



Department
for Business
Innovation & Skills

COMPANY FILING REQUIREMENTS

Red Tape Challenge

OCTOBER 2013

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Company Filing Requirements

This Government is committed to ensuring that the UK is one of the best places to start up and run a business. Encouraging entrepreneurship and supporting small businesses are central parts of the Government's growth strategy. For many businesses, incorporating as a company is the most effective way to operate. The UK company register, held by the Registrar at Companies House ("CH"), now stands at over three million companies, limited liability partnerships ("LLPs") and other entities. Of these, over 80% have two directors or fewer and five shareholders or fewer. It is critical that these companies are supported. One way to do this is to ensure that we make the process for filing company information as simple as possible and that any duplication is removed.

The Red Tape Challenge is a Government initiative which considers all regulations and seeks views on whether any can be scrapped or improved in some way. A number of improvements, relating to the Company and Commercial Law theme, have already been announced, such as changes to the company and business names regime. This consultation document continues this work by considering where opportunities may exist to improve and simplify the current requirements for companies to file certain information with the Registrar of Companies at CH. In particular, we are considering the responses to the Red Tape Challenge which suggested that companies were required to file the same information, with Government, more than once. We also believe that there are opportunities to improve legal requirements and simplify processes.

We will be taking forward the proposals made in this paper in association with those brought forward as part of the Transparency and Trust discussion paper¹, issued in July this year. That paper outlined measures to implement UK G8 commitments to ensure transparency of UK company ownership.

Issued: 7 October 2013

Respond by: 22 November 2013

Enquiries to: Company Law Simplifications Team, BIS, Spur 2, Level 3, 1, Victoria Street, London SW1H 0ET Tel: 020 7215 3342 Email: CompanyFilingReqs@bis.gsi.gov.uk

This consultation is relevant to: All companies, their representatives and those people who search the CH register for information on companies.

¹ Available at: <https://www.gov.uk/government/consultations/company-ownership-transparency-and-trust-discussion-paper>

2. Executive Summary

1. The Government is committed to encouraging entrepreneurship whilst ensuring that there is an appropriate regulatory framework - one which allows companies to concentrate on running their businesses rather than having to deal with excessive rules and requirements.
2. The UK private limited company form is well established and recognised throughout both Europe and the rest of the world. It is the vehicle of choice for many people setting up and growing their businesses.
3. In order to benefit from limited liability, a company is subject to certain legal requirements. One of these is to file information with the Registrar of Companies in a timely manner. The information required ranges from basic information, such as the address of the company, through to details about ownership and financial information. These disclosures are to allow anyone considering working with a company to obtain information about the business, and make more informed decisions about its financial health. This information underpins the UK's extremely effective credit rating system.
4. It is important that requirements and processes for these disclosures are proportionate. This consultation suggests a number of options to remove duplication of effort for companies and to simplify the processes for filing information at CH.
5. Digital services offer the most potential for simplifying the interactions between companies and the Registrar, whether this is through making better use of electronic communications, or of the information already held at CH - reflecting known information back to a company for checking. CH already offers companies and LLPs a digital way to file which is simple, quick and cheaper than paper filing. Online filing has quickly been adopted by companies who recognise these benefits, with nearly all incorporations (99%) and annual returns (98%) being filed in this way. Overall, the proportion of information filed digitally at CH stands at approximately 80%. This shift away from paper has meant that the average cost per company on the register has been cut by nearly 60% in seven years, but there is still more that can be done.
6. CH aims to reach the position where a company, or intermediary, can access the register for all its filing and search requirements through a single digital system, creating a truly open register, accessible to all. The ultimate goal is to achieve completely 'digital by default' processes and services, building on the progress so far, to remove paper from the system, wherever possible.
7. This consultation seeks views on how the Company Law framework and CH procedures could be improved. We have set out our proposals in four sections:

- **Annual Filings:**

- Annual Return
 - Accounts

- **Transparency:**

- Company Registers
 - Dates of Birth
 - Statements of Capital
 - Trust and Transparency

- **Communications:**

- Company Email Addresses
 - Additional Information on the Register

- **Resolving Problems:**

- Registered Office Addresses
 - Director Disputes
 - Accelerated Strike Off

3. How to respond

8. When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation form and, where applicable, how the views of members were assembled.
9. For ease of use, you can reply to this consultation online.
10. The consultation response form is available electronically on the consultation page: <https://www.gov.uk/government/consultations/company-filing-requirements> (until the consultation closes). The form can be submitted online/by email or by letter or fax to:

Company Law Simplifications Team,
The Department for Business, Innovation and Skills,
Spur 2, Level 3,
1, Victoria Street,
London.
SW1H 0ET

Tel: 020 7215 3342 Fax: 020 7215 0227
Email: CompanyFilingReqs@bis.gsi.gov.uk

11. A list of those organisations and individuals consulted is in Annex B. We would welcome suggestions of others who may wish to be involved in this consultation process.
12. You may make printed copies of this document without seeking permission.
13. Other versions of the document in Braille, other languages or audio-cassette are available on request.

4. Confidentiality & Data Protection

14. Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
15. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

5. Help with queries

16. Questions about the policy issues raised in the document should be addressed to:

Company Law Simplifications Team,
The Department for Business, Innovation and Skills,
Spur 2, Level 3,
1, Victoria Street,
London.
SW1H 0ET

Tel: 020 7215 3342 Fax: 020 7215 0227
Email: CompanyFilingReqs@bis.gsi.gov.uk

6. The proposals

17. The Companies Act 2006 (the “Act”) made significant improvements to the regulatory landscape; bringing the requirements of Company Law up to date and putting small and medium sized companies at the heart of the Act, introducing light touch requirements for the smallest entities and less onerous requirements more generally. Following the Company and Commercial Law Red Tape Challenge, it was clear that many of those who responded thought there was still room for further improvements.
18. For example, respondents highlighted potential duplication due to:
- requirements to hold information both at CH and at a company’s Registered Office;
 - requirements to file information with the Registrar more than once; and
 - requirements to file similar, or the same, information at CH and HMRC.
19. As well as raising concerns about specific regulations, a number of people commented on wider problems associated with the information on the register, substantiating complaints which had been separately received at both BIS and CH. Some complaints relate to inaccuracies on the register which, at present, the Registrar has no legal authority to deal with effectively. For example, there are a small number of cases where a company has supplied a Registered Office address which has no links to the company. This situation can be distressing for the small number of individuals who are affected.
20. Similarly, BIS has received complaints relating to individuals being appointed as directors without their knowledge.
21. Other respondents to the consultation felt that more could be done to update and amend the register quickly, aligning this to improving the use of electronic communications.

ANNUAL FILINGS

ANNUAL RETURN

22. The annual return is a long standing requirement under UK company law. It ensures that at one point, each year, every company confirms that the basic information held on the register is accurate and up to date. Failing to file an annual return is an offence, for which CH prosecutes 900-1000 companies each year.

23. The annual return must contain the following information:

- Address of the company's Registered Office
- Company type and business activities
- Details of the directors of the company
- Details of the company secretary, if the company has one
- The place that company records are held, if not the Registered Office
- Information about shareholders and shares, including a statement of capital.

24. The annual return summarises information that companies should already have updated following an event taking place. For example, if a company appoints a new director, the Act requires it to inform CH, by filing the appropriate notice form, within 14 days of the appointment. The annual return would then duplicate the submission of this same information. The only information included in the annual return which is not otherwise required to be filed following a change, is the statement of capital and details of the type of work the company undertakes (Standard Industry Classification (SIC) codes).

25. We recognise that some companies and individuals may consider the annual return a useful snapshot of the company every year. The alternate view is that it imposes a burden on business.

Benefits:

- It provides a snapshot of the company on one date each year (benefits searchers)
- It brings together all the basic company information in one place (benefits searchers and Government)
- It acts as a reminder and a safety net for filing updates (benefits companies who have failed to update the register following changes – but not compliant companies)

Burdens:

- It requires duplicate information to be entered or confirmed
- It must be completed even if a company has made no changes
- It takes time and incurs costs to complete and is not required by EU law

26. CH has already improved its processes to minimise the burden on companies. In practice, 98% of companies choose to file their annual return digitally, either through CH's own online WebFiling service or through business software. The WebFiling annual return is pre-populated to ensure it can be completed quickly. Some changes can be made within the form, such as its principal business activity (SIC). Other changes, such

as a change of director, can be made as part of the session, as any changes prompt the system to automatically produce the relevant form(s), which are also pre-populated where possible. In practice, this feels like one process for the user.

27. Most EU Member States do not require companies to complete an annual return; they require information to be updated as events occur in the company's life – which reflects what is required by EU law. However, approximately 210,000 director appointment / termination updates are made by UK companies each year, as a direct result of completing their annual return. By waiting to make all changes as part of the annual return companies are not actually fulfilling their legal obligations and are reducing the integrity of the register.
28. The companies that may not see value in completing the annual return, are most likely to be the small and micro companies (SMEs), which dominate the register, and which rarely change their details. In some cases, they do not make any changes throughout the life of the company. Those companies, in particular, may view it as a burden when they are asked, year on year, to file an annual return which makes no changes to their details.

