

CORPORATE TRANSPARENCY AND REGISTER REFORM

Consultation response by Efficient Frontiers International Ltd.

AUGUST 5, 2019

EFFICIENT FRONTIERS INTERNATIONAL

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1. Introduction – Efficient Frontiers International

Efficient Frontiers International (**EFI**) is a client-focused services organisation, partnering with Financial Institutions to deliver Expertise and Capability and give clients confidence in a complex regulatory and business environment.

Our strategic capabilities cover three principle areas: consultancy and advisory; operations; and technology and data. This blend of abilities allows us to partner with clients through from insightful advice on emerging regulation, to detailed technical and operational implementation, either as a delivery partner or a managed service provider. Maintaining the regulatory traceability, rigour and client confidence throughout

Our analyst's frequently use Companies House on behalf of clients ranging from large wholesale Banks to new 'Challenger' Banks for the purposes of Know-Your-Customer requirements, financial crime prevention and anti-money laundering.

2. Importance of the Register to the Prevention of Financial Crime

The 4th Anti-Money Laundering Directive (**4AMLD**) encourages greater financial transparency and access to both accurate and up-to-date information about beneficial owners. Many of its transparency measures have been transposed into the UK's Money Laundering Regulations 2017 (**MERs**). Further amendments made to the 4AMLD by what is known as the 5th Anti-Money Laundering Directive, are expected to be transposed into the MERs by 2020.

These transparency measures include specific requirements for conducting know your customer (**KYC**) and Customer Due Diligence (**CDD**). Key to these activities is establishing and verifying the identity (**ID&V**) of corporate entities, their directors, controllers and beneficial owners.

The ability to undertake accurate and complete ID&V is crucial to tracking criminal activities and revealing criminals who hide their identities behind corporate and other legal structures.

The Companies House registry (**Register**) is an important source of information referred to by EFI and its customers in the undertaking of KYC and CDD. This information is vital for agencies such as HM Revenue & Customs and the Serious Fraud

Office when they investigate financial crime cases that involve the misuse of corporate structures.¹

Detecting and preventing financial crime therefore relies upon the ability to undertake timely enquiries about companies and individuals associated with them, with confidence that the information found is accurate and complete.

EFI welcomes Companies House's commitment in working to seek ways to strengthen the UK's ability to fight economic crime.² The following comments are in response to some of consultation's questions.

¹UK Financial Sector Assessment Program June 2016 – AML and CFT – Technical Note – IMF Country Report No. 16/165

²Companies House. Business Plan 2019 to 2020

3. Consultation Responses

3.1. Companies House Authority to Check the Identity of Individuals

No.	Question
1	Do you agree with the general premise that Companies House should have the ability to check the identity of individuals on the register? Please explain your reasons.

EFI agrees with this general premise. As the “custodian” of the Register’s data, Companies House should be empowered with the ability to verify this information.

EFI has undertaken KYC where it has found that identification information recorded on the Register was not accurate. Inaccuracies have ranged from outdated information, typographical errors and possible attempts to conceal the identity of certain individuals.

In one instance, EFI staff undertook KYC on a corporate entity recorded on the Register. Further enquiries were made into the identity of the directors and shareholders named on the Register. EFI staff discovered, by using other external sources of information, that the name entered for one individual was in fact the name of another director’s 6-year-old son.

Identification information can also be inaccurate where an individual may have relied upon an agent or third party to incorporate and/or administer the company. EFI staff have encountered instances in which an individual’s personal information has changed. The information has not been updated on the Register either because the agent was not informed of the change or the third party had not taken steps to ensure the information was updated in a timely manner.

Companies House should have the ability, exercised on a risk-basis, to check an individual’s identity. This will contribute towards raising confidence in Register’s data held and may also help to deter illicit actors.

3.2. Verification of Individual Identity Through Digital Means

No.	Question
4	Do you agree that the preferred option should be to verify identities digitally, using a leading technological solution? Please give reasons.

