

IFA REPRESENTATION 5/19



Companies House: Corporate Transparency and Register Reform

The IFA welcome the opportunity to comment on Companies House's consultation on Corporate Transparency and Register Reform issued on 5 May 2019.

We would be happy to discuss any aspect of our comments and to take part in all further consultations in this area.

Institute of Financial Accountants
Member of the IPA Group
CS111, Clerkenwell Workshops
27-31 Clerkenwell Close
Farringdon, London EC1R 0AT
T: +44 (0)20 3567 5999
E: mail@ifa.org.uk
www.ifa.org.uk

Established in 1916, the Institute of Financial Accountants (IFA) is an internationally recognised professional accountancy membership body. Our members work within micro and small to medium sized enterprises or in micro and small to medium-sized accounting practices advising micro and SME clients. We are part of the Institute of Public Accountants (IPA) of Australia Group, the world's largest SME-focused accountancy group, with 36,000 members and students in 80 countries.

The IFA is a full member of the International Federation of Accountants (IFAC) the global accounting standard-setter and regulator and is an awarding organisation recognised by Ofqual, the UK public body responsible for maintaining and monitoring standards for general and vocational qualifications and examinations. We offer a programme of professional qualifications and education as well as resources, events, training and seminars.

We are recognised by HM Treasury and the Financial Services Authority in the Isle of Man to regulate our members for the purposes of compliance with the Money Laundering Regulations.

Copyright © IFA 2019 All rights reserved.

This document may be reproduced without specific permission, in whole or part, free of charge and in any format or medium, subject to the conditions that:

- it is appropriately attributed, replicated accurately and is not used in a misleading context;
- the source of the extract or document is acknowledged and the title is quoted.

Where third-party copyright material has been identified application for permission must be made to the copyright holder.

For more information, please contact the IFA mail@ifa.org.uk

www.ifa.org.uk

General comments

1. Our comments in this consultation are restricted to the key areas that affect the accountancy profession and our members. Therefore, we have not provided comments to the specific questions in the consultation in relation to other sectors.
2. For other chapters, we have provided general comments and/or comments to specific questions when those questions are of direct relevance to the accountancy profession and our members.

Scope

3. We support the initiatives from Companies House along with the Department for Business, Energy and Industrial Strategy (BEIS) to transform the register of companies while maintaining transparency and ease of doing business in the UK.
4. We also support the initiative to improve the accuracy of information on the register and to protect personal information as well as build controls to deter and detect misuse of UK entities as vehicles for economic and other types of crime.
5. We understand the purpose of this consultation is to gain general insights and opinions on different proposals and that a further consultation on policy changes will be published by the end of 2019.
6. We also understand that changes to regulation to allow new policy implementation and associated powers to Companies House are not likely to come into force until 2021/22.
7. The 5th EU Anti Money Laundering Directive is due to be transposed into UK law by 10th January 2020 and this along with the additional requirements detailed in the UK Economic Crime plan published in July 2019 will place additional burdens on the regulated sector. Companies House should try and ensure these requirements are reflected in any changes to regulations proposed.
8. When implementing the new regulations Companies House and BEIS should be mindful of the ever increasing regulatory burden placed upon the regulated sectors and should ensure appropriate transitional periods along with guidance and training are in place to facilitate the changes that will be required.

Specific questions

The case for verifying identities

Question 1: 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.

9. We agree with the general premise that Companies House should have the ability to check the identity of individuals on the register as this would complement work undertaken by the regulated sectors who are already required to perform such checks as part of Customer Due Diligence requirements of the Money Laundering Regulations 2017.

10. Increased confidence in the accuracy of information held on the register would aid compliance with the regulated sectors AML responsibilities as well as decreasing the risks of economic crime.

Question 2: Are you aware of any other pros or cons government will need to consider in introducing identity verification?

11. The ability to set up and amend corporate entities without an over burdensome process must remain a cornerstone to continue to attract UK investment and opportunities.

Question 3: Are there other options the government should consider to provide greater certainty over who is setting up, managing and controlling corporate entities?

12. We can think of no other options other than Companies House having access to the HMRC register of Trust and Company Service Providers (TCSPs) which would help Companies House to know who the appropriate supervisor is for those providing TCSP services if there was an issue with the set-up of corporate entities.
13. In order to provide confidence in the information held by Companies House, Companies House must have robust policies, procedures and systems in place as well as sufficient powers and resources to adequately maintain and police the register.