Proposals:

Option 1

29. Remove the requirement to complete an annual return but require each company to confirm, at least annually, that the information held on the register about it is correct.
30. This could be done by a simple digital confirmation that there have been no changes during the relevant period or, where changes have occurred, through a simple check and amend system. A digital solution could be developed, such as a simple tick box approach. This could, potentially, be done in conjunction with another filing requirement, such as the filing of accounts.
31. This approach would allow companies flexibility. They could decide to complete their annual check at the time they send in their accounts or to check and confirm their information at some other point during the year.
32. CH will develop systems for alerting companies if they have neither updated nor checked their information during a 12 month period. In practice there will only be one requirement to deliver information on a specified date – annual accounts (see paragraph 46).
33. An appropriate alternative would need to be considered for those who currently file on paper.
34. It is anticipated that the annual check would continue to carry an offence. Companies failing to complete this check, or doing so inaccurately, could still be subject to prosecution.

Option 2

35. Remove the requirement to complete an annual return and rely on event driven filing.

36. Removing the requirement to complete an annual return would save every company on the register the time and cost of completion, and also the burden of filing within the deadline. Additional costs are incurred by companies who employ a third party to complete their annual return - evidence from a recent survey suggests approximately 40% of annual returns are filed by agents.
37. The integrity of the register would be more reliant upon companies notifying the Registrar of any changes to their details within the specified timescales. Upon notification of an error by a third party, the Registrar would write out to the company, to require confirmation of the information held and to ask if any amendments were required. A company may or may not respond to this request. As under the current system, failure to maintain a company's records on the public register, in an accurate and timely manner, would render a company's directors liable to criminal prosecution. CH would not provide reminders to companies, to help prevent them from slipping into non-compliance, as the expectation is that all companies fulfil their statutory obligations.

Option 3

38. Retain the annual return.
39. If the annual return is retained we propose making it easier for those companies wishing to file their return on the same date as their annual accounts to do so. It is already possible for companies to align the date of their annual return with the filing date of their annual accounts; however, some companies may not be aware of this option, or it may not suit their organisation.
40. A company would file an annual return after 12 months then, when the first accounts are due, (21 months after incorporation) their second annual return would be entered, and on that date each year thereafter. Simplifying the approach down to one filing could be a welcome change for some companies as they would no longer have to file on two different dates.
41. However, we are also aware that the internal operations of companies can be very different and some of the larger companies will wish to continue filing their annual return and accounts on different dates. This is because the two documents are prepared for different reasons, possibly by different parts of the organisation and there is no obvious link between them.

Implications:

42. Option 1 and, in particular, option 2 would require alternative methods to be identified for the filing of information that is currently required on an annual basis but not required to be updated throughout the year. These include the Standard Industrial Classification (SIC) Code, the company's statement of capital and information on shareholders.
43. The SIC code, which indicates the company's area of business activity, is currently collected on the first annual return. It is a useful piece of information for many organisations, and for official Government statistics, compiled by the Office of National Statistics. It would, instead, be required upon incorporation and maintained as part of the annual confirmation process.

44. The information included in the statement of capital could be updated at the same time as the accounts are delivered, but not as part of the accounts. This would enable us to fulfil the EU requirement to update subscribed capital information at least once a year, while avoiding requiring information on another annual date.
45. Changes to shareholders could be notified on an event driven basis (i.e. as the information changes) along with beneficial ownership information. The latter was presented as an option in the *Transparency and Trust* discussion paper and we think it would be important to have consistency with requirements to notify changes to shareholders – particularly as for many companies the legal and beneficial owners will be the same. This is considered further, later in this paper.

Q1. Do you agree that the requirement to file an annual return is removed and that the system relies on event driven filing?

OR

Q2. Do you agree that companies should be allowed to simply check and confirm that their information is up to date once a year?

OR

Q3. Do you wish to retain the annual return?

Q4. Do you agree that the SIC code should be required at incorporation and maintained as part of an annual check?

ACCOUNTS

46. Both EU and domestic law require all companies to annually prepare and send to the Registrar accounts that report on the performance and activities of the company during their financial year. Making accounts information publicly available enables third parties to understand the financial health of a company and helps them to decide whether or not to enter into business with that company.
47. Over the last ten years, the UK Government has reduced the amount of accounting information SMEs must send to the Registrar. Due to the dramatic reduction in SMEs accounting obligations, it is imperative that the accounts are delivered accurately and on time.
48. Failure to deliver accounts on time is a **criminal offence**. In addition, the law imposes a civil penalty on the company for late filing of accounts. The amount of the penalty depends on how late the accounts arrive and whether the company is private or public at the date of the balance sheet.
49. The accounting information required by HMRC is for tax purposes only and is not made publicly available. However, we recognise that many companies would like to file their CH accounts and their HMRC tax return together on one date, and this was highlighted by the Red Tape Challenge. At present, accounts filed at CH by private companies are due 9 months following the company's end of year and the return to HMRC is due at 12 months. We also recognise that many, typically larger, companies have expressed a desire to keep the dates separate in order to avoid having to change or reconfigure their existing systems.

50. There is a joint filing tool which enables some small companies and their agents to produce and submit the different sets of company accounts they need to send to HMRC and CH from the entry of a single set of data. Take up of this filing tool has been low and we recognise that it must be improved to make it both simpler and easier to use and available to all private companies. As the majority of companies will prefer to submit from software packages which already contain their data, avoiding the need to re-enter it, the Government should also engage with accounting software companies, to explore options to improve the experience of filing with Government.
51. We intend to improve our systems, and guidance, to facilitate the filing of accounts to HMRC and CH on a single date for those companies that wish to do so. We will not, at this stage, change the dates for filing with HMRC and CH.

Q5. We would welcome views on the impact on companies and on the transparency of the register of aligning filing dates for accounts at both HMRC and CH.

TRANSPARENCY

COMPANY REGISTERS

52. The Act requires companies to hold registers at either their Registered Office or at a Single Alternative Inspection Location (“SAIL”). These registers have to be made available for inspection by third parties. The same, or similar, information must also be sent to CH to be made available on the public register.
53. Responses to the Red Tape Challenge questioned the need for small private companies, in particular, to hold information on shareholders, directors and secretaries, when there is a legal requirement to make much of the information available on the public register. Details of the requirements are in the Act at sections 114, 162-167 and 275.
54. Company registers are important. These registers may hold more up to date information than that which is publicly available. They might include some information which a company is only required to update at CH once a year instead of at the point of change. Also, a company may have updated its internal registers but failed to file the appropriate update with CH. The company register should reflect the current position of the company.
55. A company’s register of shareholders contains the addresses and shareholding details of all company members. This is useful for shareholders who may wish to contact their fellow members to discuss company business. There is, currently, no requirement to send shareholder addresses to CH and, therefore, these are not available publicly.
56. However, there is a requirement for companies to supply addresses for all directors (this may be a service address). Therefore, for small private companies whose directors are the only shareholders the information held by CH and in the company registers is identical. These companies may find it burdensome to be contacted by third parties requiring information from a register which holds identical information to that held by

CH. Ensuring that the information is available for inspection may also hinder small companies from getting on with their day to day business.

57. Currently, under s117, a company may apply to the Court to refuse a request to inspect or copy the register, if they believe the information is not sought for a proper purpose.

58. There is some anecdotal evidence from intermediaries that the smallest companies seldom hold these registries. On the few occasions when they are asked to produce them they are unable to do so.

Proposals:

Option 1

59. For those companies whose directors and shareholders are the same people, we could remove the requirement to make their company registers available to the public, at their Registered Office or SAIL, to inspect or to copy. This would apply to all the registers it is required to hold. This is because the information held on the public register and the company registers would be identical. Instead, the information on the public register at CH would be all the information available to the public relating to the company.

60. This would reduce the burden on companies in having to allow access to those wishing to see the company registers. It would also remove the burden associated with disputes that are currently settled through the courts as to whether people can access the material and for what reason.

Q6. Do you agree that for those companies whose directors and shareholders are the same people, the requirement to make their registers available at their Registered Office or SAIL should be removed?

Option 2

61. We propose to amend the Act to allow private companies the option of holding some of their company registers at CH rather than their Registered Office/SAIL. The information on the register held at CH would be exactly the same as that which would be on a register held at a company's premises and would still be required to be updated by the company.

62. The registers that we would apply this option to are –

- Register of Members (s114)
- Register of Directors, along with Register of Directors' residential addresses (s162 onwards)
- Register of Secretaries (s275)

63. This proposal would simplify processes, particularly for those companies whose shareholders and directors rarely change. Companies would only need to send updated information to CH, where it would be made publicly available.