Financial crime prevention is currently experiencing a sea-change in how financial institutions undertake KYC and CDD. A variety of technological solutions are now being used to undertake ID&V of both individual and corporate customers.

EFI welcomes the initiatives being undertaken by Companies House as part of its 2019 to 2020 Business Plan to transform the Register to become fully digital. The use of technology to verify the identities of individuals recorded on the Register would align with this objective.

From EFI's experience and those of its customers, the use of ID&V technology offers several benefits. It would facilitate Companies House's ability to conduct verification more efficiently. This would then allow it to prioritise, applying a risk-based approach, those cases where additional enquiries may be warranted.

Additionally, consideration might also be given to other measures that would help to reduce the risk of inaccurate information being entered onto the Register. Technology options for ID&V may assist in reducing the risk of human error that can occur where information or uploading of PDF documentation must be done manually.

The use of digital ID&V may improve the overall user experience, making it more streamlined and cause less disruption for both Companies House and its customers.

3.3. Verification Process Access

No.	Question
5	Are there any other issues the government should take into account to ensure the verification process can be easily accessed by all potential users?

EFI recognises the importance of balancing the need to mitigate financial crime risks with ensuring that the customer experience is as frictionless as possible.

Please note our comments in response 3.2 above regarding the use of technology that respond to the question of ease of access.

There may be instances where, having applied a risk-based approach, where Companies House may need to make further enquiries, and needs further time to complete its ID&V on an individual. To ensure that users are aware of this “pending” ID&V activity, it would be helpful if a symbol or annotation was added to the Register to indicate that this is the case.

This would ensure that users do not wrongly presume that if an individual who appears on the Register their identity has already been verified by Companies House.

3.4. Focus on Direct Incorporations

No.	Question
6	Do you agree that the focus should be on direct incorporations and filings if we can be confident that third party agents are undertaking customer due diligence checks? Please give reasons.

There is a recognised risk that some third-party agents, such as corporate services providers (CSPs), can become witting or unwitting, facilitators of financial crime.³ CSPs can enable those involved with illicit activities to obscure the identity of those who own or direct corporate entities. Research has suggested that some CSPs may still offer incorporation services without certified proof of customer identity.⁴

The UK has undertaken several measures to work with CSPs and other third-party agents to mitigate financial crime risks in this sector. EFI also notes the measures undertaken by HM Treasury, the Office for Professional Body Anti-Money

Laundrying Supervision (OPBAS) and several of the professional bodies to raise awareness of these risks.

EFI recognises the need to avoid unnecessary friction for customers when conducting KYC and CDD. Companies House may wish to consider the approach described in the Joint Money Laundrying Steering Group Guidance on the Prevention of Money Laundrying/Combatting Terrorist Financing – Reliance on Third Parties.⁵

³ Lord, Nicholas and Wingerde, Karin and Campbell, Liz (2018) 'Organising the monies of corporate Financial crimes via organisational structures: ostensible legitimacy, effective anonymity, and third-party facilitation.', *Administrative sciences*, 8 (2). p. 17.

⁴ Ibid.

⁵ Part 1 available online at: <http://www.jmlsg.org.uk/>.

3.5. Evidence of ID&V by Third Party Agents

No.	Question
7	Do you agree that third party agents should provide evidence to Companies House that they have undertaken customer due diligence checks on individuals? Please give reasons.

Please refer to response 3.4 above.

3.6. More Information about Third Party Agents

No.	Question
8	Do you agree that more information on third party agents filing on behalf of companies should be collected? What should be collected?

EFI agrees with this proposal. Including information about third party agents would assist financial institutions to more clearly understand the parties involved with the incorporation of a company and who controls its day to day activity.

EFI recommends that the information collected include the name, phone number and contact email address of the agent.

This would also allow those conducting KYC and CDD to contact the agent, if necessary, to obtain further information about the company in question.

3.7. Information about Third Party Agents

No.	Question
9	What information about third party agents should be available on the register?

Please refer to response 3.6 above.

