



Quoted Companies Alliance

6 Kinghorn Street
London EC1A 7HW

T +44 (0)20 7600 3745

F +44 (0)20 7600 8288

mail@theqca.com

Business Frameworks Directorate
Transparency and Trust Team
Department for Business, Energy and
Industrial Strategy
1st Floor 1 Victoria Street
London
SW1P 0ET

The Quoted Companies Alliance is the independent membership organisation that champions the interests of small to mid-size quoted companies.

A company limited by guarantee registered in England
Registration Number: 4025281

transparencyandtrust@beis.gov.uk

Monday 5 August 2019

To whom it may concern,

Corporate Transparency and Register Reform: Consultation on options to enhance the role of Companies House and increase the transparency of UK corporate entities

We welcome the opportunity to respond to the Department for Business, Energy and Industrial Strategy's consultation on options to enhance the role of Companies House and increase the transparency of UK corporate entities.

The Quoted Companies Alliance *Corporate Governance Expert Group* has examined the proposals and advised on this response from the viewpoint of small and mid-size quoted companies. A list of Expert Group members can be found in Appendix A.

Overall, we are supportive of the government's aims to ensure that the UK is an open and transparent place to conduct business activity. Therefore, we welcome some of the proposals set out within the consultation, such as verifying the identity of certain individuals and linking the identities of individuals on the Companies House register. However, any such reforms that materialise as a result of this consultation must maintain both the ease of use of Companies House and the speed at which a company can be incorporated, as well as ensuring the speed of any additional procedures.

Furthermore, and whilst we welcome the government's aims of reducing criminal activity and ensuring the reliability of the Companies House register, our principal concerns – from the perspective of the small and mid-size quoted companies we represent – are fourfold:

1. That, despite the merits of identity verification for directors, the verification process may halt the appointment of directors.
2. That the government should be wary of introducing a cap on the amount of directorships an individual can hold, and that if a cap is introduced, there is an appropriate exemptions regime.

3. We are opposed to the introduction of any proposals to require companies to collect and file more detailed information on their shareholders.
4. The cost of any new requirements on companies have to be proportional and must not disproportionately impact smaller companies.

If you would like to discuss our response in more detail, we would be happy to attend a meeting.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'TW', with a horizontal line extending to the right.

Tim Ward
Chief Executive

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 – we agree with the premise that Companies House should have the ability to check the identity of individuals on the register. Identity checks and safeguards are increasingly important mechanisms to allow the economy to grow whilst providing protection, increasing confidence and ensuring further assurance over identity. Not only does this offer these significant benefits, but it also deters those seeking to use UK companies for illicit purposes.

Despite Companies House already having the ability to conduct identity checks, it rarely utilises this practice. In the event that using this function becomes more commonplace, it would be useful if the verification procedures were done on a real-time, or, at a minimum, near real-time, basis at the point of submission. This would serve to ensure the validity of appointments, rather than undermine them.

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

There are many pros and cons the government need to consider in introducing identity verification. We have identified what we believe are the pros and cons below.

Pros

- For users, identity verification would be useful insofar that it would improve both the quality and reliability of information on the register. Overall trust in Companies House will greatly improve as users can be confident that information is correct and that it has been filed by verified individuals.
- There is greater certainty with regards to who owns and controls a company, which will allow Companies House to reliably and accurately provide law enforcement and other public authorities with information.
- A person's ability to provide false information is limited as only verified and trusted people can upload new information.

Cons

- Identity verification has negative implications for both the cost and timing of the process. For instance, the cost of establishing a system of identity verification, as well as the cost of its continued operation, will inevitably increase the costs for users. In terms of timing, it is likely that identity verification will make the process in which a UK company can be incorporated much slower.
- Identity verification could increase the burden on companies to complete additional due diligence checks, which would have negative implications for smaller companies who typically have fewer resources.

Therefore, careful consideration needs to be given to any developments. The Government must take into account the size and capacities of companies, and ensure that it is not overly burdensome on them.

