



Department for
Business, Energy
& Industrial Strategy

LIMITED PARTNERSHIPS: REFORM OF LIMITED PARTNERSHIP LAW



30 April 2018

Limited Partnerships:

Reform of Limited Partnership Law

The consultation can be found on the BEIS section of GOV.UK:

<https://www.gov.uk/government/consultations/limited-partnerships-reform-of-limited-partnership-law>

© Crown copyright 2018

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence.

To view this licence, visit www.nationalarchives.gov.uk/doc/open-government-licence/ or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Any enquiries regarding this publication should be sent to us at;
ReviewofLimitedPartnershipLaw@BEIS.gov.uk

Contents

Foreword	2
General Information	4
Purpose of this Consultation	4
How to Respond	5
Confidentiality and Data Protection	6
Quality Assurance	6
Questions	7
Executive Summary	8
Introduction	11
Chapter One: History, Use and Misuse of Limited Partnerships	14
Chapter Two: Reform of Registration Requirements	22
Chapter Three: Principal Place of Business	27
Chapter Four: Reporting and Transparency Requirements	31
Chapter Five: Strike Off Provisions	35
Annex A: Measures proposed in the Call for Evidence that will not be taken forward as part of this consultation	41
Annex B: Anti-Money Laundering Supervisors	42

Foreword



The United Kingdom has a global reputation as a great place to do business. A new business starts up every 75 seconds, and we are home to five of the top 10 fastest-growing businesses in Europe.

People looking to grow or relocate a business come to Britain confident in our high corporate standards. Part of that confidence derives from our strong transparency requirements, which ensure people know who they are doing business with. Transparency also helps combat illicit activity. It is a vital underpinning of the UK's business environment, a key theme of our Industrial Strategy.

The UK is a world leader on corporate transparency. Our national register of companies – which includes other business entities such as limited partnerships – provides data on some four million entities, and has been accessible online and for free since 2015. The register is a vital source of information for those thinking of doing business with a company or limited partnership, as well as for banks, credit reference agencies, regulators, journalists, law enforcement agencies and many others. In 2016 we made an important addition to the register, requiring details of “people with significant control” (i.e. the beneficial owners) of companies and limited liability partnerships, and in 2017 extended those requirements to Scottish limited partnerships and others. We were the first G20 country to establish such a public register of beneficial ownership, and ours is a model that many across the world are now looking to replicate.

We want to retain this world-leading position, and so we continue to look for opportunities to improve the transparency and integrity of our legal framework. In response to concerns that limited partnerships might be being misused, we sought and received evidence last year. The evidence demonstrates that the limited partnership, including its Scottish form, continues to fulfil important functions in key sectors of our economy. But it also highlighted that there are ways in which the legal framework governing limited partnerships could be strengthened and updated. This document sets out a range of proposals to achieve this, and we look forward to hearing from and working with interested parties on them.

Andrew Griffiths

Andrew Griffiths

Parliamentary Under Secretary of State and Minister for Small Business,
Consumers and Corporate Responsibility

General Information

Purpose of this Consultation

This consultation is about delivering a strong business environment - a key foundation of the Industrial Strategy - by seeking views on new proposals to strengthen and update the legal framework governing limited partnerships. The views of the following people and organisations would be particularly useful:

- Users of limited partnerships
- Directors of companies
- The investor community
- Business representative bodies
- Professional bodies
- Wider civil society groups
- Academics and think tanks
- Members of the public
- Scottish agricultural community

Issued: 30 April 2018

Respond by: 23 July 2018

Enquiries to:

Business Frameworks Directorate

Department for Business, Energy and Industrial Strategy

1st Floor,

1 Victoria Street,

London, SW1P 0ET

Tel: 020 7215 5009

Email: ReviewofLimitedPartnershipLaw@BEIS.gov.uk

Territorial Extent:

The UK Government is responsible for the operation and regulation of business entities in England and Wales, and in Scotland. Previously, the Northern Ireland administration has agreed that, while the operation and regulation of business entities remains a transferred matter within the legislative competence of the Northern Ireland Assembly, amendments to the Companies Act 2006 and legislation regulating business entities should be made in the same terms for the whole of the United Kingdom.

How to Respond

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome. Your responses can be made in three ways:

- 1) Direct responses to the questions posed can be made on this portal:
<https://beisgovuk.citizenspace.com/business-frameworks/reform-of-limited-partnership-law>
- 2) Electronic responses should be sent to:
ReviewofLimitedPartnershipLaw@BEIS.gov.uk
- 3) Hard copy responses should be sent to:

Business Frameworks Directorate
Department for Business, Energy and Industrial Strategy
1st Floor, 1 Victoria Street,
London, SW1P 0ET

Additional Copies:

You may make copies of this document without seeking permission. An electronic version can be found at <https://www.gov.uk/government/consultations/limited-partnerships-reform-of-limited-partnership-law>

Confidentiality and Data Protection

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information legislation (primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want information that you provide to be treated as confidential please say so clearly in writing when you send your response to the consultation. It would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded by us as a confidentiality request.