64. This would benefit third parties as they would no longer have to contact those companies at their premises but, would instead, simply search the CH online register, which is available to the public at all times.
65. We recognise this approach would mean any company choosing to hold their register at CH would no longer control who accessed the material.
66. There are some consequences of this change which need to be considered:
- We do not plan to make the register of directors' residential addresses available on the public record. The information will, however, be available to third parties (such as enforcement officials) in the same way as other residential address information, which is held on the register but not made publicly available.
 - The addresses given for members would be publicly available.
 - Section 112 of the Act, states that a member of a company is someone who agrees to become a member and whose name is entered in the Register of Members. Enabling a company to hold its register at CH could delay the shareholder's name being added to the register, delaying their legal entitlements as a shareholder. Any shareholder wishing to, for example, sell their shares, collect a dividend or evidence that they no longer hold shares in a company could experience problems as their details may not be updated as quickly as they would if the register was held at the Registered Office.
67. To mitigate this problem, we propose amending the Act to clearly define when legal ownership becomes effective, if the register is being held at CH. We propose that this option should only be available to private companies. Those companies that trade on public exchanges should still be required to physically hold registers.
68. While limits are arbitrary, we would welcome views on whether there should be any restrictions on those private companies which may be able to take advantage of the option.

Q7. Should private companies have the option of holding their registers at CH, in the same way that they are able to nominate a SAIL?

DATES OF BIRTH

69. When a company appoints a new director, the company must send the following information about the director to CH:
- name and any former name;
 - service address;
 - country or state (or part of the United Kingdom) of residency;
 - nationality;
 - business occupation (if any); and
 - date of birth.

70. The date of birth may be an important identifier for those searching the register, as it distinguishes between those with the same, or similar, names. It also helps to identify directors who are involved with more than one company.

71. However, the Information Commissioner confirms that the date of birth is a piece of information used frequently in identity theft. Companies House is receiving an ever increasing number of complaints from company directors about the availability of their date of birth, which has, in some cases, led to significant issues for them.

72. On this basis, we propose that the full details of an individual's date of birth should no longer be made publicly available. Recognising the issue around identifying individual directors, there are a number of possible ways to take this forward:

Proposals:

Option 1

73. CH collects the date of birth, but does not make any of the information available on the public register. This information could be used by CH itself and law enforcement agencies, in the same way that residential address information is used but not made available.

Option 2

74. CH collects a date of birth but only makes some of the information available on the register, for example the month and year of birth. This would still allow those searching the register a way to identify individuals, in most cases, but would reduce the chances of identity theft.

Q8. Should dates of birth be suppressed in part, or in full?

STATEMENTS OF CAPITAL

75. BIS consulted on the statement of capital in 2009². The consultation concluded that changes should be made to simplify processes.

76. Unfortunately, it has not been possible to amend either primary or secondary legislation concerning the statement of capital. This consultation provides us with the opportunity to update our thinking on the statement of capital and seek views on the possible changes.

77. Companies with share capital must produce a Statement of Capital as part of their application for incorporation, annually (sections 9 & 10), and on demand if a

² The consultation is available at: <http://www.bis.gov.uk/files/file53716.pdf> and the responses may be viewed at: <http://www.bis.gov.uk/assets/biscore/business-law/docs/10-905-responses-to-consultation-financial-information-in-statements-of-capital>

shareholder requests this information. In addition, a company must send an up to date Statement of Capital to the Registrar of Companies every time share capital is altered.

78. The list below sets out every occasion when a company should provide an updated Statement of Capital to the Registrar –

Section 32(1)(g)	constitutional documents to be provided to members
Section 108(3)	re-registration from unlimited company to limited
Section 555(4)	return of allotment by limited company
Section 619(3)	notice to register of subdivision or consolidation
Section 621(3)	notice to register of reconversion of stock into shares
Section 625(3)	notice to register of redenomination
Section 627(3)	notice to register a reduction of capital in connection with redenomination's
Section 644(2)	registration of resolution to reduce share capital
Section 649(2)	reduction of capital: registration of court order and statement of capital
Section 633(3)	notice of cancellation of shares
Section 689(3)	notice to registrar of redemption of redeemable shares
Section 708(3)	notice to registrar of cancellation of shares
Section 730(5)	treasury shares: notice of cancellation
Section 856(2)	contents of annual return: information about share capital

79. Following an analysis of responses to the 2009 consultation, we believe that, where possible, all the requirements for a Statement of Capital within the Act should be consistent. We propose to simplify the requirements to achieve this throughout the Act. The information below will be required in all Statements of Capital –

- the total number of shares of the company
- the aggregate nominal value of those shares
- the aggregate amount unpaid on those shares (whether on account of nominal value of the shares or by way of premium)
- the total number of shares in each class
- the aggregate nominal value of shares in each class
- the aggregate amount unpaid on shares in each class (whether on account of nominal value of the shares or by way of premium)

Q9. Should the Statement of Capital requirements be changed, as set out above?

Information required on formation

80. Following our earlier consultation on reforms to the statement of capital we proposed to leave the statement of capital required for formation unchanged, and respondents broadly agreed with this. Section 10 currently requires the following:

- the amount to be paid up; and
- the amount to be unpaid on each share (whether on account of the nominal value of the share or by way of premium)

81. This requirement differs from the other statement of capital requirements, which requires the aggregate amount unpaid in total and by class of share.

82. We now believe that the merits of standardisation outweigh the case for requiring the information as currently worded in s10. We, therefore, propose that s10 be aligned with all other statement of capital requirements.

Q10. Should the statement of capital on formation requirements be the same as the other statement of capital requirements throughout the Act?

Annual update of Statement of Capital

83. In light of the proposals made above, relating to the Annual Return, we would like to consider what Statement of Capital information should be required on an annual basis.

84. European Law requires all companies to report information on shares at least once a year. In the UK we have met this requirement by seeking the information in the annual return.

85. However, we could remove the requirement to provide statement of capital information on a specified date each year if a company has updated its statement of capital within that year. In such cases, a company would be required to make a new Statement of Capital only if there had been no 'in year' changes since the last one.

86. For example, a company is required to send in its annual return or a statement of capital on 1 June each year, but on 1 April the company sends in an updated statement of capital as it has cancelled some shares. Under the current law a further statement of capital would be required on 1 June as well.

Proposal:

87. We propose to remove the requirement for companies to report twice within a year, if updates to the Statement of Capital have been made within the previous twelve month period.

Q11. Do you think companies should only have to supply a statement of capital on a specified date if they have not updated their information within the year?

Requiring duplicate information that is already in the Articles of Association

88. We would also like views in relation to s.555 – Allotment of shares. Companies are currently required to complete a prescribed form following an allotment of shares. This form must be accompanied by a new statement of capital. We would like views on whether this requirement is onerous and whether the Articles of Association could be relied upon to include details of share allotments.

89. This would mean that it may not always be clear to searchers of the register whether changes have been made relating to shares as they would have to look at the updated Articles of Association. This should be balanced against the current requirement which appears to require the same information more than once, and could, in itself, cause confusion within the register.

Q12. Should we amend S. 555 to rely on Articles of Association to provide information on allotment of shares?

TRUST AND TRANSPARENCY

90. In July this year BIS issued a discussion paper on *Transparency and Trust*³. This paper outlined a range of proposals to enhance the transparency of UK company ownership and increase trust in UK business. The proposals aim to prevent illegal activity; better enable companies to be held to account; and provide businesses, investors, employees and consumers with confidence that companies are acting fairly and properly.

91. Central to the paper are questions around the implementation of the UK's G8 commitment to require companies to obtain and hold information on their beneficial ownership; creation of a central registry of company beneficial ownership information maintained by CH; and questions around whether this information should be made available publicly.

Legal and beneficial ownership information

92. The *Transparency and Trust* paper sought views on whether the most appropriate way to collect, hold and update information on beneficial ownership in a central register would be on the same basis as legal ownership, as outlined in sections 856A and 856B of the Act. This would ensure consistency and might facilitate familiarisation with the new requirements.

93. The current requirements for disclosing information on the legal ownership of shares are as follows:

- On incorporation, companies provide the names and addresses of the subscribers to the company and details of their shareholding.
- Thereafter private companies are only required to file the name of the shareholder and details of their shareholdings once every three years, if none of the other information requested in s856 has changed. Private companies are not required to provide the addresses of new shareholders. Requirements for traded companies are slightly different and do require shareholders addresses, these requirements are set out in detail at s856B.

94. The discussion paper closed in September and some respondents suggested additional information that should be collected on beneficial ownership; and different ways in which that information should be updated. We are considering these views carefully and, in particular, whether this would necessitate changes to the legal ownership information held by CH and the frequency with which it is updated in order to ensure consistency. This will also need to be considered in the light of views on other proposals in this paper, e.g. proposals on company registers.

95. The vast majority of companies in the UK are small, and the legal owner and director are one and the same. In these circumstances, we would also expect the legal owner to be the beneficial owner.

