

Coversheet: GST on low-value imported goods

Advising agencies	Inland Revenue, New Zealand Customs Service
Decision sought	Final policy approval
Proposing Ministers	Hon Grant Robertson (Minister of Finance), Hon Stuart Nash (Minister of Revenue) and Hon Kris Faafoi (Minister of Customs)

Note: Changes to the Impact Statement

Submissions on the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Bill expressed concern about the proposed application date of the GST amendments of 1 October 2019, noting that this leaves little time between the likely enactment date of the Bill and the start of the proposed collection system for GST on low-value imported goods. Submitters considered that offshore suppliers cannot be expected to invest in making information technology systems changes until the law is enacted, as the proposed rules are not finalised and may yet be subject to change.

They have also noted that there may not be enough time after the rules are finalised for offshore suppliers to register for New Zealand GST and make the systems changes necessary to collect GST on low-value goods supplied to New Zealand consumers by 1 October 2019. This raises a risk that electronic marketplaces and suppliers (that do intend to comply with the proposed legislation) may be left with little choice other than to temporarily cease shipping goods to New Zealand from 1 October until the required systems changes are ready.

In light of the issues raised with officials and, by submitters, Ministers' preferred option in relation to the application date is 1 December 2019, so the Impact Statement has been updated to reflect this Ministerial preference.

Fiscal impact of the proposed delay

The tax forecasts in the original Impact Statement assumed an application date of 1 October 2019. A delay in the application date to 1 December 2019 would reduce the forecast amount of GST revenue for the 2019/20 fiscal year by \$14 million.

Customs and the Ministry for Primary Industries have been allocated extra funding in Budget 2019 by way of tagged contingencies. These amounts will decrease by approximately \$4.334 million in the 2019/20 fiscal year if implementation of the proposals is delayed to 1 December 2019. The net fiscal cost of the proposed delay in implementation is therefore estimated at \$9.666 million.

Summary: Problem and Proposed Approach

Problem Definition
What problem or opportunity does this proposal seek to address? Why is Government intervention required?

The Government has made a decision to implement an offshore supplier registration system for collecting GST on low-value imported goods (refer CAB-18-MIN-0143). The problem under consideration is how to implement the proposed system in a way that imposes as little deadweight cost as possible on the parties involved and in the least distortionary way possible, while also maximising voluntary compliance.

Proposed Approach
How will Government intervention work to bring about the desired change? How is this the best option?

The taxing point for imported goods valued at or below \$1,000 is proposed to be the point of sale (as opposed to being at the border, as is presently the case for consignments between the Customs *de minimis*¹ and \$1,000). This means that non-resident suppliers (as well as electronic marketplaces and “re-deliverers”)² would be required to register for, collect, return and remit GST on their sales of goods valued at or below \$1,000. This is considered to be the most feasible and cost-effective collection option at this time.

Requiring offshore suppliers to collect GST on imported goods valued at or below \$1,000 is Inland Revenue’s preferred approach. The reason for this preference is that Inland Revenue has placed a higher weighting on making the rules as simple as possible for the parties involved in order to minimise aggregate compliance costs.

Customs prefers an approach whereby offshore suppliers would be required to collect GST on imported goods valued at or below \$400. Under Customs’ preferred approach, Customs would continue to collect GST and other charges on imported consignments valued above \$400.

Customs prefers this approach because it is estimated to collect \$303 million of additional GST over the forecast period compared with \$278 million under a \$1,000 threshold. The Crown would also forgo up to \$8.8 million in tariff duty under a \$1,000 threshold, and Customs and the Ministry for Primary Industries would forgo at least \$48.9 million of departmental revenue over the forecast period if alternative funding arrangements are not put in place. A \$1,000 threshold may also reduce the incentive for importers to provide accurate information, potentially impacting on the effectiveness of border and biosecurity risk management.

¹ The Customs *de minimis* is defined as the minimum amount of “duty” collectable (which includes GST), as opposed to the maximum value of a consignment on which duty is not collected. The *de minimis* is \$60, meaning that if the amount of GST and duties on a consignment is less than \$60, revenue and cost recovery charges are not collected on that consignment.

² An electronic marketplace, such as a website, app or internet portal, is commonly used by sellers to market and sell their products to buyers. Re-deliverers are used by consumers when the supplier of the goods (or the marketplace) does not offer shipping to New Zealand. The most common scenario is that the goods are instead shipped to an overseas mailbox from which the re-deliverer collects the goods and ships them to New Zealand, but the re-deliverer definition would also include businesses providing personal shopper services.

Section B: Summary Impacts: Benefits and costs

Who are the main expected beneficiaries and what is the nature of the expected benefit?

Key beneficiaries are expected to be:

- Government: The New Zealand Government would collect additional GST, estimated to be \$52 million for the 2019/20 fiscal year (assuming a 1 December 2019 application date). However the Government may incur a fiscal cost of approximately \$17.795 million per annum (based on the 2017/18 year) in replacing funding for Customs and the Ministry for Primary Industries (MPI) that is currently cost-recovered by the two agencies under existing arrangements, depending on final decisions. The Government would also forgo tariffs (of up to \$3.2 million per annum based on the 2017/18 year) on consignments valued at or below \$1,000.
- Domestic retailers: Collecting GST on low-value imported goods may in some cases help to improve New Zealand-based retailers' ability to compete with offshore suppliers of low-value goods.
- Fast freight: Courier companies would no longer collect GST, tariffs and cost recovery charges on behalf of the Government on goods between the current *de minimis* and \$1,000. This is expected to generate some administrative cost savings for the industry.
- New Zealand Post: Like courier companies, New Zealand Post would no longer be involved in collecting revenue on goods valued at or below \$1,000 which may lead to some cost savings.
- Consumers: While consumers as a whole are unambiguously worse off, some consumers would benefit from the removal of tariffs and cost recovery charges from imported consignments between the *de minimis* and \$1,000.
- Businesses importing low-value goods: Businesses that import low-value consignments would also benefit from the removal of cost recovery charges and tariffs on imported consignments valued at or below \$1,000.

Where do the costs fall?

Costs are expected to fall on:

- Consumers: Consumers would pay GST on imported goods valued at less than \$400 which they previously would not have paid any GST or duties on under the current border collection system. Suppliers' compliance costs may also be passed on to consumers in the form of higher prices (over and above the amount of the tax itself). There is also a risk that consumer choice may be adversely affected if suppliers cease to offer shipping of goods to delivery addresses in New Zealand. Consumers may also experience delays in receiving goods if Customs and MPI require increased physical inspections as a consequence of a potential decrease in the reliability of information provided to Customs for border and biosecurity risk assessment.

- Suppliers (including electronic marketplaces and re-deliverers): Suppliers meeting the \$60,000 GST registration threshold would bear the compliance costs of making the necessary systems changes and implementing new processes, registering, filing GST returns and remitting the GST to Inland Revenue. Suppliers selling through electronic marketplaces would not be required to register and return GST to Inland Revenue if their non-marketplace sales to New Zealand consumers are less than \$60,000, as the operator of the electronic marketplace would be the entity responsible for registering and returning GST on sales made by third parties through its marketplace. In these situations, the marketplace operator may pass its compliance costs on to the underlying suppliers.
- New Zealand-based manufacturers: Footwear and clothing manufacturers may be adversely affected by the removal of tariffs on imported footwear and clothing under the proposed \$1,000 threshold (given that the few remaining tariffs are mostly on clothing and footwear manufactured in certain countries). However, these industries have already had to adapt to the increasing non-collection of tariffs, as the phased implementation of New Zealand's free trade agreements mean that the amount of tariffs that would otherwise be collected if no action is taken would be decreasing over time anyway.
- Customs and MPI: Cost recovery charges³ which fund Customs' and MPI's risk management activities at the border would be forgone on imported consignments valued at or below \$1,000. This would exacerbate an existing funding shortfall for Customs and MPI until a new cost recovery regime is put in place, unless Crown funding is provided to replace the lost cost-recovered funding. Customs and MPI may also incur costs should the quality of data associated with entries diminish resulting in increased physical inspection of goods.

What are the likely risks and unintended impacts, how significant are they and how will they be minimised or mitigated?

Key risks and unintended impacts include:

- Risk of suppliers and electronic marketplaces ceasing to offer shipping to New Zealand delivery addresses: If the compliance costs are disproportionately high or are perceived by the relevant collection entities to be too high, there is a risk that some non-resident suppliers or operators of electronic marketplaces may not comply with the rules or may not continue to ship goods to New Zealand delivery addresses.

This risk is thought to be more significant for smaller suppliers that make supplies to New Zealand consumers near or above the \$60,000 registration threshold.⁴

The inclusion of rules that impose the liability to register for and return GST on operators of electronic marketplaces in respect of low-value goods sold through their marketplaces to New Zealand consumers by non-resident suppliers should help to

³ The Import Entry Transaction Fee and associated Biosecurity Systems Entry Levy.

⁴ It is assumed that non-resident suppliers with annual sales to New Zealand consumers in excess of \$60,000 would predominantly be large (or at least medium) entities, given that the \$60,000 registration threshold applies to their supplies to New Zealand consumers rather than their worldwide sales, and that in most cases their sales to New Zealanders would be a small proportion of their total worldwide sales. However, it is likely that there would be some smaller suppliers that would nevertheless have sales to New Zealand consumers in excess of \$60,000.

mitigate the risk of smaller suppliers ceasing to ship to New Zealand, as many of these suppliers would be selling to New Zealand through an electronic marketplace. Officials' preferred options that are outlined in this Regulatory Impact Assessment include measures that are intended to simplify the requirements for non-resident suppliers, operators of electronic marketplaces and re-deliverers as much as possible, which should help to reduce this risk.

- Competitive disadvantages for compliant businesses: There is a risk that the addition of GST to the prices of goods offered to consumers by compliant businesses may result in a competitive advantage for other businesses that would not be required to register and return GST (or that would not comply with the rules if liable to register).

The inclusion of rules that would deem operators of electronic marketplaces to be the suppliers of low-value goods sold through their marketplaces by non-residents should help to minimise this risk by improving compliance with the rules.

This would however result in GST being collected on goods supplied by non-residents that would not otherwise be required to be returned if these suppliers sold goods to New Zealand consumers through their own website. It is a possibility that this may potentially create a competitive disadvantage for compliant marketplace operators. However, this risk is not thought to be significant given the market dominance of the large electronic marketplaces.

