



**Isle of Man**  
**Government**

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# Consultation on the transparency of the beneficial ownership of companies

Cabinet Office

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# **CONSULTATION ON THE TRANSPARENCY OF THE BENEFICIAL OWNERSHIP OF COMPANIES**

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## **A. EXECUTIVE SUMMARY**

1. Over the last year or so, a focus on the beneficial ownership of companies (and similar entities, such as foundations) has very much come to the fore as part of an international strategy to get to grips with cross-border tax evasion and tax avoidance, corruption, money laundering and other crimes.
2. Where the true ownership of assets or wealth held worldwide is often hidden for a multitude of reasons behind a web of interlinked corporate structures, there are many instances where evolving public policy is arguably justified in wishing to identify and even make publicly available the details of such ownership.
3. This evolving public policy may best be seen in the recent pronouncements of the G8 and G20 groupings of states and those of UK Prime Minister David Cameron who stated that "a publicly accessible registry provides the best outcome for sound corporate behaviour; more effective law and tax enforcement; and for helping authorities, including those in developing countries, prevent misuse of companies for illicit purposes." Mr Cameron has concluded that public central registries of company beneficial ownership should be established "as the cutting-edge benchmark for countries and major financial centres to emulate across the world."
4. The Isle of Man published an Action Plan in June 2013 which stated that there would be a national assessment of:
  - the accessibility of beneficial ownership information in respect of all companies to Isle of Man authorities;
  - the effectiveness of mechanisms for sharing this information with foreign counterparts; and
  - whether a centralised registry containing information on the ownership and control of companies in the Isle of Man would improve transparency.
5. The object of the Consultation Document is therefore to seek views and opinions from those members of the Isle of Man community, whether in their private or professional capacities, who feel that they might be affected in any way by the evolving public policy in this context. Their contributions will be taken into account in shaping any future Isle of Man policy regarding beneficial ownership of companies.

**The consultation closes on Friday 26<sup>th</sup> September 2014.**

## **B. BACKGROUND**

6. Under the presidency of the United Kingdom, at the Lough Erne Summit in Northern Ireland in June 2013, the G8 countries endorsed a set of core principles which are fundamental to the transparency of ownership and the control of companies and legal arrangements.
7. These core principles, consistent with the Financial Action Task Force (FATF) standards, are considered essential to ensure the integrity of beneficial ownership and basic company information, the timely access to such information by law enforcement for investigative purposes, as well as, where appropriate, the legitimate commercial interests of the private sector.
8. This Consultation is concerned only with the beneficial ownership of companies and not with that of legal arrangements such as trusts. Much of what is stated about companies will apply similarly to foundations which, although not companies, are legal persons and share many of the characteristics of companies.
9. The key core principles agreed by the G8 were:
  1. Companies should know who owns and controls them and their beneficial ownership and basic information should be adequate, accurate, and current. As such, companies should be required to obtain and hold their beneficial ownership and basic information, and ensure documentation of this information is accurate.
  2. Beneficial ownership information on companies should be accessible onshore to law enforcement, tax administrations and other relevant authorities including, as appropriate, financial intelligence units. This could be achieved through central registries of company beneficial ownership and basic information at national or state level. Countries should consider measures to facilitate access to company beneficial ownership information by financial institutions and other regulated businesses. Some basic company information should be publicly accessible.
- See: <http://www.g8.utoronto.ca/summit/2013lougherne/lough-erne-misuse.html>
10. In line with their endorsement, the G8 agreed to publish national Action Plans based on the core principles to prevent the misuse of companies and legal arrangements, as part of the greater strategy of countering money laundering and tax evasion by ensuring companies know who really owns and controls them (beneficial ownership), including ensuring that this information is

available in a timely fashion to relevant authorities, for example, through central registries.

11. On 18<sup>th</sup> June 2013 the Isle of Man published an Action Plan to prevent the misuse of companies (or legal persons) and legal arrangements (or trusts).

See: <http://www.gov.im/lib/docs/cso/actionplan.pdf>

12. Also in June 2013, the UK Department for Business, Innovation and Skills (BIS) published a detailed discussion paper entitled "Transparency & Trust: Enhancing the Transparency of UK Company Ownership and increasing Trust in UK Business". The discussion paper set out a range of proposals to enhance the transparency of UK company ownership and increase trust in UK business, including discussion of the scope of a central registry of company beneficial ownership information.

