

# Positive Action Group (PAG)

## Submission to the Consultation on the transparency of the beneficial ownership of companies

### A) Introduction

1. Positive Action Group (P A G) is a political lobby group, not a political party. It is a not for profit Association the objectives being to promote an awareness and understanding of politics and citizenship.

One of its core principles is open accountable government. It is not unsurprising then that PAG broadly supports the the proposition of transparency surrounding the beneficial ownership of companies.

2. The Consultation document is especially helpful in explaining the background and overall context of the subject.

3. The core element is "whether a centralised registry would improve transparency of the ownership and control of companies in the Isle of Man".

### B) Response to questions within the consolation document

*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?*

Answer: Corporate Service Providers (CSPs) have knowledge of beneficial ownership and only if justifiably requested will disclose the information to the relevant authority.

The preponderance of so many registered companies in the IOM (30,000?) may be interpreted that the economy is dynamic, but the likelihood is that the majority are merely clients of CSPs. It is surmised that many exist in order to avoid paying tax elsewhere.

The continuation of such a regime condemns the IOM to international criticism at a time when there is global pressure to stamp out tax evasion and money laundering.

The IOM government has made great strides in recent years trying to shake off the long held title of being a tax haven. It has entered into

many disclosure agreements with other countries so it the logical next step is for the complete disclosure of beneficial ownership.

The creation of a register may deter taxation abuse and even be instrumental in allowing abuse to be investigated.

Creating a register will aid countries which strive to retain tax revenues at the point of transactional inception.

The benefits of a public central registry of beneficial ownership are clearly explained in paragraphs 44 to 50 of the Consultation document.

PAG is particularly supportive of accessible information being made available, to enable civil society to play its part in ensuring greater scrutiny, transparency and integrity of the information.

*2. How should beneficial ownership be defined; for instance, should the FATF definition apply?*

Answer: Simply put it should be the actual person who has real control of the company. The FATF definition is appropriate.

*3. How do you think the introduction of a central registry of beneficial ownership would affect your business?*

Answer: Not at all. PAG is not a 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?*

Answer: It ought to be open to all.

*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?*

Answer: To all companies

*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?*

Answer: Yes - there may be considerations of personal security which may require exemption.

*7. Who should be responsible for reporting the beneficial ownership of a company?*

Answer: The legal duty needs to lie with the 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?*

Answer: Yes, this is a vital consideration. The company could most conveniently report via its Annual Return.

*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?*

Answer: PAG does not consider itself competent to answer this.

*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?*

Answer: Yes, with at least the name/contact details of the beneficial owner.

*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?*

Answer: Yes PAG believes it would.

*12. Who should be responsible for maintaining and controlling access to a central register?*

Answer: The Isle of Man Companies Registry, which has been in existence since 1865.

*13. What information should a central registry collate with respect to beneficial ownership?*

Answer: Name and contact details of the beneficial owner.

*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?*

Answer: If information is made public it is difficult to prevent use of the information for nefarious purposes. Guidance should be sought from the IOM Data Protection Supervisor to develop a means to limit this possibility.

*15. Should beneficial ownership be reported to a central registry on a fixed period basis or should changes be disclosed when they occur?*

Answer: Suggest a fixed period of say 12 months, inline with an Annual Return.

*16. How much time should be given for disclosure of beneficial ownership to a central registry?*

Answer: In accord with an Annual Return

*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?*

Answer: PAG considers it most certainly would, but is not as all embracing as total transparency and therefore not as effective.

In recent years public monitoring of governmental information systems may have caused some temporary embarrassment but in the longer term it is in the overall public and jurisdictional interest to allow access.

*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?*

Answer: No and the two issues ought not to be confused. Each is complementary to the other in attempting to fulfil the international strategy of tackling cross-border tax evasion, tax avoidance, corruption, money laundering and other crimes.

## **C) Conclusion**

The Executive Summary of the Consultation document succinctly explains the current critical international perspective of corporate behaviour. PAG supports the disclosure of beneficial ownership of companies, believing it to be in the long term interest of the Isle of Man.

Positive Action Group

[www.positiveactiongroup.org](http://www.positiveactiongroup.org)

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