³ <https://www.gov.uk/government/consultations/company-ownership-transparency-and-trust-discussion-paper>

Disclosure of Subsidiaries

96. Many companies and LLPs are part of a group structure. Their parents or subsidiaries can be in the same country or overseas. There is no limit to the number allowed in a group or to the types of entities which can make up a group. A multi-national group may include hundreds of subsidiaries made up of limited and unlimited companies, LLPs and other partnerships. These complexities can make it difficult to completely understand a group's structure.
97. Companies with subsidiaries are required to report certain information, about all subsidiaries, in the notes to their accounts. This can be the only source of information that governments have about a particular group's activities. Recent calls for greater tax transparency by multi-national companies have also led to suggestions that overseas subsidiaries could be used for tax avoidance purposes.
98. There is evidence that companies do not report the information about their subsidiaries in a consistent way. We think there is room to amend the reporting requirements, in relation to subsidiaries, without adding to the burden these companies face in reporting this information.

Proposals:

Option 1

99. Require companies to state the total number of subsidiaries in their group whenever they provide information about them. This is a simple change which would go a long way to giving confidence that all subsidiaries have been reported. Parent companies already bear the burden of providing the information, including a total would present no additional burden.

Option 2

100. Alternatively, or in parallel, companies should only be required to report their subsidiaries in one place – as part of their annual accounts. Currently, companies can decide, if the information about their subsidiaries is too extensive, to only disclose information about the primary subsidiaries in their accounts. If they do this, the accounts must also include a statement that the full list of subsidiaries will be filed together with their next annual return.
101. Evidence shows that some companies take up this alternative but, subsequently, fail to attach a full list. The documents may be prepared by different sections of an organisation, so it is entirely possible that, in some cases, this is an administrative error. The possibility of error, or deliberate non-compliance, will be removed. By requiring the information on the accounts, where it is principally required and of most relevance, the information will also be available sooner.

Q13. Do you agree that companies with subsidiaries must include a total number of subsidiaries? If not, why?

Q14. Do you agree that the information must always be included in the accounts?

COMMUNICATIONS

COMPANY EMAIL ADDRESSES

102. The Government recognises the importance of digital services and communications.
103. Many companies already have websites and email addresses as their preferred means of communication with their members, customers and suppliers. Some exist entirely online. Postal delivery has time and cost implications for both companies and CH.
104. The Registrar already has authority under the Act to receive information from, and send information and notices to companies electronically, providing the recipient has indicated they are willing to communicate in this way. In addition, the Civil Procedure Rules allow all documents to be served electronically, if the party being served has consented and provided the relevant contact details, such as an email address (Practice Direction 6A).
105. Although nearly all companies file their annual return with CH electronically, and an ever increasing number file their accounts electronically, they do not currently communicate more generally by email. CH only holds email addresses for approximately 640,000 companies which have opted to receive specific communications electronically.
106. We propose changing the law to enable the Registrar to request that companies supply an email address on incorporation, and keep it up to date. There will also be a facility for existing customers to register an email address. In order to facilitate smoother communications between companies and wider-Government, the email address may be shared with other specified public authorities (set out in law). This would help to improve a company's experience of interacting with Government.
107. We do not, at this time, think it is appropriate to mandate electronic communication as we realise that some people will continue to prefer to correspond with Companies House in hard copy.
108. CH would then undertake all communications electronically, after relevant changes to the legislation, with those companies that had provided an address. Some critical notices, such as final notices in relation to strike off would continue to be sent in hard copy. By providing CH with an email address, companies would be agreeing to receive correspondence and formal notices electronically from CH.

Q15. Are there any notices that should not be sent electronically?

Q16. Do you agree that the email address should be made available to other public authorities, specified in law?

Q17. Are there any other means of electronic communication that CH should explore?

ADDITIONAL INFORMATION ON THE REGISTER

109. A key benefit of the Register is to enable those doing business with a company to easily find out information about them. The register is accessed over 240 million times a year, by a broad range of people for an array of reasons.
110. Recognising the accessibility of the information on the register, in some cases companies choose to provide more than the minimum information. For example, some companies file more detailed accounts than required because they have decided it is to their benefit, either in terms of generating business or improving their credit rating.
111. It may be helpful to extend that principle to a broader range of information. For example, some companies and searchers may find it useful to have a website address, contact details or trading name on the register, allowing those searching the register to rapidly find out more detail about a company.

Q18. Do you think companies should be able to supply the Registrar with additional information, such as a website, to display on the public record?

RESOLVING PROBLEMS

112. CH is a register which accepts information from companies and makes it publicly available – undertaking only limited checks. We have been asked whether CH should go further and carry out more checks, including verifying a person's identity, as, at present, there is no requirement to do so. Our *Transparency and Trust* paper sought views on this, in the context of beneficial ownership information.
113. The current process means that the UK has one of the quickest, simplest and cheapest regimes for company incorporation. We are keen that we should maintain this position and even improve on it. Introducing further checks at CH would have an adverse impact.
114. If more is to be done to increase the integrity of data on the register, there is a clear choice between implementing additional checks and processes before registration or developing faster and more effective methods to deal with issues when they arise. The relatively low number of cases (in proportion to the overall volume of transactions) and nature of the register point to a focus on remedies rather than upfront validation and verification. This consultation puts forward proposals for more effective remedies.

Q19. Do you think that CH has the balance right between upfront validation and verification and quick and effective remedy?

115. A number of cases have come to our attention in relation to disputed information on the register. Whilst the Registrar has some powers to correct invalid or inaccurate information on the register, it is currently unable to resolve certain disputes quickly and effectively. The Government's aim is to ensure that the register of companies accurately

reflects the position of all companies on the register, and therefore does not cause distress to individuals and is a trusted tool for those who search it.

REGISTERED OFFICE ADDRESSES

116. BIS consulted on the issue of Registered Office address disputes in 2009⁴. This consultation provides us with an opportunity to update our thinking and seek views on the possible changes.
117. All UK companies must have a Registered Office (s86), within the UK jurisdiction in which they are registered, and to which all communications and notices may be addressed. It is given legal effect by its registration; *by law the Registered Office address is whatever the company says it is*.
118. Under sections 1095 & 1096 the Registrar and the Court have power to amend the register to correct factually inaccurate, invalid or ineffective information. However, as the Act does not explicitly specify criteria applicable to Registered Offices, unless the address is outside the relevant UK jurisdiction or a truly impossible address is entered (e.g. the moon), a Registered Office can not be rejected as being inaccurate, ineffective or invalid.
119. A Registered Office can be a business address, the address of the company's accountant or any other address the company chooses (including a residential address – many small companies and start-ups begin life from a residential address).
120. Unfortunately, a small number of companies have a Registered Office with which they have no connection:
- It may be an error (for example, where the street name is mis-spelt or an incorrect house number is entered) – this should be easily corrected by contacting a company, for example via directors' addresses, or potentially via an email address if a statutory provision existed. In the event of a genuine error, the company would file a change of Registered Office.
 - It could be the result of a dispute between the company and its agents, such as an accountancy practice that offers Registered Office services.
 - An unscrupulous owner of a company may state that the Registered Office is an address which has no link to the company, effectively hi-jacking a residential or business address. This can be because the new company is being used for fraudulent purposes, and can have unpleasant consequences for the genuine occupant. In the worst cases, bailiffs could be sent to the address, seeking restitution from the company falsely aligned to this address. As a result, individuals occasionally contact CH upon discovering that their address is being used as a company's Registered Office without their knowledge or consent.

⁴ The consultation is available at: <http://www.bis.gov.uk/files/file53750.pdf> and the responses may be viewed at: <http://www.bis.gov.uk/assets/biscore/business-law/docs/10-907-responses-to-consultation-objecting-to-registered-office-address.pdf>

121. Last year, there were 653 complaints relating to Registered Office addresses. Only a small number of these will relate to companies hijacking an address, with others being a matter of oversight, or, an internal dispute. While this is a small number against the overall size of the register (0.02%), the impact on the individuals affected can be significant. Therefore, it is appropriate for the government to put in place an effective process to quickly deal with the majority of these cases.