- Quality of import entry information for biosecurity and border risk assessment: The preferred option may reduce the incentive for importers to enter accurate information (as there will be no requirement to pay revenue on consignments below \$1,000), which may have adverse consequences for the management of biosecurity and other border risks. Customs and MPI will monitor any impacts on the management of border and biosecurity risks.
- Undervaluation of goods by suppliers or importers for Customs purposes: Compared with the existing *de minimis*, a \$1,000 threshold may exacerbate the existing issue of undervaluation in relation to high-value consignments. This may not have a significant impact on net GST collections on imported consignments valued above \$1,000 (as the vast majority of imported goods above \$1,000 are imported by GST-registered businesses), but this could have adverse implications for the collection of tariffs and cost recovery charges on high-value consignments.
- Potential behavioural changes by consumers: Compared with the existing *de minimis*, the \$1,000 threshold may also incentivise consumers to purchase goods valued between \$400 and \$1,000 free of GST/VAT from offshore retailers that would be below the registration threshold. It is difficult to say how significant this risk may be, since it is expected that many larger offshore retailers that ship goods to New Zealand would be above the registration threshold, and it is unclear how many smaller offshore suppliers below the registration threshold would sell goods to New Zealand consumers through their own website or mail order. Consumers may also be incentivised to arrange for friends or family members in foreign countries to buy goods for them and reimburse the friend or family member. However, whether this would necessarily be cost-effective is uncertain, as it is likely to be the case that the consumer would end up paying foreign

VAT, GST or sales tax if they arrange for a friend or family member to buy the goods and ship the goods to them.

Identify any significant incompatibility with the Government's 'Expectations for the design of regulatory systems'.

The proposed approach is not incompatible with the Government's 'Expectations for the design of regulatory systems'.

Section C: Evidence certainty and quality assurance

Agency rating of evidence certainty?

Analysing the impact of the proposals on offshore suppliers has been constrained by the lack of data and information available.

Fiscal impact estimates have been modelled using retail banking data for the 2017/18 fiscal year supplied by Datamine. Online transactions were identified using a range of methods, including by identifying whether a card was present for a transaction and isolating transactions with known e-commerce only retailers. To exclude services and intangibles and the likes of tax payments, only transactions with merchant category codes clearly related to goods retail were included.

Quality Assurance Reviewing Agency:

The Treasury, Inland Revenue Department and New Zealand Customs

Quality Assurance Assessment:

A joint panel from The Treasury, Inland Revenue and Customs considers that the Regulatory Impact Assessment partially meets the quality criteria.

Reviewer Comments and Recommendations:

The RIS could probably be clearer and more concise, particularly as to the nature and implications of the agency disagreement as to the value threshold below which offshore suppliers would be required to collect GST.

However, it seems unlikely that this would make the decision itself any more clear-cut, since the adoption of either threshold will entail downsides as well as upsides. It is also evident that consumer and supplier behaviour will be a major driver of the outcome in practice, particularly in terms of revenue collected. It will therefore be important, as set out in the RIS, to collect data and information from different sources, including experience in other jurisdictions, to inform ongoing monitoring and possibly review of the new approach.

Impact Statement: GST on low-value imported goods

Section 1: General information

Purpose
<p>Inland Revenue and the New Zealand Customs Service are responsible for the analysis and advice set out in this Regulatory Impact Assessment, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing final decisions to proceed with a policy change to be taken by Cabinet.</p>
Key Limitations or Constraints on Analysis
<p>The key limitations and constraints on the analysis are as follows:</p> <ul style="list-style-type: none">• <u>Range of options considered:</u> The Government has already made a decision that it intends to implement an offshore supplier registration system for collecting GST on imported goods valued at or below \$400 (refer CAB-18-MIN-0143). Options considered are therefore focussed on the key design settings for that particular collection model (as opposed to considering alternative collection models), including the level of the low-value goods threshold.• <u>Evidence of the problem:</u> There are some uncertainties about the scale of the problem in terms of estimating the forgone GST revenue. Retail banking data supplied by Datamine suggests a potential forgone revenue figure on imported goods below the <i>de minimis</i> for the 2017/18 fiscal year of approximately \$130 million, which is assumed to be growing at a rate of around 11.9 percent each year.• <u>Quality of data used for impact analysis:</u> It is not possible to accurately determine how many offshore suppliers may register and comply under the preferred option. A crude estimate may be obtained by reference to the number of entities that have registered under Australia’s new GST legislation (which is based on essentially the same collection model). However, registrations are continuing to be processed in Australia, which means that the eventual number of registrants in Australia may be significantly more than the 721 entities that had registered as of 10 July 2018. <p>While there is data on how much GST is collected by Customs on imported goods, it is not possible to determine the net amount of GST collected on imported goods as many consignments are imported by GST-registered businesses that are able to claim the GST back from Inland Revenue. This means the potential fiscal risk of increasing the threshold above which GST is collected on consignments at the border and below which non-resident suppliers, electronic marketplaces and re-deliverers are responsible for returning GST cannot be precisely quantified.</p> <ul style="list-style-type: none">• <u>Assumptions underpinning impact analysis:</u> The Government’s proposed approach is estimated to increase GST revenue by approximately \$66 million for the 2018/19 fiscal year, increasing to \$100 million and \$112 million in the 2019/20 and 2020/21 fiscal years respectively. The primary caveat to this revenue forecast

is that it assumes static behaviour on the part of both suppliers and consumers. However, the imposition of GST on low-value imported goods may decrease consumers' propensity to buy goods from offshore, and may also decrease suppliers' willingness to ship goods to New Zealand, further increasing costs of importing goods for consumers. Another key limitation is that the revenue forecast assumes for simplicity a 100 percent collection rate under the existing border collection system in relation to consignments valued between \$400 and \$1,000. The limitation of this assumption is that it is clear that undervaluation by suppliers is an issue to some extent, but the exact scale of the problem and the amount of GST forgone as a result are unknown.

- Time constraints: The Government has chosen offshore supplier registration as the proposed collection model on the basis that this is the only option that can be feasibly and cost effectively implemented in 2019/20 (that is, without having to wait for future technological advancements and improvements in the availability of electronic advance data in the international postal system).

Responsible Managers:

Gordon Witte
Acting Policy Manager
Policy and Strategy
Inland Revenue

21 May 2019

Anna Cook
Director Policy
Policy, Legal and Governance
New Zealand Customs Service

21 May 2019

Section 2: Problem definition and objectives

2.1 What is the context within which action is proposed?

Historically, the majority of imported goods have been imported by businesses in consignments valued above the *de minimis*. When GST was introduced in 1986, few New Zealand consumers imported goods below the *de minimis*. Therefore, the compliance and administrative costs involved in taxing imported goods below the *de minimis* were considered to outweigh the benefits of taxation at that time.

However, the growth in online purchases means that the volume of low-value imported goods on which GST is not collected is becoming increasingly significant (retail banking data supplied by Datamine indicates that New Zealand consumers spent approximately \$870 million online on goods from offshore suppliers in 2017/18). The implication of this is that domestic businesses may be at a disadvantage compared with offshore businesses supplying products with no GST added to the price of the goods. It also means that the Government is forgoing GST revenue on goods that are consumed in New Zealand, and this forgone revenue is increasing over time. Based on a seven-year average, the number of imported consignments valued below \$400 is growing at about 17 percent per annum.

In response to these issues, the Government has made a decision to implement an offshore supplier registration system for collecting GST on low-value imported goods (refer CAB-18-MIN-0143).

2.2 What regulatory system, or systems, are already in place?

Border collection system

GST is currently collected by the New Zealand Customs Service on imported consignments on which at least \$60 of “duty” (including GST) is collectable. In practice this means that GST is not collected on imported consignments with a value below \$400 (including freight and insurance) if GST is the only duty owing (which is typically the case). However, where the goods are subject to tariffs, the insurance and freight-inclusive value of the goods may be as low as \$226, depending on the applicable tariff rate and the amount of international freight and insurance charges.⁵

Customs’ and MPI’s border risk and biosecurity activities are funded by the collection of cost recovery charges on imported consignments above the *de minimis*.

Work to date has shown that a substantial reduction in the current *de minimis* (from \$60 of duty) is not feasible in the short term as the marginal costs of collection under the existing system would outweigh the additional revenue collected. The extent to which the *de minimis* may eventually be reduced in a cost-effective way under the current system or under a model where fast freight carriers and New Zealand Post collect the GST is also uncertain, as is the likely timing of such a reduction in the *de minimis*.

Other interested agencies (from a trade, competition or consumer affairs standpoint) are the Ministry for Foreign Affairs and Trade (MFAT) and the Ministry of Business, Innovation and

⁵ This consignment value of \$226 assumes that the applicable tariff rate is the maximum 10 percent rate and that there are no clearly separable freight and insurance charges.

Employment (MBIE), who were all consulted during the process of drafting this Regulatory Impact Assessment.

Offshore supplier registration system for collecting GST on remote services

The preferred option builds upon the existing system that has been successfully implemented since 1 October 2016 for the collection of GST on cross-border supplies of “remote” services, including supplies of digital services and intangibles such as streaming services and software.

At the time of designing the rules, policy officials had conservatively estimated the total forgone GST revenue to be around \$40 million and that around 100 businesses might register. Since implementation, the rules have been performing better than initial expectations, with \$131 million in revenue being collected under these rules for the 2017/18 tax year (the year covering 1 April 2017 to 31 March 2018) with over 200 businesses registered to date. This more than favourably compares with other jurisdictions’ experience with implementing similar rules for the collection of consumption taxes on cross-border services and intangibles.

2.3 What is the policy problem or opportunity?

GST as a broad-based consumption tax should apply to all consumption that occurs within New Zealand, including imported goods. This helps to ensure GST is fair, efficient and simple, as opposed to being a tax that distorts competition by creating biases in consumers’ or businesses’ behaviour or which collects little revenue by only collecting on a narrow tax base.

At present, GST is collected on imported goods when duty (including tariffs and GST) of \$60 or more applies. This threshold is called the *de minimis*⁶ and equates to a consignment value that varies between \$226 and \$400 according to whether or not tariffs are payable. The non-collection of GST is problematic because the growth in online purchases from offshore suppliers means that the volume of low-value imported goods on which GST is not collected is large and growing, and so is the amount of forgone revenue.

Forgone revenue

Estimates of the forgone revenue vary. In 2015, Inland Revenue estimated a ‘maximum potential’ forgone GST revenue figure of approximately \$140 million per annum using credit card data. Officials did further work in 2016 using a mixed dataset including Customs sample data on import values, as well as data on volumes from New Zealand Post and fast freight carriers and Australian estimates of the split between business and consumer purchases. This work indicated a lower potential forgone GST revenue figure of approximately \$80 million for the 2016 calendar year. More recently, Inland Revenue has estimated using retail banking data that approximately \$130 million in GST revenue was forgone in 2017.

