Department for Business Innovation & Skills

CORPORATE DIRECTORS

Scope of exceptions to the prohibition of corporate directors

NOVEMBER 2014

Contents

Corporate directors

Context of this paper

The *Transparency and Trust* discussion paper (July 2013) sought views on prohibiting the use of corporate directors by UK companies. A corporate director is a legal person (such as a company), as opposed to a natural person (an individual) director.

Views received helped the Government conclude that directors should normally be individuals. However, we intend to allow corporate directors in some circumstances. This approach is set out in the Government's response to views received on the *Transparency and Trust* discussion paper (April 2014).

This paper seeks views on circumstances where use of corporate directors of UK companies should be allowed. It also covers other legal entities, including Limited Liability Partnerships (LLPs) and their corporate members.

In due course, the Small Business, Enterprise and Employment Bill (currently before Parliament) and regulations (to be drafted taking into account views received prior to and in response to this paper) will together set out a new legal position in relation to the use of corporate directors in UK companies.

Some readers will have a general interest in the use of corporate directors, while others will be interested in their use for specific purposes. Readers are invited to submit views online, by email or in hard copy, and to answer the questions that seem most relevant to them.

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This paper is relevant to: business, including those involved with businesses structured as companies, Limited Liability Partnerships (LLPs) or Societas Europaeas (SEs) particularly as groups; business representative bodies; non-governmental organisations (NGOs) including with an interest in corporate transparency and particularly those structured as charitable companies; corporate governance experts; and pension professionals and sponsoring employers. It might also be of interest to Open Ended Investment Companies (OEICs), those in the Higher Education and Further Education (HE and FE) sectors and involved with Academy Trusts. There might be other interested parties in different sectors of the economy, from whom we would also welcome views.

1. Executive summary

1. A lack of transparency and accountability with respect to those controlling a company can facilitate illicit activity, erode trust and damage the business environment. Ultimately this can hold back economic growth. For this reason, the UK has positioned corporate transparency high on the international agenda. At the G8 Summit in June 2013, the Prime Minister secured agreement to a set of core principles of transparency of ownership and control of companies.

2. In July 2013 the Government published the *Transparency and Trust* discussion paper[1]. This set out the basis for implementing the register of People with Significant Control (PSC register, formerly known as the central register of company beneficial ownership information). This will require UK companies, including those that use corporate directors, to provide information to a central public register about people who exercise control over them. It also sought views on prohibiting the use of corporate directors in UK companies. A corporate director is a legal person (such as a company), as opposed to a natural person (an individual) director. While corporate directors can perform legitimate business functions, they also introduce opacity into a corporate structure. This risks facilitating illicit activity, or jeopardising effective corporate oversight.

3. Only 1.2% of UK companies[2] currently use corporate directors, indicating limited demand. Nevertheless, we have heard explanations of specific circumstances where use of corporate directors can be considered lower risk, and helps companies overcome some challenges.

4. Views received in response to the *Transparency and Trust* discussion paper[3] helped Government reach the conclusion that directors should normally be individuals. We intend to prohibit corporate directors generally, and allow corporate directors only in some circumstances. It would be an offence to purport to appoint a corporate director outside these circumstances.

5. In this paper we seek views on circumstances where the use of corporate directors could continue, under exceptions to the prohibition. These include :

    a. **UK companies with shares admitted to trading on regulated markets** (like the main market of the London Stock Exchange)[4]. Given high standards of transparency and corporate governance, we think there is a good case for an exception.

    b. **UK companies with shares admitted to trading on prescribed markets in the UK** (bringing into scope markets like the Alternative Investment Market, AIM)[5] . We similarly think there is a case for an exception.

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[1] '*Transparency and trust: Enhancing the transparency of UK company ownership and increasing trust in UK business – Discussion Paper'* (BIS, July 2013) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/212079/bis-13-959-transparency-and-trust-enhancing-the-transparency-of-uk-company-ownership-and-increaing-trust-in-uk-business.pdf

[2] 38,000 of 3.13m active and dormant UK companies use corporate directors. Data from Companies House (2013).

[3] '*Transparency and trust: Enhancing the transparency of UK company ownership and increasing trust in UK business - Government Response'* (BIS, April 2014) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/304297/bis-14-672-transparency-and-trust-consultation-response.pdf

[4] Regulated markets are those listed by the Financial Conduct Authority (FCA) under requirements set out in the Markets and Financial Instruments Directive (MiFID; MiFID II is expected to be implemented towards the end of 2016). This currently includes BATS Europe Regulated Market; CME Europe Limited; Euronext London; ICAP Securities and Derivatives Exchange; ICE Futures Europe; London Stock Exchange – Regulated Market; LIFFE; and The London Metal Exchange.

[5] Prescribed markets are defined by the Financial Services and Markets Act 2000 (Prescribed Markets and Qualifying Investments) Order 2001. This includes 'all other regulated markets' which means it would cover UK regulated markets as described in section (a) and other

c. **Large[6] public companies in group structures**. We consider the case for an exception is more finely balanced.

d. **Large private companies in group structures**. We similarly consider the case for an exception is more finely balanced.

e. **Areas of sectoral regulation**, including -

i. **Charitable companies** (charities incorporated as companies), where we consider an exception could apply in a subset of circumstances;

ii. **Trustee companies of pension funds**, where we consider an exception should apply;

iii. **Open Ended Investment Companies (OEICs)** where we do not propose any changes to the status quo.

f. **Other legal entities**, including

i. **Societas Europaea (SEs)**, where we consider an exception should apply to some or all;

ii. **Limited Liability Partnerships (LLPs)**, where we welcome further views but do not currently propose significant changes to the status quo relating to corporate members.

6. One year after the 2013 G8 Summit, the Small Business, Enterprise and Employment Bill was introduced to Parliament[7]. Subject to the will of Parliament, it will implement the UK's G8 commitments around corporate transparency, including the PSC register. It will change the Companies Act 2006 to ensure UK company directors are normally individuals. It also includes the power to make regulations to set out the exceptions to this – where corporate directors will be allowed. We intend to take account of views received up to now and in response to this paper to inform these forthcoming regulations.

7. Subject to the will of Parliament, the Small Business, Enterprise and Employment Bill and these forthcoming regulations will together usher in a new framework setting out clearly where corporate directors can and cannot be used.

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regulated markets overseas. Here we use the phrase 'prescribed markets in the UK.' We consider in this paper markets which are prescribed in the UK, and secondly and separately overseas markets which might be broadly similar in their rules and requirements.

