

General Information on Authorised Economic Operator (AEO)

1. Who is an AEO

An AEO is an economic operator who, by virtue of satisfying certain criteria, is considered to be reliable in their customs related operations and is therefore entitled to the benefits listed in paragraphs 5 to 7. Depending on the type of AEO certificate applied for and authorised, these can include either easier access to certain customs simplifications or certain facilitations from customs security and safety controls, or both.

2. Why is the status of AEO being introduced?

The introduction of AEO status is the response to the need to secure international supply chains and the introduction of Customs-Trade Partnership Against Terrorism (C-TPAT) in the USA and the development of the Safe framework of standards in the World Customs Organisation. The aim is to provide business with an internationally recognised quality mark which will indicate that their role in the international supply chain is secure and their customs controls and procedures are efficient and compliant. An operator with AEO security and safety status implies that apart from being reliable in the traditional financial and customs terms, you are also compliant in respect of security and safety standards and can therefore be considered as a “secure” trader and thus a reliable trading partner.

3. The Law

AEO is governed by Customs (Cargo Community System) Regulations 2008.

4. Types of AEO Certificate

There are three types of certificate:

Security and safety Facilitations - issued to any business who fulfills the criteria of customs compliance, appropriate record-keeping standards, financial solvency, and maintains appropriate security and safety standards.

Customs simplifications - issued to any business who fulfills the criteria of customs compliance, appropriate record-keeping standards and financial solvency.

Customs simplifications/security and safety Facilitations - issued to any business who fulfills the criteria of customs compliance, appropriate record-keeping standards, financial

solvency, and maintains appropriate security and safety standards and who wants to receive the benefits of both types of AEO.

5. What are the benefits of a customs simplification AEO certificate

There are a number of customs simplified procedures in place such as:

- Simplified declaration procedure
- Low level of physical examination

If you hold a customs simplification AEO certificate it will speed up the process of authorisation when you apply for the **safety and Security certificate** as we will not re-examine any criteria that have already been met when you applied for AEO.

6. What are the benefits of a security and safety AEO certificate

If you hold AEO status for security and safety purposes it will enable you to benefit from certain facilitations of customs controls at the entry of the goods or when your goods leave the customs territory

These will include:

- a lower risk score which will be incorporated into customs' risk management systems and be used to determine the frequency of customs physical and documentary checks
- consignments may be fast tracked through customs controls. Holding an AEO security and safety certificate does not mean that your consignments will not be subject to examination for prohibited or restricted goods or on behalf of other government agencies. However if it is selected for examination it will receive priority over non AEOs
- an industry "kite mark" and useful marketing tool
- potential for future reciprocal arrangements and mutual recognition with countries eg USA or trading partners that adopt the WCO Safe framework.
- Benefit the services of a Customer Relations Manager
- May use invoice declaration after approval by Origin unit for EUR1 certificate. certificate of origin
- Fast track processing of Certificate of Origin.
- Fast track processing of Tariff Ruling.

7. Are there any other indirect benefits in having AEO status

There may be other commercial benefits in having AEO status or in carrying out the work necessary to document procedures and improve the security of your supply chain to obtain AEO status. These may include reduced incidences of theft or losses in transit, improved security and communication with your partners in the supply chain and improved customer confidence.

8. What happens if I decide not to apply for AEO status?

There will be no loss of existing authorizations or simplifications if you decide not to apply. Current clearance times for businesses that do not have AEO status will not be affected. However you will not receive any of the additional benefits listed above.

9. For AEO purposes when does the international supply chain start and end

For security and safety purposes the international supply chain starts from the process of manufacturing goods destined for export from the customs territory through to the delivery of those goods to the party to whom they are consigned in another customs territory. It can include all the parties listed in paragraph below involved in that supply chain.

10. Who can apply for AEO status?

Anyone involved in the international supply chain that carries out customs related activities can apply for AEO status irrespective of the size of your business. This includes manufactures, importers, exporters, logistics operators, carriers, brokers and customs agents.

You may apply if you fall into one or more than one of the following categories:

Manufacturers - ensures a safe and secure manufacturing process for their products and supply of those products to their clients.

Exporters - the person on whose behalf the export declaration is made and who is the owner of the goods or has similar right of disposal over them at the time the declaration is accepted.

Freight forwarders - organising the transport of goods on behalf of an exporter, importer or other party.

Proprietor or Occupier of Bonded Warehouse.

Broker – a licensed customs house broker appointed under the Customs Act

Carriers - person who actually transports the goods or is in charge of or responsible for the operation of the means of transport.

Importers - an operator on whose behalf an import declaration is made and who at the time the declaration was accepted is the owner/consignee or if not the owner is responsible for the control of the goods.

