



Department for Business, Innovation & Skills

Annex D: The Register of People with Significant Control Regulations 2015 consultation response form

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

The closing date for this consultation is 17/07/2015

Name: Corporate Consultation Committee
Organisation (if applicable): Insolvency Practitioners Association
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Please tick to indicate what type of organisation you represent or if you are responding as an individual:

<input checked="" type="checkbox"/>	Business representative organisation/trade body
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Do you have any other comments on the consultation?

Comments:

INTRODUCTION

There follows the response of the Insolvency Practitioners Association, as prepared by its Corporate Consultation Committee; a committee comprised of IPA members with particular interest and expertise in the field of corporate insolvency.

The Insolvency Practitioners Association (IPA) is a membership body recognised by the Secretary of State for Business, Innovation & Skills (BIS) for the purposes of authorising Insolvency Practitioners (IPs) under the Insolvency Act 1986. It is the only recognised professional body to be solely involved in insolvency and for over fifty years, the IPA is proud to have been at the forefront of development and reform within the industry.

This response is not intended to reflect the views of every member of the Association, who are themselves at liberty to submit their own responses, but rather to reflect the broadly agreed views of the Association and its Corporate Consultation Committee (CCC).

OVERVIEW OF RESPONSE AND GENERAL REMARKS

The objects for which the IPA is established are, for the public benefit, to promote and maintain high standards of practice in the performance and discharge of all those functions, powers and duties which are attached or incidental to “Insolvency Administration Offices” and the performance and discharge of such functions; ancillary to which the Association is empowered to advise and make recommendations to any government department or other body regarding any changes in law or practice affecting Insolvency Administration Offices or otherwise relating to Insolvency Administration, and to promote and support any policies calculated to improve any aspect of Insolvency Administration.

Our responses, therefore, is confined to the extent to which these proposals may directly affect the functions of insolvency practitioners.

We did not respond in detail to Part A of the Transparency and Trust consultation conducted in September 2013 on these proposals, as the impact of the proposed changes reached beyond the context of insolvent entities. However, we did concur that the ability to identify controlling individuals is central to both the attribution of responsibility and the pursuit of recoveries in insolvent situations.

We have no doubt that enhancing transparency of UK company ownership could be of assistance to insolvency practitioners generally, in all forms of insolvency proceedings, when investigating the affairs of the insolvent entity, identifying potential assets (and how they may have been divested or misapplied) and ultimately in pursuing their recovery for the benefit of creditors. However, whilst supportive of these objectives, we have identified a small number of areas of specific concern for insolvency office holders, in respect of which clarification would be welcomed:

a) Is it intended that there would be any obligation on the company (or an insolvency office holder) to maintain or update their PSC Register once the entity was within formal insolvency processes? It is unlikely to be practicable for an insolvency practitioner to do so.

b) Will any failure to maintain such a register be a matter upon which insolvency office holders will be required to report in the context of their reports under the Company Directors Disqualification Act? If so, this should be made clear.

c) Will the obligation to provide a copy of a company’s PSC register extend to insolvency office holders? We are of the view that it should not as they will be unable to warrant its accuracy;

d) We are of the view that there should be an adequate dispute resolution process in the event that an individual disputes entries on a company’s PSC Register;

e) When a restriction notice is in place, it is unclear the impact this will have on the individual’s rights in relation to the commencement of, or subsequent information arising from, insolvency proceedings.