See:

[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-increasing-trust-in-uk-business.pdf](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-increasing-trust-in-uk-business.pdf)

13. In the Leaders' Declaration at the close of the G20 Summit in St Petersburg on 6<sup>th</sup> September 2013, leaders of the G20 endorsed plans to address cross-border tax evasion and avoidance and committed to take steps to change their rules to tackle tax avoidance, harmful practices and aggressive tax planning. The Declaration stated:

"We encourage all countries to tackle the risks raised by opacity of legal persons and legal arrangements, and we commit to take measures to ensure that we meet the FATF standards regarding the identification of the beneficial owners of companies and other legal arrangements such as trusts that are also relevant for tax purposes. We will ensure that this information is available in a timely fashion to law enforcement, tax collection agencies and other relevant authorities in accordance with the confidentiality legal requirements, for example through central registries or other appropriate mechanisms. We ask our Finance Ministers to update us by our next meeting on the steps taken to meet FATF standards regarding the beneficial ownership of companies and other legal arrangements such as trusts by G20 countries leading by example."

See:

<http://www.mofa.go.jp/files/000013493.pdf>

14. In September 2013, the Isle of Man's first Third Round Progress Report outlining progress made by the Isle of Man in implementing

recommendations previously made by the IMF was adopted at the MONEYVAL Plenary in Strasbourg. MONEYVAL is the independent body set up under the Council of Europe to monitor and assess compliance with relevant international AML/CFT standards, including the FATF standards, through a peer review process of mutual evaluations. It is important to note that the Isle of Man will be subject to a further, rigorous MONEYVAL review in the second quarter of 2016 at which time it will be assessed against whatever evolving international standards then apply, including in the context of beneficial ownership.

15. On 31<sup>st</sup> October 2013, the UK Cabinet Office published the “UK National Action Plan 2013-2015” under the multilateral Open Government Partnership initiative. The UK gave a public commitment in this Action Plan that it would lead by example by creating a publicly accessible central registry of company beneficial ownership information. The registry will contain information about who ultimately owns and controls UK companies. The UK stated that it is “committed to lead by example to implement international standards on transparency of ownership and control to tackle the misuse of companies and legal arrangements. In particular, the UK has committed to place a requirement on companies to obtain and hold adequate, accurate and current information on their beneficial ownership – defined as the natural person(s) who ultimately owns or controls a legal person or arrangement.”

See: <http://www.opengovpartnership.org/country/united-kingdom/action-plan>

16. On 15<sup>th</sup> November 2013, Prime Minister Cameron wrote to the President of the European Council stating that the European Union should lead global efforts to strengthen transparency of company beneficial ownership through the Fourth Money Laundering Directive.
17. The Prime Minister confirmed that he had put this issue at the heart of the UK’s Presidency of the G8 during 2013, “because of the overwhelming evidence behind the need to act. Put simply, a lack of knowledge about who ultimately owns and controls companies facilitates illicit domestic and cross-border money laundering, corruption, tax evasion and other crimes.” He had concluded that “a publicly accessible registry provides the best outcome for sound corporate behaviour; more effective law and tax enforcement; and for helping authorities, including those in developing countries, prevent misuse of companies for illicit purposes.”
18. Mr Cameron concluded that the first collective step in the EU should be to mandate the establishment of “public central registries of company beneficial ownership as the cutting-edge benchmark for countries and major financial centres to emulate across the world.”