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

In terms of other options that the government should consider to provide greater certainty over who is setting up, managing and controlling corporate entities, we believe that, in the event that a verification system is established, it must be effective in real-time, or near real-time, meaning that it must operate on an interminable basis so that companies can be incorporated on a same-day basis.

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 – we agree that the process of identity verification should be conducted digitally and utilise leading technologies to do so. As more and more business operations are transacted digitally, it is necessary for the company registration framework to adopt this approach in order to allow the digital economy to flourish.

That said, consideration needs to be given to the ease of use of the digital system. One of the current advantages of Companies House, and the process to incorporate a company in the UK, is the ease of use. Any system created – digital or otherwise – must continue to be easily navigated.

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?

Notwithstanding the merits of a digital identity verification system, it is imperative that the system is inclusive and accessible to all. Accordingly, there is a need to develop alternative processes of identity verification alongside the digital system. This is so as not all individuals will have access to a smart phone, particularly so for individuals based overseas. It is vital that the ability to incorporate a UK company is not denied to potential users as a result of technological barriers.

Alternative verification procedures could be in the form of physical attendance to present a hard copy of information, or even involve some sort of paper process. Whilst these methods may be slower, and require the use of third-party verifiers, it is important to not restrict potential users' access.

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 – we agree that the focus should be on direct incorporations and filings if Companies House is confident in third party agents undertaking customer due diligence checks. It is essential that Companies House is satisfied with the quality of third party agents and should consider an accreditation process and periodic renewal.

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.

As third party agents are required by the Money Laundering Regulation to conduct customer due diligence checks, which includes verifying a customer's identity, we do not believe that it is necessary to require already regulated persons to provide evidence that they have complied with all required procedures.

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

No – we do not believe that it is necessary for more information on third party agents filing on behalf of companies should be collected. The information already required by Companies House is sufficient and appropriate.

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

We have no comments.

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

In regards to (i), identity verification for directors is typically acquired already at the time of appointment in order to complete the necessary forms. As such, we are of the opinion that new requirements should be viewed as an enhanced filing requirement, as opposed to a potential challenge to the validity of an appointment.

Regarding (ii), we agree that the government should require that verification takes place before a person can validly be appointed as a director, however, we believe that this should be contingent on one condition. That is, the Companies House verification process is done technologically, which is capable of producing an immediate, or near-immediate, response. At present, the filing of information on Companies House does not determine the timing of a Directors' appointment; it is the company's, or their shareholders, prerogative to determine this. We believe that this should remain the same. The inability to appoint a company director on an instantaneous basis could result in a delay to important corporate transactions.

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

The register and verification of People with Significant Control (PSC) is already contained under Part 21A of the Companies Act 2006, whereby identifiable information of a PSC is held and kept up to date on a continual basis. Correspondingly, unverified filings should not be made.

In terms of the sanction for non-compliance, it will remain inherently difficult to introduce and enforce a criminal offence sanction for overseas individuals. An alternative sanction would be to introduce a flagging system in order to demonstrate whether a PSC has a verified or unverified entry in relation to the approved particulars.

A further consideration that the government needs to take into consideration relates to whether the PSC should be verified as a 'person with significant control'. At present, the verification process focusses solely on verifying the identity of a particular individual, rather than verifying their appropriateness or suitability to be identified as a PSC.

Furthermore, we are pleased that the Government does not believe that a director's responsibilities should be extended to also ensure verification of the identity of People with Significant Control, and that the responsibility should lie with the PSCs themselves. In addition to this, we also welcome the Government's view that a sanction should fall on the PSC, as opposed to the directors of the company, or the company itself. From the perspective of the small and mid-size quoted companies we represent on the AIM and the NEX Exchange, this is particularly welcoming as it diminishes the potential negative impacts it could have on limiting the growth of these companies and attracting investment.

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.

Notwithstanding the benefits of requiring a presenter to undergo identity verification, the government should be wary of this, as it essentially erects another barrier to entry to incorporation. Adding to the list of verified individuals that can propose incorporations or update files, creates further administrative costs and challenges for companies, which smaller companies may struggle to comply with.

