

CORPORATE TRANSPARENCY AND REGISTER REFORM

Consultation on options to enhance the role of Companies House and increase the transparency of UK corporate entities

A public consultation issued by the Department for Business, Energy & Industrial Strategy

Comments from ACCA to BEIS
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Further information about ACCA's comments on the matters discussed here can be requested from:

Jason Piper
Policy Lead, Tax and Business Law
jason.piper@accaglobal.com
+ 44 (0) 207 059 5826

ACCA



+44 (0)20 7059 5000



info@accaglobal.com



www.accaglobal.com



The Adelphi 1/11 John Adam Street London WC2N 6AU United Kingdom

SUMMARY

ACCA welcomes the invitation to contribute to this public consultation on the reform of Companies House administration and legislation. The early stage nature of the consultation, and commitment to engage with all interested parties throughout an iterative process is particularly welcome, as is the recognition that revising the processing of information is as important as revising the legal framework surrounding it. A timely and coordinated programme of reform, along with a commitment to full and effective resourcing, offers the best hope for long term improvement in meeting the goals set out by BEIS.

It is equally important that the measures are efficient and proportionate. The imposition of undue time and financial costs on businesses or their advisers will compromise the attractiveness of the UK as a competitive jurisdiction. Understanding the cost and administrative implications of the proposals is an essential step in developing an appropriate and sustainable suite of measures.

The creation of Companies House came just 18 years after tally sticks had been abandoned as tax record keeping technology, and while the processes and structures implemented were state of the art at that time, business and society have developed significantly since then. In particular, the status of Companies House as a repository of unverified filings rather than a central records registry is increasingly out of step with equivalent institutions in other countries, and the opportunity to put users in a position where they can rely upon information supplied to Companies House should be grasped.

The holding of information in a digital format is the first step towards realising the benefits offered by modern technology, but it is essential that the information itself is trustworthy. The use of tools such as artificial intelligence, robotic process automation, machine learning and data analytics could transform the usefulness of Companies House records¹, but only if the underlying information is accurate and consistent. Implementing reforms to ensure the quality and consistency of the data which is to be mined by automatic tools is a prerequisite for driving value out of their use. The use of Distributed Ledger Technology should be investigated, but in many cases, given the confidential nature of information held, a conventional central database may for the time being represent a more appropriate and cost effective route for public facing data, with private blockchain reserved for inter-register cooperation with overseas authorities.

It is important to remember though that however much the mechanisms of business have changed, the most fundamental element, human nature, has not. There is a human mind behind every corporate structure, and the wealth created by those structures is of no value until it finds its way to an individual. Linking the legal structures to the named individuals who control or benefit from them is the crux of accountability,

¹ See Section 2 of the report Audit and Technology for a brief description of each technology and illustrations of their potential uses <https://www.accaglobal.com/uk/en/professional-insights/technology/audit-and-tech.html>

and the proposals to strengthen officials' powers to ensure that those links are transparent is a very welcome step forward.

It is important to note also the relevance of international considerations. The historic attractiveness of the UK to listed entities is well known, but in the context of concerns about administrative burdens it is perhaps more helpful to consider smaller businesses. The 2016 Study on the Law Applicable to Companies estimated that there are between 150-250,000 private companies incorporated in the UK² whose ownership and control resides entirely in non-UK nationals, and for whom changes to the operation of the registers may have a particular impact. That study also notes that the UK is by far the most popular destination for EU nationals to incorporate if doing so outside their home state, with over 50% of all non-home-state registrations for the EU being in the UK. While the precise future status of such businesses remains unclear at this stage in the consultation, ensuring that mechanisms are available to easily accommodate revisions to their operations (or indeed continued existence) should be an important consideration.

However welcome it is that a clear direction of travel has been set for the future of Companies House, to ensure that it offers an improved service in every way, it is vital that this goal is set in the proper context. Recent research has indicated a decline in the UK's growth potential³ relative to international competitors, and the attractiveness of the UK as a destination for international investment will rest at least in part on the operations of Companies House.