11. Who cannot apply for AEO status?

Businesses that are not involved in customs related activities will not be entitled to apply. This means any of the following categories will not normally be eligible to apply for AEO status:

Banks.

Insurance companies.

Consultants.

Software houses.

and any other similar trade categories who are not generally involved in the international supply chain unless they are, or acting in the name of, an importer.

12. Does everyone in the supply chain need to have a security and safety AEO certificate to receive the full benefits of a security and safety AEO

The concept of end to end supply chain security means security measures are implemented from the first point until the last point in the supply chain.

13. As a security and safety AEO will I be held responsible for the security and safety standards of my business partners

An AEO can only be held responsible for their role in the supply chain and for the goods while they are under their control. However to guarantee your own security standards you may be dependent on other partners involved in your supply chains, for example suppliers and carriers. As an AEO you will be expected to manage risks involved with your business partners make them aware of your safety and security standards and ensure they are reflected when you enter into contractual arrangements with them.

14. How do I apply

You will be able to apply electronically, by email on Form Cus 1 AEO Application/Authorisation for AEO status available on our website at www.mra.gov.mu you

will also be issued with a questionnaire Form Cus 2 AEO and explanatory notes for filling of the questionnaire.

What are the criteria for considering applications

These include:

- an appropriate record of compliance
- a satisfactory system of managing commercial , and where appropriate, transport records, which allows appropriate customs controls
- proven financial solvency and
- appropriate security and safety standards (when you are applying for a security and safety AEO certificate).

You should check you can meet the criteria before you submit your application. In particular we recommend if you are applying for a security and safety AEO certificate you carry out a self assessment on your security systems against the AEO safety and security requirements.

15. Obtaining further information

Further information can be found either:

on our internet website www.mra.gov.mu/customs

by contacting AEO Unit, Customs on 2020500

16. Who can apply

You may apply for AEO status if you fall within one of the categories at paragraph 9.

17. Can the application cover more than one legal entity

No, the application for AEO status only covers the legal entity of the applicant. There is no provision for a group of companies to hold a single AEO authorisation.

18. How do the rules apply to agents and representatives

An AEO certificate can only be issued to the legal entity applying for AEO status in their capacity and covering their role in the international supply chain. Therefore, although AEO status can be granted to an agent or customs representatives, this will only be in their capacity as an agent and does not confer AEO status on, or provide the benefits of AEO status for, their clients, who if they wish to obtain AEO status, will need to apply separately for that status.

Criteria for granting AEO status

19. What criteria will MRA use to make a decision on my application

If you intend to apply for AEO status you must be:

- able to demonstrate an appropriate record of compliance (see paragraph 21 and 22)
- able to demonstrate satisfactory systems of managing commercial and, where appropriate, transport records (see paragraph 23)
- financially solvent (see paragraph 24 and 25)
- compliant in respect of security and safety standards if you are applying for a security and safety AEO certificate (see paragraph 26).

20. Are there circumstances where MRA will not accept receipt of an application?

In addition to the criteria in paragraph 14 we will not accept receipt of applications which are:

Incomplete-the application will be returned to you for completion.

Where the applicant has been convicted of a serious criminal offence linked to the economic activity of your business or is subject to bankruptcy proceedings at the time the application is made.

Where the applicant uses a legal representative for customs purposes and that representative has been convicted of a serious criminal offence related to infringements of the customs rules and in their capacity as a legal representative.

21. How will MRA decide whether or not I have an appropriate record of compliance

We will examine your record of compliance with customs and tax requirements over the last three years preceding the date of your application. If you have been established for less than three years, your compliance with these requirements shall be judged on the basis of the records and information that are available.

We will assess whether a serious infringement or repeated infringements of customs rules have been committed by any of the following persons:

The applicant.

The persons in charge of the applicant's business or exercising control over its management.

If applicable, the applicant's legal representative in customs matters.

The person responsible in the applicant's business for customs matters.

We will take into account any customs authorisations that have been withdrawn or revoked and the reasons for that withdrawal/revocation.

You will also need to demonstrate:

you have procedures in place to identify and disclose any irregularities or errors to MRA or, where appropriate, other regulatory bodies

you have taken appropriate remedial action when they are identified

you have satisfactory procedures for handling controlled goods eg military goods or technology, dangerous goods or hazardous materials

If you have made infringements over the past three years your record of compliance with customs or tax requirements can be considered satisfactory if we consider the infringement to be of negligible importance or has no significant impact on the operation of the customs rules. In making this assessment we will take into account the frequency of any errors, whether they are material in relation to the size of your business, whether you have acted in good faith and whether any intent or negligence is involved.

22. Will the compliance of any customs brokers or agents I employ be taken into account

Yes, when considering your application we will look at your compliance record and any legal representatives you employ. If you use, customs brokers, agents, business partners etc we will also consider what impact they may have on your compliance record.

