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MBIE – Supporting the Integrity of the Corporate Governance System – Publication of Directors’ Addresses on the Companies Register Discussion Document

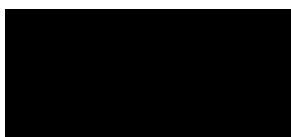
ASB Bank Limited (**ASB**) welcomes the opportunity to make a submission on the *Publication of Directors’ Addresses on the Companies Register Discussion Document* (the **discussion document**).

ASB supports changes to the Companies Act 1993 (the **Act**) which would allow directors to nominate an address for service for publication on the Companies Register in lieu of their residential address. ASB’s position is further set out in the submission below. The submission also addresses, in sequence, a selection of the questions posed in the discussion document.

We acknowledge ASB’s submission may be published on MBIE’s website, and may be released in response to a request under the Official Information Act. ASB does not seek confidentiality for any aspect of this submission other than my contact details below.

If you require any further information, please do not hesitate to contact me.

Yours sincerely,



Jonny Le Leu
Regulatory Affairs Manager
ASB Bank Limited



Introduction

ASB supports changes to the Companies Act 1993 (the **Act**) which would allow directors to nominate an address for service for publication on the Companies Register in lieu of their residential address. Additionally, ASB strongly submits that reporting entities under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **AML/CFT Act**) should be afforded automatic and immediate access to directors' residential addresses in order to assist with due diligence requirements under this Act.

Question 2: What is your preferred option?

ASB's preferred option is Option 2 (allow all directors to have an address for service published in lieu of their residential address). ASB agrees with MBIE's assessment that Option 2 provides administrative efficiency and privacy for directors, while maintaining the integrity of the Companies Register as a DIN will perform much of the functionality of the publication of directors' residential addresses.

Question 3: Are there interested parties who may have a legitimate reason to need to access directors' residential addresses? If so, who?

In addition to the potential interested parties identified in the discussion document, ASB considers that reporting entities under the AML/CFT Act are interested parties that have a legitimate reason to need to access directors' residential addresses.

This is because reporting entities may be required to verify customer addresses as part of the customer due diligence requirements of the AML/CFT Act. Reporting entities are likely to use the directors' residential address information (currently publically available via the Companies Register) for this purpose. This process would be affected if reporting entities were unable to easily access directors' residential address information via the Companies Register, and customers would likely be required to provide additional documentation in order to verify their residential address.

Accordingly, ASB considers that reporting entities are interested parties that have a legitimate reason to access directors' residential addresses. ASB strongly submits that reporting entities should have automatic and immediate access to directors' residential addresses for the purposes of customer due diligence under the AML/CFT Act, rather than having to apply to the Companies' Office. This is because the reason for access for reporting entities (ongoing regulatory compliance) is quite different to the potential reasons that interested parties may wish to access directors' residential address information set out in the discussion paper (one-off contact issues). Requiring reporting entities to apply to the Companies Office for directors' residential address information would defeat the efficacy of this process, and raise the Companies Office's costs considerably.

Question 5: Under what circumstances should directors' residential addresses be released to an interested party?

Subject to the exception for reporting entities addressed above, ASB considers that directors' residential addresses should only be released to an interested party if there is a clear legal

requirement for the Companies Office to do so. This is to ensure the privacy of directors is adequately protected where they have chosen to instead provide an address for service for publication on the Companies Register.

Question 6: Do you agree that government departments and agencies should have automatic access to directors' residential addresses?

ASB considers that government departments and agencies should only have automatic access to directors' residential addresses where that access is reasonably required for the purposes of carrying out a function of that department or agency.

Question 9: Do you agree with our preferred approach to historic documents on the companies register?

ASB submits that Option B (all directors may apply to have their residential addresses suppressed from historic documents) should be preferred to Option A (directors with specific safety concerns may apply to have their details suppressed from historic records for a fee).

ASB considers that the opportunity to have a residential address redacted from historic documents should be afforded to all directors, not just those with demonstrable safety concerns. The benefits afforded by allowing directors to publish an address for service on the Companies Register will be undermined if their residential address is still easily accessible in historic documents.

ASB submits that the administrative burden on the Companies Office may not be excessive if it does offer this option to all directors. Not all directors will be sufficiently motivated to provide an address for service in lieu of their residential address, let alone to request that their residential address be redacted from historic documents. ASB supports a reasonable fee being charged for this service, which will encourage only directors with genuine privacy concerns to take up this option. Such a fee will also assist the Companies Office with the administrative burden. Additionally, requests from directors with demonstrable safety concerns could be processed as a matter of priority.

Finally, ASB submits that it is not necessary to require directors to identify the documents which require redaction, nor to limit the option to documents filed within the last five years. ASB understands these limitations are directed at reducing the administrative burden on the Companies Office, which ASB considers may not be necessary for the reasons set out above.

Question 11: Do you agree that shareholders' residential addresses should be treated the same way as directors' residential addresses (i.e. replaced with an address for service)?

ASB agrees that shareholders' residential addresses should be treated in the same way as directors' residential addresses, in particular in relation to small-medium enterprises where the directors and shareholders are likely to overlap, as identified in the discussion document.

However, for the reasons set out in the response to question 12 below, ASB does not agree that third parties do not have the same need to access shareholders' residential addresses as directors.

Question 12: Are there circumstances where third parties might have a legitimate interest in the residential address of a shareholder?

As discussed above in relation to question 3, reporting entities have obligations under the AML/CFT Act to conduct due diligence. This may include verifying the address of any shareholder that holds 25% or more of a company's shares. Reporting entities may currently use the Companies Register in order to fulfil this requirement, and therefore have a legitimate interest in retaining automatic and immediate access to the residential addresses of shareholders, as discussed in the response to question 3 above.