3.8. To When Should Identity Verification

No.	Question
10	Do you agree that government should (i) mandate ID verification for directors and (ii) require that verification takes place before a person can validly be appointed as a director? Please set out your reasons.

EFI agrees with this proposal. The requirement for ID&V would enhance security and

decrease the risk of financial crime, including terrorist financing. It would improve the reliability and credibility of the data recorded about Directors on Register.

This requirement may also act as a deterrent for those who seek to misuse the Register by recording the names of “straw men” or the names of other individuals, in place of the true directors or controllers of a corporate entity.

3.9. Identification of Presenters

No.	Question
12	Do you agree that government should require presenters to undergo identity verification and not accept proposed incorporations or filing updates from non-verified persons? Please explain your reasons

EFI agrees with this proposal. EFI and its customers require that information provided by presenters must be certified by parties holding specific professional roles. They are required to certify the true likeness of an individual or a true copy of an original document. The certification must include their name and professional capacity (e.g. solicitor, chartered accountant). Steps are then taken to verify the good status of the certifier (i.e. that they validly hold the professional capacity in which they have certified the record in question).

In limited instances, these enquiries have disclosed individuals who do not hold the formalised professional qualification or have been disbarred or disqualified from acting in that capacity.

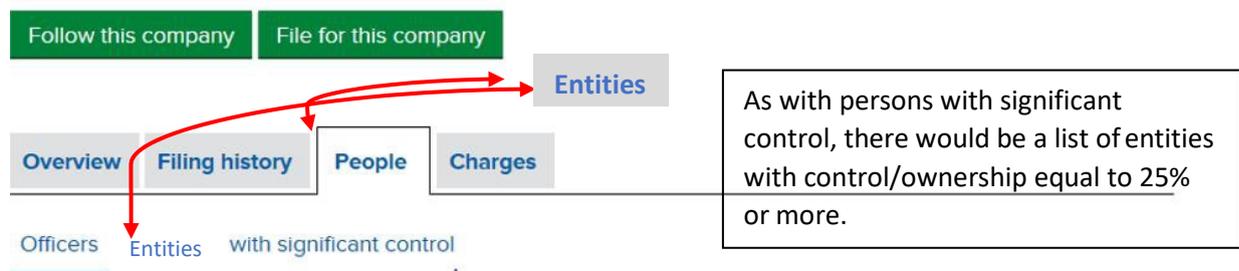
Conducting ID&V will create greater confidence in the accuracy of the data recorded on the Register. This measure will also act as a disincentive to those seeking to misrepresent themselves or their professional capacity.

3.10. Identity Checks for Existing Directors and People with Significant Control

No.	Question
13	Do you agree with the principle that identity checks should be extended to existing directors and People with Significant Control? Please give reasons.

EFI agrees with this proposal. Please refer to the reasons outlined in response to questions 3.1, 3.8 above and 3.17 below, which would also apply to persons with significant control.

EFI also suggests that consideration be given to adding an 'Entity with Significant Control' tab on Register, a suggested format for which is provided below. This would provide greater clarity where a corporate entity forms a part of a larger, more complex structure.



3.11. Information about shareholders

No.	Question
14	Should companies be required to collect and file more detailed information about shareholders?

Article 30(1) of the EU's Fourth Anti-Money Laundering Directive (4AMLD) requires all EU Member States to put into national law provisions requiring corporate and legal entities

to obtain and hold adequate, accurate and current information on their beneficial owner(s) in their own internal beneficial ownership register.

Similarly, regulation 28 of the MERs requires that financial institutions (a) identify the beneficial owner; (b) take reasonable measures to verify the identity of the beneficial owner so that the relevant person is satisfied that it knows who the beneficial owner is; and (c) if the beneficial owner is a legal person, trust, company, foundation or similar legal arrangement take reasonable measures to understand the ownership and control structure of that legal person, trust, company, foundation or similar legal arrangement.

EFI and its customers will generally approach its corporate customers for information about its shareholders. Reference will then be made to reliable external sources to verify the ID&V information provided. Therefore, as a matter of course, companies already need to obtain this information in order to obtain financial services both in the UK and the EU.