This more recent figure is considered to be more robust than previous estimates, as the use of merchant category codes and proxies for identifying online-only transactions should mean that the dataset roughly consists only of online purchases of goods from offshore suppliers. A limitation of the 2015 estimate is that an assumption had to be made about the split

⁶ The rationale behind having a *de minimis* is to achieve a balance between the cost of collection and revenue collected, as well as to facilitate the free flow of goods across the border.

between spending on goods versus spending on services and intangibles. The main limitation of the 2017 estimate (based on a mixed dataset including Customs' sample data) is that its reliance on declared values may produce an estimate that is lower than the actual forgone revenue, as suppliers may be incentivised under the current system to under-declare values.

The growth in direct consumer imports is a relatively recent development and the amount of forgone GST is expected to continue to grow – estimates vary but assuming the growth in the total value of goods imported below the *de minimis* is 11.9 percent per year⁷, the amount of forgone GST is forecasted to grow to \$183 million by 2021 if no action is taken.

Competitive neutrality

The extent to which the current non-collection influences consumers' purchasing decisions is unclear, as there are a number of reasons why New Zealand consumers may purchase goods from offshore, including overall cheaper prices, product availability and convenience. However, ideally, the tax treatment should not be a factor in consumers' purchasing decisions.

2.4 Are there any constraints on the scope for decision making?

The following options were considered and ruled out by ministers:

- **Collection between the point of sale and delivery by transporters:** fast freight carriers and New Zealand Post would collect GST, tariffs and cost recovery charges on goods above a lowered *de minimis* ("extended status quo" or "transporter model").
- **Collection after delivery:** consumers would pay GST directly to the government after delivery of the goods ("pay after delivery" or a "consumer reverse charge").

These options were also considered by officials in a previous Regulatory Impact Assessment in July 2017 and by the Tax Working Group (the TWG). The TWG recommended that the Government implement an offshore supplier registration system for collecting GST on low-value imported goods, noting that practical concerns with options to collect GST between the point of sale and delivery and after delivery mean these two options may not be feasible in the short term.

The previous work on GST on cross-border services and intangibles considered an option where financial intermediaries, such as credit card companies and other payment processing intermediaries, would be responsible for remitting GST on online purchases of low-value imported goods. This option was considered to be unlikely to be feasible because financial intermediaries would be unlikely to have the information necessary to precisely determine in all cases whether the payment was for goods or services (or both), or whether the goods or services were purchased while the consumer was overseas. Another limitation is that where the payment for the goods is made to a New Zealand-based entity (such as a resident marketplace), there would not be sufficient information about whether the underlying supplier of the goods is based offshore or not.

⁷ The growth in the total value of low-value goods imported by New Zealand consumers would be less than the annual growth in volumes of 17%, as the majority of the growth in volumes is at the lower value bands.

Interdependencies with ongoing work

Customs' border risk management and MPI's current biosecurity processes are reliant on information about the content of low-value goods. For example, courier companies provide information on low-value goods prior to their arrival at the border for risk management. Import entry data are used by MPI and Customs to risk-assess consignments at the border. This means that these existing information requirements would need to remain in place under the preferred option, even though this information would not be used for the collection of GST or tariff duty on low-value imported goods.

There are also cost recovery implications for Customs and MPI, associated with the proposed removal of the Import Entry Transaction Fee and the Biosecurity Systems Entry Levy (which fund Customs' and MPI's risk and biosecurity assessment activities at the border) from imported consignments with a value of \$1,000 or less. Customs is currently reviewing its cost recovery arrangement and will report back on the financial implications of its lost cost-recovered funding in the context of that review. MPI expects to report to Cabinet on the financial implications of its lost cost-recovered funding at the time of final policy decisions by Cabinet on the GST on low-value imported goods proposals.

Both MFAT and MBIE carry out work which has implications for New Zealand's tariff policy.

2.5 What do stakeholders think?

The main stakeholders are consumers, non-resident suppliers of low-value goods, operators of electronic marketplaces, re-deliverers, the fast freight industry and customs brokers, New Zealand Post, domestic retailers, tax advisors and domestic clothing and footwear manufacturers.

A government discussion document *GST on low-value imported goods: An offshore supplier registration system* was released in May 2018 for full public consultation on key design issues. Inland Revenue received 32 submissions in response to the discussion document. A further 49 submissions to the Tax Working Group that mentioned the GST on low-value imported goods issue were also forwarded to Inland Revenue officials to consider. The submissions received were from private sector tax advisors, goods transporters and customs brokers, New Zealand business groups, electronic marketplaces and a number of private individuals.

Most submissions were generally favourable at a high level of the proposed offshore supplier registration system. However, some submissions indicated a preference for a different collection model to the one proposed in the discussion document, or otherwise stated that other collection models should be given further consideration before being discounted. A couple of submissions from tax advisors considered that the proposed offshore supplier registration system may only be an interim step until technological advancements make an alternative collection model feasible.

The New Zealand retail industry groups that made submissions on the discussion document agreed with the analysis of the problem presented in the discussion document and were strongly in favour of the proposed solution. New Zealand Post, fast freight carriers and customs brokers were also broadly supportive of the proposed approach but expressed some concerns about the finer details of how the system would be implemented, particularly in relation to the lack of detail provided in the discussion document as to how the proposals would interact with customs processes at the border and any potential changes to these processes.

Most private individuals (the bulk of whom submitted to the TWG rather than on the discussion document) supported the collection of GST on low-value imported goods. However, as most of these submissions were made to the TWG prior to the release of the discussion document, these submissions tended not to comment on any specific details of the proposals, such as the proposed collection model. A small number of submissions (including those on the discussion document and to the TWG) from private individuals were opposed to the collection of GST on low-value imported goods regardless of the collection model.

Submitters' views on the design options are noted in the discussion of those options in section 5.

Section 3: Options identification

3.1 What options are available to address the problem?

The options analysed in section 5 consist of the following packages of key design options:

- Option one: Design options proposed in the government discussion document (with some gap-filling design options added in for where the discussion document was silent on a specific design detail).
- Option two: Design options reflecting submissions received on the discussion document, with a low-value goods threshold of \$400.
- Option three: Design options reflecting submissions received on the discussion document, with a low-value goods threshold of \$1,000.

Option one: Design options proposed in the government discussion document (status quo option)

In April 2018, Cabinet decided to implement an offshore supplier registration system for collecting GST on imported goods valued at or below \$400 and to release a government discussion document to consult on the design details of the proposed system (refer CAB-18-MIN-0143).

This option reflects the package of design features that were proposed in the government discussion document released for public consultation in May 2018.

Scope of the rules and registration requirements

The proposed offshore supplier registration system would only apply to goods supplied by non-residents with a customs value of \$400 or less.⁸

Goods would be covered by the proposed regime where either the actual supplier of the goods (or the supplier for GST purposes if not the same person) arranges, assists or facilitates the delivery of the goods to a New Zealand address.⁹

Supplies to GST-registered businesses would be excluded from the scope of the rules. Rules for determining whether the supply is made to a consumer or to a GST-registered business would apply. However, where GST is charged on a supply to a GST-registered business, the supplier would be allowed to issue the recipient with a tax invoice (thus allowing the GST-registered recipient to claim a deduction for the GST in its GST return),

⁸ The calculation of the customs value is set out in Schedule 4 of the Customs and Excise Act 2018. In the case of low-value imported goods, the customs value would generally be the transaction value of the goods (being the price paid or payable when they are sold for export to New Zealand), subject to a number of adjustments including deductions for the costs of transportation, insurance and other charges and expenses related to the handling and transportation of the goods from the time they have left the country of export. For the purposes of determining whether GST applies at the point of sale, a supplier would be able to self-assess the customs value using a reasonable estimate as at the time of supply, rather than being required to determine it strictly in accordance with schedule 4 of the Customs and Excise Act.

⁹ The discussion document was silent on whether or not this \$400 threshold would be based on the customs value or the freight and insurance-inclusive value of the goods. Basing the threshold on the customs value of the goods has been chosen on the basis of feedback received in submissions.

provided that the value of the supply does not exceed \$1,000 – otherwise the supplier would be required to provide a refund of the GST.

Non-resident suppliers would be required to register for GST and collect and return GST on goods that have a customs value of \$400 or less if their taxable supplies of goods and services exceed (or are expected to exceed) \$60,000 in a given 12-month period. However, where low-value goods are sold through an electronic marketplace, the operator of the electronic marketplace would be deemed to be the supplier of the goods for GST purposes and would therefore have the responsibility for registering and returning GST. Suppliers that only sell through GST-registered electronic marketplaces (or who make less than \$60,000 in taxable supplies outside of a GST-registered electronic marketplace) would not be required to register.

A re-deliverer would only be deemed to be the supplier of low-value goods imported by a consumer if neither the supplier nor an operator of an electronic marketplace assists in bringing the goods to New Zealand.

Interaction with border collection system

GST, tariffs and cost recovery charges would not be collected at the border on imported consignments with a customs value of \$400 or less. However, GST (along with tariffs, cost recovery charges and other applicable levies) would continue to be collected at the border by Customs on consignments with a customs value in excess of \$400.

Double taxation (where both the supplier and Customs collect GST) may arise when multiple low-value goods are sent in a single consignment valued above \$400, or if low-value goods are sent in a consignment with goods valued above \$400. Double taxation could also arise where the exchange rate used by the supplier at the time of supply differed from that used by Customs at the time of importation.

The supplier would be required to issue a receipt to a New Zealand consumer in relation to a supply of low-value imported goods. The receipt would be required to include the name and GST registration number of the supplier, the date of issue and a description of the goods supplied. If GST has been charged on all of the goods, the receipt should show the amount paid for the supply along with a statement that this includes GST, or alternatively, the receipt could identify the GST charged for each of the goods separately. If GST has been charged on only some of the goods (for instance if some are valued above \$400), the receipt should include information showing whether GST has been charged on each of the goods. Monetary amounts detailed on the receipt would not need to be in New Zealand dollars. To prevent Customs from collecting GST on the importation of the goods, the consumer would provide their receipt to Customs when asked by Customs to pay the GST.

Where double taxation does arise, the supplier would be responsible for providing the consumer with a refund of the GST.¹⁰

¹⁰ The discussion document was silent on who would provide a refund. Placing the responsibility for providing refunds on the supplier is included as one of the design options here as it is officials' preferred option in relation to who is responsible for providing refunds.

Electronic marketplace operators' and re-deliverers' liability for underpaid GST

Operators of electronic marketplaces and re-deliverers need to use information from either underlying suppliers or consumers to determine the GST treatment of supplies. A marketplace operator would need to have information about the residency of an underlying supplier, as the proposed marketplace rules only apply to supplies made by non-resident underlying suppliers. Re-deliverers would rely on information provided by consumers about the value of the goods.

Marketplace operators and re-deliverers would still be liable for GST and any associated interest or penalties in situations where the supplier or consumer provides incorrect or misleading information which results in a GST shortfall.