[6] A medium sized company or group is described in sections 465-467 of the Companies Act 2006, and a company or group which does not meet the qualifying criteria is considered large. Currently, this means that at its balance sheet date a large company or group meets two of the three criteria of more than 250 employees, a balance sheet total of more than £11.4 million or turnover of more than £22.8 million. However, as part of the implementation of the Accounting Directive (013/34/EU) these thresholds are expected to increase from 1st January 2016. Views are being sought on the precise application of these thresholds as part of a wider consultation process relating to the Accounting Directive. For the purposes of this paper, we have used potential Accounting Directive thresholds rather than the Companies Act 2006 thresholds which will soon be obsolete. The thresholds used here, to identify potential numbers of companies in relation to different exceptions, are 250 employees, £36.1m turnover and £18m balance sheet. All such figures exclude LLPs. Section 467(1) of the Companies Act 2006 explains that public companies are treated as large for the purposes of accounts (irrespective of the criteria relating to actual size). Issues of size are discussed in more detail in the body of this paper.

[7] More information on the Small Business, Enterprise and Employment Bill is available on the Parliament and gov.uk websites.
http://services.parliament.uk/bills/2014-15/smallbusinessenterpriseandemployment.html
https://www.gov.uk/government/collections/small-business-enterprise-and-employment-bill

2. Corporate directors of UK companies

Introduction

1. The Government is legislating to implement our transparency commitments. The Small Business, Enterprise and Employment Bill currently before Parliament will provide for a central register of People with Significant Control (PSC register, formerly known as the central register of company beneficial ownership information). This will require UK companies, including those that use corporate directors, to provide information to a central public register about people who exercise control over them.

2. It will also provide that UK company directors should normally be individuals. For the majority of UK companies, appointing a corporate director will not be an option. A corporate director is a legal person (such as a company), as opposed to a natural person (an individual) director.

3. The use of corporate directors is being restricted principally because of their opacity and the risk of facilitating illicit activity. The Serious Fraud Office (SFO) has reported that corporate directors probably contribute to opacity which facilitates crime in around a quarter of their cases. The need for action has been further reinforced by the National Crime Agency (NCA) and the police. The Government's response to views received on the *Transparency and Trust* discussion paper (April 2014)[8] and the Final Impact Assessment of the *Transparency and Trust* reforms (June 2014)[9] explain some of the consequences of this illicit activity, the UK's leadership in tackling it internationally, and the benefits of doing so for the UK.

4. In addition, the Government shares the concerns expressed by some that corporate directors might introduce sub-optimal behaviour and sub-standard corporate governance in companies. Corporate directors might reduce the sense and effect of accountability of individuals, who ultimately take the decisions. The Institute of Directors (IoD)[10], among others, have voiced the idea that a director should normally be the accountable 'human face' of a company.

5. Given this context, we want to see the use of corporate directors restricted. The focus of this paper is where we should make exceptions to the prohibition of corporate directors.

6. Some countries, like Germany and Australia, do not allow corporate directors at all. But other countries do allow them, without restriction. We want to strike the right balance for the UK. We want to increase trust in the business environment by increasing corporate transparency and reducing the potential for illicit activity – but we also want to be pragmatic and proportionate.

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[8] '*Transparency and trust: Enhancing the transparency of UK company ownership and increasing trust in UK business - Government Response*' (BIS, April 2014)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/304297/bis-14-672-transparency-and-trust-consultation-response.pdf

[9] '*Final stage impact assessments to Part A of the transparency and trust proposals (Companies Transparency)'* (BIS, June 2014)
https://www.gov.uk/government/publications/company-ownership-transparency-and-trust-impact-assessments

[10] The Institute of Directors' (IoD) response to the *Transparency and Trust* discussion paper, which included this idea, is available on the gov.uk website alongside the discussion paper, the other responses received, and the Government's response to views received.
https://www.gov.uk/government/consultations/company-ownership-transparency-and-trust-discussion-paper

7. We understand that corporate directors can be useful in some situations at low risk of illicit activity, or where high standards of corporate governance or disclosure operate, or within areas subject to specific sectoral regulation. We have heard explanations of specific circumstances where the use of corporate directors can help companies overcome challenges. The Government's response to views received on the *Transparency and Trust* discussion paper (April 2014)[11] reflected initial thoughts on possible exceptions to the prohibition of corporate directors. The purpose of this paper is to gather views on such potential exceptions from a range of interested parties. **We also welcome views on circumstances we have not covered here, which might also be considered for an exception to the prohibition of corporate directors.**

Implementation

8. The views we hear will inform regulations[12] which, subject to the will of Parliament, will set out the exceptions to the requirement in the Small Business Enterprise and Employment Bill that directors should be individuals. We intend the prohibition and exceptions would apply to newly appointed corporate directors, and to existing corporate directors (after a transition period of one year).

9. The provisions in the Small Business, Enterprise and Employment Bill also contain criminal sanctions. Subject to the will of Parliament, it will be an offence to purport to appoint a corporate director when the appointment is out of scope of the exceptions. A company which is in scope of an exception and legitimately appoints a corporate director will be subject to the remainder of the company law framework around directors. At least one director will need to be a natural person. The corporate director will continue to have duties and equal responsibility with other directors, and to be subject to disqualification where warranted.

10. Government will be able to respond, if necessary, to changing circumstances by updating the exceptions set out in regulations in the medium to long term. Subject to the will of Parliament, the Small Business Enterprise and Employment Bill also requires the Government to review the extent to which policy objectives have been achieved five years after the measures come into force.

Evaluating the costs and benefits of reform

11. The Government is committed to transparency because it can reduce crime and increase trust in the UK business environment – ultimately supporting growth. The Government is also conscious of the burden that reform can place on business. We therefore welcome further input on the potential costs and benefits of the potential exceptions to the prohibition of corporate directors. This input will inform the development of these reforms.

12. Final Stage Impact Assessments covering the *Transparency and Trust* measures have been published[13]. These contain a range of evidence including a survey of companies, and illustrative scenarios of potential exceptions to the prohibition of corporate directors. Evidence gathered on the basis of this paper should relate more directly to the specific exceptions that will comprise the final policy position. As we develop the regulations to implement the final policy position, we will refine our analysis and bring forward further Impact Assessments as necessary.

