

Corporate Transparency and Register Reform Proposals



Some background

The ability of businesses and other establishments to operate through a legal entity separate to its owners and directors, and particularly to do so within the protection of limited liability, underpins almost all commercial enterprises as well as many not-for-profit organisations. One of the flip sides to that privilege, is the responsibility to make certain information available on the public companies register. Last year, BEIS published a lengthy consultation paper on various proposals to improve the accuracy and usefulness of information registered by Companies House and to enhance the powers which Companies House has to share that information with, for example, law enforcement agencies.

That information is relied upon by many third parties, such as suppliers and banks, to give them confidence about the company they are dealing with as well as to provide them with official contact details to use when serving notice, for example. So it is easy to see why the accuracy of the information on the register needs to be as high as possible. However, until now, information filed at Companies House has generally been taken at face value and accepted without query. It is generally not the role of Companies House to query information filed in error or which is deliberately misleading, and nor does its remit extend to identifying or reporting instances of criminal behaviour.

The purpose of the BEIS consultation and of the response now published, is to explore how the accuracy of the register can be improved and how wrong-doing can be detected and shared with appropriate agencies. The Government

response is 97 pages long. On the assumption that many people will not wish to read the whole thing, we have outlined below the issues which we think will be of most interest to those involved with maintaining these company records including company secretaries and governance professionals, legal advisers, accountants and, of course, directors.

You can read the Government's full response [here](#).

The key proposals

Central to the proposals is the concept of verifying the identities of those whose details are recorded on the register either as directors or persons with significant control (PSCs) as well as IDs of those who might file information on their behalf. The latter can be external third party agents, who under anti-money laundering (AML) regulations will already be required to be supervised and to carry out identity checks on their customers, or other individuals called presenters. The Government has confirmed that it will introduce a system whereby those directors, PSCs and presenters will need to verify their identity with Companies House and set up an account with them through which all filings relevant to them will need to be processed. The proposals address the current inequitable situation whereby those companies completing their filings through UK third party agents have their IDs verified under AML rules whereas those filing direct or through non-UK agents are not subject to those checks.

Where a third party agent is used, AML checks will still need to be carried out but the response assures us that they will not then need to be replicated when setting up a new account at Companies House for an individual. This is good news in that it offers the promise that duplication of effort will be kept to a minimum. It is also positive that proposals to check the IDs of all shareholders have been dropped, that directors' occupation information will no longer be collected and that other information including pre-2015 day of birth, signatures and residential addresses used for a registered office will be capable of being suppressed. For individuals who have changed gender, they will be able to replace records of their previously-used name.

The new arrangements could, however, in certain circumstances, create delays in the appointment of directors (whose appointment will not be effective until verified and registered at Companies House in contrast to the current system whereby registration follows appointment) and cause difficult practical compliance issues in terms of requiring PSCs (which are often entirely external parties) to verify their ID - such verification will be the PSC's obligation but the company could potentially be sanctioned.

To further improve accuracy of the register, the Registrar is to be given new powers to reject filings which are believed to be incorrect, including historical filings, with the onus placed on the company to prove their validity. Third party agents will be placed under an obligation to report anomalies in the records

although it is unclear exactly how far that responsibility will extend or will work in practice. The Registrar will also be given new powers to reject company names and to share information with other bodies for law enforcement purposes.

Not all the ideas included in the consultation have been accepted, and it is something of a relief that the cap on directorships (which would have posed practical difficulties for many large groups of companies, for example) and the requirement to provide evidence of the right to use a registered office address (which would have been administratively burdensome) have been rejected. In addition, reforms to accounts filing requirements have not been concluded and will be the subject of a further consultation.

Looking forward

There remain some areas of concern, not least of which is how practical the arrangements will be for verifying the IDs of existing directors and PSCs. A significant transition period is likely to be necessary in order to carry out this work and those of us who still feel somewhat scarred by the introduction of other such changes without much in the way of notice of the fully-clarified requirements (think PSC regime or MAR for example) may feel slightly sceptical about this. Those fears are not allayed by the short timescales set out in the plans nor by the many examples of historical public sector failings with regards to implementation of significant IT system changes.

That said, Companies House generally has a good record when it comes to systems implementation and is streets ahead of registries in many other jurisdictions in terms of ease and speed of use and on-line access. But these are significant developments, changing the very nature of Companies House from a simple repository and provider of information to an organisation with a vastly increased remit. They will increase the burden on the law-abiding majority but in so doing will hopefully make it more difficult for those who use the system to pursue their own criminal ends and thereby bring benefits to the whole of the business community and wider society.

Need help keeping up to date?

As independent specialists in corporate governance, we provide expert support to understand and implement regulatory developments. If you are looking for an independent assessment of how new reporting and governance requirements affect your organisation, please get in touch:

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