According to a joint report prepared by Open Ownership and Global Witness, *"...However the findings from the first 1.3 million companies that filed beneficial ownership information shows that only 2% of them struggled to identify their beneficial owners (see the Annex for the UK's beneficial ownership tests). This mirrors the government's own estimates that for 99% of UK companies their beneficial owners are the company shareholders and demonstrates the ease of compliance for most businesses that do not have complex ownership chains".⁶*

Requiring that companies maintain accurate and up to date information about their shareholders would not create undue friction for them as Companies House customers and would be a further measure to detect and deter financial crime.

The ID&V of shareholders is not only undertaken to mitigate financial crime. It is also seen as an integral measure to mitigate reputation and legal risks for the companies themselves.

3.12. Shareholder Information

No.	Question
15	Do you agree with the proposed information requirements and what, if any, of this information should appear on the register?

EFI supports the proposal for further information to be disclosed on the Register. EFI supports the proposal that a company should be required to collect and enter onto the Register, in the case of an individual shareholder, the individual's full name, usual residential address and date of birth and for a corporate shareholder, the name and registered or principal office.

3.13. Identification of Shareholders

No.	Question
16	Do you agree that identity checks should be optional for shareholders, but that the register makes clear whether they have or have not verified their identity? Please give reasons.

For the sake of consistency, ID&V checks should be mandatory for all shareholders who fall within the disclosure requirements of the Companies Act 2006. Leveraging digital verification technology, as proposed in question 4 of the Consultation document, would minimise the friction caused for customers using the Register.

Should this not prove to be optimal from a resourcing perspective, we agree that the Register should clearly indicate whether the identity of a shareholder has NOT been verified by Companies House. It would be beneficial for financial institutions to have a clear indication as to whether ID&V has been performed on a shareholder so that steps can be taken to ensure that other sources of information are looked to as part of the CDD process.

⁶ "Learning the lessons from the UK's public beneficial ownership register" (October 2017) [Online]

3.14. Use of Identification vs. Unique Identifier

No.	Question
17	Do you agree that verification of a person's identity is a better way to link appointments than unique identifiers?

The method used to link information about an individual on the Register should be chosen based on the optimisation of the searching functionality embedded into the technology used.

A publication jointly produced in October 2017 by Global Witness and Open Ownership suggested that the Register should use unique identifiers in addition to personal data such as name and month and year of birth.⁷ It was also suggested that one solution would be for the register to allocate unique identifiers to individuals that would allow the Register to link records where individuals are beneficial owners or company officers (e.g. directors or secretaries) of more than one company and help users of the data to match records against other data sets.

We understand from discussions with participants at the recent FCA TechSprint that it is overall more effective to search using unique identifiers to link appointments, along with other information that may be relevant to an individual, in lieu of reference to an individual's identity, alone.

3.15. Financial Information

No.	Question
23	How can the financial information available on the register be improved? What would be the benefit?

In their report on the concealment of beneficial ownership, the FATF and Egmont Group identified

several risk indicators in relation to a customer's business activities:

- Reluctance or inability to explain their business activities or why they are conducting their business activities in a certain manner
- Conduct financial activities and transactions inconsistent with their customer

profile or have declared income inconsistent with their assets, transactions or lifestyle

- Have demonstrated a long period of inactivity following incorporation followed by a sudden and unexplained increase in financial activities; and
- Describe themselves as a commercial business but cannot be found on the internet or social business network platforms (LinkedIn etc.)⁸

Access to a company's financial information is therefore essential to distinguishing between legitimate activity and whether there are indications of possible financial crime. This information also allows for the verification that the nature and purpose of a company, as described by a prospective customer, is reflected by the information in their accounts.

While financial institutions request financial information from corporate customers as part of KYC and CDD, having access to similar information on the Register, uploaded in a machine-readable format, is an important source of verification as to the accuracy of the information provided.