How identity verification might work in practice

Question 4: Do you agree that the preferred option should be to verify identities digitally, using a leading technological solution? Please give reasons.

14. We agree leading technology solutions should be used to verify identities as this would help prevent time delays that could occur from more manual verification systems. Guidance in this area is currently being worked on by the Financial Action Task Force (FATF) and it is also referenced in the UK Economic Crime plan. Companies House should consider these when formulating proposals in this area to ensure consistent and appropriate solutions are adopted.
15. By using technology in a coordinated way it would allow the joining of different sources of information and create efficiencies whilst at the same time flagging up discrepancies to be investigated further by Companies House.

Question 5: Are there any other issues the government should take into account to ensure the verification process can be easily accessed by all potential users?

16. The regulated sector are required to provide Disclosure Barring Service (DBS) checks to prove relevant employees have no unspent financial convictions (section 26 of [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#)). In cases where such employees do not have passports or other means to identify themselves they can use the government Veriphy system which links to third parties such as the Post Office. This has the drawback of taking longer however could be a useful way to deal with the minority detailed in the consultation without access to technology.

Question 6: 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.

17. We agree the focus should be on direct incorporations and filings as regulated businesses engaged in providing Trust and/or Company Services are required to undertake customer due diligence checks and are subject to appropriate supervision and regulation. However, there should be a robust mechanism for reporting discrepancies to Companies House arising from customer due diligence checks and information held by Companies House. The implications of taking on new clients by the regulated sector when there are discrepancies arising from customer due diligence must also be considered. For example, can an accountant take on a new client if discrepancies are reported to Companies House and are being investigated?

Question 7: 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.

18. In theory we agree this would be a good way to avoid duplication on the part of directors, shareholders and PSCs who should have provided the same information to regulated firms. However we have concerns relating to additional burdens placed on our members to provide such information.

19. Companies House would need to create a secure information sharing process allowing firms to share requested information in a secure and timely way that is not burdensome or has any costs associated with the process.

20. We have concerns relating to potential liabilities relating to firms not providing requested information. [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#) provides a provision for regulated firms to place reliance on other regulated firms to share Customer Due Diligence information including identity checks. However liability lies with the entity placing reliance and not the provider. Companies House would need to be clear on where liability lies.

21. Whatever liability position is adopted, the allocation of liability should be based upon consistent principles across the sector.

22. In such cases where a firm fails to provide Companies House with requested information then, as a Professional Body Supervisor, we would wish to be informed as this would provide potentially valuable intelligence in the ongoing risk assessments of our regulated firms which forms part of our responsibilities as an AML supervisor listed in Schedule 1 to the AML Regulations 2017.

Question 8: Do you agree that more information on third party agents filing on behalf of companies should be collected? What should be collected?

23. As a minimum the third-party agent should provide details of its AML supervising authority which Companies House would need to verify.

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

24. Information should be available on the register detailing the ownership and structure of the firm as well as its AML supervising authority as this would not only allow Companies House to verify AML supervision but would also provide an avenue to direct any queries in relation to the firm.
25. This would also aid law enforcement and regulators when trying to identify the firm's AML supervisory authority.

Who identity verification would apply to and when

Question 10: 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

26. We agree that government should mandate verification for directors prior to incorporation and prior to being validated as a director for existing companies as this would help prevent and deter incorporations using bogus identities and provide real time intelligence that can be used by law enforcement and the regulated sector.
27. The IFA believe that verification should be extended to include owners as detailed in the answer to question 14

Question 11: How can verification of People with Significant Control be best achieved, and what would be the appropriate sanction for non-compliance?

28. When assessing the risk of its regulated population the IFA search Companies House information and regularly find that PSC information is inaccurate or incomplete. Commonly PSC's are declared with a stated shareholding that does not match the actual shareholding contained in the Annual Return or amended Confirmation Statement and therefore cannot be relied upon to determine Beneficial Owners, Officers or Managers (BOOMs) as required in part 5 of [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#).
29. As a minimum the information relating to shareholding in a firm should be mandated to match the bandings of PSCs as part of the process to encourage accurate declarations.
30. We feel appropriate sanctions should be similar to those suggested when incorporated entities fail to provide validation documents or information and should result in some form of penalty such as suspension from the register and/or a financial penalty.
31. The IFA believe that any such sanctions for non-compliance should be published on the register or made available in some format to the regulated sectors to aid in risk assessing its regulated populations.

