration of declaration and licence types, to be appropriate criteria to consider for the point at which the STW becomes the sole point of entry.

48. Regarding user take up, business will need a clear incentive to switch, and clear communications from HMRC on how and why to do so will be crucial in encouraging this. ICAEW would be happy to work with HMRC on these communications.

49. HMRC needs to look at its user testing experience and leverage more of the knowledge that is out there on supply chains. CDS implementation is a prime example of this. Until 2022, very few end-users were in the pilot, especially those that process the more complex declarations. The use of the "minimum viable product" approach also causes issues. The STW needs to have a clear "best practice" approach to make the final product functional (let alone world-leading). The CDS will be four years behind schedule for its final stage of implementation. MTD VAT was pushed back multiple times for various businesses because the approach of "simplest first" masked the real issues for most users. The new online VAT registration system for agents is not fit for purpose and causing unnecessary problems and delays – we understand it was not tested by agents (ie, the people who would be using the product).

28. Whether other criteria should also be considered to make this decision? If so, what other criteria should be considered and the reasons for doing so?

50. Technical performance of the STW must also be considered. Does it work reliably and consistently? Does it reduce the administrative burden on businesses? It should not become the single point of entry until both questions can be answered with a 'yes'. Trade can't be halted because of a system error. Is there a fallback if the STW fails?

51. Single Trade Windows are already in operation in other countries, such as the US and Singapore. Could the UK's STW be benchmarked against these?

29. What risks and benefits stakeholders can foresee with the options for implementing this transition; namely at a single point in time or incrementally, and how identified risks may be mitigated?

52. Transitioning at a single point in time is likely to carry more risk. If there are problems, this could bring border trade to a halt.

53. Although there may be reluctance to run parallel systems for submitting data for longer than necessary, a staged approach to the transition to the Single Trade Window would be preferable. This would allow the government to ensure each stage of the transition (and each part of the STW) works as it should, before the next stage takes place.

54. Although it has had its own problems, and the jury is still out, the introduction of the CDS, which has taken a staged approach, has been relatively successful compared to the introduction of other HMRC systems that have been introduced at a single point in time.

30. Any other views you have on the proposed changes.

55. We have no further comments.

APPENDIX 1

ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.

2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.

3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.

4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.

5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.

6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.

7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.

8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.

9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.

10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see https://goo.gl/x6UjJ5).