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

Extending identity checks to existing directors has significant benefits to the users of Companies House, insofar that they have a comprehensively reliable register, something of which would be undermined if existing directors and PSCs are exempt. However, to extend identity checks to existing directors and People with Significant Control is a considerable task; one that will create significant costs for both Companies House and companies themselves. It represents an immense administrative exercise and the government needs to be mindful of the costs this would inflict on Companies House itself, as well as the companies. If identity checks are extended, the costs need to be borne in a proportionate manner, taking into consideration the resources of smaller companies.

Accordingly, it is important to find the balance between the advantages of not immediately requiring existing directors and PSCs to be verified and the cost to verify these individuals. We propose that identity verification begin with new appointments, and, over time, be extended to existing directors and PSCs. Companies House could also assemble a graded system that would be reflective of the size of the corporation. That is, larger corporations are required to have their directors and PSCs verified first, then medium corporations, and so on and so forth.

Requiring better information about shareholders

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

No – we do not believe that companies should be required to collect and file more detailed information about shareholders, as proposals to do so would generate a significant additional burden for some companies, and in particular, the small and mid-size quoted companies we represent. Typically speaking, these companies have a wide-ranging and disparate shareholder base, which often includes a large proportion of small retail investors. As a result, it is, in practice, an inherently difficult procedure to collect and file information on these shareholders, especially as these smaller companies often have less resources and may struggle to cope with the additional administrative burden. Thus, any such requirement could have very negative connotations for certain companies.

Not only are we opposed to a requirement to hold more information on shareholders due to the cost, we are of the view that requiring the collection and filing of information on shareholders would be of limited value. If this information is purely to do with confirming or verifying the identity of a shareholder, this would serve little useful purpose.

In addition to the above concerns, a requirement to increase the amount of information about shareholders could inadvertently deter companies from seeking to align shareholder interests with company employees. This has the potential, therefore, to decrease the amount and availability of employee share ownership arrangements.

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

Please see response to Q14.

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.

For the reasons stated above in Q14, we are opposed to any additional information or identity checks required to be undertaken by shareholders. If, however, these measures are introduced, we believe that the identity checks should be on a voluntary basis. That said, it is important to ensure that no sanctions materialise for non-verified information of those who choose to opt out of the identity checks.

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?

We believe that linking is a good idea, and agree that identity verification is a better way to link appointments.

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

No – we do not agree that Companies House should have the ability to disclose residential address information to outside partners.

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?

As Companies House already reviews documentation and information before it is placed on the register, it is important that any new powers granted to it do not slow down any corporate processes.

Furthermore, it is important to take into consideration the ability of smaller companies to consistently and accurately disclose and file information, as well as comply with their statutory obligations, especially in comparison to their larger counterparts. To this end, Companies House's ability to query information should be commensurate to the size of the company. That is, greater flexibility should be afforded to smaller companies, who are less well equipped in terms of their resources to deal with queries in a timely manner, which then could impede their business operations.

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

Yes – we agree that companies should provide some rationale or evidence to support any objection to an application from a third party to remove information from its filings.

Reform of company accounts

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

Yes – we agree that minimum tagging standards would should be explored, insofar that they do not create too much of a burden on the company.

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 agree that there should be some sort of limit introduced to the number of times a company can shorten its accounting reference period, particularly in the event that there is evidence of consistent abuse. We are pleased that the consultation acknowledges that some degree of flexibility is required, however, to allow companies to shorten their accounting reference period, as a company may well do so for legitimate reasons.

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

We believe that the financial information provided is adequate and would thus be opposed to any suggestion that would increase the burden on companies to provide more information.

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?

The reason why these companies are exempt from PSC requirements is because they are already subject to more rigorous transparency rules. The change to exemptions that should be made is for companies on the AIM and NEX Exchange to be exempt from PSC requirements.

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 – we do not believe there would be any value in altering the current practice.

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 – the proposals seem 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?

No – we see no, or limited, value in having information about a director’s occupation. As such, we would support the removal of this information from the register.

