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 @InvAssoc  The Investment Association

3 February 2021

**RE: Corporate Transparency and Register Reform**

The Investment Association is delighted to provide input to your consultation.

We note that the proposed reforms are designed to give Companies House a more effective role in assisting the Government's wider efforts to tackle economic crime affecting the UK and support them in this effort. The information held on the Companies House registers must be robust and reliable. This information is a key element of information that investment firms use to identify their client, and the ultimate beneficial owner of the funds that they manage.

We would, of course, be happy to discuss *any* aspect of our response in more detail. If you have any questions, please contact me directly ([adrian.hood@theia.org](mailto:adrian.hood@theia.org)).

Yours faithfully



Adrian Hood  
Regulatory and Financial Crime Expert



## Response to consultation

### Heading in here

#### About the Investment Association

The Investment Association (IA) champions UK investment management, a world-leading industry which helps millions of households save for the future while supporting businesses and economic growth in the UK and abroad. Our 250 members range from smaller, specialist UK firms to European and global investment managers with a UK base. Collectively, they manage £8.5trillion for savers and institutions, such as pension schemes and insurance companies, in the UK and beyond. 40% of this is for overseas customers. The UK asset management industry is the largest in Europe and the second largest globally.

#### A risk-based approach

##### **1. Do you agree that the querying power should be exercised on a risk-based approach? If you disagree, please explain your rationale.**

Yes, we are in favour of this work being done on a risk based basis. A risk-based approach based on identified financial crime triggers and/or reliable intelligence would be the most appropriate approach.

We would support Companies House's assessments going wider than errors, anomalies and inaccuracies: it is important that this include circumstances where there is evidence that information on the register, or submitted to the Registrar, might pose a risk to the UK's reputation as a good place to do business, including the potential to facilitate crime.

#### Querying power: potential scenarios

##### **2. Are there specific circumstances under which you consider the querying power should be exercised? Please give reasons for your answer.**

We would be particularly concerned where a proposed company name is indicative of fraudulent activity.

The financial service sector has been subject to criminals cloning firms in order to defraud individuals of their life savings and pensions. One way in which this is done is by creating firms with names which are similar to those of genuine financial services firms regulated by the FCA or PRA. Criminals will also take existing firms and change their names in this way.

It is important that where names similar to those of genuine regulated financial services firms which appear on the FCA register are used, that this is identified by Companies House. This should, ideally, be queried with the genuine firm, whose company secretary should be able to confirm whether or not the proposed firm is genuine.



Also, where a company changes the nature of business this could be a circumstance where querying should be exercised, especially where this is an implausible change. We are aware of situations where an Indian take away changes its nature of business to 64304 - Activities of open-ended investment companies, 64999 - Financial intermediation not elsewhere classified, or event 66110 - Administration of financial markets. We would consider that such radical changes are not natural, and should be seen as a red flag to query.

## **Application of the new querying power to company names**

### **3. In what circumstances do you think the power should be used in the context of company names? Please provide reasons for your answer.**

As in our answer to Question 2, we would be particularly concerned where a proposed company name is similar to that of a genuine financial services firm.

The financial service sector has been subject to criminals cloning firms in order to defraud individuals of their life savings and pensions, as set out in paragraph 30 of the consultation paper. One way in which this is done is by creating firms with names which are similar to those of genuine financial services firms regulated by the FCA or PRA. Criminals are also known to take existing firms and change their names in this way.

It is important that where names similar to those of genuine regulated financial services firms which appear on the FCA register are used, that this is identified by Companies House. This should, ideally, be queried with the genuine firm, whose company secretary should be able to confirm whether or not the proposed firm is genuine.

It is important that any risk based approach take into account the serious impact that this type of brand cloning fraud can have, and prioritises instances where financial service firm names are being impersonated.

We are also aware that, when one fraudulent company has been identified and shut down, it is not uncommon for a company with a very similar name to be established by the same individuals in an attempt to conduct similar fraudulent activity. The ability to challenge and identify those recently established companies will go a long way in combating crime. When establishing a firm with a similar name to that of a legitimate business, it is vital that care is taken to identify connections with the original named firm. Should none be found questions should be asked as to the reasons and the purpose of the naming of this firm.

### **4. Do you agree that this is an appropriate use of the querying power? Please provide reasons for your answer.**

We would consider that Companies House should be able to make use of the FCA register of regulated financial services firms, to identify unjustifiable duplication of their names pre-registration.



It should also be possible for firms which are aware that criminals are targeting their brand in order to conduct criminal activity, such as fraud, to notify Companies House, and have key terms (such as the distinctive element of their name, or brand) added to a watch list, which would trigger alerts if used in new registrations or name-changes.