See: <https://www.gov.uk/government/publications/pm-letter-on-beneficial-ownership>

19. Following a meeting of the G20 Finance Ministers and Central Bank Governors in Sydney in February 2014, in an Annex to their formal Communiqué, the meeting formally requested the G20 Anti-corruption Working Group for an update by their April meeting on concrete actions that the G20 can take to meet the FATF standards “regarding the beneficial ownership of companies and other legal arrangements such as trusts by G20 countries leading by example.”
20. On 4th April 2014, the White House announced a Presidential legislative proposal to help law enforcement investigate the use of shell companies that are set up to engage in illegal activity, including the laundering of illicit proceeds. The proposal would require all companies formed in any American state to obtain a federal tax employee identification number which would enable the IRS to collect information on the beneficial owner of any legal entity organised in any state, and allow law enforcement to access that information. This appears to be a concrete step down the path previously advocated in the United States’ Action Plan for Transparency of Company Ownership and Control issued in June 2013 at the Lough Erne G8 summit. A possible approach suggested in this Action Plan was to ensure law enforcement authorities, including tax authorities, would be able to access beneficial ownership information upon appropriate request through a central registry at the US state level. Although all states currently make some basic information available through public registries, states may choose to make beneficial ownership information publicly available.

See: <http://www.whitehouse.gov/blog/2014/04/04/beneficial-ownership-legislation-proposal>

21. On 21st April 2014, the UK Department for Business, Innovation and Skills (BIS) released the formal response of the UK Government to views received from respondents to the discussion paper entitled “Transparency & Trust: Enhancing the Transparency of UK Company Ownership and increasing Trust in UK Business” published in June 2013. The response confirms the UK Government’s view that a central registry of company beneficial ownership information would be publicly accessible on the basis that good corporate behaviour and tackling company misuse would be best served by greater transparency.

See:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/304297/bis-14-672-transparency-and-trust-consultation-response.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/304297/bis-14-672-transparency-and-trust-consultation-response.pdf)

22. On 22nd April 2014, Prime Minister Cameron wrote to the Chief Ministers of the Crown Dependencies confirming that the establishment of a publicly accessible central registry of company beneficial ownership information would form a key pillar of UK policy in the future and that, following the consultation, legislation would be introduced in the UK Parliament as soon as possible. The Prime Minister appreciated that the Isle of Man had committed to consulting on establishing a central registry and encouraged the Island to give serious consideration to consulting on a public registry. A public registry would demonstrate the sincerity of any commitment to improve corporate behaviour and set a new standard for transparency of company ownership.

### **C. THE FATF STANDARDS**

23. Recommendation 10 (on Customer Due Diligence) of the FATF revised Recommendations which were adopted in 2012 require that measures to be taken include:

“Identifying the beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner, such that the financial institution is satisfied that it knows who the beneficial owner is. For legal persons and arrangements this should include financial institutions understanding the ownership and control structure of the customer.”

24. In applying this Recommendation, the FATF Interpretative Notes state that financial institutions should determine the extent of such measures using a risk-based approach (RBA).

25. Recommendation 24 deals with transparency and beneficial ownership of legal persons in the following terms:

“Countries should take measures to prevent the misuse of legal persons for money laundering or terrorist financing. Countries should ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities. In particular, countries that have legal persons that are able to issue bearer shares or bearer share warrants, or which allow nominee shareholders or nominee directors, should take effective measures to ensure that they are not misused for money laundering or terrorist financing. Countries should consider measures to facilitate access to beneficial ownership and control information by financial institutions and Designated Non-Financial Businesses and Professions (DNFBPs) undertaking the requirements set out in Recommendations 10 and 22.”



#### **D. THE ISLE OF MAN'S POSITION**

26. In its Action Plan published on 18th June 2013, the Isle of Man stated that it would be building on its existing comprehensive supervisory regime (which requires all intermediaries to know the ultimate beneficial ownership behind all company and trust vehicles with which they transact business) by conducting a national assessment (with the results to be shared by 2014) of:
- the accessibility of beneficial ownership information in respect of all companies (and all trusts) to Isle of Man authorities;
  - the effectiveness of mechanisms for sharing this information with foreign counterparts; and
  - whether a centralised registry containing information on the ownership and control of companies in the Isle of Man would improve transparency.
27. Chief Minister Allan Bell MHK stated at the time of the Action Plan that:
- “Establishing the ultimate beneficial ownership behind all account relationships conducted in the Isle of Man is a legal requirement backed by on-site supervision to ensure compliance. Legislation is in place to ensure that full and accurate details are maintained on the true ownership and control of every company, trust and fund in the Isle of Man, and that this information is freely available to law enforcement agencies and tax collectors. In response to the G8 initiative, we have further agreed to review this existing provision to determine whether a centralised registry would improve transparency of the ownership and control of companies in the Isle of Man.”
28. As a financial centre dedicated to attracting quality, legitimate business, the Isle of Man has an economic as well as an ethical interest in preventing its finance sector and reputation from being undermined by criminals. It is in this spirit that the Isle of Man Government, together with the Island's regulatory authorities, has, in working with international bodies, developed its international reputation as a well regulated international financial centre.
29. As a jurisdiction with significant interests in global financial markets and with close links to the capital markets of the UK and other international centres, the Isle of Man attaches great importance to the maintenance of high standards of financial regulation and supervision and has demonstrated this through its actions.