Proposals:

Option 1

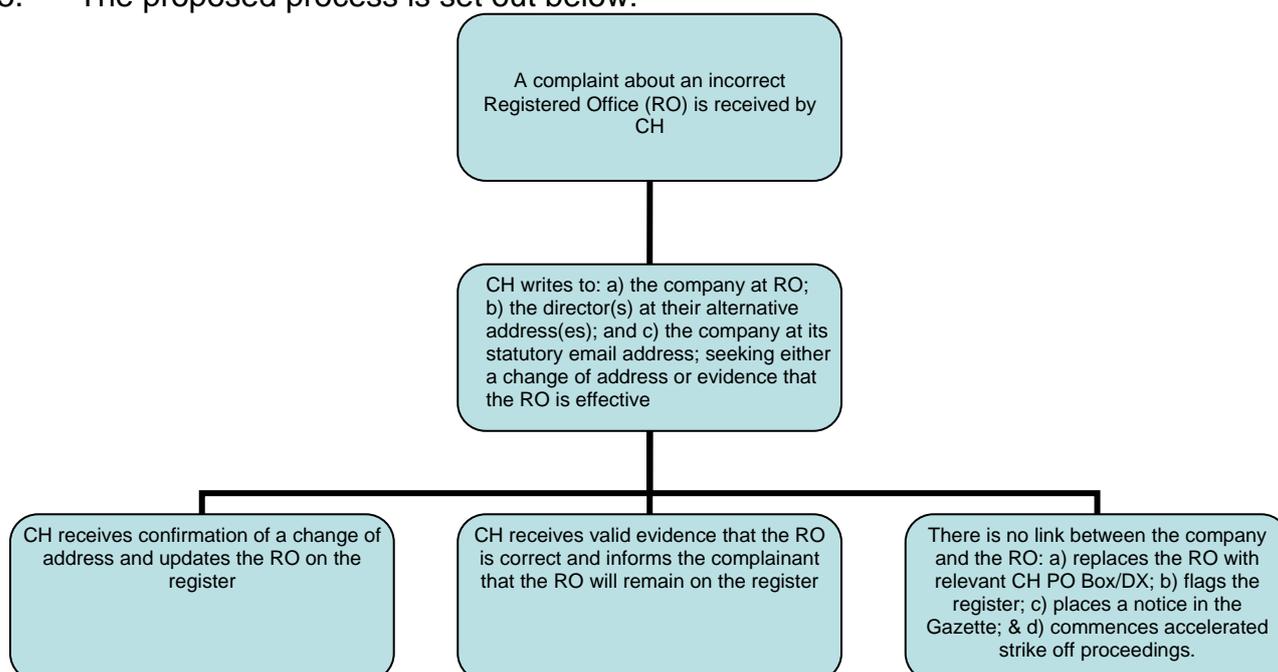
122. A small change could be made to the legislation (s86) to require all companies to have a demonstrable link to their Registered Office address. Precise criteria could be stipulated. For example:

- (a) the company must be owner/leaseholder/occupant of the building;
- (b) the company has the permission of the occupant;
- (c) correspondence will, or is likely to, reach the company officials; and
- (d) documents may be capable of being inspected there (i.e. when a SAIL is not used).

123. Following a complaint being received at CH, the company will be required to provide the specified proof of their link with the Registered Office address. If proof cannot be delivered, and the Registered Office address is not changed, it will be removed from the register. The relevant jurisdictional CH PO Box/DX address will be inserted in its place, the register flagged to specify the reason for the amendment, and the company will proceed to a fast-tracked dissolution (see paragraph 140). Any notices served on the ineffective Registered Office (CH PO Box) will also be published in The Gazette, or a similar publication.

124. This approach will enable us to quickly remove addresses which relate to innocent third parties from the register and avoid further distress. Amendments to legislation would be required to enable the Registrar to remove a Registered Office address from the register and replace it with the relevant jurisdictional CH PO Box / DX address.

125. The proposed process is set out below:



Option 2

126. As above, except an alternative to replacing the Registered Office with the default CH address would be to replace it with the residential address of a director. This would, of course, only be possible in cases where the Registered Office and the director's address differ, and where both addresses are in the same UK jurisdiction.

127. There may be a very small number of cases where both parties are able to demonstrate that they have a right to use a particular address. In these circumstances, it is right that the court should make a final decision.

Q20. Do you agree that there should be a requirement for the Registered Office to have a link to the company?

Q21. What criteria do you think should be specified to evidence an 'effective' Registered Office?

Q22. Do you think replacing an ineffective Registered Office address with a Director's address is a viable approach?

DIRECTOR DISPUTES

128. Companies are required to inform CH when a director is appointed, removed or when a director's details change. When a notice of appointment is sent to the Registrar it must be accompanied by a notice of consent, by that person, to act in that capacity.

129. The "consent to act" currently comes in the form of a signature on a form, or, for digital filing, through an online personal authentication process.

130. Disputes between directors arise when the ownership or control of a company is contested: a director may no longer wish to be associated with a company and claim they were added to the register in error or an individual may discover their details have been registered without their permission.
131. Most disputes are complex and require the presentation of evidence before the Courts, which are able to assess the evidence brought before them and determine the facts. It is right that the Courts deal with such serious issues, particularly as it is not the role of the Registrar of Companies to be an arbiter of fact.
132. The cases we intend to deal with are those when one party states that they have never been a director. There are approximately 400 of these cases per year. We believe that the Registrar could be equipped with a power to ask for evidence to avoid Court proceedings in the majority of cases. It can cost an individual £700-£1000 to pursue an uncontested claim in the Courts. For a business, which may be the subject of a vexatious claim, Court costs will be significantly higher. The Court's time and the cost to the State should also be taken into consideration.
133. The Registrar of companies is able to rectify the register, on application, in clearly defined circumstances and where there is no objection to the removal⁵. This material must be derived from:
- (a) something invalid or ineffective; or
 - (b) that was done without the authority of the company; or
 - (c) is factually inaccurate; or
 - (d) is derived from something which is factually inaccurate or forged.

Proposal:

134. We propose to change the law, so that:
- i) The consent to act is no longer required to be provided to the Registrar at the time a change is notified. This would remove the burden on companies and directors of having to send a signature from a director to the Registrar, or of having to complete the Registrar's personal authentication process. In effect, the company would merely be required to confirm to the Registrar that the company has the consent of any new director to add them to the register. The agreement to be a director would be held by the company and the director, not the Registrar.
 - ii) The company would be required to retain evidence of the individual's consent to become a director. Suitable evidence may take the form of a 'service contract'. The 'service contract' is a document which many companies currently complete when they appoint a new director.
135. The effect of these two changes would be that, rather than requiring a statement of consent at the time of appointing a director, the Registrar will only require evidence of a director's consent at the time of any dispute.

⁵ The Registrar's power to rectify is set out in Section 1095 of Companies Act 2006 and SI 2009/1803.

136. However, we recognise that not all companies have formal service contracts in place, whilst others may be unwilling to supply copies of their service agreements for confidentiality reasons. As such, we also propose to provide the option of using a standard template document (made available by CH), to be suitable evidence. The standard form document would be signed by the company and the new director, at the time of the director's appointment and copies held by the respective parties.
137. In the event of a dispute about whether a director has ever been appointed CH will request sight of the evidence. If this is not produced, the director's details will be removed from the register.
138. We accept that an individual may argue that the service agreement has been fraudulently completed. In such circumstances, the company or individual would be required to seek a decision in the Courts. We propose that, during this process, the company record on the register would be flagged to state that there is a dispute in relation to the director.

Q23. Do you agree that the consent to act should be replaced with a simple confirmation that the company holds the consent?

Q24. Should companies be required to provide evidence of a Director's appointment, in the event of a dispute?

ACCELERATED STRIKE OFF

139. The Registrar of Companies can strike off a company, if there is reasonable cause to believe it is neither carrying on business nor in operation, as set out in Section 1000 of the Act. The Registrar may take this view if, for example:
- documents which should have been received (e.g. annual accounts) have not been;
 - mail that the Registrar has sent to a company's Registered Office has been returned undelivered, or
 - the company has no directors.
140. The existing strike off regime is a considered process, which involves sending two pieces of statutory communication at prescribed intervals, over approximately 3 months, to a company at its Registered Office. In addition, as a failsafe, informal communications are sent to company officers at the addresses they have filed at CH.
141. If satisfied that strike off is the appropriate course of action, the Registrar will publish a notice in the relevant national Gazette stating the intention to strike the company off the register, unless interested parties provide a reason not to take that course of action.
142. A copy of the notice will be sent to the company and placed on the company's public record. If the Registrar sees no reason to do otherwise, the company will be struck off at the expiration of three months after the date of the notice. The company will be dissolved on publication of a further notice stating this in the relevant Gazette.

143. At its quickest, the current strike off process takes approximately 6 months. This is based on striking the right balance between removing the company from the register, and allowing creditors sufficient time to register an objection. The process can be much slower, or halted if objections are received. Some customers and stakeholders have complained that the strike off process is too slow and, in some cases, allows fraudulent companies to continue trading. This is a particular issue when a company has hijacked a residential address for fraudulent purposes (as above, in paragraph 121).
144. In these cases, it may be appropriate to have an accelerated strike off process. In New Zealand, the strike off process can be completed in approximately 20 days.

Proposal:

145. We propose to change the law, to allow that in some cases (e.g. when an address is hijacked), and where no contact can be made with the company or its directors, the Registrar should have the power to initiate a rapid strike off action.
146. An initial letter would be sent to the company and its directors (this would be the equivalent of a final notice so would not be sent by email – see paragraph 110), to which a response would be required within 2 weeks. If no response is received, a notice would be issued in the Gazette for one month, before the company is struck off. This could reduce the timescale for strike off to approximately 6 weeks.

Q25. Do you agree that there should be an accelerated strike off process particularly in the event of a company hi-jacking an address?

Q26. Are there any potential consequences of an accelerated strike off process that we should bear in mind?

Q27. Are there any other circumstances in which an accelerated strike off process would be appropriate?