Question 12: 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.

32. We agree with the government's proposal to require presenters to undergo identity verification and not accept proposed incorporations or filings from non-verified persons until the proposer has been verified either by third-party verifiers or direct by Companies House.
33. This would help protect the integrity of the register as it would prevent and deter unscrupulous filings and maintain control of the register.

Question 13: Do you agree with the principle that identity checks should be extended to existing directors and People with Significant Control? Please give reasons.

34. We believe identity checks should be extended to include existing directors and PSCs as this would ensure the register is complete and provide consistent quality of information to law enforcement and the regulated sector.

Requiring better information about shareholders

Question 14: Should companies be required to collect and file more detailed information about shareholders?

35. The information suggested in the consultation would appear to be appropriate as this would allow shareholders to be linked by name to other positions such as director or PSC.
36. The regulated sector are required to establish the beneficial ownership of all clients. Therefore the ability to determine shareholders alongside directors and other officers would appear to be a step in the right direction. Under [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017](#) a beneficial owner owns or controls more than 25% of the shareholding. Therefore the suggested 5% threshold proposed by Companies House would greatly benefit firms in establishing the true ownership of a client.

Question 15: Do you agree with the proposed information requirements and what, if any, of this information should appear on the register?

37. We agree the proposed information to be held on the register appears appropriate as this is consistent with the information held on directors.
38. We feel it would greatly benefit anybody reviewing the register to display the list of shareholders (members of a company) more prominently than is currently the case, in a similar way that Officers are presented (on a separate tab). Currently the only way to establish the ownership is to view Confirmation Statements (with updates) and follow them back to the last Annual Return or Incorporation document which can take time with some complex structures.

Question 16: 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.

39. No. The IFA believes the register should be consistent and it should therefore be mandatory for shareholders to verify their identities at the point of incorporation, or within 14 days of any change above the suggested threshold of 5% shareholding in line with current requirements to report changes to directors, officers and PSCs.

Linking identities on the register

Question 17: Do you agree that verification of a person's identity is a better way to link appointments than unique identifiers?

40. We believe that verification of a person's identity is a better way to link appointments than a unique identifier.
41. Over time this should reduce the burden on direct and third party presenters. However, Companies House will need to spend significant time cleansing the current register to identify and eliminate duplicate persons.
42. The IFA is aware of many instances where the same person is declared as a separate entity on the register with different addresses; middle names included or omitted or names in a different order. All of these instances of inaccurate and/or missing information dilute the integrity of the register.

Question 18: Do you agree that government should extend Companies House's ability to disclose residential address information to outside partners to support core services?

43. The IFA believes the government should extend Companies House's ability to disclose residential address information to outside partners if they have a legitimate interest in requesting this information such as being part of the regulated sector and undertaking due diligence checks. The reasons for sharing information and mechanisms for doing so need to be transparent to all and secure.
44. The IFA would have significant reservations due to GDPR considerations if this core service was extended to include sharing information with commercial partners.

Reform of the powers over information filed on the register

Question 19: 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?

45. The IFA agrees with the proposal that Companies House should have more discretion to query information before it is placed on the register and to ask for evidence where appropriate.

Question 20: Do you agree that companies must evidence any objection to an application from a third party to remove information from its filings?

46. The IFA agrees companies must evidence any objection to an application to remove filing information. Companies House will need to provide a transparent mechanism setting out what evidence is required and how it will be used to provide a consistent process.

Reform of company accounts

Question 21: Do you agree that Companies House should explore the introduction of minimum tagging standards?

47. The IFA agrees that Companies House should explore the introduction of minimum tagging standards as this would provide a consistent level of information available to individual reviewers or automated systems and would bring the UK into line with the European Single Electronic Format requirements.

Question 22: 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?

48. The IFA does not have an opinion on the number of times a company can shorten its accounting reference period. However, as detailed in question 19, the proposal to provide Companies House with discretionary powers to request further information would appear to mitigate against changes in accounting periods being abused.