30. This was recognised by the International Monetary Fund (IMF) when it conducted its assessment of the Isle of Man's compliance with FATF standards for anti-money laundering and countering the financing of terrorism in 2008/9 and concluded that the Island was broadly compliant with most aspects of the FATF Recommendations.
31. In its Peer Review Report evaluation under the Global Forum on Transparency and Exchange of Information for Tax Purposes in June published in June 2011, the OECD stated that the "general regulatory environment in the Isle of Man is comprehensive and, particularly, for anti-money laundering purposes, all major financial sector industries are subject to active oversight designed to ensure that processes for customer due diligence and the maintenance of appropriate transactional information are followed."
32. In June 2012, the Isle of Man Government restated its commitment to combating money laundering and the financing of terrorism by publishing its Commitment to Combating Money Laundering and the Financing of Terrorism and Proliferation. In that Commitment, the Government endorsed "international standards against money laundering, the financing of terrorism and proliferation, tax evasion, corruption and related criminal activities." In particular, it expressly supported compliance with the FATF revised Recommendations.

See: <http://www.gov.im/lib/docs/cso/amlcommitment.pdf>

33. In its "Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems" (February 2013), the FATF states that:

"Countries should require that all companies created in a country are registered in a company registry, which should record the company name, proof of incorporation, legal form and status, the address of the registered office, basic regulating powers, and a list of directors. This information should be publicly available."
34. It may be noted that there is no compulsory requirement in the FATF Recommendations for a central register for beneficial ownership information (whether publicly available or not).
35. However, the Methodology does recommend that countries use one or more suggested mechanisms (either (a) requiring companies or company registries to obtain and hold up to date information on the companies' beneficial ownership or (b) requiring companies to take reasonable measures to obtain and hold up to date information on the companies' beneficial ownership or (c)

by using existing information where disclosure requirements ensure adequate transparency of beneficial ownership) to ensure that information on the beneficial ownership of a company is obtained by that company and is available at a specified location in their country, or can be otherwise determined in a timely manner by a competent authority.

See:

<http://www.fatf-gafi.org/topics/fatfrecommendations/documents/fatfissuesnewmechanismstostrengthenmoneylaunderingandterroristfinancingcompliance.html>

36. With effect from 1<sup>st</sup> September 2013, the Companies (Beneficial Ownership) Act 2012 (an Act of Tynwald) came fully into force in the Isle of Man. Under this Act, a “beneficial owner” is defined as meaning “in relation to a member’s interest in a company ... the person ultimately beneficially interested in the membership interest” and “beneficial ownership” is to be construed accordingly. Subject to exceptions set out more fully in the Companies (Beneficial Ownership) (Exemptions) Order 2013 (SD 0235/13) and the exclusions set out in section 4(2) of the Act, the Act applies to all companies registered in the Isle of Man.

See:

[http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2012/2012-0009/CompaniesBeneficialOwnershipAct2012\\_2.pdf](http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2012/2012-0009/CompaniesBeneficialOwnershipAct2012_2.pdf)

See: <http://www.tynwald.org.im/links/tls/SD/2013/2013-SD-0235.pdf>

37. The Act requires the appointment by a company of a nominated officer on the Island whose duty it is to hold information about the beneficial owners of that company and to disclose that information on request to relevant law enforcement or regulatory authorities, including the Assessor of Income Tax, in relation to proceedings in the Isle of Man or elsewhere. Members of the company are at the same time under a duty to provide information concerning the beneficial ownership of the company to the nominated officer.