[11] See footnote 9.
[12] As set out above in the *'Context of this paper'* those regulations will take account of views received prior to and in response to this paper.
[13] 'See footnote 10.

13. We should note, in terms of overall impact, that corporate directors are currently used by only 1.2% of UK companies (38,000 of 3.13 million active and dormant UK companies[14]), indicating comparatively limited demand. In a survey including 55 companies who have corporate directors, 31% saw no advantage to having one, and 11% responded that they did not know what the advantages of having one were[15]. While we accept, and consider in this paper, that some companies might well have a good case for an exception from the prohibition of corporate directors, we are confident there is scope to curtail the use of corporate directors by UK companies.

3. Group structures including large companies

14. Corporate directors are sometimes used in group structures[16]. Different companies – parent and subsidiary – in the group might sit on others' boards. Group structures often involve wholly owned subsidiaries, where the ownership and control is clear. They might also involve dormant companies used for specific purposes in a group, such as holding assets.

15. We appreciate there are particular challenges to operating groups of companies, particularly where wholly owned subsidiaries and dormant companies are involved, and that corporate directors might help manage them. Corporate directors might result in lower administrative costs of executing documents or attending meetings, relative to individual directors. They might also avoid costs which would otherwise arise from frequently registering changes in individual directors. As the Confederation of British Industry (CBI) have explained, corporate directors are useful in 'businesses with more complex structures [for] carry[ing] out routine business[17].'

16. We do not consider the existence of a group structure, in and of itself, to provide sufficient grounds to allow corporate directors to be used. Not all group structures will involve the heterogeneity, scale and complexity that make corporate directors useful. Group structures, involving layers of ownership and control, can contribute to opacity. Any exception to the prohibition of corporate directors for group structures could unhelpfully incentivise the introduction of layers, and actually increase opacity.

17. The key consideration for an exception to the prohibition of corporate directors is the context of the group structure – the other factors which might or might not render it transparent, well governed or in some other way warrant an exception. Below we consider public and private companies in turn.

[14] Data from Companies House (2013).
[15] The most commonly cited advantage of having a corporate director by those who had one was 'broadening skills or knowledge.' These results are discussed in more detail in the '*Final stage impact assessments to part A of the transparency and trust proposals (Companies Transparency).'* (BIS, June 2014). See footnote 10.
[16] Sections 474 and 1161 of the Companies Act 2006 define a group undertaking, essentially as including a parent and subsidiary undertaking, which are then defined in section 1162.
[17] The Confederation of British Industry (CBI) response to the *Transparency and Trust* discussion paper, which included this idea, is available on the gov.uk website alongside the discussion paper, others' responses and the Government's response to views received. https://www.gov.uk/government/consultations/company-ownership-transparency-and-trust-discussion-paper

Public companies

a) UK companies with shares admitted to trading on regulated markets

18. UK companies whose shares are admitted to trading on regulated markets[18] must comply with certain requirements. Some requirements apply to a subset of these companies. Companies listed on the main market of the London Stock Exchange can have a Premium Listing or a Standard Listing (or access via the High Growth Segment). They are often referred to on the basis of their ranked market capitalisation, as FTSE 100 or FTSE 350 etc.

19. Companies with a Premium Listing on the London Stock Exchange must follow the UK Corporate Governance Code on a 'comply or explain' basis. This means they should follow certain principles with respect to their directors and board effectiveness, while all directors of FTSE 350 companies should be subject to annual election by shareholders.

20. Other requirements apply more widely. They include the requirements that relate to ownership and control - the Disclosure and Transparency Rules (DTRs) including the Vote Holder and Issuer Notification Rules (DTR5). The Government intends to exempt DTR5 issuing UK companies from the requirement to provide information for the PSC register.

21. The majority of UK companies that issue shares on UK regulated markets use a group structure. Data suggest that UK companies listed on the main market of the London Stock Exchange have a total of around 51,000 subsidiaries[19]. They can also have high numbers of subsidiaries spanning multiple jurisdictions; one case study revealed a group structure with 81 subsidiaries in 36 countries. There will also be situations where an overseas company listed on UK regulated markets has subsidiaries which are UK companies. Overall, we have heard the view that corporate directors can be advantageous in these circumstances in terms of group management, particularly involving dormant companies.

22. **On the basis of high standards of corporate governance and transparency, we are minded to use regulated market listings as a basis for an exception from the prohibition of corporate directors**. We do not currently consider it helpful, in this context, to include an additional qualification of size[20].

23. Some UK companies are listed on markets in other countries whose rules are broadly similar to those of regulated markets in the UK. They will be subject to those markets' requirements with respect to corporate governance and transparency. **For that reason, we consider**

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[18] Regulated markets are those listed by the Financial Conduct Authority, FCA, under requirements set out in the Markets and Financial Instruments Directive (MiFID; MiFID II is expected to be implemented towards the end of 2016). This currently includes BATS Europe Regulated Market; CME Europe Limited; Euronext London; ICAP Securities and Derivatives Exchange; ICE Futures Europe; London Stock Exchange – Regulated Market; LIFFE; and The London Metal Exchange.

[19] Data from the FAME database (Bureau van Dijk Electronic Publishing, July 2014). Subsidiaries here includes an interest of down to 1%, so this figure is likely to be an overestimate of subsidiaries in terms of definitions applied on the basis of the Companies Act 2006 (relating to majority interests etc). Figure excludes UK subsidiaries of non-UK companies listed on a UK regulated market.

[20] As public companies, UK companies issuing shares on regulated markets are classified as large for the purposes of filing accounts. They are also likely to, though do not necessarily, meet the criteria in relation to employees, turnover and balance sheet which would in any event classify them as large. A medium sized company or group is described in sections 465-467 of the Companies Act 2006, and a company or group which does not meet the qualifying criteria is considered large. Currently, this means that at its balance sheet date a large company or group meets two of the three criteria of more than 250 employees, a balance sheet total of more than £11.4 million or turnover of more than £22.8 million. However, as part of the implementation of the Accounting Directive (013/34/EU) these thresholds are expected to increase from 1st January 2016. Views are being sought on the precise application of these thresholds as part of a wider consultation process relating to the Accounting Directive. For the purposes of this paper, we have used potential Accounting Directive thresholds rather than the Companies Act 2006 thresholds which will soon be obsolete. The thresholds used here, to identify potential numbers of companies in relation to different exceptions, are 250 employees, £36.1m turnover and £18m balance sheet. All such figures exclude LLPs. Section 467(1) of the Companies Act 2006 explains that public companies are treated as large for the purposes of accounts (irrespective of the criteria relating to actual size).

there is a case for using overseas regulated market listings of UK companies as a basis for an exception from the prohibition of corporate directors[21].