We will summarise all responses and place this summary on the [GOV.UK website](#). This summary will include a list of names of organisations that responded but not people's personal names, addresses or other contact details.

Quality Assurance

This consultation has been carried out in accordance with the [Government's Consultation Principles](#).

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

Email: beis.bru@beis.gov.uk

Questions

Question 1: Can you provide any additional evidence to help explain the trends in registrations of limited partnerships across the UK in recent years?

Question 2: Do you agree that presenters should be required to demonstrate they are registered with an AML supervisory body? Please explain your answer, and provide evidence on its potential impacts.

Question 3: How should this measure be applied to registrations from overseas?

Question 4: Would it be better to require a limited partnership's principal place of business (PPoB) to remain in the UK, or alternatively to allow the PPoB to be based anywhere but require a UK based service address? Please evidence your answer, including if possible, an assessment of the likely costs of compliance.

Question 5: If a new requirement of a UK-based service address were introduced, but existing operation of the PPoB retained, what if any, transparency requirements should be put in place relevant to the PPoB?

Question 6: Should all limited partnerships be required to file an annual confirmation statement?

Question 7: If you are in favour of an annual confirmation statement, what information should be included and who should file it? Please consider whether that should be for the whole partnership or the difference in requirements for general partners against limited partners – including corporate partners.

Question 8: Is there a case for limited partnerships to have to prepare accounts and reports in line with the requirements for private companies, as is already the case for qualifying partnerships?

Question 9: Do you agree with the proposal to give the Registrar a power to strike off partnerships from the register of companies?

Question 10: Are there any other factors or criteria that the Registrar could consider in order to conclude that the partnership is not carrying on a business or in operation?

Question 11: What operational and legislative procedures could be put in place to mitigate concerns of strike off done in error?

Executive Summary

1. A key theme of the Government's Industrial Strategy is ensuring the UK has a strong business environment – one which holds the confidence of investors, employees, consumers and the public. An important element of that business environment is the provision of a range of business entities through which a variety of commercial and social objectives can be achieved.
2. Limited partnerships were introduced in 1907. The legislation has hardly been amended since, but limited partnerships remain popular business entities for a range of legitimate business purposes.
3. There is a difference between limited partnerships registered in England and Wales, Northern Ireland, and those registered in Scotland. Only those limited partnerships registered in Scotland have separate legal personality from the partners themselves, with the ability to own property or enter into contracts.
4. In response to a significant increase in registrations of limited partnerships in Scotland, and allegations that Scottish limited partnerships in particular were being used for illicit purposes, the Department for Business, Energy and Industrial Strategy published a call for evidence, which closed in March 2017.
5. The evidence provided demonstrates a continuing need to offer the limited partnership as a business entity, including its Scottish form, in order to facilitate legitimate and important commercial activity. Limited partnerships have been used across the UK for varied purposes, from oil and gas exploration and production, to real estate development and film production. Scottish limited partnerships, in particular, have become a critical building block in UK private equity structures and have provided an innovative funding mechanism for asset-based contribution pension schemes or pension deficit structures.
6. However, there is also evidence of misuse of limited partnerships. The National Crime Agency has identified a disproportionately high volume of suspected criminal activity involving Scottish limited partnerships, and there have been prominent examples of them featuring in international money laundering schemes that have made international headlines. Though rare, such scandals serve to damage the wider reputation of the UK as a clean and trusted place to do business.
7. The Government is therefore seeking views on a series of reforms to limit the risk of misuse. We are also taking the opportunity to consider ways in which law governing limited partnerships could or should be brought more in line with that governing

limited companies – which, unlike the legislation for limited partnerships – has been regularly reviewed and amended over time. Our proposals cover the lifecycle of a limited partnership – from creation by registration through to dissolution.

8. Unlike companies, the vast majority of limited partnerships are established using formation agents. We are consulting on a proposal that would require all presenters (those seeking to register a limited partnership) to be registered with an anti-money laundering supervisory body, and to provide evidence that they are.
9. Though the existing legislation requires limited partnerships to register a ‘principal place of business’ and to inform the Registrar if that changes, it is possible that some proportion of limited partnerships are not complying with this requirement. There is also nothing in legislation requiring the partnership to maintain a connection with the UK – unlike companies, which must maintain a registered office in the UK. We are consulting on two alternative measures that would change this position. The first would require a limited partnership’s principal place of business to remain in the UK, and for that to be evidenced on a routine basis. The alternative, which is more akin to the position for companies, would allow a principal place of business to move outside the UK, but introduce a requirement for a service address to be maintained within the UK.
10. Unlike the Companies Act 2006, the Limited Partnership Act 1907 does not set out any regular reporting requirements. Transparency is an important underpinning of a trusted business environment, and limited partnerships can be used in multi-layered, complex corporate structures, just as companies can. Given the reporting requirements that now exist for limited companies, there could be a risk that limited partnerships create a weak point in the broader framework. The Government has already taken action: in 2017 introducing a requirement for Scottish limited partnerships to begin a form of annual reporting to the Registrar. We are now seeking views on whether to extend a regular reporting requirement to all limited partnerships registered in the UK.
11. A further difference between the legislation governing limited partnerships and limited companies is that the Registrar has no powers to strike off the names of limited partnerships from the register. This presents a problem. When limited partnerships are voluntarily dissolved, there is no mechanism for the partners to apply for it to be struck off from the register. Neither does the Registrar have the opportunity to make enquiries as to whether the limited partnership is still operating; and, if it is not, to begin the process of striking it off the register. As such, the register still shows the limited partnership as being ‘live’. This may confuse users of the register and undermines statistics on the overall population of limited partnerships. This consultation therefore sets out proposals to give the Registrar powers to strike off limited partnerships in certain situations.