## **E. A CENTRAL REGISTRY OF BENEFICIAL OWNERSHIP**

38. Given the UK’s formal endorsement of the principle of a publicly accessible central registry of company beneficial ownership as the benchmark for countries and major financial centres to emulate across the world, what policy and practical issues does this raise for the Isle of Man to consider?

## Setting the parameters of beneficial ownership in practice

39. In order for accurate information on the beneficial ownership of companies to be communicated to and stored in a centralised registry, there would have to be certainty as to what constitutes beneficial ownership in order to trigger an obligation on the part of those responsible for notification to the registry.
40. As we have seen, our own Companies (Beneficial Ownership) Act 2012 defines a "beneficial owner" as meaning "in relation to a member's interest in a company ... the person ultimately beneficially interested in the membership interest" and "beneficial ownership" is to be construed accordingly. It may be that this definition will need expansion in order to make more clear the notification obligations particularly in relation to legal persons.
41. The term "beneficial owner" is defined in the Glossary to the FATF Recommendations as follows:

"Beneficial owner refers to the natural person(s) who ultimately owns or controls a customer (This definition also applies to the beneficial owner of a beneficiary under a life or other investment linked insurance policy) and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement." The references to "ultimately owns or controls" and "ultimate effective control" refer to situations in which ownership/control is exercised through a chain of ownership or by means of control other than direct control."
42. In the text of the EU's draft Fourth Money Laundering Directive, a "beneficial owner" is defined as meaning "any natural person(s) who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted." In the case of corporate entities, beneficial owner shall be taken to include at least:

"(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with European Union legislation or subject to equivalent international standards.

A percentage of 25% plus one share shall be evidence of ownership or control through shareholding and applies to every level of direct and indirect ownership;

(ii) if there is any doubt that the person(s) identified in point (i) are the beneficial owner(s), the natural person(s) who exercises control over the management of a legal entity through other means”.

43. The definition used in the draft Directive accords with the definition of a beneficial owner set out in the Isle of Man’s Money Laundering and Terrorist Financing Code 2013 (SD 0095/13). The threshold is set at 25% plus one share, this being the point at which an owner could have a blocking minority in certain company decision-making processes. This also accords with the position adopted by the UK in its formal response paper of April 2014, although the exact definition to be employed is not yet known.

#### **The benefits of a public central registry of beneficial ownership**

44. In its discussion paper entitled “Transparency & Trust: Enhancing the Transparency of UK Company Ownership and increasing Trust in UK Business” (June 2013), the UK set out some of the benefits of setting up a public central registry of beneficial ownership.

45. These would include:

- Making it easier to identify – and therefore prove – who ultimately owns and controls companies which would have a positive impact on the efficiency and effectiveness of law enforcement investigations, and a positive outcome in terms of successful prosecutions and confiscation orders.
- Investors would have access to more complete, current and accurate information in order to remove uncertainty and enable them to make informed decisions in relation to specific companies.
- Making the information publicly accessible would allow greater scrutiny of the information, not least by members of civil society, increasing the likelihood of errors and inaccuracies being spotted and weeded out and enhancing the integrity and transparency of the information held in the registry.

46. The UK recognised that some companies would have concerns about the way in which information would be used or about an adverse economic effect on their business if people do not want to be associated with the company’s beneficial owner (even if he/she is entirely law-abiding).

47. Some owners might feel at risk if their personal information is put on the public record; for example, the beneficial owners of companies that operate domestic violence shelters or carry out animal testing. Some law-abiding investors and companies may prefer to operate in jurisdictions which do not make this information public.
48. As such, the UK would consider a framework of exemptions for vulnerable individuals.
49. The Law Society of England and Wales was of the view that, even with a framework of exemptions from public disclosure, there would always be a risk of leaks. The Law Society argues that it is a fundamental principle of English law and natural justice (which would also apply in the Isle of Man) that people should be entitled to privacy, unless there is an overriding public interest issue that requires otherwise.  
  
See: <https://www.gov.uk/government/consultations/company-ownership-transparency-and-trust-discussion-paper>  
See: <http://www.lawsociety.org.uk/representation/policy-discussion/transparency-and-trust-law-society-response/>
50. As we have seen, the UK Government published its formal response to views received in the light of its discussion paper in April 2014. These views comprised some 300 responses from businesses, representative bodies (such as the Law Society of England and Wales), NGOs and private individuals.