24. Though the listing would confer the exception, the exception should also apply to companies in the wider group. We therefore need to consider what types of subsidiary in a group including a company with shares admitted to trading on a regulated market should be able to appoint a corporate director.

25. The first key consideration is the nature of the subsidiary. As noted, corporate directors can be particularly useful for managing dormant companies in group structures[22]. Where a subsidiary company is active (even if it is non-trading)[23], there will likely be decisions made by individuals. **Where a company is dormant, there is a clearer case for an exception to the prohibition of corporate directors.** This situation speaks to a parent company taking a purely caretaking or administrative role where transparency and accountability for management might be less acutely required.

26. The second key consideration is the nature of the relationship between the parent and the subsidiary. Three options are set out below.

- Firstly, **the clearest case for an exception to the prohibition can be made with respect to wholly-owned subsidiaries.** (This would be a particularly strong case in the instance of wholly owned dormant subsidiaries). The parent company as a corporate director would have a unique claim over management, and uncomplicated lines of accountability. This option could involve applying the exception on the basis of the wholly owned subsidiary definition in section 1159 (2) of the Companies Act 2006. This definition requires the interest in the company to be entirely that of or on behalf of the parent company.

- Secondly, **an exception could apply to subsidiaries based on the majority interest of shares or control of appointment of directors on the part of a parent**. This option could use the definition of a subsidiary body corporate in section 1159 (1) of the Companies Act 2006. This captures a close relationship between parent and subsidiary. The focus on bodies corporate means the definition is applicable to those in a group who could in fact appoint a corporate director. This pre-existing definition should be familiar to companies, though it is perhaps not as operationally significant as the definition in option three below.

- Thirdly, a broad option could cover **members of a group subject to influence from the parent company through a number of potential routes** - voting rights, appointment of directors, other dominant influence, or if the companies are managed on a unified basis. This would cover all subsidiary undertakings, as defined in section 1162 of the Companies Act 2006. This definition could be helpful for companies, who use it as a basis for providing information to Companies House (included in the notes to their accounts[24]).

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[21] This question is also relevant to the PSC register, for which the Small Business, Enterprise and Employment Bill contains the power to exempt such companies (in Schedule Three 790B(1)(b)). We will seek further views on this in due course. The Bill also sets out that in exercising this power, the Secretary of State is to have regard to the extent to which companies of that description are bound by rules broadly similar to the ones applying to DTR5 issuers.

[22] Separately, corporate director companies might themselves be dormant.

[23] A dormant company is defined in the Companies Act 2006. A non-trading company is not legally defined. A company might not be trading but still undertake transactions which mean it is not dormant. Here we consider *dormant* companies with respect to an exception.

[24] The Government's response to views on the *Company Filing Requirements* consultation set out the intention that companies provide information on this basis (in relation to their subsidiary undertakings) through their accounts *only*. This replaces a system in which companies

Its breadth also avoids a potential consequence of options one and two, where narrower definitions might include and exclude different companies within the same group. (Partial coverage of corporate directors within a group might be complex and fail to deliver the potential benefits of an exception.) However, this definition covers some subsidiary undertakings – not just bodies corporate - that would not be able to use a corporate director in any event because of their structure. Including them might introduce confusion. It might also be so wide as to allow corporate directors in some circumstances where oversight by an individual would be more conducive to effective corporate governance.

27. The third key consideration is the nature of the corporate director company. **There is a strong argument that the subsidiary (however defined) should only be able to appoint its parent or other companies in the group as a corporate director.** This relationship is central to the transparency of, and the need for, a corporate director. **We are also considering whether the appointment of a corporate director company should be dependent on its directors all being natural persons**[25] (or, where the company and corporate director company are in the same group but exclude the parent, that the directors of the parent should all be natural persons). For the majority of parent companies in this context, we expect this criterion would be met.

28. We welcome views on these points, and would be happy to receive information on the mix and balance of subsidiaries and intra-group relationships and structures which might inform consideration of the way forward.

Questions –

- Should we use **UK companies listing on UK regulated markets** as a basis for an exception from the prohibition of corporate directors? And UK subsidiaries of non-UK companies listed on UK regulated markets?
- Should we use listing on **other markets, with broadly similar rules to those of UK regulated markets,** as the basis for an equivalent exception from the prohibition of corporate directors? Do you have any further thoughts on the handling of UK companies listed on overseas markets, and evaluation of their rules and requirements?
- **How far should an exception extend in the group**?
    - Should it apply only to dormant companies?
    - Should it apply to
        - wholly owned subsidiaries; or
        - subsidiary bodies corporate controlled through voting rights or control of directors; or
        - subsidiary undertakings subject to wider means of parental company influence?

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could provide the information through their accounts or in their annual return. This change will be incorporated into implementation of the Accounting Directive 2013/34/EU. Companies that file micro accounts do not file information on their subsidiaries on the basis of the definition in section 1161 of the Companies Act 2006. (See '*Company Filing Requirements Red Tape Challenge – Government Response* (BIS, April 2014)).
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/304946/bis-14-635-company-filing-requirements-response.pdf

[25] Or equivalent provision for other bodies corporate acting as corporate directors, beyond companies.

- Should it apply only to companies appointing another company in the group or a parent company only? Should this be made explicit?
- Should it apply only to companies appointing a corporate director whose directors are all natural persons?
- Are there any other arrangements or relationships we should consider?

- **Can you provide any evidence of the costs and benefits of your preferred outcome**?

b) UK companies with shares admitted to trading on UK prescribed markets

29. UK companies can list on markets which are not regulated, but are prescribed in the UK[26]. Notably this includes the Alternative Investment Market (AIM).

30. UK Companies listed on UK prescribed markets are subject to some but not all of the requirements of companies which issue shares on regulated markets. This includes some of the Disclosure and Transparency Rules, notably DTR5 as discussed above. Government intends to exempt, on this basis, such companies from the requirement to provide information for the PSC register.

31. **We therefore consider there is a case for using UK prescribed market listings as a basis for an exception to the prohibition of corporate directors**. To note again, however, we do not currently consider it helpful to add an additional qualification of size[27].