But it is no longer enough to simply be better than we were, or even just better than other countries; there is a new competitor, especially for start-ups and small businesses, in the form of cyberspace. Although advisers may see limited liability as one of the most important aspects of incorporating, not every entrepreneur will consider it as a factor influencing their choice of form. The other perceived advantage of corporates, access to funding, is potentially subject to challenge from online platform based funding models, which have no need of an incorporated body.

The relative attractiveness of a registered entity may be compromised if entrepreneurs can effectively engage customers, deal with suppliers and access funding without the need for a limited liability company. Companies House need to ensure that their new systems are not only light touch for entrepreneurs, but also offer clear advantages over the alternatives. The great challenge for Companies House is that the advantages of technology must be embraced and used not simply to enforce compliance but also to streamline and enhance the operation of a registered, recognised legal form which offers protections and advantages not just for the owners but also for other stakeholders.

² Mucciarelli, Federico and Gerner-Beuerle, Carsten and Mathias, Siems and Edmund-Philipp, Schuster (2016) Study on the law applicable to companies. Brussels: European Commission
<https://publications.europa.eu/en/publication-detail/-/publication/259a1dae-1a8c-11e7-808e-01aa75ed71a1> Table 3 at page 43

³ <https://home.kpmg/uk/en/home/media/press-releases/2019/07/infrastructure-gap-to-hinder-uk-s-growth-potential.html>

As part of this we would welcome further use of the Companies House platform to act as the recognised destination for all company information, such as late payment information⁴. There would not necessarily be a need for Companies House to verify or host information, but simply to build on its position as the recognised point of contact for official corporate information and filings, whether coming from domestic or international stakeholders. This could extend to using Companies House as the single point of filing for statutory accounts, with other government agencies (in particular HMRC) referencing the single filed copy, rather than relying on the company to file the same details with both bodies.

⁴ In a survey of ACCAs network it was found that the most common (58%) method of checking a potential customer's payment practices was via Companies House. Other platforms could be used but in the same survey a large proportion weren't aware of the existence of Duty to Report (74%) or the Small Business Commissioner (54%).

AREAS FOR SPECIFIC COMMENT:

The case for verifying identities

Q1 Do you agree with the general premise that Companies House should have the ability to check the identity of individuals on the register? Please explain your reasons.

Yes. There is a human mind behind every corporate structure, and the wealth created by those structures is of no value until it finds its way to an individual. Linking the legal structures to the named individuals who control or benefit from them is the crux of accountability.

The majority of those presenting information have an interest in it being accurate, and the imposition of positive checks at the point of registration would be a proportionate step. The 5% of PSC information which we are told is inaccurate could mean that up to 1 in 20 registrants have an interest in mis-informing Companies House, which is not in itself a comforting statistic. Any means to reduce that level of inaccuracy should be explored, and should be welcomed by the 95% as well as other users of Companies House information.

Q2 Are you aware of any other pros or cons government will need to consider in introducing identity verification?

The process will need to match up the details supplied to a known identity; there is another layer of security around confirming the actual identity to be genuine. This will be more easily achieved for domestic identities than some overseas individuals, but it is frequently identities from outside the UK which are used in criminal activity. Consideration should be given to enhanced verification procedures for directors based outside the UK.

This global aspect to the system will make it harder to design so as to be easy to use while remaining effective. However, the potential upsides are enormous. The use of tools such as artificial intelligence, robotic process automation, machine learning and data analytics could transform the usefulness of Companies House records to both law enforcement and credit institutions worldwide. There would be scope in the medium to long term for automated scanning of applications to identify possible red flags and trigger enhanced due diligence processes or warning mechanisms for AML/CTF risks or other law enforcement purposes.