23. How will MRA decide whether my management and record keeping systems are satisfactory

In order to establish that you have a satisfactory system of managing commercial and, where appropriate, transport records, you will need to:

- Maintain an accounting system which is consistent with generally accepted accounting principles and which provides a full audit trail of your customs activities to facilitate audit-based customs control.
- Allow us physical or electronic access to your customs and, where appropriate, transport records.
- Have an administrative organisation which corresponds to the type and size of business and documented procedures to control and manage the flow of goods.
- Have internal controls capable of detecting illegal or irregular transactions.

- Have satisfactory procedures in place for the handling of licenses and authorisations connected to commercial policy measures or to trade in agricultural products (if applicable).
- Have satisfactory procedures in place to archive and retrieve your records and information, and also for protection against the loss of information.
- Ensure that employees are made aware of the need to inform the customs authorities whenever compliance difficulties are discovered and establish suitable contacts to inform the customs authorities of such occurrences.
- Where appropriate have satisfactory procedures for verifying the accuracy of customs declarations submitted on your behalf by third parties.
- Have appropriate information technology security measures in place to protect your computer system from unauthorised intrusion and to secure your documentation.

24. How will MRA decide whether I satisfy the requirement for financial solvency

This requirement is met if you can prove you have been solvent for the last three years. In the context of AEO, solvency is defined as a good financial standing which is sufficient to fulfill the commitments of the applicant with due regard to the characteristics of the type of business involved. Solvency will be assessed by analysing your ability to pay your legal debts. This includes any debts you may owe us or any other third party.

We will establish whether you are able to pay your legal debts to us by checking:

you are not listed currently as in insolvency, administration, liquidation, bankruptcy or receivership

you have not entered into a current time to pay agreement

whether you are late in paying money that is legally due to us in the last three years (this excludes amounts that are not yet legally due or are under appeal).

We will rely on your full sets of annual accounts due in the last three years to establish whether you are able to pay your legal debts to third parties. In particular we will take into account:

if you are a company any audit qualifications or comments about the continuation of the business as a going concern by for example the auditors or directors contained in the filed annual accounts

any contingent liabilities or provisions

the net current assets are positive

the net assets position and the extent intangible assets are included.

25. How will the requirement for financial solvency be satisfied if I am a new business?

If you are a newly established business, or have just started trading, your financial solvency will be judged on the basis of records and information that are available at the time of your application. This will include the latest cash flow, balance sheet and profit and loss forecasts approved by the directors/partners/sole proprietor. If your business is financed by a loan from another company or financial institution we will also require a copy of your business case and the bank facilities letter and evidence you are operating within your approved overdraft facility.

26. How will MRA decide whether I am compliant in respect of security and safety standards

We will consider your internal controls and measures to secure the safety of your business and your supply chain. You will need to comply with legal Health and safety requirements. In particular we will require that:

You or a qualified third party have carried out a safety and security assessment of your business.

The external boundaries of your business to be appropriately secured and you have documented procedures to control access to your premises for authorised persons and procedures for dealing with unauthorised access.

Measures to protect your cargo units and to prevent the introduction, exchange or loss of any material or tampering with those units.

Appropriate access control measures to prevent unauthorised access to shipping areas, loading docks and cargo areas both on arrival and despatch.

Appropriate procedures to secure the safety of your goods during storage or manufacture.

Appropriate procedures to ensure the safety and security of your goods during transport, including where transport is sub-contracted to a third party.

You agree any appropriate safety and security measures with your suppliers.

Procedures in place to carry out security screening on prospective employees working in security sensitive positions and appropriate security procedures are in place for any contracted parties that have access to your premises.

You provide training to your staff on security and safety requirements.

Appropriate procedures and safety and security standards need to be well documented and evidenced so they can be verified in the course of our AEO audit.

27. What happens if I cannot satisfy all the criteria for AEO?

If you cannot satisfy all the criteria for AEO you will not be granted AEO status. We will advise you of the standards that have not been met and give you time to adapt your procedures to meet any deficiency. If you are unable to make the required changes within the specified time limits we will issue a decision refusing your AEO application.

Will I be able to re-apply if my application is rejected?

If your application is rejected you will be able to re-apply once you have fulfilled the criteria required for granting AEO status.

28. Notification of changes to business details that affect my authorisation

You must notify us of changes that may affect your AEO status, such as:

changes to your legal entity

your business address

the nature and structure of your business

changes to the senior personnel responsible for customs matters listed in your application/AEO questionnaire

changes to your accounting or computing systems

additions or disposals of locations or branches involved in the international supply chain

additions or deletions to the categories you have been approved for ie manufacturer/exporter