Operators of electronic marketplaces would also be liable for GST on goods sold by non-resident suppliers through their marketplaces to New Zealand consumers in situations where:

- The payment for the goods is made directly to the supplier instead of to the marketplace operator, or when there is not a split payment mechanism allowing the amount of the GST to be remitted by the payment processor to the marketplace operator; and
- The supplier defaults on paying the amount of the GST to the marketplace operator.

Option two: Design options reflecting submissions received on the discussion document, with a low-value goods threshold of \$400

Scope of the rules and registration requirements

With the exception of two additions, the design features relating to the scope of the proposed rules are the same as those described under option one.

To reduce compliance costs for some suppliers (including re-deliverers and operators of electronic marketplaces), these businesses would be able to charge GST on goods valued above \$400 supplied to New Zealand consumers if:

- The supplier (or deemed supplier) self-assesses that their total sales of goods individually valued above \$400 are no more than 5 percent of the value of their total supplies of goods to New Zealand consumers; or
- The Commissioner of Inland Revenue exercises her discretion to allow a supplier not meeting the above 5 percent test to charge GST on goods valued above \$400.¹¹

To reduce compliance costs for suppliers in distinguishing between supplies to consumers and to GST-registered businesses, suppliers would also be able to agree with the Commissioner on an alternative method for determining whether a supply is made to a GST-registered person. This could apply in situations where the nature of the supply or the total

¹¹ The proposed discretion could cover circumstances where the 5 percent test is not met due to a minor or one-off discrepancy, where it is too difficult for the supplier to determine precisely whether or not their supplies of goods above the threshold to consumers are less than 5 percent of their total sales of goods to consumers (but it is likely to be the case that they would be less than 5 percent) and the Commissioner is satisfied that the supplier represents a low compliance risk.

value of the supply is such that it would be expected to be received only by a GST-registered business. For example, if the supply is of a large number of low-value imported goods (for instance, hundreds of t-shirts or hundreds of hard copies of a book), either the nature or the value of the supply (or both) would likely indicate that the customer is not a consumer.

The design features relating to registration requirements are the same as in option one.

Interaction with border collection system

Aside from one addition relating to the prevention of double taxation, the design features for how the proposed offshore supplier registration system would interact with the existing border collection system are the same as those described under option one.

The supplier would be required to take reasonable steps to ensure that GST information is included on Customs documents.¹² The supplier could do this by providing the fast freight carrier with a copy of the receipt described under option one, or by instructing the person that undertakes the fulfilment of the goods to do so. If the value of the consignment is above the low-value goods threshold, the fast freight carrier or customs broker would include the supplier's GST registration number and information about which goods had GST collected by the supplier on the Customs documentation. If this information is included on Customs documents then Customs will only collect GST on the items in the consignment on which GST was not collected at the point of sale.

Electronic marketplace operators' and re-deliverers' liability for underpaid GST

The Commissioner would be provided with the ability to prescribe or agree to a method for a marketplace operator or a re-deliverer to make conclusions relevant to whether they are the deemed supplier of low-value goods and the amount of GST that is payable. When exercising the discretion, the Commissioner would take into account the commercially relevant information that is available to the marketplace operator and the reliability of this information, the compliance costs of the marketplace operator and the mechanisms the marketplace operator has to prevent and address situations where incorrect information is provided. Where the marketplace operator or re-deliverer has a safe harbour agreement, they would not be liable for additional GST if they have relied on incorrect information and as a result have underpaid GST. If this happens, the underlying supplier or consumer may be required to register and pay the GST instead.

Operators of electronic marketplaces would be able to claim a bad debt deduction in circumstances where the supplier defaulted in paying the GST to the marketplace operator, provided the marketplace's commission or facilitation fee was also not collected.

¹² At present this would only be feasible where goods are being delivered by fast freight, as there is currently insufficient electronic data on parcels sent through the international postal system. Hence this would not be a requirement where goods are sent to New Zealand by post.

Option three: Design options reflecting submissions received on the discussion document, with a low-value goods threshold of \$1,000 (Ministers' proposed option)

Scope of the rules and registration requirements

The proposed offshore supplier registration system would generally apply to goods supplied by non-residents with a customs value of \$1,000 or less. With the exception of the change in the proposed low-value goods threshold from \$400 to \$1,000, the other design features relating to the scope of the proposed rules and registration requirements would be the same as those described under option two.

Interaction with border collection system

GST, tariffs and cost recovery charges would not be collected at the border on imported consignments with a customs value of \$1,000 or less. However, GST (along with tariffs, cost recovery charges and other applicable levies) would continue to be collected at the border by Customs on consignments with a customs value in excess of \$1,000.

The design features for the prevention of double taxation are the same as those under option two, as is the process for GST refunds where double taxation does arise.

Electronic marketplace operators' and re-deliverers' liability for underpaid GST

The design features for marketplace operators' and re-deliverers' liability for underpaid GST (where the supplier or consumer provided incorrect or misleading information or where the supplier defaulted in paying the GST to the marketplace operator) are the same as those in option two.

3.2 What criteria, in addition to monetary costs and benefits, have been used to assess the likely impacts of the options under consideration?

The criteria against which the options have been assessed are:

- **Certainty and simplicity:** The rules should be clear and simple to understand, so that taxpayers are aware of the GST treatment of a particular supply and their GST obligations.
- **Efficiency of compliance:** Compliance costs for businesses and consumers should be minimised as far as possible.
- **Efficiency of administration:** Administrative costs for government departments should be minimised as far as possible.
- **Fairness and equity:** Taxpayers in similar situations carrying out similar transactions should be subject to similar levels of taxation.
- **Sustainability and neutrality:** The preferred option must have the ability to meet the objectives of collecting the forgone GST revenue and reducing the distortions the current treatment brings about, without unduly restricting trade and consumer choice or creating new distortions. Counteracting measures should be kept proportionate to the risks involved.

Efficiency of compliance, sustainability and neutrality and fairness and equity are the most important criteria. It is generally worth trading off increased administration costs for gains in these three areas.

The certainty and simplicity criterion would generally be positively correlated with the efficiency of compliance criterion, in that the more certain and simple the rules are, the lower compliance costs should be. However, there are some instances where increased simplicity and certainty for one group may come at the cost of increased uncertainty or complexity for another group. There may also be instances where having more flexible as opposed to prescriptive rules makes the rules simpler for some parties (and thus reduces their compliance costs) but results in the rules being more complex or less certain for other parties.

3.3 What other options have been ruled out of scope, or not considered, and why?

No low-value goods threshold

An option where offshore suppliers, electronic marketplaces and re-deliverers would be required to charge GST on all supplies of imported goods to New Zealand consumers (with or without GST collection at the border by Customs on consignments above a certain value) was ruled out. This option was discounted because of concerns about the potential revenue risks involved with replacing the existing collection of GST at the border on high-value consignments with collection at the point of sale by offshore suppliers, being that offshore suppliers may not return the GST that they had collected (or had purported to have collected on the customs documentation).

Defining the low-value goods threshold with reference to the value of the transaction

Defining the low-value goods threshold in terms of the value of the total transaction, as opposed to the value of an individual good, was also ruled out. This is because multiple low-value goods could be sold together in the same transaction with a total value in excess of the low-value goods threshold. Non-taxation would therefore arise where the goods were shipped separately in multiple consignments each valued below the low-value goods threshold, thus creating an avoidance opportunity.

Preventing double taxation

The discussion document asked for submissions on whether a reasonable belief exception similar to that legislated in Australia may be an appropriate way to avoid double taxation. Under a reasonable belief exception, the supplier would not charge GST on a supply of low-value goods if it had a reasonable belief that the goods will be shipped together in a single consignment with a total value above the low-value goods threshold. A reasonable belief exception was ultimately ruled out on the basis that it would likely be only very rarely used by suppliers, based on the experience so far in Australia. It may also be potentially quite subjective, which could create difficulties for suppliers pose and potentially pose an integrity risk.

Refunds where double taxation arises

Options where either Customs or Inland Revenue would be responsible for providing GST refunds to consumers where double taxation arises were considered and ultimately ruled

out. This is mostly because having Customs provide refunds would be disproportionately costly and would likely be difficult for consumers (at present the provision of one refund takes two hours of staff time). Given that the instances of double taxation should be rare, having Inland Revenue set up an entirely new process is likely to also be disproportionately costly. It would also not be intuitive for consumers to approach Inland Revenue for a refund (being a party that they had not otherwise had any interaction with in relation to the transaction).

It is expected that placing the responsibility for providing refunds on suppliers would provide suppliers with more incentive to take reasonable steps to prevent double taxation.

Business-to-business supplies

Options where offshore suppliers would be required to register and return GST in respect of business-to-business supplies or where suppliers would have the option of charging GST on business-to-business supplies valued above \$1,000 were ruled out owing to the revenue risks associated with high-value supplies, which naturally pose a greater fraud risk.¹³

Electronic marketplaces

A “pure” vendor collection model (where the only persons that would have a liability to register and return GST would be suppliers that have legal title over the goods sold to consumers) was not considered. Officials consider that the level of compliance with a pure vendor collection model would not be likely to be good enough to warrant serious consideration of such a model, as it is expected that a large proportion of revenue would continue to be forgone while also meaning that there would not be a level playing field for suppliers that do comply.

A joint and several liability model, similar to the one introduced in the United Kingdom for tackling non-compliance by suppliers selling through online marketplaces, was not given much consideration primarily because it is similar to the rebuttable presumption model described below, and hence there are similar concerns with it in relation to compliance costs, enforcement and administration costs.

Consideration was given to two exceptions to the “deemed supplier” approach behind the proposed marketplace rules:

- Rebuttable presumption model: The default position would be that the marketplace would be deemed to be the supplier, but this presumption of liability can be rebutted if the marketplace agrees to meet the requirements of a “recognised marketplace”. A recognised marketplace would be required to provide Inland Revenue with information about their underlying suppliers, including their trading names, contact details and the total value of supplies of low-value goods that each of their underlying suppliers is making through the marketplace to New Zealand consumers.

A recognised marketplace would also endeavour to ensure that liable suppliers have registered and are returning the GST on supplies made to New Zealand consumers, and

¹³ Although the goods covered by the proposals are by definition of a low value, multiple low-value goods may nevertheless be supplied together as a single high-value supply.

would be required to block suppliers that are continuously non-compliant from selling to New Zealand where the marketplace is aware or should be aware of this non-compliance. For low-level compliance with their responsibilities, a recognised marketplace would be subject to warnings, ultimately leading to monetary penalties. For significant or ongoing non-compliance the marketplace would lose its “recognised” status even if, despite its best efforts to ensure compliance from suppliers, the suppliers selling through the marketplace are largely non-compliant.