The possible increased costs of initial set-up as a result of enhanced verification procedures should be set both in the context of overall setup costs, and also the long term costs and benefits of assuming corporate form. Considerable weight is often given to “ease of start-up” in global surveys, but while aspiring entrepreneurs may rate initial registration costs as one of the most important factors influencing their choice of business form, professional advisers with experience of running their own businesses are typically more concerned by the ongoing running costs of the

business⁵. In an international context, the relatively low capital requirements and current start-up costs of the UK regime may also be taken into account. There is scope to increase costs by a modest amount without significantly affecting the attractiveness of the UK as a destination for international investment, especially if the increased costs are linked to enhanced regulatory effectiveness. At the upper end of the range there is likely to be a psychological barrier to costs in excess of £100, which should therefore be avoided, but it is to be hoped that it should in any event be feasible in the long term to support enhanced verification at a cost level below that.

Companies House may need to also give consideration to mechanisms for authorisation as well as verification, for those who are making repeated submissions to the register. It would be helpful to users of this and other government services if the confirmation of identity could be aligned to other government services, in particular for advisers who make frequent submissions to the register as well as to other government agencies.

Q3 Are there other options the government should consider to provide greater certainty over who is setting up, managing and controlling corporate entities?

One option frequently proposed for identification of corporate entities is a bank account, which would shift the burden of verification onto the banks' KYC processes. However, displacing the risk does not necessarily mitigate it, and reliance upon third party processes could be seen as diluting the integrity of the public register.

Moreover there are plenty of examples where a company will not need a bank account at all, such as "name protection dormants" and vehicles incorporated to hold a non-income earning asset such as a real estate ransom strip. Even active entities, such as intermediate holding companies and group service companies, may be able to operate entirely on intercompany balances, with any third party cash transactions settled on their behalf by another group member.

These examples will mostly arise in corporate group situations where there are other checks available, but since the requirement to verify individual directors/PSCs would work equally well in the first instance for such entities, and remove the need for parallel legislative provisions for authentication.

Given the longevity of company law provisions, the future-proofing of requirements should also be taken into account. Access to a conventional bank account is a requirement for pretty much every conventional business, albeit not necessarily every corporate entity within a group structure. However, developments in the use and utility of cryptocurrencies seem likely to create opportunities for legitimate businesses to operate entirely without the use of a conventional currency bank account. Effectively barring such businesses from using registered business forms in the UK would not be a helpful step.

⁵ <https://www.accaglobal.com/gb/en/professional-insights/global-profession/Business-Forms-Building-the-legal-framework.html> Figure 3 at page 8 of the report

How identity verification might work in practice

Q4 Do you agree that the preferred option should be to verify identities digitally, using a leading technological solution? Please give reasons.

Yes, but there must be mechanisms for individuals who cannot or will not use that form of technology, in order to ensure both accessibility and compliance with human rights legislation.⁶

The legal framework should be designed so as to allow some flexibility in changing platforms as better technology becomes available and widely accessible.

Q5 Are there any other issues the government should take into account to ensure the verification process can be easily accessed by all potential users?

The challenge, as always, is getting the balance right. Some people will not be able to engage digitally, and should not be disenfranchised. Others will wish to fully adopt. What all would aim for is to ensure that the verification process works and is robust and this is where appropriate testing with users is required. Some compromise may be inevitable given that the mechanism which provides essential functionality for non-digital users has the potential to introduce scope for criminals to continue to exploit known weaknesses in conventional processes. Every effort must be made to explore all aspects of the process and its impact on users so as to minimise the compliance burden on users while still protecting the integrity of the register.

A parallel situation has arisen with the implementation of the government's Making Tax Digital initiative, the success of which depends to a large extent on the use of integrated accounting software packages. However, by not understanding the marketplace compromises were introduced at late stages which impacted the policy, providers and businesses.

Q6 Do you agree that the focus should be on direct incorporations and filings if we can be confident that third party agents are undertaking customer due diligence checks? Please give reasons.

Yes. Thought should also be given to developing a model where there is an incentive to become a registered 3rd party agent rather than mere "presenter" and to actively signposting high risk groups to the use of such agents.

⁶ See for example the case of <http://www2.bailii.org/uk/cases/UKFTT/TC/2013/TC02913.html>

Q7 Do you agree that third party agents should provide evidence to Companies House that they have undertaken customer due diligence checks on individuals? Please give reasons.