Question 23: How can the financial information available on the register be improved? What would be the benefit?

49. The IFA believes that adding additional tags onto the financial information currently filed via iXBRL would improve the quality of information available to researchers, law enforcement, HMRC and the regulated sectors.
50. The addition of employee numbers and turnover tags could help to determine if the correct reporting format has been used using electronic algorithmic functionality,
51. The addition of accountancy firm and solicitor tabs could help determine the relevant AML supervisor and therefore help Companies House identify third-party presenters.

Clarifying People with Significant Control exemptions

Question 24: 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?

52. The IFA agrees that providing additional information related to regulated markets and relevant legal entities that are exempt from providing PSC information would benefit reviewers and help direct them to appropriate alternative sources of information.

Dissolved company records

Question 25: 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?

53. The IFA has no strong opinion on the number of years that records are retained after dissolution. However as the 5th EU Anti Money Laundering Directive is prescriptive stating that PSC information should only be retained for a period of 10 years after dissolution, it would seem appropriate to adopt similar requirements. Companies House could consider archiving records for a further 10 years giving access to prescribed users such as law enforcement or regulatory authorities.

Public and non-public information

Question 26: 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?

54. The IFA agrees that the two tier approach to information retained on the register is appropriate with controls already existing to safeguard the non-public information.

Information on directors

Question 27: Is there a value in having information on the register about a director's occupation? If so, what is this information used for?

55. The IFA believes there would be limited value in having information relating to the occupation of a named director. As a professional body AML supervisor such information may be helpful in identifying members that may not have declared they work in a regulated area. However the occupation would simply be an indicator and would need to be substantiated with other intelligence so would have limited use.

56. It would also be helpful if the SIC Codes in Companies House were correct and updated. There appears to be no penalties for not updating SIC Codes and Companies House does not appear to check this information and should perhaps consider doing so.

Question 28: 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?

57. The IFA has no strong opinion on this. However the ability for a director to apply to Companies House to have the 'day' element of his or her date of birth suppressed for filings prior to October 2015 would provide a consistent approach to individuals already entered onto the register.

Question 29: 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?

58. The IFA agrees with the proposal to allow a person who has changed their name following a change in gender should have the right to have their previous name hidden on the public register but retained in the non-public part of the register. This information should be shared with the regulated sector if required under appropriate mechanisms to help the regulated sector meeting their AML duties.

Question 30: 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?

59. The IFA agrees that people should be able to apply to have historical registered office addresses suppressed where this is their residential address to protect their privacy. This is in line with policies adopted by other regulators. The reasons for doing so must be transparent and consistent with policies of other regulators to avoid confusion.

Question 31: Should people be able to apply to have their signatures suppressed on the register? If not, what use is this information to third parties?

60. We agree that people should be able to have their signatures suppressed to avoid fraudulent use of signatures. However, the IFA agrees with Companies House initiative to move away from paper to electronic filing which would negate misuse of signatures.

Compliance, intelligence and data sharing

Question 32: 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?

61. There should be closer links for sharing data between regulators e.g. Charity Commission disqualified trustees (directors) should updated information in Companies House and the Companies House PSC Register should not include disqualified directors

62. The IFA believes that any steps taken to validate data held on the register should be explored. If this includes cross referencing other data sets then this would need to be carefully managed as there may be valid reasons for differences and therefore Companies House would need to be clear what is being compared against different data sets.

63. We would welcome the opportunity to share data on the IFA supervised firms, provided appropriate data sharing agreements were in place, to validate firm supervision and provide Companies House assurance that the firm meets the requirements as a third-party presenter for the provision or confirmation of identity verification of directors and other officers.

Question 33: 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?

