

Discussion paper - *Increasing the Transparency of the Beneficial Ownership of New Zealand Companies and Limited Partnerships*

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Responses to discussion document questions

1	<p>Do you agree with the nature of the problem? Do you have any views on the size of the problem? Do you have any evidence to support these views?</p> <p>Equifax agrees there is a problem; research conducted in Australia shows that on average, it takes three hours to identify beneficial owners for organisations consisting of two or more layers. The issue comes up regularly in the interactions that we have with New Zealand customers, many of whom use our identity reporting services to support their AML compliance practices. In complex situations the end-to-end identity-verification process can stretch into days, soaking up valuable time and resources.</p> <p>In the Australian marketplace Equifax have developed a special purpose beneficial ownership report, which peels back the layers to reveal the beneficial owner(s) of the organisation that is under investigation. The report is based on current data sourced from ASIC and only takes a few moments to run. This reporting framework has proven to be extremely popular with our Australian banking customers and others subject to AML regulations in that country.</p>
2	<p>What do you think are the benefits from increased transparency of beneficial ownership information?</p> <p>The following are some uses immediately evident, but as a starting principle, innovation enriches information, creating additional use opportunities. While these can add value to the new dataset, to maintain some oversight on those additional uses, Equifax suggests entities accessing deeper levels of information should be accredited.</p> <ul style="list-style-type: none">- Reduced scope for criminal and fraudulent activity (counter-balanced to a degree by the likely shift to trusts and other vehicles that fall outside the net)- Likely improvement in the quality and reliability of identifying information- Increased confidence in the efficacy of the New Zealand reporting system- Less scope for duplication of effort sourcing information from a central repository- Reduced compliance costs for AML reporting entities while lifting confidence in the integrity of the check

- Opportunity for process standardisation and efficiency/productivity gains across the network of users

3

Do you have any information on your organisation's current compliance costs to supply or collect beneficial ownership information?

Do you think your compliance costs would increase, decrease or stay the same under the different options? Would the change be significant?

Equifax believes that the current complexity associated with identifying the beneficial owners of corporate entities (excluding verification) impacts the likelihood of smaller entities undertaking the range of checks that should be done ie cost and complexity are a barrier for smaller businesses conducting effective due diligence

4

What impact do you think the options would have on businesses deciding whether to register as a company or limited partnership?

While Equifax believe the proposed changes will have limited impact on the choice of corporate structure for the vast majority of business owners/operators, we are concerned that proposed changes will likely drive criminal activity towards other vehicles, particularly Trusts. We support further work being undertaken on how Trusts should be regulated.

5

Do you have any comments on our preliminary assessment of the options?

See previous comments.

6

What is your preferred option?

Equifax prefers Option 3, which places the requirement on corporate entities to identify their beneficial owners, provide this to the Registrar and subsequently keep the information up to date.

Beneficial ownership information would be publicly available on the companies and limited partnership registers. In addition, **further critical information must be made available to accredited entities and authorities for related purposes (eg credit worthiness, fraud):**

- Any previous names and aliases
- Date of birth
- Residential address (current and two prior)
- The date the beneficial owner was appointed and when they were removed

7

What are your views on who should be captured as a beneficial owner of a corporate entity?

The UK Persons of Significant Control (PSC) model is reasonable; a PSC has been defined as individuals who meet one or more of the following five conditions:

- Directly or indirectly holds more than 5% of shares in the company
- Directly or indirectly holds more than 5% of voting rights in the company
- Directly or indirectly holds the right to appoint or remove a majority of the directors of the company
- Has the right to exercise, or does exercise, significant influence or control over the company
- Where a trust or firm would satisfy one of the first four conditions if it were an individual, any individual holding the right to exercise, or actually exercising,

significant influence or control over the activities of that trust or firm. This is not limited to the trustee of the trust.

We note the threshold of 5% ownership triggers a public declaration requirement in Australia and the USA.

8 What information do you think should be collected about beneficial owners?

- Full legal name of each beneficial owner
- Any previous names and aliases
- Date of birth (DD,MM,YYYY)
- Residential address (current and two previous) excluding PO Box
- Date the person became a beneficial owner (or was removed)
- Beneficial ownership percentage
- Director Identification Number (DIN) where applicable

9 What information about beneficial owners do you think should not be publicly available, and in what circumstances?

Assuming name and DIN are publicly displayed, additional information held on the register should be available, for matching purposes* by accredited entities for a specific purpose (when conducting due diligence searches).

Without this, a DIN could in turn become an opaque shield for individual's conducting fraud or trying to avoid connection to poor financial behaviour.

*For matching purposes, a DIN needs to be made available with other personal identifiers (name, date of birth, address). This enables accurate identification.

10 What are your thoughts on the obligations that should be placed on beneficial owners? Do you have any views on how these obligations should be enforced?

No comment at this point

11 When do you think corporate entities should update the beneficial ownership information that they hold?

Within three business days of the event.

12 What are your views on the enforcement mechanisms that should be available to the Registrar?

Equifax views infringement notices (instant fines) as having merit.

13 Do you think there are any types of corporate entities that should be excluded from the options?

All corporate entities should share the same reporting obligation.

14 What are your thoughts on how frequently, and in what circumstances, the registers should be updated?

- Upon initial registration
- Annual return

- When there is a change to one or more of the beneficial owners within three business days of the event.

15 What are your views on what verification should be undertaken?

Corporate entities providing information must

- (i) take reasonable steps to verify the accuracy of that information
- (ii) Retain a record of what those steps were

16 What are your views on having a unique identification number for beneficial owners?

Equifax see benefits in introducing a Beneficial Identification Number (BIN). Ideally a BIN and a DIN would share the same data points.

17 Do you have any views on whether any changes are needed to the requirements for company share registers?

The register should be online and accessible anytime via the Companies Office. A BIN register is a natural adjunct to the other registers administered by the Companies Office.

18 Are there any other factors that MBIE should consider?

Equifax believe that there is merit in making it compulsory for owners of unincorporated entities (and their authorised agents) to apply for an NZBN, in place of the current voluntary scheme.

This would improve the transparency of the system and reduce friction in the wider economy.

In the same vein we believe there is merit in introducing a public reporting regime for Trusts. This would create a closed loop system, reducing scope for criminal arbitrage elsewhere.

19 Do you have any thoughts on any additional measures that could be taken to combat the misuse of corporate entities?

No comment at this point

20 Are there legitimate purposes for using a nominee director? What would the implications be if nominee directors were expressly prohibited?

Guidance notes, rather than legislative provisions, provide a flexible tool for accommodating circumstances where this might be necessary.

21 Do you have any information about problems with companies or limited partnerships on the overseas registers?

No comment at this stage

22 Do you think there should be obligations on companies and limited partnerships on the overseas registers to provide information about their beneficial owners?

Yes

23 Do you have any information about problems related to TCSPs?

No comment at this stage

24 Are there any other areas of concern?

No comments at this stage

Other comments