Yes. It should be made clear to individuals that the same information will be required whether they incorporate directly or through an agent in order to manage their expectations. The use of automated risk profiling and analysis tools should nevertheless present an opportunity for agents to offer a benefit to applicants by “pre-checking” information, so that any issues or inconsistencies are identified and resolved before submission, reducing the risk of delays and adverse profiling for the individual. Companies House should be sufficiently resourced to investigate situations where there are concerns about the robustness of an agent’s procedures.

Care should be taken in the design of any liability mechanisms where information subsequently turns out not to have been reliable. While there should be some disincentive for negligent or careless work, the burdens and risks transferred to agents should not be too great or else the economic viability of their services may be compromised.

Q8 Do you agree that more information on third party agents filing on behalf of companies should be collected? What should be collected?

The role of email addresses in verification should be considered carefully. Email is not currently a mature enough part of corporate communications to be a fundamental feature of verification. The existing postal infrastructure is understood by business and regulators alike. Mechanisms exist to confirm postal addresses, and for more or less rapid and secure means of delivery. Minor errors in addressee details are generally easily resolved, and where an individual moves on without a change of details being supplied to correspondents their successor will typically deal with any post addressed to them, even if only by returning to sender.

Similar robust conventions have yet to be established for email, so it is not necessarily suitable as a channel for secure and reliable communication of confidential and/or business critical information. The transience and fragility of email communications compared with physical post mean that only those who are prepared to invest time and effort in setting up secure systems and protocols, and maintaining them, should be trusted to use email for business critical communications.

If business is willing to communicate with Companies House by email then this should of course be encouraged subject to the necessary security precautions being taken.

In addition to contact details (which could be shared with law enforcement, though not necessarily made public) if agents are to be trusted with performing due diligence on the applicant then the quid pro quo for this should be details of the regulatory body which supervises their activities.

Q9 What information about third party agents should be available on the register?

Provided that Companies House are satisfied that the agent is legitimate and regulated there should be no need to share any more than the most basic contact details. There may be a legitimate interest in researchers understanding which companies are represented by the same agent in order to establish possible connections, although there is also a risk that if one client company is (unknown to the agent) engaged in criminal activity then this could adversely affect the reputation not only of the agent but also of its other clients. The risk of this at Companies House level would in time be reduced by the use of technology tools which are able to analyse the clients' profiles in order to establish how widespread any issues may be with the agent.

Who identity verification would apply to and when

Q10 Do you agree that government should (i) mandate ID verification for directors and (ii) require that verification takes place before a person can validly be appointed as a director? Please set out your reasons

Yes. The legal rights and responsibilities of directors drive a need for effective identification. "Day-to-day running" is as often going to be the preserve of employed managers; it is the fact that the Directors are responsible to the owners and other stakeholders for the conduct of those managers which is important. Assumption of those rights and responsibilities should not be undertaken lightly, and as part of the verification process it may be appropriate to introduce reminders/education about the legal position, especially for individual applicants. This should already happen as a matter of course where an agent is appointed, and in many cases the agent relationship will continue beyond formation ensuring that continued compliance with the obligations of the office is achieved. As noted above, there may be advantages for applicants also in the assurance that their application will be administratively adequate following agent checks.

Q11. How can verification of People with Significant Control be best achieved, and what would be the appropriate sanction for non-compliance?

While it would ultimately be logical to subject PSCs to the same identification requirements as Directors, in the short term it may be more proportionate for full verification to be voluntary but strongly encouraged, with flagging on the register for unverified PSCs as an incentive to complete the full process.

It is essential if the PSC register is to be a genuinely valuable resource for law enforcement that Companies House has suitable powers and resource to police those who deliberately provide inaccurate information.

Q12. Do you agree that government should require presenters to undergo identity verification and not accept proposed incorporations or filing updates from non-verified persons? Please explain your reasons.