147. We would welcome your views on all the questions set out above. Also, as we have stated within this document, the Government is committed to ensuring that regulation is proportionate, that we remove duplication and minimise burdens. We believe that the proposals above achieve these objectives. However, if you have any other suggestions on how to reduce duplication or simplify requirements please include these in your response.

COSTS AND BENEFITS ANALYSIS

148. While an Impact Assessment has not been made available in this consultation, as these regulations are deregulatory, one will be included in the Government response which will be published ahead of the regulations being laid. This is in line with Better Regulation Executive's proposed fast track routes for Red Tape Challenge Measures.
149. We have produced indicative costs benefits analysis for the measures which are set out above – please see Annex C

Q28. We would welcome views on the assumptions and estimates used in the costs benefits analyses, particularly where we have not been able to quantify some of the costs and benefits.

Q29. Are there any other costs or benefits that should be included in the analyses?

Q30. We would welcome views on likely take-up of proposals, particularly in relation to company registers and electronic communications.

7. Consultation questions

150. List of questions:

- Q1. *Do you agree that the requirement to file an annual return is removed and that the system relies on event driven filing?*
- Q2. *Do you agree that companies should be allowed to simply check and confirm that their information is up to date once a year?*
- Q3. *Do you wish to retain the annual return?*
- Q4. *Do you agree that the SIC code should be required at incorporation and maintained as part of an annual check?*
- Q5. *We would welcome views on the impact on companies and on the transparency of the register of aligning filing dates for accounts at both HMRC and CH.*
- Q6. *Do you agree that for those companies whose directors and shareholders are the same people, the requirement to make their registers available at their Registered Office or SAIL should be removed?*
- Q7. *Should private companies have the option of holding their registers at CH, in the same way that they are able to nominate a SAIL?*
- Q8. *Should dates of birth be suppressed in part, or in full?*
- Q9. *Should the Statement of Capital requirements be changed, as set out above?*
- Q10. *Should the statement of capital on formation requirements be the same as the other statement of capital requirements throughout the Act?*
- Q11. *Do you think companies should only have to supply a statement of capital on a specified date if they have not updated their information within the year?*
- Q12. *Should we amend S. 555 to rely on Articles of Association to provide information on allotment of shares?*
- Q13. *Do you agree that companies with subsidiaries must include a total number of subsidiaries? If not, why?*
- Q14. *Do you agree that the information must always be included in the accounts?*

- Q15. *Are there any notices that should not be sent electronically?*
- Q16. *Do you agree that the email address should be made available to other public authorities, specified in law?*
- Q17. *Are there any other means of electronic communication that CH should explore?*
- Q18. *Do you think companies should be able to supply the Registrar with additional information, such as a website, to display on the public record?*
- Q19. *Do you think that CH has the balance between upfront validation and verification and quick and effective remedy right?*
- Q20. *Do you agree that there should be a requirement for the Registered Office to have a link to the company?*
- Q21. *What criteria do you think should be specified to evidence an 'effective' Registered Office?*
- Q22. *Do you think replacing an ineffective Registered Office address with a Director's address is a viable approach?*
- Q23. *Do you agree that the consent to act should be replaced with a simple confirmation that the company holds the consent?*
- Q24. *Should companies be required to provide evidence of a Director's appointment, in the event of a dispute?*
- Q25. *Do you agree that there should be an accelerated strike off process particularly in the event of a company hi-jacking an address?*
- Q26. *Are there any potential consequences of an accelerated strike off process that we should bear in mind?*
- Q27. *Are there any other circumstances in which an accelerated strike off process would be appropriate?*
- Q28. *We would welcome views on the assumptions and estimates used in the costs benefits analyses, particularly where we have not been able to quantify some of the costs and benefits.*
- Q29. *Are there any other costs or benefits that should be included in the analyses?*
- Q30. *We would welcome views on likely take-up of proposals, particularly in relation to company registers and electronic communications.*

8. What happens next?

150. Responses to this consultation will be used to finalise decisions regarding the simplification of requirements and the removal of duplication. A government response to this consultation, outlining the responses and the approach the government intends to take, will be published within three months of the consultation closing. This will be available from the BIS website. Paper copies will be available on request.
151. Any proposed changes, to either primary or secondary legislation, will also be made available for comment in draft form.

Annex A: Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

Comments or complaints on the conduct of this consultation

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

John Conway,
BIS Consultation Co-ordinator,
1 Victoria Street,
London
SW1H 0ET

Telephone John on 020 7215 6402
or e-mail to: john.conway@bis.gsi.gov.uk

However if you wish to comment on the specific policy proposals you should contact the policy lead (see section 5).

Annex B: List of Individuals/Organisations consulted

AiC

Association of Company Registration Agents

Association of Chartered Certified Accountants

British Chambers of Commerce

Cabinet Office

Capita Registrars

Charity Commission

City of London Law Society

Companies House

Confederation of British Industry

Co-operatives UK

Department of Enterprise, Trade and Investment – Northern Ireland

Dun and Bradstreet

Equiniti

Experian

Federation of Small Businesses

Financial Conduct Authority

Financial Reporting Council

Forum of Private Business

Fraud Advisory Panel

Global Witness

Information Commissioner's Office

Institute of Chartered Accountants in England and Wales

Institute of Chartered Secretaries and Administrators

Institute of Credit Management

Institute of Directors

Intellectual Property Office

Jordan's Limited

Law Society of England and Wales

Law Society of Northern Ireland

Law Society of Scotland

National Assembly for Wales

National Association of Personal Financial Advisors

Northern Ireland Assembly

Northern Ireland Executive

Northern Ireland Office

Office of National Statistics

Registers of Scotland

Regulatory Policy Institute

Scottish Competition Law Forum

Scottish Parliamentary Corporate Body

The Home Office

The Scottish Government

Welsh Assembly Government

Annex C: Impact Assessment of Company Filing Requirements

While an Impact Assessment has not been made available in this consultation, as these regulations are deregulatory, one will be included in the Government response which will be published ahead of the regulations being laid. This is in line with Better Regulation Executive's proposed fast track routes for Red Tape Challenge Measures.

We have produced indicative costs benefits analysis for the measures which are set out below.

Annual Return

The proposal is to remove the requirement for all companies to complete an annual return. This will be replaced by relying on event driven filings or an annual check. Currently, companies have to complete *both* event driven filings *and* an annual return. Therefore, eliminating the annual return requirement removes duplication.

Costs

Government:

The first cost to this proposal relates to the cost to CH of explaining the changes to companies which would involve a communications campaign. CH would use a variety of channels, one of which is to piggyback their external focus groups, which run throughout the year and cover a wide range of issues.

Following the introduction of The Companies Act 2006, CH spent £800k on communications. They assume that the whole package of measures would cost a similar sum, £500k of which they estimate would be attributable to explaining the Annual Return measure⁶.

There may also be limited displacement of existing communications activity but we do not have sufficient information to quantify this effect.

A second cost to CH relates to one-off costs associated with updating their internal IT systems and processes to reconfigure their systems to operate in a post Annual Return world. CH estimates this cost to be around £230K⁷

Adding these costs together gives a total transition cost to government of £730K

Business:

The changes to annual returns would also impose a transitional cost on business.

Companies would incur the costs of familiarising themselves with the new procedure. All companies on the register would have previously needed to complete the annual return.

⁶ Companies House Internal Estimate (based on previous experience of communicating changes to company law in 2008/2009)

⁷ Companies House

There are 3.2m companies on the register⁸. CH internal modelling estimates that it would take approximately 20 minutes for a company to become familiar with the new arrangement⁹.

We assume that the company director would deal with this issue. For these purposes, we assume that a company director earns the mid point between the median wage (£13 per hour) and the median wage of a 'Corporate Manager or Director' (£24 per hour) including the standard non wage uplift (17.8 percent - to take into account non-wage employment costs). This gives a cost of £19 per hour¹⁰.

Multiplying 3.2m* £19/3 implies a transition familiarisation cost of £20.2m.

Benefits

Government:

Removing requirements for annual returns would lead to administrative savings to CH. Currently, CH writes out to all companies to inform them that their annual return is due. They estimate that they send out around 3.2m letters per year at a cost of £0.34¹¹. This gives a yearly saving of £1.1m.

Business:

There are some small cost savings to business associated with removing the requirement to complete the annual return. CH internal modelling estimates that, for a standard company, the Annual Return takes 2-7 minutes to complete¹². This depends on user familiarity and the nature of any required changes, with a central estimate of 5 minutes. Applying the wage assumption above, including the non-wage uplift to this figure applies a yearly saving to each business of around £1.60 per year (£19/12).

Research commissioned by CH¹³ estimate that 41% of companies use an accountant or an agent to file their annual return and 59% complete it themselves.

This implies a saving to firms, who complete their own return, of £3m per annum (3.2m(0.59*1.6)).

For the 41% of companies who use an agent to complete the Annual Return, the costs savings would be larger. The average accountant earns £23 per hour. Assuming that an accountant takes the same time to complete the annual return as a standard business, this implies a saving to business of approximately £2 per year (£23/12). Multiplying this by the number of firms who use this method of completing an annual return, this gives a total saving of £2.6m per annum (3.2m*(0.41*2))

⁸ Companies House

⁹ Companies House

¹⁰ ASHE date 2012

¹¹ Companies House internal estimate based on the contract unit cost (including labour and overhead costs) with an external provider. Please note that CH has separate contracts for different types of correspondence and so unit costs will differ.