This could all be automated, so would not slow down the process of registration.

**5. Is it appropriate to place the onus on the company and/or the applicant to demonstrate that a name is being registered or was registered in good faith?**

It would be appropriate to place the onus on the company or applicant to demonstrate that the registration has been implemented in good faith.

**6. Do you agree that the “sensitive words and expressions” regulations should be amended to capture circumstances such as that described above?**

We would agree with the suggested approach.

**Other company name loopholes**

**7. Do you agree that we should close this gap in the way we propose? Are there any other gaps that we should consider?**

We would agree with closing this gap as proposed.

**The querying process and annotation of the register**

**8. What sanctions do you consider are most appropriate to incentivise compliance with the new requirement to respond to a query raised by the Registrar?**

We would suggest that, where the sanction relates to a company name changed to be similar to that of a regulated firm, and no response is made within the time period, that the name revert to that previously held by the company.

Where a company is subject to post-registration review, either pending possible removal from the register or where default data is being used, we would suggest that Companies House should flag these companies to ensure that firms using the data are aware to be cautious or carry out additional checks.



## Legal effect documents

**9. Do you agree that the removal of most documents which have legal effect by virtue of registration at Companies House should be a matter for the courts?**

The Registrar should have the power and the ability to remove documents when identified as purposefully misleading. If this is just left for the Courts, the time taken for this process to be conducted would mean there is a greater risk of economic crime and harm to those who are relying on the submitted information on the register.

**10. We propose that the Registrar should be able to remove certain filings which in future, will give legal effect such as director appointments. Do you have any views on whether the Registrar should have any other role in respect of legal effect filings?**

No comment.

## What information will be published?

**11. Do you agree that the evidence provided as a result of the Registrar's queries should not be published unless it comprises information that would normally be published? Please give reasons for your answer.**

No comment.

## Transparency on the use of the querying power

**12. The Registrar will provide an explanation about why the query is being made. What other information would you expect the query to contain?**

No comment

**13. What kinds of evidence do you think it would be appropriate for the Registrar to request in support of a response to a query?**

No comment.

**14. What guidance on the Registrar's use of the querying power would you expect Companies House to publish?**

No comment.



## Complaints

- 15. Do you agree that complaints should be handled using the same process as the current Companies House complaints process? If not, please include reasons for your answer.**

This seems reasonable.

## Removal of information

- 16. Do you agree that the Registrar should have greater powers to remove information? Do you have suggestions for other approaches we could take?**

Yes, the Registrar should have greater powers to remove information which is known to be false, or which is suspected to be false, and the providers of the information have not justified it in a reasonable timeframe.

Any delays caused by legal process, allows for people to mislead and profit from potential criminal gain. The delay would only allow further users to be potentially duped by false and misleading information. A quick, proactive approach is needed.

## Rectification of registered office address

- 17. Do you agree that the Registrar should close this loophole or are there circumstances where remaining at the default address, or moving to the default address more than once, is warranted?**

Companies' having the ability to change the address back to their old address makes a mockery of this power and mechanism.

- 18. Do you agree that the amount of time a company (or other entity) can be defaulted to the Companies House address be limited to a specified period, e.g. 12 months?**

No comment.

- 19. What action do you consider should be taken if a company remains at the default address for longer than 12 months?**

No comment.



## **Speeding up processes**

**20. Do you agree that it is appropriate to reduce the 28-day period?**

**If not, what period do you consider is appropriate and why?**

Given how quickly criminals can carry out their frauds we would support the suggested shortening of the period.

**21. Do you agree that Companies House should have the ability to remove the name or address of the affected individual while a response is awaited from the company?**

The Registrar should have the ability to remove the name or address of the affected individual while a response is awaited from the company. The ability to use individuals' details fraudulently and without their consent is a cause for concern and suggests the Companies House register is being used by criminals for malicious purposes. Once an individual has made Companies House aware that their details are being used without their consent, or having anything to do with the company, the information should be removed. Without this mechanism, criminals will continue to use stolen information to mislead.

## **Power to require delivery by electronic means**

**22. Do you agree that the power to require (or mandate) delivery by electronic means should be conferred from the Secretary of State to the Registrar?**

This seems reasonable.

## **Rules governing company register**

**23. We intend to remove the requirement for companies to keep and maintain their own Register of Directors. Do you have any concerns about this approach?**

No comment.

**24. What impact would changes to the requirement to keep any of the registers in the list above have?**

No comment.

**25. We may also consider further changes to the election regime for private limited companies which was introduced in 2016. How useful is the election regime for private limited companies?**

No comment.