### **Current international standards**

51. The Isle of Man Government has committed to “maintaining domestic legislation, policies and procedures which ensure effective compliance with the international standards and, where necessary, progressing further measures in the future to implement evolving international standards and best practice.”
52. Although it might be argued that establishment of a public central registry for company beneficial ownership represents an evolving international standard or best practice, it is some way off attaining the status of *jus cogens* under international law, that is to say, a peremptory international norm observed by all countries.
53. While the Isle of Man committed itself to effective compliance with international standards, the question arises as to which international standards?

54. It may be argued that the Isle of Man's current regime under the Companies (Beneficial Ownership) Act 2012 meets the requirements of the FATF Recommendations and Methodology for Assessing Technical Compliance which may well represent the farthest extent of current international standards and best practice.
55. Even the positions taken by the G8 and the G20 fell short of making a central registry for company beneficial ownership a mandatory requirement. In both instances, a central registry was merely a suggestion and the option was left, expressly or by implication, for "other appropriate mechanisms" to be considered.
56. It has to date only been the UK and France that have made public pronouncements to the effect that they will establish public registries of beneficial ownership.
57. A recent survey "Company Ownership: which places are the most and least transparent?" (November 2013) carried out by Christian Aid and Global Witness, international NGOs which campaign against economic networks which support corruption, conflict and environmental destruction, suggests that Italy and the United States seem to support the creation of private registries. As we have seen, there is a more recent legislative proposal from the White House in the United States indicating a move towards a central (federal) registry. Many jurisdictions (including most of the Crown Dependencies and the Overseas Territories) have promised public consultations on the subject.
58. Russia, Japan, Hong Kong, Singapore, China and Switzerland do not appear to be considering introduction of a registry.
59. In its Action Plan released in June 2013, Guernsey indicated that it would carry out an assessment of the costs and benefits of a central register of information on company beneficial ownership available to law enforcement and tax authorities; and, in the event that a central register proved to be more effective than Guernsey's current regime, commit to implementing such a register following its implementation by G8 members and the other Crown Dependencies and Overseas Territories.
60. In its Action Plan dated 17<sup>th</sup> June 2013, Jersey stated that it has access to all the information on beneficial ownership that is required to meet the present international standards and to respond effectively to requests for information from tax authorities or law enforcement agencies as required by statute. Should international agreement be reached that steps should be taken to allow tax authorities and law enforcement agencies to have access to beneficial ownership information held on a central registry, Jersey would comply with any new international standard in this respect that has global

application covering G8, G20, OECD and EU member jurisdictions plus other major financial centres.

61. No public registry yet exists anywhere.

See:

[http://www.globalwitness.org/sites/default/files/library/GW\\_CA\\_Company%20Ownership%20Paper\\_download.pdf](http://www.globalwitness.org/sites/default/files/library/GW_CA_Company%20Ownership%20Paper_download.pdf)

## **F. PROPOSAL**

62. The Isle of Man Government now wishes to consult and invite comment as to whether a centralised registry would improve transparency of the ownership and control of companies in the Isle of Man. It is important to stress that the Isle of Man Government has not made up its mind on the suitability or otherwise of this proposal and all views will therefore be taken into account.

## **G. QUESTIONS**

63. The Isle of Man Government would welcome your view on the following questions. The questions are intended to stimulate discussion and comprehensive answers on each subject area would be welcomed.
1. How effective do you think the current system of retention of beneficial ownership details of companies by nominated officers or licensed managers and agents is in preventing the criminal use of companies? Do you think a central register would further prevent the criminal use of companies? What effect would making the register public have?
  2. How should beneficial ownership be defined; for instance, should the FATF definition apply?
  3. How do you think the introduction of a central registry of beneficial ownership would affect your business?
  4. If a central registry were established, should it be made available to the authorities, regulated entities, the general public or any other body?
  5. What types of company should be required to disclose beneficial ownership to a central registry? Should foreign companies be included and, if so, what link would they need to have with the Isle of Man?