We agree that this represents a reasonable and proportionate test. If an individual is prepared to file something for a company then they will either be connected enough to be prepared to undergo the verification, or undertaking the filing in the course of their business, which makes it reasonable to factor the verification costs into the pricing structure. Consideration should be given in the design of new systems and access processes that if agents' costs are going to have to go up, then they will have a valid reason to sell that increase to their clients, such as increased speed or reduced subsequent running costs.

Q13 Do you agree with the principle that identity checks should be extended to existing directors and People with Significant Control? Please give reasons.

We agree that linking records etc would be helpful for individuals, as well as useful for data-mining for Companies House and law enforcement. It may be appropriate to publicise a list of specific transactions which will trigger a verification requirement, such as change in ownership or control of the company, so that when they occur Directors and PSCs should be ready to undergo the verification process.

Requiring better information about shareholders

Q14 Should companies be required to collect and file more detailed information about shareholders?

It appears reasonable to gather more information on shareholders, say to the point of unique identifier, but would need to communicate clearly to shareholders the logic of the process and the wider benefits generated.

Clearly the actual social/exchequer risk of a transfer of shares in most small companies is absolutely minimal, the potential for abuse justifies the recording of minimum data.

Q15 Do you agree with the proposed information requirements and what, if any, of this information should appear on the register?

It is not clear here what is meant by "trading history"? Is the intention to record details of the individuals' trading in shares of other companies, or to record the trading success of the businesses into which the individual has invested?

The distinction here between listed and private companies is reasonable.

Has consideration been given to appropriate equivalent measures for guarantee companies, such as registration of all guarantors? Similarly where group structures include an unlimited company in the chain; how would investors be identified and traced? LPs and LLPs are not specifically mentioned; presumably partners who benefit from limited liability would be dealt with as if shareholders?

Q16 Do you agree that identity checks should be optional for shareholders, but that the register makes clear whether they have or have not verified their identity? Please give reasons.

No. There is a risk that this destroys the rationale of linking small enterprises to identify patterns. It is likely that in the short run (and possibly longer term) too many shareholders will be prepared to run the risks of non-verification that those who actively wish to benefit from it will have enough cover to do so.

Linking identities on the register

Q17 Do you agree that verification of a person's identity is a better way to link appointments than unique identifiers?

Yes. It removes a layer of complexity and an additional opportunity for errors to creep in (eg transposition of characters in the ID)

Q18 Do you agree that government should extend Companies House's ability to disclose residential address information to outside partners to support core services?

If they cannot do the work without access, then of course the answer has to be yes. But there would need to be appropriate vetting in place, and the possibility should be explored of working only with encrypted versions of the data, or to create "proof of concept" versions of the process with dummy data, which are then applied to the live database.

Reform of the powers over information filed on the register

Q19 Do you agree that Companies House should have more discretion to query information before it is placed on the register, and to ask for evidence where appropriate?

Yes. We are very pleased with the reform that improves the integrity of the register by providing CH with increased powers. The Section 1095 current requirement provides a company with the right to object to an application to remove information from its record, and that objection does not have to be evidenced. The removal by third parties, including accountants whose identity had been hijacked required an application to a court to ensure the information is removed, with the attendant cost and inconvenience.

The new mechanisms will need careful monitoring over the first few years, but the proposal seems reasonable given the risks that are being countered. There should be clear rules and guidance around what steps Companies House may take if it is not satisfied with evidence, and routes of appeal for the presenter. Given the time sensitive nature of many transactions there should be consideration of a mechanism for interim acceptance of information subject to query, with an appropriate flag on the register. Late filing can have adverse credit rating implications which might not be appropriate where information is submitted on time, subjected to checks (perhaps as a consequence of borderline risk flags), and subsequently verified to be accurate and complete.

Q20 Do you agree that companies must evidence any objection to an application from a third party to remove information from its filings?