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 – we believe that directors who have filed the “day” element of their date of birth before October 2015, should be able to have this removed in line with the Small Business, Enterprise and Employment Act 2015. However, and in order to limit a very timely and costly process, we are of the opinion that the “day” element should be removed from all historic filings of a directors date of birth, rather than processing potentially millions of applications.

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, however, as in our answer to Q28, it would be easier if such personal data was simply removed altogether.

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 – there is some value in Companies House comparing data against other data sets. For instance, the data sets kept by law enforcement and local authorities, as well as government departments, such as HMRC, would be appropriate.

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?

We have no comments.

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

No – we believe that Companies House should only pass over information to law enforcement agencies when they have been requested by them to do so.

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?

No – we do not believe that companies should be required to file details of their bank account(s) with Companies House. Filing bank account details makes Companies House and the companies themselves more susceptible to a cyber-attack or hack whereby vast amounts of sensitive data is compromised. Companies also often have multiple accounts with different banks that change frequently, creating an unnecessary administrative burden.

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?

We have no comments.

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 – we agree that the courts should be able to order a limited partnership to no longer carry on its business activities where it is being used for illicit purposes and if it is in the public interest.

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

We believe that other bodies, such as those listed in the consultation, as well as the Secretary of State, should be able to apply to the court.

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

Yes – we agree that companies should provide evidence that they are entitled to use an address as their registered office. That said, this should not delay the incorporation process. Therefore, we believe that the government should consider this process as a post-incorporation check.

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?

From the perspective of small and mid-size quoted companies, director overboarding has the potential to be an issue and remains an important element of investor stewardship and engagement. However, and notwithstanding this, we do not believe that there should be a cap as legislative intervention goes beyond what is necessary. Rather, Companies House should aim to ensure that information on all appointments is readily available.

For quoted companies, it is already necessary for this information to be disclosed in a prospectus, and it is then for investors to make up their own mind as to the appropriateness of the number and nature of appointments of an individual director at a particular company.

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

As set out above, we do not believe a cap should be introduced. If, however, a cap is introduced, we believe that there should be a broad and pragmatic exemptions regime, as it can be completely plausible for an individual to hold numerous directorships. For instance, companies with substantive operational businesses should qualify for exemption as certain individuals may hold several director positions within each operational subsidiary of the 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?

Insomuch that Companies House does not delay the time it takes to change the name of a company, which should be near-immediate, we support the suggestion.

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

We have no comments.

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

We have no comments.

Appendix A

The Quoted Companies Alliance *Corporate Governance Expert Group*

Will Pomroy (Chair)	Hermes Investment Management Limited
Tracy Gordon (Deputy Chair)	Deloitte LLP
Edward Beale	Western Selection PLC
Nigel Brown	Gateley
Amanda Cantwell Julie Stanbrook	Practical Law Company Limited
Jo Chattle	Norton Rose Fullbright LLP
Richie Clark	Fox Williams LLP
Jonathan Compton	BDO LLP
Louis Cooper	C/o Non-Executive Directors Association (NEDA)
Edward Craft	Wedlake Bell LLP
Tamsin Dow	Hogan Lovells International LLP
Peter Fitzwilliam	Mission Marketing Group PLC
David Fuller	CLS Holdings PLC
Nick Gibbon	DAC Beachcroft LLP
Nick Graves	Burges Salmon
Ian Greenwood	Korn Ferry
David Hicks	Charles Russell Speechlys LLP
Alexandra Hockenhull	Hockenhull Investor Relations
David Isherwood	BDO LLP
Daniel Jarman Kalina Lazarova	BMO Global Asset Management
Colin Jones	Candid Compass
Damien Knight	MM & K Limited
Peter Kohl	Kerman & Co LLP
James Lynch	Downing LLP
Marc Marrero	Stifel
Efe Odeka	UHY Hacker Young
Darshan Patel	Hybridan LLP
Sahul Patel	FIT Remuneration Consultants
Phillip Patterson	PricewaterhouseCoopers LLP
Jack Shepherd	CMS
Carmen Stevens	Jordans Limited
Peter Swabey	C/o ICSA
Melanie Wandsworth	Faegre Baker Daniels LLP
Kerin Williams	Prism Cossec