64. The IFA would welcome a formal process to report anomalies or discrepancies identified in the register as the current option to 'report it now' on the webpages of the register are not prominent and do not illicit any response so are not widely used.
65. We suggest the process would need to have feedback to the reporter of anomalies or discrepancies as this would provide confidence that any such reports are being acted upon.
66. Care would also be needed to not restrict a regulated firm's ability to on-board new clients where there are such discrepancies. Such problems could be avoided if agreed timescales and protocols are adopted for Companies House to investigate and, where appropriate, correct reported anomalies.
67. Feedback would need to contain relevant updates rather than simply to confirm receipt of a report as reporters may need to rely upon data in the register and would not be able to proceed with specific tasks until a reported anomalies or discrepancy has been investigated and where appropriate amended.
68. The IFA requires all BOOMs in a supervised firm to provide a criminal record check. We often find discrepancies in shareholdings held by people on the register and information provided by the firm who then claim it is not correct on Companies House or that the register is being updated. This would prevent the firm from being supervised by the IFA as the AML Regulations 2017 require all BOOMS to have provided or certified they have no financial crime convictions.
69. If Companies House are not able to access the HMRC TSCP register then the IFA would be happy to confirm if such services are provided by its regulated population direct to Companies House.
70. A timely feedback provided by Companies House would help the regulated sector and improve the quality of the register.

Question 34: Do you agree that information collected by Companies House should be proactively made available to law enforcement agencies, when certain conditions are met?

71. The IFA agrees that information collected by Companies House should be proactively made available to law enforcement.
72. As part of the regulated sector the IFA, and its supervised firms, is required to submit Suspicious Activity Reports (SARs) to the National Crime Agency (NCA) which are scrutinised and then disseminated to Police Authorities where appropriate.
73. Would it not be consistent for Companies House to follow the same reporting requirements as the regulated sector and submit SARs to the NCA when information or patterns of behaviours raise suspicions of proceeds of crime offences?

Question 35: 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?

74. The IFA agrees that bank account information should be retained on the non-public part of the register to aid law enforcement in AML investigations.
75. Details of bank accounts, accountants and solicitors (name and address) are already included in financial statements which could be cross checked by Companies House to ensure consistent information is retained on the register.
76. The 14-day period suggested to register details of banking with a non-UK bank is in line with other suggested timeframes in this consultation and would seem appropriate.
77. It may also be useful to identify other bank account types held by incorporated firms such as 'client accounts' as this would also be of value to law enforcement.
78. The IFA believes having the jurisdiction under which a bank account operates publicly disclosed on the register of a company could help the regulated sector when conducting AML risk assessments and would form part of Customer Due Diligence completed.

Other measures to deter abuse of corporate entities

Question 36: Are there examples which may be evidence of suspicious or fraudulent activity, not set out in this consultation, and where action is warranted?

79. The IFA believes the apparent lack of controls relating to an overseas TSCP setting up a company in the UK without being on the HMRC TCSP register or being supervised for AML could present a risk of suspicious or fraudulent activity going under the radar and compromising the integrity of the register.
80. The IFA has no further examples of suspicious or fraudulent activity that has not been set out in this consultation.

Question 37: 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?

81. The IFA believes that the courts should have the power to order a limited partnership to no longer carry on in its business activities if it is deemed in the public interest as this would bring limited partnerships into line with the treatment of other incorporated entities and provide a consistent register.

Question 38: If so, what should be the grounds for an application to the court and who should be able to apply to court?

82. The IFA believes the grounds for striking off in the public interest should be equivalent to those for the winding up of companies.

Question 39: Do you agree that companies should provide evidence that they are entitled to use an address as their registered office?

83. We believe the proposal for government to introduce new powers to require companies to demonstrate they are entitled to use an address as their registered office should be adopted and that these requirements would also apply when a company is changing its address.

Question 40: 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?

84. The IFA is not party to intelligence on risks associated with multiple directorships held by an individual so has no strong opinion on this matter. However, if there is evidence to suggest an optimal number then this should be considered.

Question 41: Should exemptions be available, based on company activity or other criteria?

85. Exemptions should be considered for example where third party agents are setting up companies in their own name, in order to create companies swiftly for clients. However, clear guidance would be required on what information is required to grant such an exemption.

Question 42: 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?

86. The IFA believes Companies House should have more discretion to query or reject applications to use a company name than relying on its post registration powers as this would be consistent with other proposed powers detailed in this consultation.

Question 43: What would be the impact if Companies House changed the way it certifies information available on the register?

87. The IFA believes the impact of validating the data and statement of good standing would bring the UK in line with other jurisdictions and would enhance the integrity of the register.

Question 44: Do you have any evidence of inappropriate use of Good Standing statements?

88. The IFA has no evidence of inappropriate use of Good Standing statements.

Contact details

Should you wish to discuss our responses further, please contact Tim Pinkney, Head of Practice Standards by email at timp@ifa.org.uk