- Commissioner discretion: The Commissioner would have a discretion to allow a given electronic marketplace to not have the responsibility for registering and returning GST in respect of goods sold through its platform. This discretion would apply where the Commissioner considers the marketplace has a compelling case that it cannot be reasonably expected to be able to comply with the deemed supplier requirements.

These two options were ultimately ruled out for the following reasons:

The rebuttable presumption model (and the Commissioner discretion if exercised) would shift compliance costs to underlying suppliers. Aggregate compliance costs are therefore likely to be higher as a result of there being more collection entities, some of whom may have less sophisticated systems and may not be as well-resourced.

The model would rely on ongoing commitment of resources by Inland Revenue and operators of recognised marketplaces to continually educate suppliers and enforce compliance. It is questionable that these responsibilities and the information requirements for recognised marketplaces would be less onerous than their obligations under the deemed supplier model. Inland Revenue and operators of recognised marketplaces would also need to deal with the risk of underlying suppliers continually creating new identities to avoid GST. If compliance is perceived to be low, this may reduce the willingness of other suppliers to comply.

It would be difficult to assess the point at which the recognised marketplace would need to revert to being deemed to be the supplier for GST purposes where there is persistent non-compliance by underlying suppliers. Compliant underlying suppliers may be disrupted by potential deregistration.

The rebuttable presumption model (and the Commissioner discretion option) would create uncertainty for electronic marketplaces and underlying suppliers in the lead-up to the implementation date, as it may take a considerable amount of time to reach an agreement with the Commissioner (or for the Commissioner to reach a conclusion as to whether her discretion should be exercised). Given there is just under five months between expected legislative enactment and 1 December 2019, it is desirable that all parties have certainty about their obligations so that they can make adequate preparations to comply.

The use of the Commissioner’s discretion would be likely to distort competition between electronic marketplaces. There may also be risks that the Commissioner may be perceived as applying the discretion unfairly where it is available only to some electronic marketplaces, which would have an adverse effect on the integrity of the tax system.

It may be difficult for the Commissioner to apply the discretion consistently and assess whether the marketplaces are capable of collecting GST. It may be especially difficult for the

Commissioner to respond to assertions that a marketplace may withdraw from the New Zealand market if the discretion is not applied.

Many of the prominent electronic marketplaces would already be registered in Australia under their equivalent legislation. In many cases the systems already implemented by these marketplaces for Australia could be extended to comply with New Zealand's rules, as the rules would be broadly similar.

Section 4: Impact Analysis

Marginal impact: How does each of the options identified at section 3.1 compare with the counterfactual, under each of the criteria set out in section 3.2?

	Option one Status quo (Design options proposed in the government discussion document)	Option two Design options reflecting submissions, with a low-value goods threshold of \$400	Option three Design options reflecting submissions, with a low-value goods threshold of \$1,000
Certainty and simplicity	0	<p style="text-align: center;">+</p> <p>The addition of simplifying design details post-consultation should simplify compliance for suppliers, electronic marketplaces and re-deliverers compared with option one.</p>	<p style="text-align: center;">++</p> <p>Suppliers that only sell goods valued at or below \$1,000 or who fall into the 5 percent rule as a result of the \$1,000 threshold can charge GST on all of their supplies to New Zealand consumers rather than being required to distinguish between goods valued below or above the threshold. Greater price transparency for consumers compared with options one and two as GST is charged at the point of sale and tariffs and cost recovery charges are removed from imported consignments valued at or below \$1,000.</p>
Efficiency of compliance	0	<p style="text-align: center;">+</p> <p>Some compliance cost savings compared with option one.</p>	<p style="text-align: center;">+</p> <p>This option is expected to have the least compliance costs overall compared with the other options owing to the \$1,000 threshold.</p>
Efficiency of administration	0	<p style="text-align: center;">+</p> <p>Some administrative cost savings for Customs in relation to preventing double taxation, owing to the requirement for suppliers to ensure that GST information is included on Customs documents where goods are delivered by fast freight. Administration costs for Inland Revenue would be the same as those under option one.</p>	<p style="text-align: center;">+</p> <p>Administrative cost savings for Customs in relation to the prevention of double taxation. Administration costs for Inland Revenue would be the same as those under options one and two.</p>
Fairness and equity	0	<p style="text-align: center;">+</p> <p>Reduced compliance costs for suppliers and consumers, including reduced potential for double taxation (since the supplier would be required to provide a refund if double taxation occurs).</p>	<p style="text-align: center;">+</p> <p>More suppliers are likely to be liable to register under this option, increasing the coverage of imported goods that are subject to GST compared with options one and two. Reduced potential for double taxation owing to \$1,000 threshold and the proposed mechanisms for preventing double taxation. There is however less fairness for retailers importing consignments valued above \$1,000 that are</p>

			subject to tariffs compared with options one and two (up to \$2.6m more in tariffs p.a. would be forgone).
Sustainability and neutrality	0	+ Estimated GST collections are the same as under option one. However, the reduction in compliance costs for suppliers compared with option one may mean that less suppliers cease to ship to New Zealand or refuse to comply.	++ Estimated to collect \$25m less in GST over the forecast period than options one and two. However, this option is considered to be the most sustainable over the longer term, as it is considered that it may result in a better compliance outcome than options one and two whilst minimising the number of suppliers that cease shipping to New Zealand (and therefore may actually result in more GST being collected). Approx. \$14.9m p.a. in cost recovery charges for Customs and MPI would be forgone compared with options and two. Any resulting funding shortfall may have to be funded through a changed cost recovery structure or through replacement Crown funding.
Overall assessment	0	+ This option is an improvement over option one with respect to all of the considerations.	++ Sustainability and neutrality and efficiency of compliance outweigh the other considerations. This option is an improvement over option two with respect to most of the other considerations and is therefore Inland Revenue's preferred option.

Key:

- ++** much better than doing nothing/the status quo
- +** better than doing nothing/the status quo
- 0** about the same as doing nothing/the status quo
- worse than doing nothing/the status quo
- much worse than doing nothing/the status quo

Section 5: Conclusions

5.1 What option, or combination of options, is likely best to address the problem, meet the policy objectives and deliver the highest net benefits?

Inland Revenue officials consider the preferred option is **Option three: Design options reflecting submissions received on the discussion document with a low-value goods threshold of \$1,000**. Customs officials prefer **Option two: Design options reflecting submissions received on the discussion document with a low-value goods threshold of \$400**.

The reason for Inland Revenue’s preference is that Inland Revenue has placed a higher weighting on the efficiency of compliance criterion (in particular the compliance costs imposed on offshore suppliers and electronic marketplaces, as well as the freight and logistics industry). It is acknowledged that the additional benefits to offshore suppliers, electronic marketplaces and the freight and logistics industry of the \$1,000 threshold compared with a threshold of \$400 cannot be valued with certainty, whereas the estimated impacts on the government’s financial position are better understood. There is also uncertainty in predicting possible unintended behavioural changes by consumers (as well as other importers and their agents) as a result of a \$1,000 threshold. To mitigate these factors and their associated risks, specific monitoring of implementation and compliance will be established, and a post-implementation review of the level of the threshold will be conducted after three years.

Customs’ preference is for a low-value goods threshold of \$400 (as in options one and two), as this is estimated to collect \$303 million of GST over the forecast period compared with \$278 million under a \$1,000 threshold (option three). The Crown would also forgo up to \$8.8 million in tariff duty under option three, and Customs and MPI would forgo at least \$48.9 million of departmental revenue over the forecast period if alternative funding arrangements are not put in place. A \$1,000 threshold may also reduce the incentive for importers to provide accurate information, potentially impacting on the effectiveness of border and biosecurity risk management.

Trade, competition and consumer choice issues

Some private submitters expressed concerns that consumers’ access to goods from offshore may be significantly reduced as a consequence of the proposals if they go ahead. These sentiments were echoed by Business NZ and KPMG, who while being broadly supportive of the proposals noted that there is a risk that implementation of the policy will affect consumer choice and trade. Business NZ warned against making the rules overly complicated, noting that a pragmatic and reasonable approach is needed to ensure the impacts on trade, competition and consumer choice are minimal. It was also pointed out there could be reciprocal problems for New Zealand exporters if New Zealand is perceived to be a country to avoid selling to.

Private submitters expressing concerns about possible adverse impacts on consumer choice tended to disagree with the analysis of the problem or expressed some reservations about it. In particular, these submitters pointed out that many goods that are being imported by consumers cannot be purchased from New Zealand retailers – or, where they can be purchased domestically, the price difference compared with an overseas supplier tends to be significantly more than 15%. Two submitters expressed particular concern in relation to

clothing and shoes in less common sizes that they could not easily source from domestic retailers and stated that they have little other choice than to purchase these goods from overseas suppliers.

A submission from an industry group representing three electronic marketplaces stated that the extraterritorial application of GST will create additional costs for overseas businesses which would serve as a barrier to trade. They considered this to be contrary to both New Zealand's advocacy for free trade and the spirit of various free trade agreements. They stated that the policy risks reciprocity by other governments on New Zealand exporters, which could stifle entrepreneurship and innovation and decrease exports.

As discussed below, a number of design features have been incorporated into option 3 (Customs' preferred option) and option 4 (Inland Revenue's preferred option) that are designed to minimise compliance costs for suppliers and electronic marketplaces, and as such are intended to minimise the risk of adverse trade and consumer impacts.

Electronic marketplaces

Under the rules proposed in the discussion document for electronic marketplaces, where a supply of low-value goods is made through an electronic marketplace, the operator of the electronic marketplace would be deemed to make the supply for GST purposes. The \$60,000 registration threshold would therefore apply to the marketplace operator's deemed supplies to New Zealand consumers, as well as any other taxable supplies the marketplace operator makes. Where the operator of the electronic marketplace is deemed to be the supplier, whether or not the actual supplier of the goods is above the \$60,000 registration threshold is irrelevant for determining whether or not GST applies to the supply.

The design and scope of the marketplace rules were commented on in many of the submissions received. A number of submissions noted that business models for marketplaces vary widely and as such, a simple extension of the existing rules for cross-border services and intangibles to marketplaces for goods may not be appropriate. Submissions noted that clarity, simplicity and flexibility would be crucial to ensuring the marketplace rules are workable. Discussions with stakeholders also indicated that clear and simple rules would be crucial to making the marketplace rules workable.

Submissions from electronic marketplaces were strongly opposed to the proposed offshore supplier registration system and in particular the proposed rules for electronic marketplaces. Submissions from electronic marketplaces raised the following objections:

- The proposed electronic marketplace rules are onerous for marketplaces to implement and are more complex than the rules requiring operators of electronic marketplaces for services and intangibles to collect GST.
- Complying with the rules will result in significant compliance costs for marketplaces and it is unfair for the New Zealand Government to impose these costs on marketplaces. These costs may either be passed on to their suppliers, increasing the risk of these suppliers choosing not to ship to New Zealand, or will at least be partly borne by consumers, therefore imposing additional costs on consumers over and above the amount of the tax.