6. Should a framework of exemptions be put in place? If yes, which categories of beneficial owners might be included? How might this framework operate?
7. Who should be responsible for reporting the beneficial ownership of a company?
8. If the company is to be responsible for reporting, then should that company be given statutory powers to require beneficial owners to disclose their beneficial interest to that company? What would be the most efficient way for the company to report the information to a central registry?
9. If a regulated entity were responsible for reporting the information to a central registry rather than the company, how would this affect the accuracy of the information held in a central registry? What would be the most efficient way for a regulated entity to report the information to a central registry?
10. Would access to a central register of beneficial owners help financial intermediaries, for example, to complete due diligence? What information would need to be available?
11. Would access to a register of beneficial owners by local or recognised international regulated financial intermediaries improve the accuracy of the beneficial ownership information held in the Isle of Man?
12. Who should be responsible for maintaining and controlling access to a central register?
13. What information should a central registry collate with respect to beneficial ownership?
14. If a register were to be made public, what protections would need to be put in place to prevent the information being used for criminal purposes? Who should be responsible for maintaining and controlling access to a public register if it were allowed?
15. Should beneficial ownership be reported to a central registry on a fixed period basis or should changes be disclosed when they occur?
16. How much time should be given for disclosure of beneficial ownership to a central registry?

17. Would access to a central register of beneficial owners by law enforcement and tax authorities be a more efficient way of providing beneficial ownership information to domestic and foreign investigators than the current system of access on request? What additional protections or checks and balances could apply?
18. Do you think that any concerns regarding the introduction of a central registry of beneficial ownership of companies may be diminished by the development of the new international standard on automatic exchange of information?

## H. CONSULTATION PROCESS

64. Comments are invited on the proposals in the consultation document. The consultation is being conducted by the Cabinet Office.
65. A list of consultees can be found at Appendix 1 of this document. However, comments are welcomed from anybody who may be affected by the proposed legislation.
66. Comments should be submitted in writing, by post or email to the following:

Mr Carlos Phillips  
Crown and External Relations  
Cabinet Office  
Government Office  
Bucks Road  
Douglas  
Isle of Man  
IM1 3PN

[carlos.phillips@cs0.gov.im](mailto:carlos.phillips@cs0.gov.im)

The consultation closes on **Friday 26<sup>th</sup> September 2014**.

67. When submitting your views please indicate whether you are responding on behalf of an organisation.
68. Electronic copies of this document are available at <http://tinyurl.com/ohle7dc>
69. Additional copies of the consultation document can be obtained from the Cabinet Office (address as above).
70. To ensure that the process is open and honest and in line with the Government's Code of Conduct on Consultation responses can only be accepted if you provide your name with your response.

71. Unless specifically requested otherwise, any responses received may be published either in part or in their entirety. Please mark your response clearly if you wish your response and name to be kept confidential. Confidential responses will be included in any statistical summary and numbers of comments received.
72. A summary of the responses received will be published within 3 months of the closing date for this consultation, and will be made available on the Government website or by contacting the above named officer.
73. The purpose of consultation is to gather information, views and evidence which will allow an informed decision to be made regarding the proposals. As in any consultation exercise the responses received do not guarantee changes will be made to what has been proposed.

## **APPENDIX 1 – LIST OF DIRECT CONSULTEES**

Tynwald Members  
Clerk of Tynwald  
Attorney General  
Local Authorities  
Chief Officers of Government Departments, Boards and Offices  
Chamber of Commerce  
Isle of Man Trade Union Council  
Isle of Man Law Society  
Positive Action Group  
Isle of Man Society of Chartered Accountants  
Insurance and Pensions Authority  
Gambling Supervision Commission

## **APPENDIX 2 – CODE OF PRACTICE ON CONSULTATIONS**

It is the intention of the Cabinet Office to carry out this consultation in accordance with the Government's Code of Practice on Consultation.

The Code sets out the following six criteria:

- Consult widely throughout the process, allowing a minimum of six weeks for a minimum of one written consultation at least once during the development of the legislation or policy;
- Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses;
- Ensure your consultation is clear, concise and widely accessible;
- Give feedback regarding the responses received and how the consultation process influenced the policy;
- Monitor your Department's effectiveness at consultation; and
- Ensure your consultation follows best practice, including carrying out an Impact Assessment.



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