



Responses to the Consultation on the Foreign Companies Bill 2013

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Introduction

Two responses were received to the Foreign Companies Bill 2013 consultation. This document provides a summary of the comments received and the Treasury's response.

Treasury wishes to thank those who took part in the consultation.

Further comments and queries should be directed to:

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Section 1

In January 2013 the Corporate Strategy Division of the Treasury issued a consultation on the draft Foreign Companies Bill 2013. This is what is known as the "F-Register".

Part XI of the Companies Act 1931 is titled "Companies Incorporated Outside the Isle of Man Carrying on Business Within the Isle of Man". This Part has been lifted out of the Companies Act 1931 and put into the standalone Foreign Companies Bill 2013. Part XI of the Companies Act 1931 will be repealed as soon as the Foreign Companies Bill is enacted.

The rationale behind creating new standalone legislation is that foreign companies are by their very nature not Manx companies and should therefore not necessarily fall to be treated in the same way as companies incorporated in the Isle of Man.

The decision to create a new Foreign Companies Bill has also presented an opportunity to update the legislation to include only what is considered to be relevant and necessary information. For the most part, this has resulted in a reduction in the amount of information that must be submitted to the Registrar. This approach is felt to be proportionate and reasonable as the information that is required for admission to the F-Register will clearly identify the jurisdiction of incorporation of the company. Any information that is not directly relevant to the entry on the Isle of Man's F-Register will be obtainable from the jurisdiction of incorporation.

2 Responses

Comments received:

1. Under the Notification of Events section – clause 13 (2) would it be possible to include as a notifiable event "the appointment of a liquidator or receiver of the company under the laws of a jurisdiction outside the Island" as this would seem to provide a better level of consumer and creditor protection, and
2. No substantive comments on this Bill but expect to have comments on the subordinate legislation to be made thereunder.

3 Conclusion

1. The request for inclusion of the appointment of a liquidator or receiver in the list of notifiable events was considered to be reasonable and proportionate. It was also considered to be a matter of public protection. The post consultation draft of the Bill now reflects this request.
2. The second respondent is correct that the Bill does make provision for subordinate legislation (orders and regulations) to be made in respect of certain specified

matters. These provisions are “enabling powers” that have been inserted into the Bill in those areas where it appears likely that some change or revision may be required in the future. These enabling powers are just that – powers that will permit a change in the future if this should become either necessary or desirable. A power to act should not be confused with a duty to act.

There are no plans to exercise any of the legislation making powers under the Bill in the foreseeable future.

3. A post consultation version of the Bill is attached.