32. This raises similar questions as for companies issuing shares on regulated markets. These are: the nature of the subsidiary; the relationship between the subsidiary and the parent and the nature of the parent; and overseas markets.

Questions –

- Should we use **UK companies listing on UK prescribed markets** as a basis for an exception from the prohibition of corporate directors? And UK subsidiaries of non-UK companies listed on UK prescribed markets?
- Do you have any further comments on overseas markets broadly similar to **UK prescribed markets** which are not covered above (in the question regarding overseas markets broadly similar to UK regulated markets)?

[26] Prescribed markets are defined by the Financial Services and Markets Act 2000 (Prescribed Markets and Qualifying Investments) Order 2001. This includes 'all other regulated markets' which means it would cover UK regulated markets as described in section (a) and other regulated markets overseas. Here we use the phrase 'prescribed markets in the UK;' we are concerned firstly with markets which are prescribed in the UK, and secondly and separately with any overseas markets where the rules might be broadly similar.

[27] As public companies, UK companies with shares admitted to trading on prescribed markets are classified as large for the purposes of filing accounts. Data indicate that only around a quarter of UK companies and their groups with shares admitted to trading on the Alternative Investment Market (AIM) meet the criteria for large in relation to employees, turnover and balance sheet. See footnote 21 for further detail in relation to size.

- **How far should an exception extend in the group**?
    - Should it apply only to dormant companies?
    - Should it apply to
        - wholly owned subsidiaries; or
        - subsidiary bodies corporate controlled through voting rights or control of directors; or
        - subsidiary undertakings subject to wider means of parental company influence?
    - Should it apply only to companies appointing another company in the group or a parent company only? Should this be made explicit?
    - Should it apply only to companies appointing a corporate director whose directors are all natural persons?
    - Are there any other arrangements or relationships we should consider?
- **Can you provide any evidence of the costs and benefits of your preferred outcome**?

c) Public companies without shares admitted to trading

33. Some public limited companies do not have shares admitted to trading on any market. They meet certain requirements (additional to those of private companies) which enable them to be classified as 'public limited companies.' These relate to share capital, their directors and secretaries, and the filing of accounts, for instance. They also make certain basic information available, covering their directors and shareholders and in future their PSCs. They are by no means, however, subject to the same requirements with respect to corporate governance, transparency and disclosure as companies with shares admitted to trading on regulated or on prescribed markets.

34. A different consideration is whether the scale of operations of large unlisted public companies renders them similar to listed companies. All public companies are defined as large for the purposes of filing accounts. However, data indicate that only about a fifth of public companies would otherwise meet this definition. Of these, just over two thirds are structured as groups. They have around 59,000 subsidiaries[28].

35. Can we consider, on this basis, that public companies without shares admitted to trading on regulated or prescribed markets have high corporate governance and transparency standards and a low risk of abuse that might warrant an exception from the prohibition of corporate directors?

36. We consider the case for an exception to the prohibition of corporate directors is more finely balanced here. If we were to consider an exception to the prohibition of corporate directors

[28] Data from the FAME database (Bureau van Dijk Electronic Publishing, July 2014). Companies in a group are determined on the basis of filing group accounts. See footnote 21 for further detail in relation to size.

for public companies, we would need to consider the same issues as set out above with respect to subsidiaries. These are: the nature of the subsidiary; the relationship between the subsidiary and the parent and the nature of the parent.

Questions –

- Should we use **public company status** as a basis for an exception from the prohibition of corporate directors?
- **Should any exception extend to all public companies, only to large public companies, or only to large public companies in group structures**?
- **How far should an exception extend in the group**?
    - Should it apply only to dormant companies?
    - Should it apply to
        - wholly owned subsidiaries; or
        - subsidiary bodies corporate controlled through voting rights or control of directors; or
        - subsidiary undertakings subject to wider means of parental company influence?
    - Should it apply only to companies appointing another company in the group or a parent company only? Should this be made explicit?
    - Should it apply only to companies appointing a corporate director whose directors are all natural persons?
    - Are there any other arrangements or relationships we should consider?
- **Can you provide any evidence of the costs and benefits of your preferred outcome**?

Private companies

37. Private companies must make certain basic information available, for instance covering their directors and shareholders, and in future their PSCs. They are by no means, however, subject to the same requirements with respect to transparency and disclosure as companies issuing shares on regulated or on prescribed markets.

38. A key consideration is whether the scale of operations of large[29] private companies renders them similar to listed companies.

[29] See footnote 21 for further detail in relation to size.

39. We have heard, including from the Institute of Chartered Secretaries and Administrators (ICSA)[30], that group structures involving large private companies could derive similar administrative advantages from the use of corporate directors.

40. However, the private company structure – particularly when stripped to its minimum in terms of numbers of registered directors and shareholders – can facilitate opacity and can be vulnerable to abuse.

41. The main basis for any exception for large private companies would be size. Any such exception would be simple, but broad. Data suggest there are around 12,000 large private companies. Narrowing the exception to large private companies in groups would encompass 4,000 companies which together have around 25,000 subsidiaries[31].

42. We consider the case for an exception to the prohibition of corporate directors is more finely balanced here.

43. There are also strong reasons for considering the case only in relation to private companies which are large and in groups - we do not consider an exception should apply to more widely to private companies.

44. It is 'shell' companies which can be the vehicle for money-laundering and other crime. As a recent study explains, 'In contrast to operating or trading companies that have employees who make a product or provide a service […] shell companies are little more than this legal identity, and hence the "shell" moniker.' That is to say, shell companies are inevitably small, and any exception for them from the prohibition of corporate directors would jeopardise the achievement of the policy objectives. UK law enforcement have reinforced the relative risks of opacity in small companies, as opposed to large companies.

45. Moreover, we do not consider that prohibiting corporate directors for small and medium sized private companies would generally disadvantage small or medium sized businesses, because they are less likely to use them. Some representative bodies have explained that small businesses are unlikely to use corporate directors. This is borne out by the figures – a smaller proportion of small companies than of all companies use corporate directors. Throughout public engagement on these reforms over more than a year we have not heard representations which suggest that prohibiting corporate directors for small and medium sized companies would be problematic[32].

46. If we were to consider an exception to the prohibition of corporate directors for large private companies, we would need to consider the same issues as set out above with respect to subsidiaries. These are: the nature of the subsidiary; the relationship between the subsidiary and the parent and the nature of the parent.