It would also be useful if the name of the party who has signed off on financial statements uploaded onto the Register was provided in a searchable format, so that verification as to their professional capacity can also be undertaken, if required.

⁷ Ibid

⁸ July 2018. Available at: <https://www.fatf-gafi.org/media/fatf/documents/reports/FATF-Egmont-Concealment-beneficial-ownership.pdf>

3.16. Public and Non-Public Information

No.	Question
26	Are the controls on access to further information collected by Companies House under these proposals appropriate? If not, please give reasons and suggest alternative controls?

EFI recognises the important balance that Companies House must achieve between access to personal information on the Register and ensuring completeness of the data on it. EFI also understands that there may be circumstances which warrant restrictions on access to certain types of information.

It would be of benefit, in the alternative, if a coding could be adopted, to indicate where information about a company exists, but has been omitted from public view on the Register. Steps could be taken by those performing KYC and CDD to then approach the company, or customer, directly for clarification about this information.

The recent FCA TechSprint explored several measures to allow financial institutions to confirm or verify information they hold about a company's individual directors etc. with another institution without disclosing any personal information. EFI encourages Companies House to explore these options and would be pleased to discuss with it some of the other options used by other institutions.

3.17. Information on Directors' Occupation

No.	Question
27	Is there a value in having information on the register about a director's occupation? If so, what is this information used for?

There is value in providing this information on the register for several reasons.

First, this information can be used to verify whether the activity on a customer's account (activity profile) appears consistent with the occupation that they described to the financial institution.

Second, it can assist financial institutions to make enquiries about a customer where

some of the risk factors listed in the FATF/Egmont Group report cited in response 3.15, are identified.

Third, this information may also assist in identifying instances where “straw men”, family members or individuals with no relevant experience, are appointed to act as directors of a company.

Fourth, it may assist in identifying instances where a named director is actually an officer of a trust and corporate service provider appointed and is acting on behalf of at the direction of an underlying customer.

Finally, occupation information can help determine directors’ different roles within a company and gain a clear understanding as to which officer(s) exercise day to day control over its operations. In this respect, EFI proposes that greater clarity be provided on the Register to identify those parties who are acting as a nominee Director.

This proposal was first explored as part of the 2015 consultation for the Small Business, Enterprise and Employment Act in 2015, “While the authorities reviewed the use of nominee directors, after consultation no disclosure requirements were introduced to enhance the transparency of these arrangements.”

An earlier technical note prepared by the International Monetary Fund on the UK commented on the use of nominees. In it, the IMF noted, “... *While [proposed measures] should assist in addressing unwitting and “irresponsible” (nominee and shadow) director misconduct... it is unclear to what extent they would prevent the wilful misuse of nominee director arrangements for [money laundering] ML purposes... Specifically, the authorities are encouraged to revisit the possibility of establishing a register of nominee directors and those on whose behalf they operate...*”.

Since that time, instances such as the Panama Papers disclosure has shown that the misuse of nominee directors has prevented financial institutions from identifying the true controllers of some companies. It would be valuable to have an indicator on the Register to identify which directors are acting in a nominee capacity.

As an additional enhancement, we would also encourage Companies House to consider adding a search feature that allows for the distinction between executive and non-executive directors. We provide one possible configuration for this in the example below:

Officers Persons with significant control

Filter officers

Current officers Executive directors

79 officers / 70 resignations

Filter officers

Current officers Executive directors

We suggest an additional tick box filter which allows users to easily locate executive directors. Those who exert the most control (CEO, CFO, COO, CRO...) will appear first on the list, working down in position of control.

Users can tick both boxes to filter results to include only current executive directors.

3.18. Number of Directorships

No.	Question
40	Is it sufficient to identify and report the number of directorships held by an individual, or should a cap be introduced? If you support the introduction of a cap, what should the maximum be?

EFI makes no comment as to whether a cap should be imposed on the number of directorships held.

It would, however, be of value from a KYC and CDD perspective, if the Register had a search functionality that identified the overall number of current and former directorships held by an individual or entity.