- Marketplaces may not have and may be unable to obtain sufficient information to correctly determine the amount of GST payable.
- Marketplaces that do not process transactions between buyers and sellers on their platform may have difficulties in collecting the GST they are liable to remit.
- Requiring marketplaces to collect GST on supplies made by third party suppliers below the \$60,000 registration threshold would place these suppliers at a disadvantage, would be discriminatory, and would lead to market distortions.
- Compliant marketplaces will be at risk of third party sellers that are below the \$60,000 registration threshold switching to selling through small or non-compliant marketplaces or to selling on their own websites.
- Consumers will seek out small or non-compliant marketplaces or suppliers to avoid the tax, giving an unfair competitive advantage to suppliers and marketplaces that are not complying with the rules and disadvantaging the marketplaces and suppliers that would comply. This may result in decreased compliance with New Zealand regulations in relation to consumer protections and dangerous goods.
- Electronic marketplaces that are only caught by the electronic marketplace rules because they set some of the terms and conditions under which offshore sellers make sales on the marketplace would be able to easily structure out of being deemed to be the supplier of the goods by simply ensuring they do not set any of the terms and conditions of sale. This would reduce the level of compliance with New Zealand regulations in relation to consumer protection and prohibited or dangerous goods.

As noted in section 3.3, two exceptions to the deemed supplier approach (a Commissioner discretion and the rebuttable presumption model) were considered but ultimately ruled out. The proposed rules for electronic marketplaces are considered to be crucial to the success of the offshore supplier registration system. Without such rules, it is expected that thousands of suppliers that sell through marketplaces would be required to register for GST, meaning that aggregate compliance costs may be higher, compliance would likely be lower and enforcement more difficult. Narrowing the scope of the proposed rules is also unpalatable as the creation of a new boundary would be likely to create opportunities for electronic marketplaces to structure out of the rules, and may distort competition between electronic marketplaces.

While still hypothetically possible, these risks are considered to be less significant under the proposed rules. Given the current market dominance of the most prominent electronic marketplaces, the extent to which having electronic marketplaces collect GST on sales by suppliers below the registration threshold would give a competitive advantage to small or non-compliant marketplaces is not entirely clear. For instance, in an online shopping environment, consumers already have strong incentives to purchase from trusted websites. It is not clear that avoiding GST of 15% on a low-value purchase (which may still be significantly cheaper than a similar item sourced domestically) would provide enough incentive for many consumers to switch to shopping on websites that may not be as well-

known or reputable as the larger marketplaces, and therefore which may be less readily trusted by consumers.

It is also unclear whether the imposition of GST on what is likely to be only a small proportion of most suppliers' sales would be a large enough motivator for smaller suppliers to establish their own websites or switch to selling through a marketplace that would likely reach a smaller audience. If these suppliers consider that the revenue from these sales does not justify the costs to them associated with having the marketplace operator charge GST on their sales to New Zealand, a more likely possibility seems to be that these suppliers would simply stop shipping goods to New Zealand, rather than leave the electronic marketplace altogether (at least if they are selling through a global marketplace as opposed to a New Zealand-specific website). However, the extent to which this may eventuate is also unknown, given that the marketplace operator would be fulfilling the bulk of the GST compliance obligations for the supplier (although these compliance costs may be passed on to underlying suppliers).

Marketplace operators' concerns about being provided with incorrect or inadequate information to determine the GST treatment of supplies and any associated liabilities in respect of these supplies should be addressed by the Commissioner discretion to prescribe or agree to a method for determining the GST treatment of supplies. Concerns about bad debts risk for electronic marketplaces that do not actually collect the money from the consumer should also be addressed by the suggested bad debt deduction.

Low-value goods threshold

Several submitters commented on the \$400 threshold that was proposed in the discussion document *GST on low-value imported goods: An offshore supplier registration system*. Most of these submitters expressed a preference for a \$1,000 threshold, which was considered to reduce compliance costs for suppliers (since it is closer to Australia's low-value threshold of AU\$1,000 than \$400 is), as well as being better for consumers and for the freight and logistics industry.

In comparison, only two submitters expressed a strong preference for a \$400 threshold. It appears that this preference was based on concerns about a potential fiscal risk in relation to goods valued between \$400 and \$1,000, on which GST is (or should be) collected at present.

Inland Revenue officials consider that the overall compliance costs to offshore suppliers, marketplaces and re-deliverers associated with a \$1,000 threshold would be lower than the overall compliance costs to these businesses if a \$400 threshold is chosen. Implementing a low-value goods threshold of \$1,000 would also be more beneficial for New Zealand consumers compared with a \$400 threshold. However, Customs has concerns about the potential impacts of a \$1,000 threshold on the management of border risk.

Impacts on suppliers, electronic marketplaces and re-deliverers

While the vast majority of goods imported by consumers are of a very low value (consumer surveys and Customs import entry data show that the average value is less than \$100), a number of e-commerce businesses will also stock goods that may be more expensive, such as certain types of clothing, jewellery, watches and electronics, which some New Zealand

consumers may potentially import. The existence of a low-value goods threshold of any value therefore creates additional complexity for suppliers who supply goods both above and below the threshold, as their checkout systems would need to be set up to charge GST on goods individually valued at or below that threshold and not on those valued above that threshold. Also, because the threshold is defined in New Zealand dollars, the supplier's systems would also need to perform a currency conversion where the prices of the goods on their website are expressed in a foreign currency for the purposes of determining whether a given good is above or below the low-value goods threshold.

By increasing the proposed \$400 low-value goods threshold to \$1,000, the number of suppliers that may sell goods both above and below the threshold would be reduced. This would decrease the number of suppliers that would need to implement systems to differentiate between high and low-value goods and have differing GST treatments for high and low-value goods (since if they do not stock any goods valued above the threshold they will not need to distinguish and can simply add GST to all of their sales to New Zealand consumers without requiring complex foreign exchange conversions at the time of sale).

As Australia has a low-value threshold of AU\$1,000 under their equivalent rules, there would be some suppliers that are already registered in Australia that only supply goods below Australia's threshold. At present, these suppliers do not need to build systems to distinguish between low and high-value goods, as these suppliers can simply add GST to all of their supplies made to Australian consumers. However, some of these suppliers would sell goods both above and below \$400 – therefore if New Zealand sets a \$400 low-value goods threshold these suppliers would need to build additional systems to those already implemented for Australia in order to comply. This may be much less of an issue with a higher threshold that is much closer to Australia's threshold, such as \$1,000.

Impacts on consumers

Some submissions from consumers expressed support for removing cost recovery charges collected on consignments valued above the current *de minimis*. Increasing the proposed low-value goods threshold to \$1,000 would see the removal of cost recovery charges and tariffs from most goods imported by consumers. This would mean that consumers importing goods between \$400 and \$1,000 would actually pay less overall for these goods than they do at present. This would also ensure the overwhelming majority of consumers are no longer surprised or inconvenienced by having to pay additional GST, tariffs and cost recovery charges. Further, Customs would continue to collect cost recovery charges on consignments of goods that have had GST is collected at the point of sale by the supplier where the total consignment is valued above the threshold. A \$400 threshold may mean there would be more instances of consumers having to pay these cost recovery charges where they might have expected that they would not have to (as they had already paid GST).

Having offshore suppliers collect GST on a broader range of goods (in terms of value) would also provide greater price transparency for consumers, as offshore websites may be more likely to display a GST-inclusive price for all of their goods at the time of purchase. This would provide a fairer price comparison with New Zealand retailers who generally display GST-inclusive prices.

A \$1,000 threshold is also expected to be less distortionary than a \$400 threshold. Anecdotally, many consumers at present limit their online purchases to a maximum of \$400

to avoid having their goods stopped at the border. A \$1,000 threshold may mean that less consumers would limit their spending to avoid having goods stopped at the border or to avoid the collection of duties and cost recovery charges. On the other hand, a \$1,000 threshold may increase consumers' incentives to seek out and purchase from unregistered suppliers or to have items purchased and sent to New Zealand by friends and family overseas.

Double taxation

While the inclusion of the 5 percent rule in option two would be expected to help to reduce compliance costs for a number of suppliers associated with differentiating between low-value and high-value goods, one issue with combining this design option with a threshold of \$400 is that it would be likely to further increase the incidence of double taxation. Increasing the proposed threshold to \$1,000 however would greatly reduce the potential for double taxation to occur as much fewer consignments valued over \$1,000 are imported by consumers, compared with the number of consignments valued over \$400. Based on 2017/18 transactional banking data showing goods purchases by New Zealand consumers from offshore suppliers, there were 230,398 transactions between \$400 and \$1,000 and only 56,671 transactions between \$1,000 and \$2,000. Furthermore, the vast majority of consignments valued above \$1,000 would be imported by GST-registered businesses and would not be subject to the proposed rules.

Border and biosecurity risks

Importers are incentivised by Customs' penalty regime to ensure that accurate imported entry information is provided in relation to imported consignments on which revenue is collectable. The penalties for providing inaccurate information for consignments on which no revenue is assessable are however smaller, and therefore provide less incentive for importers to ensure the accuracy of this information; consequently, the quality of information provided in relation to these consignments tends to be poorer. Customs and MPI consider that setting the low-value goods threshold at \$1,000 may therefore reduce the incentive for importers to enter accurate information as there will be no requirement to pay revenue on consignments under \$1,000. As well as potentially impacting on the effectiveness of border and biosecurity risk management, poor quality information may also impact on the efficiency of border processes.

Customs considers that non-compliance in the valuation of goods to evade duty will continue to exist under a \$1,000 threshold. This may also increase costs to both agencies and slow down the clearance of goods at the border. Customs has a range of sanctions to encourage the provision of accurate information and will continue to work with customs brokers, fast freight carriers and New Zealand Post, but it will remain a challenge for both agencies to manage risks.

Impacts on goods transporters and customs brokers

Setting the low-value goods threshold at \$1,000 may be beneficial for fast freight carriers, customs brokers and New Zealand Post, with fewer goods stopped at the border for revenue collection. This would reduce the costs that New Zealand Post, fast freight carriers and

customs brokers currently incur in transporting consignments valued between \$400 and \$1,000. New Zealand Post noted in their submission that they currently incur a significant compliance cost burden in facilitating the collection of GST (and other charges) and holding goods in storage on behalf of Customs. New Zealand Post considered that having a \$1,000 threshold would therefore reduce their compliance costs.