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[30] The Institute of Chartered Secretaries and Administrators (ICSA) response to the *Transparency and Trust* discussion paper, which included this idea, is available on the gov.uk website alongside the discussion paper, others' responses and the Government's response to views received.
https://www.gov.uk/government/consultations/company-ownership-transparency-and-trust-discussion-paper

[31] Data from the FAME database (Bureau van Dijk Electronic Publishing, July 2014). Companies in a group are determined on the basis of filing group accounts. See footnote 21 for further detail in relation to size.

[32] These issues are considered further in the relevant Impact Assessment (see footnote 10).

Questions –

- Should we use **large private company status** as a basis for an exception from the prohibition of corporate directors?
- **Should any exception extend to all large private companies, or only to large private companies in group structures**?
- **How far should an exception extend in the group?**
    - Should it apply only to dormant companies?
    - Should it apply to
        - wholly owned subsidiaries; or
        - subsidiary bodies corporate controlled through voting rights or control of directors; or
        - subsidiary undertakings subject to wider means of parental company influence?
    - Should it apply only to companies appointing another company in the group or a parent company only? Should this be made explicit?
    - Should it apply only to companies appointing a corporate director whose directors are all natural persons?
    - Are there any other arrangements or relationships we should consider?
- **Can you provide any evidence of the costs and benefits of your preferred outcome?**

4. Companies in regulated sectors

47. Here we consider the use of corporate directors by companies in the charitable sector and the pensions sector, where regulators play an important role. We would also welcome views on any other sectors where close regulation, particularly supporting high standards of transparency and corporate governance, might also suggest a basis for an exception.

Question -

- **Are there any further areas where regulation supports high standards of transparency and corporate governance, which might also suggest a basis for an exception to the prohibition of corporate directors?**

a) Charitable companies

48. Charities can incorporate as companies – charitable companies - or take a number of other forms[33]. Here we consider only charitable companies subject to the Companies Act 2006 and the changes being proposed to it in the Small Business, Enterprise and Employment Bill.

49. The majority of charities in England and Wales are regulated by the Charity Commission. In Scotland regulation is undertaken by Office of the Scottish Charity Regulator (OSCR) and in Northern Ireland by the Charity Commission for Northern Ireland (CCNI). Registration is often the start of the regulatory relationship (though some smaller charities in England do not have to register but will still be regulated). Regulation operates through a risk based approach involving advice, or where necessary escalating to an investigation, perhaps involving law enforcement. This level of sectoral regulation suggests the risk of abuse of corporate directors of charitable companies might be mitigated. At the same time, sector representatives have explained corporate directors can be useful for charities in certain situations.

50. However, it is also the case that charitable companies can be vulnerable to abuse like other companies. Separate legal personality and complex or opaque structures can still be used to facilitate illicit activity. While the presence of charity regulation reduces the risk of abuse, it is required because abuse exists, and corporate directors are part of that picture.

51. **For this reason, we consider that a complete exception for charity companies from the prohibition of corporate directors is not appropriate.** It might create loopholes and opportunities for those seeking vehicles for illicit activity. This could ultimately damage the reputation of charitable companies. Some restriction on the use of corporate directors of charitable companies, ideally to lower risk circumstances, would support charity regulation.

52. We have considered firstly whether a charity should only be able to appoint another charity or public body as a corporate director. Secondly we have considered a size threshold. Thirdly, there could be scope for regulatory decisions to allow the appointment of a corporate director in a given set of circumstances.

53. Some charities in England and Wales ('exempt charities') have different charity regulators.

54. The Secretary of State for Education regulates Academy Trusts, which have charitable status as companies limited by guarantee. They operate via contractual arrangements with the Secretary of State, in a system of close oversight. Corporate directors can be useful to introduce specialist sector expertise and high standards of strategic governance. **There is a strong case for use of corporate directors to continue in Academy Trusts**.

55. HEFCE is the principle regulator of Higher Education Institutions (HEIs) in England that are exempt charities, some of which are companies. HEFCE also funds HEIs that are registered charities, some of which are companies. Funded HEIs have interests in subsidiary companies (some of which may be registered or exempt charities). Though we understand HEFCE-funded HEIs that are charitable companies (and HEIs' subsidiary charitable companies) do not generally have corporate directors, **we do not consider there is a justification in principle for treating those that are exempt charities differently from registered charities that are companies.**

[33] Other forms a charity can take include trusts, unincorporated associations or Charitable Incorporated Organisations (CIOs).

56. The Cabinet Office has consulted on proposals which would further help address the risk of abuse of charities by corporate trustees. One of the proposed changes would prohibit a person disqualified from serving as a charity trustee from taking part in any decisions made by the corporate body when acting as a trustee. (This would apply whatever the legal form of the charity of which it is a trustee, not just to charitable companies). Draft legislation is expected later this year.

Questions -

- Should we use **operating as a regulated charitable company** as a basis for an exception from the prohibition of corporate directors?
- **How far should an exception extend among charitable companies?**
    - For instance should it apply
        - To all charitable companies; or
        - To charitable companies appointing a charity as corporate director; and/or
        - To charities appointing a public body as a corporate director; and/or
        - To charities of a certain size; and/or
        - On the basis of evaluation by charity regulators; and/or
        - On any other basis?
- **Can you provide any evidence of the costs and benefits of your preferred outcome?**

b) Corporate trustees of pension funds

57. Most occupational pension schemes in the UK are trusts. Trustees are responsible, usually as part of a board of trustees, for ensuring the pension scheme is run properly and members' interests protected.

58. There are different types of trustee. Many are individuals appointed by the employer or nominated by members, but some are companies (with the same responsibilities as an individual trustee). We have heard from some in the pensions industry that using corporate trustees can help secure expertise and effective oversight to overcome particular challenges in operating pension funds (where, for instance, other trustees overseeing significant sums of money might be lay persons).

59. Whilst many trustee companies will have individuals as directors, we are aware some have corporate directors. However, views we have heard so far indicate that their use is likely to be restricted to a small number of well established, sizeable and transparent companies which will help employers to undertake due diligence when making trustee appointments.

60. Where there are concerns, the Pensions Regulator, which regulates work-based pensions in the UK, has powers to suspend or prohibit trustees, individual or corporate. This level of sectoral regulation helps reduce the risk of abuse by trustees, including corporate trustees.

61. In this context, we are minded to allow corporate directors of corporate trustees to continue under an exception to the prohibition of corporate directors.