4. Additional Changes

There are several other improvements which may assist to improve the content and accessibility of the Companies House register, from a financial crime prevention perspective.

4.1. Change Indicators

A search functionality that can amalgamate and summarize the changes made to a company's information, its directors and shareholders, would greatly enhance and improve the user experience.

Currently, it is necessary to review all the records listed on a company's record to try and determine when and what types of changes have been made.

The use of symbols or other indicators on the first page of a record to show whether changes have been made in the last quarter, for example, would allow for better review capability and reduce time attempting to verify the nature of changes that may have taken place.

4.2. Additional Search Functionality

An additional functionality that would be of great benefit would be the ability to search across the Register's records and see the results as a single screen summary.

Information about both an individual's current and former shareholdings or those of a corporate entity can greatly assist financial institutions undertaking CDD to form a clearer understanding about their customers and those who control them.

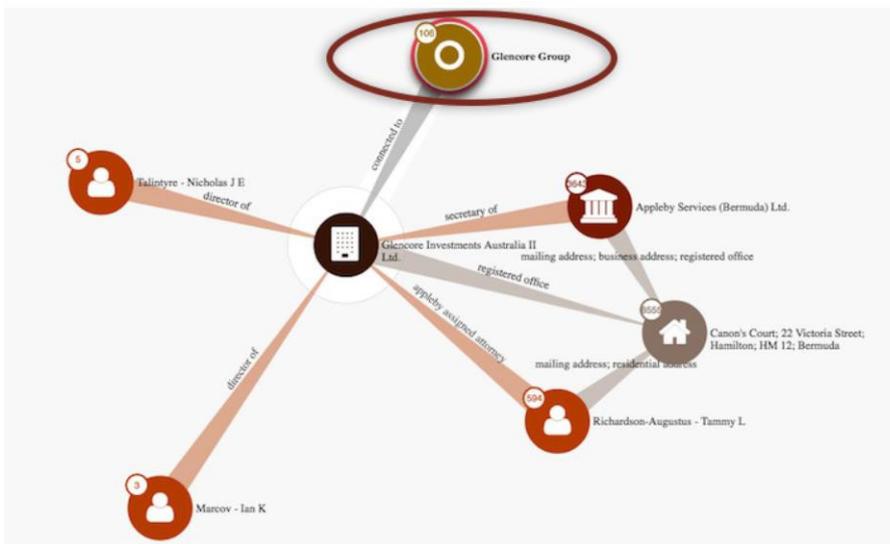
EFI undertook due diligence on a corporate entity which had 5 shareholders, each holding 20%. The first 4 shareholders were individuals. The fifth was a corporate entity which comprised of a complex structure of other corporate entities. After considerable time and research, the EFI team found that the ultimate beneficial owners of this company were the 4 other shareholders already identified. This also meant that the individuals had deliberately organised their shareholdings to try and fall below the 25% threshold, for AML purposes.

Having a cross-record search functionality would allow for more streamlined assessment of the holdings or appointments held by individuals and entities, along possible connections or commonalities between them. Being able to access shareholder information in a more amalgamated fashion would greatly assist in understanding the broader scope of commercial holdings or involvement of individuals and entities across more complex structures that include corporate entities on the Register.

4.3. “Spiderweb” Diagram of Connections Between Companies and/or Individuals

The recent FCA TechSprint provided some excellent examples of technology already available to depict in illustrative format, the relationships between individuals and corporate entities. EFI encourages Companies House to explore the use of digital technology that would permit users to “see” the results of searches and the connections between parties more clearly. This would also allow Companies House to see more clearly possible connections or illicit actors across the Register.

This technology has been used by the ICIJ in its depiction of connections across the Panama Papers data, for example. This example is taken from their website



[Source: <https://offshoreleaks.icij.org/> [Accessed 1 August 2019]

EFI thanks Companies House again for the opportunity to respond to this consultation. We would be delighted to take part in any collaborative engagement post the consultation to assist in this endeavour.

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