It is also noted that the effects of inflation and the expected continuation of the rapid growth in import volumes experienced over the last few years (and in particular the growth in the volume of low-value goods imported by post) will further exacerbate the existing pressures on border processing of low-value imported goods over time, which may mean that maintaining a low-value goods threshold of \$400 may not be cost-effective in the medium term (at least not for New Zealand Post).

GST revenue

A risk with having a \$1,000 threshold is that it may put at risk the GST currently collected by the Crown on imported goods valued between \$400 and \$1,000. In 2017/18 approximately \$4.26 million of GST was collected by Customs on consignments imported by consumers valued under \$400, and \$22.40 million was collected on consignments valued between \$400 and \$1,000.¹⁴

While a \$1,000 threshold does put more currently collected GST at risk, Inland Revenue considers that most of this currently collected GST would continue to be collected under option three. A \$1,000 threshold may even have some benefits for GST revenue collection including:

- increasing the number of suppliers with a liability to register by increasing offshore suppliers' level of taxable supplies (as supplies of goods valued between \$400 and \$1,000 would also be taxable supplies);
- reducing the risk of GST not being collected on goods between \$400 and \$1,000 owing to undervaluation as, even if the supplier undervalued the goods, when the goods are supplied through a marketplace the marketplace will still collect the correct amount of GST; and
- reducing the reliance on New Zealand Post to identify when goods sent by post are above the *de minimis*.

Customs' and MPI's cost recovery charges

Setting the low-value goods threshold at \$400 would result in a reduction in Customs' and MPI's cost-recovered funding of \$2.92 million per year based on the amount collected in

¹⁴ We have assumed that 30% of consignments between the *de minimis* and \$400 and 44% of imported consignments between \$400 and \$1,000 are imported by GST-registered businesses. These estimates of the business share of imported goods are derived from Australian data, as we do not have any New Zealand data on this. It is possible that the business share of consignments between \$400 and \$1,000 is higher in New Zealand owing to New Zealand's lower *de minimis* (likely resulting in fewer consumers importing consignments above \$400). If New Zealand has a higher business share of consignments between \$400 and \$1,000 then the net amount of GST collected by Customs on consignments imported by consumers would be lower.

2017/18. Setting the low-value goods threshold at \$1,000 would result in Customs and MPI forgoing more cost-recovered funding.

In 2017/18 \$17.795 million (GST exclusive) was collected through Customs' Import Entry Transaction Fee (\$10.736 million) and MPI's Biosecurity System Entry Levy (\$7.059 million) on consignments below \$1,000. A low-value goods threshold of \$1,000 would therefore require a greater amount of Crown funding to replace the additional cost-recovered funding forgone.

Customs' and MPI's costs of processing goods are also expected to increase due to expected volume growth and ongoing resource impacts. Therefore, regardless of what threshold is chosen, or even if no action is taken, Crown funding for Customs and MPI is likely to need to be increased over time in response to increasing import volumes.

Tariff revenue

Changing from the current *de minimis* of \$60 duty owing to either a \$400 or \$1,000 low-value goods threshold will result in the loss of tariff revenue collected between the current *de minimis* and the low-value goods threshold. In 2017/18 \$0.58 million was collected in tariffs on consignments between the current *de minimis* and \$400 and \$3.23 million was collected in tariffs on consignments valued at or below \$1,000. These tariffs are mainly collected on clothing and footwear manufactured in certain countries.

MFAT does not consider that the loss of \$0.58 million in tariffs from having a \$400 threshold or of \$3.23 million from there being a \$1,000 threshold would significantly diminish the value of New Zealand's remaining tariffs as negotiating coin in current and future Free Trade Agreements. MBIE, the agency responsible for tariff policy, also does not consider the revenue collected from these tariffs to be significant and supports the removal of tariffs on consignments valued at or below \$1,000.

If the low-value goods threshold is set at \$1,000, the loss of tariff revenue on consignments valued between \$400 and \$1,000 may potentially be seen as unfair to New Zealand retailers. A retailer that imports a consignment valued above \$1,000 containing goods subject to tariffs will need to pay these tariffs to Customs. The tariffs paid by these businesses would ultimately be passed on to their customers. In contrast, if a consumer buys one of those goods directly from an offshore supplier they will not have to pay any tariffs if the good is shipped in a consignment valued at or below \$1,000.

Compared with setting the low-value goods threshold at \$400, setting it at \$1,000 does therefore further undermine the principle that taxpayers in similar situations carrying out similar transactions should be subject to similar levels of taxation, but only in relation to a small subset of transactions. This is not considered to be likely to be significant in its impact as New Zealand has few remaining tariffs (mainly on clothing and footwear) and our free trade agreements have eliminated these tariffs for many countries including China, Australia and the 10 ASEAN countries. If no action is taken, the amount collected from tariffs is likely to continue to reduce over time as a result of current and future free trade agreements. On balance Inland Revenue considers that this concern is outweighed by the efficiency benefits of setting the threshold at \$1,000 and relinquishing tariff duty on imported consignments valued at or below \$1,000.

New Zealand businesses importing low-value goods would also benefit from the removal of tariffs (and cost recovery charges) on consignments valued at or below \$1,000.

Net revenue impact

Table 1 below shows the estimated GST revenue net of forgone cost recovery charges over the forecast period (based on actual cost recovery collections on consignments under \$400 in 2017/18) under options one and two, based on the 1 October 2019 start date that was originally proposed. The figures in Table 1 have not been revised to take into account the change in the proposed application date and contingency funding for Vote Customs and Vote Biosecurity in Budget 2019 because at the time of revising this impact assessment, options one and two were no longer relevant, as Cabinet had already agreed to implement option three (CAB-19-MIN-0466.01 refers). For this reason, a revised estimate of the fiscal impact of options one and two was not produced.

Table 2 shows the estimated GST revenue over the forecast period under option three net of contingency funding in Budget 2019 for Vote Customs and Vote Biosecurity and assuming a 1 December 2019 application date.

Table 1: Net revenue over the forecast period of 2019/20 to 2021/22 (in \$m)

	\$m – increase/(decrease)			
\$400 threshold	2019/20 (1 October start)	2020/21	2021/22 & out years	Total
GST	73.000	109.000	121.000	303.000
Cost recovery charges	(2.190)	(2.920)	(2.920)	(8.030)
GST net of cost recovery charges	70.810	106.080	118.080	294.970

Table 2: Net revenue over the forecast period of 2019/20 to 2021/22 (in \$m)

	\$m – increase/(decrease)			
\$1,000 threshold	2019/20 (1 December start)	2020/21	2021/22 & out years	Total
GST	52.000	100.000	112.000	264.000
Expenditure	(13.879)	(25.562)	(25.596)	(65.037)
Net fiscal impact	38.121	74.438	86.404	198.963

The tables above do not account for any tariff revenue forgone under options one, two and three. This is because tariff revenue is decreasing over time owing to the phased implementation of New Zealand’s current and future free trade agreements, resulting in an annual reduction in the amount of goods that are subject to tariffs. In the 2017/18 year the amount collected in tariffs on consignments under \$400 was \$0.58 million and the amount collected under \$1,000 was \$3.23 million.

Proposed exclusion for business-to-business supplies

Under the proposed rules, only supplies of low-value imported goods to New Zealand consumers would be subject to GST. Supplies of low-value imported goods to GST-registered businesses would not be subject to GST. The rationale for excluding business-to-business supplies from the rules is to prevent a revenue risk arising from a resident business claiming a GST deduction for GST charged to them by an offshore supplier, but the offshore supplier not returning this GST to Inland Revenue.

Three submissions proposed allowing suppliers to charge GST on business-to-business supplies of low-value imported goods. Submitters noted that identifying a customer as a GST-registered business can be difficult for suppliers to do, and that compliance costs arise for both the offshore supplier and the New Zealand business when GST is incorrectly charged. Furthermore, some submitters noted that the revenue risk from allowing suppliers to charge GST on business-to-business supplies of low-value imported goods may be relatively low.

CA ANZ however was supportive of the proposed exclusion of business-to-business supplies. They noted that the exclusion of business-to-business supplies would mean some suppliers are outside the regime entirely because they only supply to businesses, which they agreed is desirable. They also considered that the exclusion would provide GST-registered recipients with an incentive to notify the supplier of their GST-registered status, which they considered would likely be easier than obtaining a valid tax invoice from the supplier.

As noted in section 3.3, allowing offshore suppliers to charge GST on high-value business-to-business supplies was ruled out due to the fiscal risks involved. However, officials consider that the proposed design options under options two and three (of allowing offshore suppliers to issue tax invoices in respect of business-to-business supplies of low-value imported goods where the value of such a supply does not exceed \$1,000, and allowing suppliers to agree with the Commissioner of Inland Revenue on an alternative method for determining whether a supply is to a GST-registered persons) should help to reduce compliance costs for suppliers in distinguishing between supplies to consumers and to GST-registered businesses. Allowing suppliers to charge GST and issue tax invoices in respect of business-to-business supplies valued at or below \$1,000 may mean that suppliers would be rarely required to distinguish in practice.

Compliance and enforcement

A number of submitters were concerned whether the proposed rules could be effectively enforced. The submission from the electronic marketplace industry group suggested that the proposed system would result in only 25 percent of the currently forgone GST being collected, based on the Australian Treasury's forecasted collection rate for the first year of the Australian legislation. Several submitters stated that where suppliers refuse to comply, it will be difficult and costly for Inland Revenue to enforce compliance from these suppliers.

Concern was also raised in some submissions that offshore suppliers would avoid collecting GST by splitting their business into multiple entities in order to get below the \$60,000 registration threshold.

Based on the available evidence, officials consider that a relatively small number of suppliers and electronic marketplaces are likely to account for the majority of low-value goods imported by consumers. Retail banking data supplied by Datamine shows that 10 entities account for approximately 25 percent of the amount that consumers spent in 2017/18 on goods valued below \$400 from offshore suppliers. Recent research by the International Post Corporation suggests that the five biggest electronic marketplaces account for around 50 percent of goods imported into New Zealand. On this basis, officials consider it is not unreasonable to assume that 75 percent of the GST that would be returned if all liable entities registered and complied will actually be collected (which is the assumption that was used in coming up with the revenue estimates).

Application date

A number of submissions on the Government discussion document commented on the application date of 1 October 2019 proposed in the document. Retail NZ and Booksellers NZ both expressed support for the earliest possible implementation date.

In an earlier version of this Impact Statement published online when the Taxation (Annual Rates for 2019–20, GST Offshore Supplier Registration, and Remedial Matters) Bill was introduced, officials considered a 1 October 2019 implementation date to be feasible. However, it was noted that any delays to the introduction or passing of legislation, or major changes to the legislation between introduction and the Royal assent would necessitate reconsideration of the implementation date.