The proposal is reasonable in the cases of the examples given here. However, it would be valuable to consider whether there are other situations where this could cause an issue. Currently, third parties have to be the individual in respect of whom the incorrect information has been filed. Clear rules should be in place for if the identity used is either made up or dead, or in the case where a false audit report has been signed in the name of a dead or non-existent auditor. There may be scope to consider a “public interest rectification, at the discretion of Companies House upon the application of an unconnected third party. However any such power would need appropriate safeguards in place to prevent vexatious reports.

Reform of company accounts

Q21 Do you agree that Companies House should explore the introduction of minimum tagging standards?

Yes. However the requirements need to be proportionate, and care should be taken not to impose unnecessary burdens on for example small charities, which might be disadvantaged by such a requirement.

Q22 Do you agree that there should be a limit to the number of times a company can shorten its accounting reference period? If so, what should the limit be?

The first one change of accounting date should be “free”, but subsequent changes within a period of 18months only allowed if scrutinised and approved (on submission of evidence) by the registrar. If a numeric limit is imposed, there is always the risk that one day someone will breach it for legitimate reasons and then the business will have a problem that did not need to arise.

Q23 How can the financial information available on the register be improved? What would be the benefit?

Presumably if all accounts are filed in iXBRL, that will capture all the relevant financial data. Checking therefore becomes a matter of machine testing the iXBRL trail.

In order to reduce the scope for misleading departments, Companies House should be the sole repository of statutory accounts, and other government bodies signposted to pick them up from Companies House records

Clarifying People with Significant Control exemptions

Q24 Should some additional basic information be required about companies that are exempt from People with Significant Control requirements, and companies owned and controlled by a relevant legal entity that is exempt?

Given the size and nature of entities addressed here, the proposal is reasonable. However it seems likely that the majority of issues are going to arise around updating existing information, rather than new filings.

Dissolved company records

Q25 Do you agree that company records should be kept on the register for 20 years from the company's dissolution? If not, what period would be appropriate and why?

Given the fundamental nature of the changes proposed to other aspects of the company record, it is worthwhile taking a long view of the underlying policy reasons for data retention. The logic for retaining historic records is linking activities back to individuals, so the 20 year limit should be viewed in the context of life expectancy and professional career. It seems reasonable to expect people to start trading from 16-20 years of age and they may well stay active for 50 years in the future. 20 years still remains an appropriate period in the context of analysing an individual's behaviour. People can change, and should be allowed to. It is debatable whether the actions of the individual that long ago will necessarily be a reliable guide to their behaviour now.

Conversely, a significantly shorter limit such as 10 years is probably too short to lose all record of an individual's history.

The concept of future proofing should again be considered. How much data will there be to hold in the future? Currently, company/entity formation is a comparatively manual process, and although steady growth might be expected it is unlikely to outstrip the capability of technological tools to store and analyse it. However, if the predictions of algorithmic company formation/dissolution come to pass⁷ then there could be a radically faster growth in numbers of companies formed and dissolved, and the related levels of information to store and analyse.

Public and non-public information

Q26 Are the controls on access to further information collected by Companies House under these proposals appropriate? If not, please give reasons and suggest alternative controls?

The proposed controls are appropriate.

Information on directors

Q27 Is there a value in having information on the register about a director's occupation? If so, what is this information used for?

It is not clear that there is any remaining value in this field, which is subject to change over time (and by definition anyone on the register can put "director"). Trying to define "business occupation" in legal terms, so that there is an enforceable rule against which Companies House can measure "breach", is likely to be problematic, and if it is not feasible to define the obligation then it will not be feasible to enforce it.

Q28 Should directors be able to apply to Companies House to have the "day" element of their date of birth suppressed on the register where this information was filed before October 2015?

Given the reasons for suppression, and the online nature of all CoHo publications, would seem appropriate to propose a revision to the primary legislation so as to allow the automatic suppression of the day/date field in all public facing aspects of the registers.

⁷ See eg https://www.parliament.uk/documents/joint-committees/draft-registration-overseas-entities/ROEB_written_evidence_volume.pdf and footnote 47 at page 87 of pdf; numbered 63 on image)

Q29 Should a person who has changed their name following a change in gender be able to apply to have their previous name hidden on the public register and replaced with their new name?