¹² Companies House

¹³ Illuminus 2012

Summary

The NPV of this measure over 10 years is £36.7m

Company Registers

The proposal is to provide small private companies the option of holding their company registers at CH or removing the requirement to make their registers available for inspection.

Costs

Government:

The first cost to this proposal relates to the cost to CH of explaining the changes to companies which would involve a communications campaign. CH would use a variety of channels, one of which is to piggyback their external focus groups, which run throughout the year and cover a wide range of issues.

Following the introduction of The Companies Act 2006, CH spent £800k on communications. The change to holding registers will not require as much information so CH has estimated £200k would be attributable to explain these measures¹⁴.

There may also be limited displacement of existing communications activity but we do not have sufficient information to quantify this effect.

Based on the current proposals there will not be any significant costs associated with changes to IT systems.

Business:

The changes proposed in relation to company registers would also impose a transitional cost on business. Firstly, companies would have to familiarise themselves with the new procedures and then make decisions as to whether to make any change to their own company procedures.

All companies on the register are required to hold company registers. However, this proposal only relates to private companies. There are approximately 2.5m private companies on the register. CH internal modelling estimates that it would take approximately 20 minutes for a company to become familiar with the new arrangements with a range of 10 minutes to 30 minutes.

For these purposes, we assume that a company director earns the mid point between the median wage (£13 per hour) and the median wage of a 'Corporate Manager or Director' (£24 per hour) including the standard non wage uplift (17.8 percent - to take into account

¹⁴ Companies House Internal Estimate (based on previous experience of communicating changes to company law in 2008/2009)

non-wage employment costs). This gives a cost of £19 per hour¹⁵. Multiplying 2.5m*£19/3 implies a transition cost of £16m with a range of £8m to £24m.

Benefits

Business:

The main benefit to business arises because companies will no longer have to use agents to hold registers on their behalf. However, there is a lack of evidence on how many companies currently use a third party or agent to hold their company registers. Based on existing evidence that 41% of companies use an agent to file their annual return, if we assume that a smaller proportion use an agent to hold their registers (30% as a working assumption with a range of 20% to 40%) there could be a saving if the register was held at CH for these companies.

Agents offer companies a package of secretarial support which costs in the range of £120 - £450¹⁶ excluding accounts. One company, which has set out its fees in detail, charges £52¹⁷ for holding a company register and making it available for inspection.¹⁸

For the purposes of estimating the savings, we have used this figure as a benchmark. Therefore, if 50% of all companies which currently use an agent to hold their registers were to move to CH held registers, this would imply a saving of £20m pa (750k*52/2) with a range of £13m to £26m, based on the assumption about the proportion of companies who use an agent¹⁹.

There are also some unquantifiable benefits to those who search the register (businesses or individuals). Being able to search company registers on a public register rather than go directly to the company will save time and money.

Summary

We did not calculate an NPV of this measure over 10 years due to the indicative nature of the assumptions used around take-up.

Encourage wider of electronic communications

CH currently only communicates with companies electronically in certain circumstances, where they have explicit agreement of the company to do so and in relation to agreed matters.

The consultation proposes that CH asks for an email address from all companies to be used in general correspondence. Although we do not propose to mandate this, we expect this will significantly speed up correspondence with CH.

¹⁵ ASHE date 2012

¹⁶ Companies House

¹⁷ Internet information – sourced from fees displayed on a company website.

¹⁸ Market price - does not necessarily represent a resource cost

¹⁹ These estimates contain indicative estimates and should, therefore, not be used to compute NPV figures

Costs

Government:

CH already has the facility to communicate by email which they do on a limited basis. The aim of the change is to encourage increased use of email. Companies House will change their processes to ask for an email address at the time of incorporation. This change should not add to the costs for Companies House.

Companies:

We do not expect there to be any familiarisation costs for companies because they will simply be asked whether they would like to supply an email address for use in the majority of their correspondence with CH.

Benefits

Government:

CH has analysed its channels of communication with companies. Last year – 2012/2013 they sent out a total of 95k²⁰ letters to companies using either first or second class post.

The 95,000 figure does not include statutory notices, recorded delivery items, airmail and DX correspondence. These types of correspondence will continue to be sent out by post, when an item needs to be sent securely or there needs to be proof of postage, which can be used in a Court of Law.

The total cost to the organisation of sending out this correspondence was £45k.²¹

We have not assumed that there will be a 100% take up of email correspondence at this time. This is in line with other electronic offerings from CH which have not achieved 100% take up. Where a company does not supply an email address CH will continue to correspond with them by letter. We would, however, expect the proportion of those using email to increase over time (this has not been factored into the total savings due to the degree of take-up uncertainty).

Given that there is a degree of uncertainty, we have conducted a sensitivity analysis varying the assumptions from a lower bound of 30% of companies using email as the preferred choice of communication to 70% of companies, with a central estimate of 50%. The assumptions give us a range of savings from £14k (30%) to £31k (70%) with a midpoint of £23k (50%).

Companies:

CH have analysed its incoming post for three months, during which it received 26k²² pieces of correspondence. Extrapolating from this information to calculate an annual figure

²⁰ Information from Companies House

²¹ Companies House achieve preferential rates for postage and have given the average cost for sending mail as 0.473p

suggests that they receive 104k pieces of correspondence per year at a total cost to companies of £52k²³.

This is based on the cost of a second class stamp which is currently 50p. We assume that it takes the same time to send a letter as an email. We realise that there is some time taken to post the letter but we estimate that this is negligible. This is an issue which we would like to confirm with companies as part of the consultation.

Using the same sensitivity analysis as applied to the outgoing post, we suggest that there will be a range of possible savings from between £16k (30% take up) and 36k (70%) with a midpoint of 26k (50%).

Summary

The NPV of this measure over 10 years is £0.42m

Registered Office Disputes

We propose to make changes to the Companies Act to require companies to have a demonstrable link to the address it names as its registered office. This link will only need to be demonstrated if a dispute is lodged at CH.

Last year, there were 580²⁴ complaints that companies were using an address as their registered office address for they have no authority or presence at. In these cases the company is generally fraudulent and uses a random address so that the authorities cannot locate them. CH receives no response in up to 95%²⁵ of communications made with these companies.

We propose that, following such a complaint being received at CH, the company is required to provide proof of their link with the registered office address. The acceptable forms of proof will be set out in law. If satisfactory proof can not be delivered, the Registered Office will be removed from the register. The relevant jurisdictional CH PO Box address will be inserted in its place and CH will proceed to a fast tracked dissolution of the company.

All companies would be affected by any such change. There are approximately 3 million companies in the UK²⁶, of which over 96%²⁷ are small and micro businesses.

Costs

Government:

²² Companies House analysis of incoming post

²³ This is based on the cost of a second class stamp which is currently 50p. Assume that it take the same time to send a letter as an email

²⁴ Companies House

²⁵ Companies House

²⁶ Companies House

²⁷ Fame Database

There will be no additional costs to government if we assume there is no change in the number of complaints in relation to Registered Office. However, the provision of a solution could have two possible consequences: a) it could prevent bogus addresses from being used; and / or b) it could encourage more people to complain.

We have anecdotal evidence from formation agents that there are companies which they once registered but no longer have a relationship with. The formation agents remain stuck as the Registered Office of those companies which fail to update their records with CH. We do not, at this point, have sufficient information to quantify the size of this potential problem. CH suspects that, following any changes, there will be an initial sharp increase in requests for incorrect Registered Office addresses to be removed from the register which will, in time, tail off.

In the case of a complaint, CH will be required to deal with this correspondence (involving issuing one letter at a cost of 40p²⁸) and dissolve more companies, which will also have a cost (a fast track strike off involves sending one letter at the cost of 40p).

These changes will be communicated via channels already in use – e.g. as part of regular communications, guidance or focus groups, which CH undertakes on a regular basis. There may be limited displacement of existing communications activity but we do not have sufficient information to quantify this effect.

Companies:

As explained above, we believe almost all companies will be able to provide the evidence required without doing anything new or different. The only difference is that, in the event of a dispute, the company would need to supply their verification document to CH. We would expect them to hold as a matter of course and would therefore not represent an additional cost. However, we wish to test this assumption as part of the consultation.

Benefits

Government:

Some cases can be dealt by issuing one or two letters to the company, its officials and the complainant; others will take many more interventions, perhaps up to 20²⁹. For the purposes of this exercise, we have used an average of 10 interventions. One letter will be sent out if this change is introduced. Therefore, we will be saving the cost of sending out 9 letters.

Each intervention by CH officials takes approximately half an hour (this includes investigating the issue, checking facts and responding to the complaint). Officials who deal with these cases are paid, on average, £10 per hour³⁰.