Submissions on the Bill expressed concern about the proposed application date of 1 October 2019, noting that this leaves little time between the likely enactment date of the Bill and the start of the new rules. Submitters considered that offshore suppliers cannot be expected to invest in making information technology systems changes until the law is enacted, as the proposed rules are not finalised and may yet be subject to change.

They have also noted that there may not be enough time after the rules are finalised for offshore suppliers to register for New Zealand GST and make the systems changes necessary to collect GST on low-value goods supplied to New Zealand consumers by 1 October 2019.

Submissions from electronic marketplaces noted the technical challenges for large electronic marketplaces that service a global customer base, which mean the required systems changes will need to be carefully planned and tested to ensure they do not create errors that interfere with other parts of their systems. A joint submission from Alibaba and eBay noted the risk that electronic marketplaces and suppliers (that do intend to comply with the proposed legislation) may be left with little choice other than to temporarily cease shipping goods to New Zealand from 1 October until the required systems changes are ready.

Several submitters (including Alibaba and eBay) specifically suggested 1 April 2020 as a more realistic application date. Amazon recommended an extension of 6-12 months to the proposed 1 October 2019 application date, which suggests a preferred implementation date of 1 April 2020 at the earliest.

On the basis of the submissions received, and comments relayed to officials, it appears that an application date of 1 April 2020 should allow enough time for the affected businesses to make the required systems changes. However, this reduced risk of suppliers being non-compliant or ceasing to ship goods to New Zealand is estimated to come at a significant fiscal cost (\$32 million overall in the 2019/20 fiscal year).

It is unclear whether the proposed extension to 1 December 2019 will provide adequate time for suppliers and marketplaces to comply. However, it should at least reduce the risks of having lower than expected compliance at the outset of the rules and of suppliers ceasing to ship goods to New Zealand, compared with an application date of 1 October 2019. It also has a much lower fiscal cost than a delay to 1 April (\$31.856 million in the 2019/20 fiscal year).

5.2 Summary table of costs and benefits of the preferred approach

Affected parties	Comment:	Impact	Evidence certainty
------------------	----------	--------	--------------------

Additional costs of proposed approach, compared to taking no action

Regulated parties	The costs to offshore suppliers would include registering for GST (one-off), altering business systems to account for GST on goods sold to New Zealand consumers (one-off), and returns filing and paying the GST collected to Inland Revenue (ongoing).	Potentially high upfront systems and medium ongoing compliance costs for offshore businesses above the \$60,000 registration threshold.	Low
Regulators	The implementation costs to Inland Revenue are estimated to be up to \$460,000, with ongoing administration costs estimated to be approximately \$120,000 in the first year and \$70,000 per annum thereafter. This includes the costs to change the current registration form for suppliers of cross-border services to accommodate offshore suppliers of low-value goods and other minor systems changes. It also allows for an increase in the volume of work for staff currently processing registrations.	Up to \$0.7m over the forecast period (not discounted) ¹⁵ .	High
Wider government	The government would forgo tariff revenue collected on low-value	Approximately \$3.2m/yr (based on	High

¹⁵ Monetised costs and benefits in this table have not been discounted, since for revenue measures the undiscounted figures (as opposed to net present value figures) make more intuitive sense and are the figures that are included in Budget estimates.

	goods and Crown funding would be required for border fees forgone by the Ministry for Primary Industries and Customs.	the 2017/18 year, not discounted) and likely to decrease in coming years as a result of the phased implementation of existing free trade agreements and new free trade agreements. \$8.8m over the forecast period (not discounted), assuming the amount of tariffs collected each year would remain the same if no action is taken. \$65m in Crown replacement funding for Vote Customs and Vote Biosecurity over the forecast period (not discounted)	
Other parties	Consumers would likely pay more for imported goods that are currently below the <i>de minimis</i> . The availability of some goods from overseas may also decrease. The potential reduced competition on the domestic retail industry may reduce the efficiency of the domestic retail market.	\$264m of additional GST imposed on NZ consumers over the forecast period (not discounted).	Medium
Total Monetised Cost		Up to \$338.5m over the forecast period (not discounted).	Medium
Non-monetised costs		Medium	Low/Medium

Expected benefits of proposed approach, compared to taking no action			
Regulated parties	N/A	N/A	
Regulators	May be minor administrative cost savings for Customs. However, possible increased border and	Unable to estimate.	Low

	biosecurity risks may increase administrations costs for Customs and MPI.		
Wider government	Additional GST revenue collected on low-value imported goods.	\$264m over the forecast period (not discounted).	Medium
Other parties	<p>Some consumers and businesses would pay less overall for a good because of the proposed removal of tariff duty and cost recovery charges from imported consignments valued at or below \$1,000.</p> <p>Possible reduction in delivery delays in some cases and increased simplicity and certainty for consumers regarding the total cost to them of their imported low-value goods.</p> <p>Reduction in costs for fast freight carriers associated with no longer collecting GST and other duties on goods between the current <i>de minimis</i> and \$1,000.</p> <p>Reduction in costs to New Zealand Post associated with holding goods for revenue collection.</p> <p>Increased competitive neutrality between domestic retailers and offshore suppliers.</p>	<p>\$73.8m over the forecast period (not discounted).</p> <p>Medium</p>	<p>High</p> <p>Low</p>
Total Monetised Benefit		\$337.8m over the forecast period (not discounted).	Medium
Non-monetised benefits		Medium	Low

5.3 What other impacts is this approach likely to have?

Other impacts: GST would be collected on goods from offshore suppliers that are below the \$60,000 registration threshold where the sale is made through a GST-registered electronic marketplace. From a revenue standpoint, this may be seen as an advantage, as it is expected that a significant amount of revenue would be collected on sales by offshore suppliers below the registration threshold through electronic marketplaces. Given the rationale of having a registration threshold is to balance compliance and administration costs against the revenue that would be generated if the supplier registered for GST, collecting GST on these supplies may be justified on the basis that the rationale behind the registration threshold is not as relevant, given that the marketplace operator would bear the bulk of the compliance costs. However, this may give rise to concerns about competitive disadvantages for marketplace operators and smaller offshore businesses selling through these marketplaces.

Potential risks and uncertainties: If the compliance costs are disproportionately high or are perceived by the relevant collection entities to be too high, there is a risk that some non-resident suppliers or operators of electronic marketplaces may not comply with the rules or may not continue to offer shipping of goods to New Zealand. This risk is thought to be more significant for smaller suppliers that make supplies to New Zealand consumers near or above the \$60,000 registration threshold.¹⁶

5.4 Is the preferred option compatible with the Government's 'Expectations for the design of regulatory systems'?

The proposed approach is not incompatible with the Government's 'Expectations for the design of regulatory systems'.

¹⁶ It is assumed that non-resident suppliers with annual sales to New Zealand consumers in excess of \$60,000 would predominantly be large (or at least medium) entities, given that the \$60,000 registration threshold applies to their supplies to New Zealand consumers rather than their worldwide sales, and that in most cases their sales to New Zealanders would be a small proportion of their total worldwide sales. However, it is likely that there would be some smaller suppliers that would nevertheless have sales to New Zealand consumers in excess of \$60,000.

Section 6: Implementation and operation

6.1 How will the new arrangements work in practice?

The proposal will require amendments to the Goods and Services Tax Act 1985. These amendments are currently being drafted and will be included in an upcoming tax bill. The proposal will also require amendments to some Customs regulations. These regulations will be updated by Order in Council.

Both Inland Revenue and Customs will be responsible for the ongoing operation and enforcement of the new arrangements.

Inland Revenue and Customs have not identified any concerns with their ability to implement the proposals in a manner consistent with the Government's 'Expectations for regulatory stewardship by government agencies'.

Ministers' preference is that the proposed changes come into effect on 1 December 2019. Inland Revenue and Customs are confident that the proposals can be implemented within this proposed timeline. Inland Revenue has estimated that the one-off costs to implement these proposals will be up to \$460,000. Inland Revenue's ongoing administration costs are estimated to be approximately \$120,000 in the first year and \$70,000 per annum thereafter. Inland Revenue will self-fund the costs associated with the initiative. Customs expects the costs of systems changes for implementation at 1 December 2019 will be minimal in the short term. These costs will be met within existing baselines.

Marketplaces and private sector tax advisors and the fast freight industry, customs brokers and New Zealand Post have suggested 1 April 2020 as a "more reasonable" application date. However, many of the overseas suppliers and marketplaces would have had 17 months of experience complying with Australia's substantially similar rules and, as such, the systems changes themselves may not be that extensive – although it appears there will be substantial planning and testing of changes required, in addition to potential changes to pricing and contracts or arrangements with third parties.

6.2 What are the implementation risks?

The primary issue concerning implementation that has been raised through consultation is whether the 1 October 2019 application date proposed in the Bill gives offshore suppliers, marketplaces and re-deliverers enough time to make the necessary systems changes in order to comply, as well as for the fast freight industry, customs brokers and New Zealand Post to make the required systems changes in relation to border clearance and information required to be provided to Customs. To help mitigate this risk, Ministers propose extending the application date to 1 December 2019.

Another implementation risk is that offshore suppliers, marketplaces and re-deliverers may not be aware of the new rules. To address this risk, Inland Revenue will need to identify and communicate the legislative change to offshore suppliers, marketplaces and re-deliverers who might be required to register in New Zealand. A targeted marketing campaign would be needed to reach all the affected offshore suppliers and aid with compliance.

Section 7: Monitoring, evaluation and review

7.1 How will the impact of the new arrangements be monitored?

Inland Revenue will monitor the outcomes pursuant to the Generic Tax Policy Process ("GTTP") to confirm that they match the policy objectives. The GTTP is a multi-stage policy process that has been used to design tax policy in New Zealand since 1995.

Customs and MPI will monitor the impact on the management of border and biosecurity risks.

If the preferred option is implemented and compliance with the new regime is lower than expected after 12 months of its implementation, Inland Revenue will explore options for increasing compliance. This could include joint compliance initiatives with other jurisdictions that have similar rules, including possible data matching programmes with other jurisdictions and Customs.

Officials will monitor the extent to which offshore businesses no longer ship goods to New Zealand by keeping a close watch over articles in the media. Talking with private sector advisors and re-deliverers may also provide some indication of the extent to which this occurs.

7.2 When and how will the new arrangements be reviewed?

The final step in the GTTP is the implementation and review stage, which involves post-implementation review of legislation, and the identification of remedial issues. Officials from Inland Revenue and Customs will undertake a post-implementation review of the level of the threshold three years after the new rules are implemented. Officials will also continue to monitor the future viability of other collection models to see if the practical issues with these models can be overcome.

Any necessary changes identified as a result of the review would be recommended for addition to the Government's tax policy work programme.