Yes. Availability of information to law enforcement must always be preserved albeit subject to safeguards.

However, there will need to be a mechanism for Companies House to monitor those who claim to have changed gender but without a GRC. There is a potential area for abuse of the regulations as there is scope for an individual with a name which would by convention clearly indicate one gender or the other to change it to a formulation giving no such hints. If the existence of the former name is suppressed then the individual can continue to operate under the same physical persona but with a new name, potentially facilitating fraudulent trading.

Q30 Should people be able to apply to have information about a historic registered office address suppressed where this is their residential address? If not, what use is this information to third parties?

If the registered office were completely suppressed then those with a need to enquire would have no starting point for their enquiries. Conversely, there are risks to the individual, and potentially family members or subsequent residents at the address if it is made public in its entirety.

As a compromise we would suggest Companies House keep the first half of the postcode available, so researchers can disprove/have a fair chance of being right about whether it links to some other information that they already have. If the interest is legitimate, then they can either speak to the company via the current registered office or to law enforcement about it.

Q31 Should people be able to apply to have their signatures suppressed on the register? If not, what use is this information to third parties?

Knowing that the document has been signed is the important thing. Knowing what the signature looks like is irrelevant unless there are grounds to suspect that the signature provided was fraudulent. In such cases, law enforcement should be alerted, so the individual with concerns could send a copy of what they think the signature ought to look like to Companies House who could take matters on from there.

For future filings it would be preferable for 'wet ink' signatures to be phased out for all but those who are unable to file documents electronically, and in those cases as previously discussed there should be a preference, and incentives, for them to appoint an agent who could file electronically on their behalf, removing any need for the signature to be held anywhere potentially accessible to the public.

Compliance, intelligence and data sharing

Q32 Do you agree that there is value in Companies House comparing its data against other data sets held by public and private sector bodies? If so, which data sets are appropriate?

There is definitely value to be derived from sharing datasets.

Sharing of data with HMRC should flow both ways. In addition to identifying standalone cases of fraud or other offences facilitated by submission of mismatched documents, there is also value to HMRC in understanding the ownership, management and control of corporate groups. HMRC operates a number of security schemes designed to protect the Exchequer when new entities are created and register for certain taxes; automated or AI matching of details to identify either specific information or generic characteristics and profiles that could indicate an elevated risk profile would improve the quality of HMRC intelligence and allow more effective deployment of resource both within and without compliance and investigation teams.

Consideration should also be given to aligning the verification and authorisation methods for agents when submitting data and reports to Companies House, tax returns and accompanying data (or references) to HMRC and when making a SARS. It is vital to engage at an early stage in design with both users and software houses in order to ensure that the tools are designed to do the right job, and capable of doing it. There has been considerable tax agent dissatisfaction at the design and implementation of the Agent Services Account for HMRC's Making Tax Digital programme, fundamentally as a result of misaligned expectations, but compounded by development of technical solutions which are unable to deliver some of the services that agents need and had expected would be incorporated. A single sign on facility would also improve the AML reporting experience, as most businesses use it so infrequently that they are faced with updating passwords and login details every time they use the system. Similarly, many agents will access Companies House relatively infrequently, but a single agent identity used for all three agencies (and other government departments) would be a significant benefit.

Q33 Do you agree that AML regulated entities should be required to report anomalies to Companies House? How should this work and what information should it cover?

This has the potential to be a significant administrative burden, so should be implemented only if the benefits are clear. There are further implications for advisers of introducing a legal requirement to report to a statutory body in respect of client information.

It is no unknown (and in certain sectors common practice) for advisers to be under a contractual obligation to inform the client of all notifications to/communications with regulators and enforcement agencies. While there is a clear argument that advisers should be protected under AML regulations if disclosure would amount to tipping off, how are they to decide which notifications

might constitute tipping off? An apparently glaring and significant error could easily be no more than simple oversight, whereas an apparently minor typographical error in name or date of birth could be an essential element in a complex international fraud or money laundering operation.