Questions –

- **Can you provide any further information or evidence we should consider in relation to the abuses or value of corporate directors in the pensions industry?**
    - Are corporate directorships in trustees rare, restricted to larger companies and generally transparent? Are there any other or particular arrangements in which they are used in the pensions industry?
    - Are there any significant risks attached to allowing corporate directorships in corporate trustees to continue?
- **Is there more that should be done to improve transparency of corporate directorships in corporate trustees?**
- **Can you provide any evidence of the costs and benefits of your preferred outcome?**

c) Open Ended Investment Companies (OEICs)

62. Open Ended Investment Companies (OEICs)[34] are not directly subject to the Companies Act 2006. They use Authorised Corporate Directors (ACDs), each subject to approval by the Financial Conduct Authority (FCA). **No changes to the current system of ACD use by OEICs are being proposed as part of the present reforms.**

5. Consideration of other legal entities beyond companies

63. So far this document has focussed on companies, and circumstances which might warrant an exception to the prohibition of their appointment or retention of a corporate director. It is important to note that where a company is prohibited from appointing a corporate director, this prohibition will apply to the full range of legal entities which could be a corporate director.

64. To comprehensively assess the scope of the prohibition of corporate directors, we should consider the appointments made by legal entities beyond companies; some other entities can also appoint legal persons, rather than individuals, to key roles, and can also be opaque and vulnerable to abuse.

[34] Investment Companies with Variable Capital (ICVCs) is also a term used to describe bodies incorporated under the Open Ended Investment Companies Regulations (2001).

a) Societas Europaea (SEs)

65. Members of the supervisory organ of an SE are broadly equivalent to directors. Article 47 of Regulation 2157/2001/EC (European Company Statute) states that 'an SE's statutes may permit a company or other legal entity to be a member of one if its organs, provided that the law applicable to public limited-liability companies in the Member State in which the SE's registered office is situated does not provide otherwise.'

66. The Article also states that the 'company or other legal entity shall designate a natural person to exercise its functions on the organ in question,' which indicates a level of individual engagement and accountability in the corporate governance of SEs.

67. Therefore we consider **there is a case for an exception to the prohibition of corporate directors for SEs, and will particularly seek to ensure consistency with any exception for public companies.**

Question –

- Should we use **SE status** as a basis for an exception from the prohibition of corporate directors?

b) Limited Liability Partnerships (LLPs)

68. Limited Liability Partnerships (LLPs) can appoint corporate members, and do not need to have any individual members. (Any kind of partnership can appoint a corporate member. Partnerships without legal personality are outside the scope of the *Transparency and Trust* reforms, since such partnerships do not involve the same risk of opacity of ownership and control[35]).

69. LLP members have some parallels with company directors and some parallels with company shareholders. The Government has already set out its intention that LLPs provide information on their control for the PSC register.

70. However, we have heard representations that the unique structure of LLPs and value of corporate members do not support a restriction on corporate members of LLPs. Crucially, LLP members have an economic stake in the LLP, and using corporate members is an important means of securing investment for LLPs. Therefore restrictions on corporate members risk restricting investment in LLPs.

71. At the moment there is no strong body of evidence suggesting abuse facilitated by corporate members of LLPs. Though there are risks to any structure with separate legal personality, and there are some reports of abuse of LLPs which support our decision to include them in the PSC register regime, **there is not currently a strong case for action to prohibit corporate members of LLPs.** Other actions we have considered, but do not favour at this stage, include requiring at least one individual to be a member of an LLP.

[35] Scottish Partnerships do have legal personality. We will consider any issues relating to Scottish Partnerships alongside wider issues as we gather views on this paper.

72. Although there is not a strong case for change at the moment, it is important that we do not allow the UK LLP to become an increasingly popular choice for those seeking opacity to facilitate illicit activity.

73. Therefore, **we propose to review the position in parallel with the review of the Small Business Enterprise and Employment Bill provisions covering corporate directors of companies, or sooner if compelling evidence of abuse of the LLP structure were to emerge.** (Subject to the will of Parliament, the Small Business Enterprise and Employment Bill will provide for a review of the extent to which the objectives of the reforms around corporate directors have been achieved five years after they come into force.)

Questions –

- **Do you agree with the approach that use of corporate members of LLPs should continue unchanged in the present reforms?**
- **Can you provide any further information or evidence we should consider in relation to the abuse or value of corporate members of LLPs?**
- **Do you agree we should review the issues in relation to corporate members of LLPs** in parallel with the review of the Small Business Enterprise and Employment Bill provisions covering corporate directors of companies, or sooner if compelling evidence of abuse of the LLP structure were to emerge?

c) Corporations Sole

74. A corporation sole can also act as a director. Under the Companies Act 2006, when they do so, they fulfil the requirement for an individual director. (They are not, essentially, considered as a corporate director). **We intend to retain this approach.**

6. Consultation questions

Group structures including large companies

Public companies

UK companies with shares admitted to trading on regulated markets

1. Should we use UK companies listing on UK regulated markets as a basis for an exception from the prohibition of corporate directors? And UK subsidiaries of non-UK companies listed on UK regulated markets?
2. Should we use listing on other markets, with broadly similar rules to those of UK regulated markets, as the basis for an equivalent exception from the prohibition of corporate directors? Do you have any further thoughts on the handling of UK companies listed on overseas markets, and evaluation of their rules and requirements?
3. How far should an exception extend in the group?
    a. Should it apply only to dormant companies?

    Should it apply to

    b. wholly owned subsidiaries; or

    c. subsidiary bodies corporate controlled through voting rights or control of directors; or

    d. subsidiary undertakings subject to wider means of parental company influence?
4. Should it apply only to companies appointing another company in the group or a parent company only? Should this be made explicit?
5. Should it apply only to companies appointing a corporate director whose directors are all natural persons?
6. Are there any other arrangements or relationships we should consider?
7. Can you provide any evidence of the costs and benefits of your preferred outcome?

UK companies with shares admitted to trading on prescribed markets

8. Should we use UK companies listing on UK prescribed markets as a basis for an exception from the prohibition of corporate directors? And UK subsidiaries of non-UK companies listed on UK prescribed markets?
9. Do you have any further comments on overseas markets broadly similar to UK prescribed markets which are not covered above (in your response to question two regarding overseas markets broadly similar to UK regulated markets)?
10. How far should an exception extend in the group?
    a. Should it apply only to dormant companies?

    Should it apply to

    b. wholly owned subsidiaries; or

    c. subsidiary bodies corporate controlled through voting rights or control of directors; or

d. subsidiary undertakings subject to wider means of parental company influence?

