RESPONSE TO BEIS CONSULTATION

Corporate transparency and register reform

18 July 2019
INTRODUCTION

1. The Institute of Chartered Accountants of Scotland (ICAS) is the oldest professional body of accountants and represents over 21,000 members who advise and lead business across the UK and in almost 100 countries across the world.

2. ICAS’s Charter requires it to primarily act in the public interest, and our responses to consultations are therefore intended to place the public interest first. Our Charter also requires us to represent our members’ views and protect their interests. On the rare occasion that these are at odds with the public interest, the public interest must be paramount.

KEY MESSAGES

3. Overall, we are supportive of the government’s proposals to update and digitalise the service, increase transparency and reduce opportunity for criminal activity and abuse.

4. We emphasise the importance of achieving adequate assurance over data security and GDPR requirements.

DETAILED RESPONSES

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.

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

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

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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.

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?

No, however we would emphasise the importance of the data security considerations which have been raised in the paper.

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.
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.

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

Yes. It would be helpful to identify if the agents are regulated and who the regulator body is.

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

See Q8.

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, we agree.

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

We agree with proposals to introduce identity verification for People with Significant Control (PSC) and that responsibility should lie with them. We are supportive of the option to flag any unverified PSCs on the face of the companies register and of combining this with criminal sanctions which build on existing offences for PSCs who refuse to provide companies with the information requested.

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.

Yes.

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

Yes.

Requiring better information about shareholders

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

Yes.

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

Yes, we agree and support the proposed 5% threshold.

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.

Yes.
**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.

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

Yes, but we emphasise data security and disclosure only in very limited circumstances.

**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.

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

Yes.

**Reform of company accounts**

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

Yes, we agree that Companies House should explore the introduction of minimum tagging requirements.

If such requirements are subsequently introduced it is essential that companies and software providers have the full details well in advance of the implementation date so that there is enough time for them to update their systems and ensure that they work. Once a decision is taken in principle, we suggest that there should be further consultation on detailed proposals, to support successful implementation.

Companies House and HMRC need to work together to ensure that the joint filing system, which is currently available to smaller entities, continues to be available after any introduction of minimum tagging requirements by Companies House.

There is currently no timetable for the possible introduction of Making Tax Digital (MTD) for corporation tax, which will affect company accounting systems as well as tax returns. If this goes ahead it will require companies and software providers to update their systems or products. For some companies, major changes are likely to be required. Careful consideration should therefore be given to the timing of any introduction of minimum tagging requirements by Companies House. It would not be helpful for companies to undertake the changes needed for MTD, only to then be required to implement further changes very soon afterwards to deal with minimum tagging (or vice versa). Many companies and software providers will want to deal with all the changes in one go and the implementation timetable should allow them to do this.

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?

Yes. We suggest removing the option to shorten reference dates by small increments such as 1 day and only do so when there is a substantive and beneficial reason, e.g. to align with a tax or group year-end or to avoid a busy seasonal trading period.
Q23. How can the financial information available on the register be improved? What would be the benefit?

Where errors in the filed accounts/audit report are identified it would be helpful to have a formal source at Companies House to report these (not just as a complaint) as well as a corporate enforcement mechanism.

**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?

Yes.

**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?

Yes.

**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?

Yes.

**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?

This adds no value so it would be reasonable to remove.

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?

Yes.

A general point relating to questions 28-31 and 35 is that all such information may be useful for Insolvency Practitioners (IPs) when trying to exercise their powers in an insolvency or for them to report in relation to Company Director’s Disqualification Act 1986 requirements. We believe that a general provision applying to Companies House that they can disclose the previously held data to an insolvency practitioner appointed to the registered entity should be included.

Associated with that, we suggest that there should be some marker evident on the Companies House record which will identify that the data is amended, suppressed, etc. for transparency and to allow users of Companies House records to take an informed view of whether further enquiries are required for their purposes.

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.
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?

Yes.

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?

Yes.

**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?

Yes.

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?

Yes.

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.

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?

Yes, if not available publicly and only for law enforcement purposes.

**Other measures to deter abuse of corporate entities**

Q36. Are there examples which may be evidence of suspicious or fraudulent activity, not set out in this consultation, and where action is warranted?

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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.

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

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

Yes.
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?

We support identifying and reporting the number of directorships held but not the introduction of a cap. If, however, a decision is made to proceed with a cap, then multiple directorships for companies within one group should not count towards the cap.

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

There should be no exemptions as the public has a right to know who is involved in a company.

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.

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

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Q44. Do you have any evidence of inappropriate use of Good Standing statements?

No.

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