Firms will need to check the Companies House registers as part of their CDD, and clients should be aware of that obligation. If regulated firms identify anomalies, they should clarify first with the client as it may be a red flag. This should not raise any tipping off issues.

Following clarification, if changes to the registers are needed, the regulated firm should ask the client to approach Companies House and action the change immediately. Regulated firms could submit for example every 6 months a list of clients that were asked to contact Companies House to make a change. This will only include the name of the clients. If Companies House have not had any contact for a given client, then they can investigate and approach the client directly. This should not be too onerous to regulated firms.

Q34 Do you agree that information collected by Companies House should be proactively made available to law enforcement agencies, when certain conditions are met?

Yes, this should be explored but is dependent on the conditions.

Q35 Should companies be required to file details of their bank account(s) with Companies House? If so, is there any information about the account which should be publicly available?

Law enforcement access is reasonable. However, publishing details of which jurisdictions a business is, or more importantly is intending to become, active in could have significant time sensitive commercial value. Historic reporting and transparency is reasonable and proportionate. However there is a balance to be struck when it comes to commercially valuable information, and this is recognised in the existing historic reporting structures.

While there may be value to law enforcement and Companies house to require details of bank accounts to be filed as part of the restricted record, it would not be appropriate to publish where they are held. There may be an argument for a four way disclosure: no bank account/UK only/UK and overseas/overseas only.

Given knowledge of the business context this should enable interested parties to make an informed judgement about the reasonableness of the status, without affecting commercial confidentiality unduly. So eg "no account" would be a warning sign in any standalone, but perhaps quite normal in a group situation. Similarly, where overseas accounts are indicated (or not) the reasonableness of this given the trading profile of the business can be assessed, without third parties being able to tell which markets a group was actively exploring or preparing to expand into by seeing specific territories flagged.

Other measures to deter abuse of corporate entities

Q37 Do you agree that the courts should be able to order a limited partnership to no longer carry on its business activities if it is in the public interest to do so?

Yes, on the same basis as for limited companies/LLPs. The question arises whether once the Limited Partnership is struck off, any partnership at all still exists. It would probably be better in most situations for this to be the case with joint and several liability for all partners.

Q38 If so, what should be the grounds for an application to the court and who should be able to apply to court?

We would support the first option proposed at the first bullet of paragraph 230 of the consultation, that the same grounds should apply as for an LLP or limited liability company. Although most current high profile cases do meet the SCA 2007 criteria, not all will.

Q39 Do you agree that companies should provide evidence that they are entitled to use an address as their registered office?

If challenged yes. However if the obligation were to be imposed as a matter of course on all new and existing companies then it would need to be designed so as to impose a minimal burden on the overwhelming majority of compliant businesses.

Q40 Is it sufficient to identify and report the number of directorships held by an individual, or should a cap be introduced? If you support the introduction of a cap, what should the maximum be?

Reporting of the number of directorships held is preferable to a cap. Any cap would be arbitrary and simply result in criminals using more false/hijacked identities to get around it.

Companies House could consider contacting individuals who have multiple directorships above a certain (undisclosed) threshold to make them aware of the concerns which might stem from multiple directorships which would help in flushing out identity theft?

Q41 Should exemptions be available, based on company activity or other criteria?

No. Any kind of ring fenced criteria will simply see criminals gaming the rules to get the exemption. Companies House should track the number of directorships and analyse the other information relating to the companies using technological tools and investigate on risk assessed basis.

Q42 Should Companies House have more discretion to query and possibly reject applications to use a company name, rather than relying on its post-registration powers?

Yes, though will need careful monitoring.

Q43 What would be the impact if Companies House changed the way it certifies information available on the register?

The current status of the Good Standing Statement in international law is not clear, and may well change in the near future. However, it does not appear that the statement offers anything in addition to the information already publicly available. If that information were verified then the need for a separate certificate could fall away altogether, subject to the register extracts being authenticated to a suitable standard for admissibility under foreign regulations.