580 complaints x (9 letters x £5) = £27,000 per annum ongoing

²⁸ Companies House internal estimate based on the contract unit cost (including labour and overhead costs) with an external provider. Please note that CH has separate contracts for different types of correspondence and so unit costs will differ.

²⁹ Companies House

³⁰ Companies House

Individuals:

Currently, if a company insists that the registered office is linked to the company, and an individual insists this is not the case, the facts must be determined by the Courts. It is up to an individual to pursue a case through the Courts and can cost, on average £700-£1000³¹. Claims will, almost certainly, be uncontested in cases where an address has been “hi-jacked” for fraudulent purposes.

During 2012-2013, there were 94 Court Orders made to remove information from the Register. Taking an average cost of £850 for pursuing a claim through the Courts (based on the midpoint of the range above), the costs to individuals last year was (94 x £850) £80k³².

The individual will also have incurred costs telephoning and sending letters to CH in order to rectify the situation. On average, this takes two letters or emails and two telephone calls. Assuming that this takes one hour of an individual’s time as a central estimate, with a range of between 30 minutes and 90 minutes, at the median wage (£13³³), this would result in an additional cost of £1200 (94* £13) with a range of £600 to £1800.

Therefore, the total ongoing cost to individuals is likely to be in the region of 81k. This may be an underestimate because many individuals would not complain about the high jacking of addresses and/or engage with the legal process. However, they may still suffer costs³⁴ (e.g. subjective wellbeing effects or commencing proceedings that they drop before the Court order stage).

Summary

The benefits of the proposal to implement an accelerated strike off procedure will be ongoing. We suggest that the overall NPV benefit over the next 10 years is £0.92m

Accelerated Strike Off

This could be used in response to various situations, such as to remove a company who has provided false information or committed fraudulent activity.

Costs

Government:

³¹ Companies House

³² The actual costs of fraud are likely to be significantly higher due to the fact that much fraud of this nature will not be detected and there will also be wider costs in terms of additional cost to the justice system subjective wellbeing and so on. However the Home Office does not produce average cost figures for the cost of fraud. Home Office (2000) Research Study 217 The economic and social costs of crime

³³ Ashe data

³⁴ The actual costs of fraud are likely to be significantly higher due to the fact that much fraud of this nature will not be detected and there will also be wider costs in terms of additional cost to the justice system subjective wellbeing and so on. However the Home Office does not produce average cost figures for the cost of fraud. Home Office (2000) Research Study 217 The economic and social costs of crime

As a provider of information, CH is constantly updating and improving its systems. The changes to the system will be included with other changes to be made but will incur an estimated transition cost of approx £128k³⁵.

For all cases of accelerated strike off, CH will have to write out to the parties involved. However, this is also part of the current dispute process so should not increase their costs. This may be reduced due to increased use of email, in any event. No additional actions will be required.

Business:

Businesses will incur a minimal cost (preparation, postage & time spent) in supplying verification information to CH to settle a dispute and prevent dissolution. This system will incur the same costs which were counted under 'Registered Office'. Therefore, we have omitted them from the costs in this section to avoid double counting.

There will be no familiarisation costs as the timetable is set out as part of the strike out procedure.

Benefits

Government:

The accelerated strike off process will enable CH to remove companies from the register quickly. Currently, the process can take over 6 months through the Courts. The new process will take approximately 6 weeks. This will save the government time and Court costs.

The proposed process would remove one statutory (automated) letter to the company from the process and also letters sent to the company directors by recorded delivery. Based on a weighted average, derived from a frequency distribution of the number of directors provided by CH, we have used an average of two directors per company.

For the purposes of this calculation we have referred to the 580 Registered Office dispute cases, of which, 95% will be dealt with in this manner (551 cases). There will also be fast tracked dissolutions for other reasons, mainly relating to other types of fraud.

- 40p per automated letter x 551 = £220 per annum
- £1.40 per recorded delivery letter x (551 x 2) = £1,540 per annum

CH would not be required to place a second (final) notice in the Gazette but this will not present a real saving as they have an agreed annual fee and do not pay per notice.

Business:

The major benefit in this area is likely to be significant at this stage but not possible to quantify in advance of the consultation. Removing fraudulent companies more quickly from the register will reduce the transaction costs incurred by third parties who may invest in

³⁵ Companies House

them, do business with them or be employed by them. This reduction in transaction costs will encourage bona fide economic activity.

Another advantage to business is that, in the event of a dispute, a simple confirmation that information is correct (with accompanying evidence) will satisfy the Registrar. For an individual, whose address has been hijacked, the speeded up system will reduce the distress caused and will be free of charge, whereas, the average cost of pursuing an uncontested claim through the courts is £700-£1000. However, as these benefits were counted under 'Registered Office' we have omitted them from the savings in this section to avoid double counting.

Summary

The NPV of this measure over 10 years is -£0.11m

However, this does not include the substantial un-monetised benefits of this measure. The accelerated strike off process will enable fraudulent, ineffective and inactive companies to be removed from the register much more quickly. This will improve the accuracy of the register. The procedure will also alleviate the distress suffered by individuals who are the victims of company fraud, in particular, whose addresses have been "hi-jacked".

Annex D: Company Filing Requirements response form

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is 22 November 2013.

Name:

Organisation (if applicable):

Address:

Please return completed forms to:

Company Law Simplifications Team,
The Department for Business, Innovation and Skills,
Spur 2, Level 3,
1, Victoria Street,
London.
SW1H 0ET

Telephone: 020 7215 3342

Fax: 020 7215 0227

Email: CompanyFilingReqs@bis.gsi.gov.uk

Please tick the box from the list of options below which best describes you as a respondent. This allows views to be presented by group type.

<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe)

Question 1 (paragraph 45)

Do you agree that the requirement to file an annual return is removed and that the system relies on event driven filing?

Question 2 (paragraph 45)

Do you agree that companies should be allowed to simply check and confirm that their information is up to date once a year?

Question 3 (paragraph 45)

Do you wish to retain the annual return?

Question 4 (paragraph 45)

Do you agree that the SIC code should be required at incorporation and maintained as part of an annual check?

Question 5 (paragraph 51)

We would welcome views on the impact on companies and on the transparency of the register of aligning filing dates for accounts at both HMRC and CH.

Question 6 (paragraph 60)

Do you agree that for those companies whose directors and shareholders are the same people, the requirement to make their registers available at their Registered Office or SAIL should be removed?

Question 7 (paragraph 68)

Should private companies have the option of holding their registers at CH, in the same way that they are able to nominate a SAIL?

Question 8 (paragraph 74)

Should dates of birth be suppressed in part, or in full?

Question 9 (paragraph 79)

Should the Statement of Capital requirements be changed, as set out above?

Question 10 (paragraph 82)

Should the statement of capital on formation requirements be the same as the other statement of capital requirements throughout the Act?

Question 11 (paragraph 87)

Do you think companies should only have to supply a statement of capital on a specified date if they have not updated their information within the year?

Question 12 (paragraph 89)

Should we amend S. 555 to rely on Articles of Association to provide information on allotment of shares?

Question 13 (paragraph 101)

Do you agree that companies with subsidiaries must include a total number of subsidiaries? If not, why?

Question 14 (paragraph 101)

Do you agree that the information must always be included in the accounts?

Question 15 (paragraph 108)

Are there any notices that should not be sent electronically?

Question 16 (paragraph 108)

Do you agree that the email address should be made available to other public authorities, specified in law?

Question 17(paragraph 108)

Are there any other means of electronic communication that CH should explore?

Question 18 (paragraph 111)

Do you think companies should be able to supply the Registrar with additional information, such as a website, to display on the public record?

Question 19 (paragraph 114)

Do you think that CH has the balance between upfront validation and verification and quick and effective remedy right?

Question 20 (paragraph 127)

Do you agree that there should be a requirement for the Registered Office to have a link to the company?

Question 21 (paragraph 127)

What criteria do you think should be specified to evidence an 'effective' Registered Office?

Question 22 (paragraph 127)

Do you think replacing an ineffective Registered Office address with a Director's address is a viable approach?

Question 23 (paragraph 138)

Do you agree that the consent to act should be replaced with a simple confirmation that the company holds the consent?

Question 24 (paragraph 138)

Should companies be required to provide evidence of a Director's appointment, in the event of a dispute?

Question 25 (paragraph 146)

Do you agree that there should be an accelerated strike off process particularly in the event of a company hi-jacking an address?

Question 26 (paragraph 146)

Are there any potential consequences of an accelerated strike off process that we should bear in mind?

Question 27 (paragraph 146)

Are there any other circumstances in which an accelerated strike off process would be appropriate?

Question 28 (paragraph 149)

We would welcome views on the assumptions and estimates used in the costs benefits analyses, particularly where we have not been able to quantify some of the costs and benefits.

Question 29 (paragraph 149)

Are there any other costs or benefits that should be included in the analyses?

Question 30 (paragraph 149)

We would welcome views on likely take-up of proposals, particularly in relation to company registers and electronic communications.

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

Yes

No

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Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

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