11. Should it apply only to companies appointing another company in the group or a parent company only? Should this be made explicit?
12. Should it apply only to companies appointing a corporate director whose directors are all natural persons?
13. Are there any other arrangements or relationships we should consider?
14. Can you provide any evidence of the costs and benefits of your preferred outcome?

Public companies without shares admitted to trading

15. Should we use public company status as a basis for an exception from the prohibition of corporate directors?
16. Should any exception extend to all public companies, only to large public companies, or only to large public companies in group structures?
17. How far should an exception extend in the group?

    a. Should it apply only to dormant companies?

    Should it apply to

    b. wholly owned subsidiaries; or

    c. subsidiary bodies corporate controlled through voting rights or control of directors; or

    d. subsidiary undertakings subject to wider means of parental company influence?

18. Should it apply only to companies appointing another company in the group or a parent company only? Should this be made explicit?
19. Should it apply only to companies appointing a corporate director whose directors are all natural persons?
20. Are there any other arrangements or relationships we should consider?
21. Can you provide any evidence of the costs and benefits of your preferred outcome?

Private companies

22. Should we use large private company status as a basis for an exception from the prohibition of corporate directors?
23. Should any exception extend to all large private companies, or only to large private companies in group structures?
24. How far should an exception extend in the group?

    a. Should it apply only to dormant companies?

    Should it apply to

    b. wholly owned subsidiaries; or

    c. subsidiary bodies corporate controlled through voting rights or control of directors; or

    d. subsidiary undertakings subject to wider means of parental company influence?

25. Should it apply only to companies appointing another company in the group or a parent company only? Should this be made explicit?
26. Should it apply only to companies appointing a corporate director whose directors are all natural persons?
27. Are there any other arrangements or relationships we should consider?
28. Can you provide any evidence of the costs and benefits of your preferred outcome?

Companies in regulated sectors

29. Are there any further areas where regulation supports high standards of transparency and corporate governance, which might also suggest a basis for an exception?

Charitable companies

30. Should we use operating as a regulated charitable company as a basis for an exception from the prohibition of corporate directors?
31. How far should an exception extend among charitable companies?

    For instance should it apply

    a. To all charitable companies; or
    b. To charitable companies appointing a charity as corporate director; and/or
    c. To charities appointing a public body as a corporate director; and/or
    d. To charities of a certain size; and/or
    e. On the basis of evaluation by charity regulators; and/or
    f. On any other basis?
32. Can you provide any evidence of the costs and benefits of your preferred outcome?

Corporate trustees of pension funds

33. Can you provide any further information or evidence we should consider in relation to the abuses or value of corporate directors in the pensions industry?
    a. Are corporate directorships in trustees rare, restricted to larger companies and generally transparent? Are there any other or particular arrangements in which they are used in the pensions industry?
    b. Are there any significant risks attached to allowing corporate directorships in corporate trustees to continue?
34. Is there more that should be done to improve transparency of corporate directorships in corporate trustees?
35. Can you provide any evidence of the costs and benefits of your preferred outcome?

Consideration of other legal entities beyond companies

Societas Europaea (SEs)

36. Should we use **SE status** as a basis for an exception from the prohibition of corporate directors?

Limited Liability Partnerships (LLPs)

37. Do you agree with the approach that use of corporate members of LLPs should continue unchanged in the present reforms?

38. Can you provide any further information or evidence we should consider in relation to the abuses or value of corporate members of LLPs?

39. Do you agree we should review the issues in relation to corporate members of LLPs in parallel with the review of the Small Business Enterprise and Employment Bill provisions covering corporate directors of companies, or sooner if compelling evidence of abuse of the LLP structure were to emerge?

7. What happens next?

Formal comments on this discussion paper are very welcome until 8th January 2015. Please don't hesitate to get in touch if there are points you would like to discuss before providing a response, and please also note that discussion and dialogue might well continue after this date.

The views we receive will inform consideration of circumstances where use of corporate directors of UK companies should be allowed. We will also consider views we have heard previously and in discussion of wider issues relating to the *Transparency and Trust* reforms, alongside evidence we gather from other sources.

The circumstances where the use of corporate directors of UK companies will be allowed will then be set out in regulations.

The Small Business, Enterprise and Employment Bill was introduced to Parliament in June 2014. Subject to the will of Parliament, it will provide for the necessary changes to primary legislation to ensure UK company directors are normally individuals. It also includes the power to make the regulations to set out the exceptions to this.

Subject to the will of Parliament the Bill will achieve Royal Assent in March 2015. During Bill passage, the Government intends to set out, for debate, its proposed exceptions to the prohibition of corporate directors, and in due course to provide draft regulations. As we develop the regulations to implement the final policy position, we will refine our analysis and bring forward further Impact Assessments as necessary.

We intend that the Small Business, Enterprise and Employment Bill and the regulations will together usher in a new framework setting out clearly where corporate directors can and cannot be used.

8. How to respond

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 whom the organisation represents

We would welcome suggestions of others who may wish to be involved in this consultation process.

You can reply online at https://www.surveymonkey.com/s/corporatedirectors

The response form is available on the gov.uk page (until the period for providing formal views has finished).

https://www.gov.uk/government/consultations/corporate-directors-exceptions-to-prohibition.

The response form or any alternative format you wish to provide in writing can be submitted by email or by letter to:

Transparency and Trust Team
Department for Business Innovation and Skills
1 Victoria Street
London
SW1H 0ET

transparencyandtrust@bis.gsi.gov.uk

Other versions of the document in Braille, other languages or audio versions are available on request.

9. Help with queries

Questions about the policy issues raised in the document can be addressed to:

Transparency and Trust Team
Department for Business Innovation and Skills
1 Victoria Street
London
SW1H 0ET

transparencyandtrust@bis.gsi.gov.uk

10. Confidentiality and data protection

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.

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.

11. 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 about 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:

Angela Rabess,
BIS Consultation Co-ordinator,
1 Victoria Street,
London
SW1H 0ET

Telephone 020 7215 6402
or e-mail to: angela.rabess@bis.gsi.gov.uk

However if you wish to comment on the specific policy proposals you should contact the Transparency and Trust policy team as set out in section 9.

This publication is available from www.gov.uk/bis

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

If you require this publication in an alternative format, email enquiries@bis.gsi.gov.uk, or call 020 7215 5000.

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