12. The potential reforms set out in this consultation will require primary legislation, and – depending on the outcome of this consultation – it would be our intention to legislate as soon as Parliamentary time allows. In confirming a package of reform, we will give careful consideration to communication and transitional arrangements for existing limited partnerships.

Introduction

13. The United Kingdom has a global reputation as a great place to do business. The Organisation for Economic Co-operation and Development (OECD) ranks the UK as one of the best places in the world to start and grow a business. Business success depends in part on investors, employees, consumers and the public having confidence in the business environment – which is a key theme of the Government’s Industrial Strategy.
14. An important element of the UK’s business environment is the flexibility to establish a range of business entities, according to the needs of different sectors and a variety of business, charitable and community objectives. Entities formed in the UK include companies limited by shares and guarantee, limited partnerships, limited liability partnerships, charitable incorporate organisations and community interest companies.
15. The law regarding partnerships was codified in the Partnership Act 1890. The Limited Partnership Act 1907 introduced a new type of partnership, the limited partnership.
16. Limited partnerships are popular entities for a range of legitimate business purposes. These include the venture capital sector, the film industry and oil and gas exploration. As at March 2018, there were around 48,000 limited partnerships on the register, with about 31,000 being registered in Scotland ('Scottish limited partnerships').
17. There is a difference between limited partnerships registered in England and Wales, Northern Ireland, and those registered in Scotland. Only those limited partnerships registered in Scotland have separate legal personality from the partners themselves, with the ability to own property or enter into contracts. Those registered in England and Wales, and Northern Ireland have no separate legal personality and have no such ability.

The call for evidence

18. In response to evidence of a significant increase in registrations of limited partnerships in Scotland, and allegations that Scottish limited partnerships (SLPs) in particular were being used for illicit purposes, the Department for Business, Energy

and Industrial Strategy (BEIS) published a call for evidence, which closed in March 2017.

19. The aim of the call for evidence was to gain a better understanding of how limited partnerships are being used – legitimately or otherwise – and if the legislative framework that underpins the regime remains fit for purpose.
20. There were 45 submissions in response to the call for evidence from a broad range of stakeholders including individuals, the investment and private equity communities and their trade representatives, civil society organisations, academics, the Scottish agricultural community, local government, law enforcement and regulatory authorities.
21. The Government is grateful to all the organisations and individuals for their considered and substantive contributions and would like to thank those that have met with BEIS officials, both during and since the call for evidence.
22. The evidence provided demonstrates a continuing need to offer the limited partnership as a business entity, including its Scottish form, in order to facilitate legitimate and important commercial activity.
23. However, there is also evidence of misuse of limited partnerships. That includes cases of limited partnerships registered in the UK being used to facilitate large-scale international money laundering. The Government wants therefore to seek views on a series of reforms to limit the risk of misuse, and to strengthen and update the legal framework.

This consultation

24. This consultation is the Government's response to the call for evidence. It summarises the evidence received and sets out a number of options for reform of the legal framework for limited partnerships.
25. In developing these potential reforms, the Government has considered how, across the life cycle of a limited partnership, effective interventions could be made to deter those looking to exploit them for criminal purposes; whilst at the same time minimising any burdens to those using limited partnerships for legitimate reasons.
26. Potential reforms include stronger controls at the point of registration, and requirements for additional information whilst the limited partnership is operating, as well as providing the Registrar with powers to strike off limited partnerships from the register under certain circumstances.

27. This consultation document is structured as follows:

- **Chapter One** sets out the history and use and misuse of limited partnerships, as informed by the call for evidence, and summarises some of the important uses for limited partnerships in the modern economy.
- **Chapter Two** sets out a proposal that would require all presenters (those seeking to register a limited partnership) to be registered with an anti-money laundering (AML) supervisory body, and to provide evidence that they are.
- **Chapter Three** sets out two alternative options to ensure limited partnerships maintain some connection with the UK. The first would require a limited partnership's principal place of business (PPoB) to remain in the UK. The alternative, would allow a PPoB to move outside the UK, but introduce a requirement for a service address to be maintained within the UK.
- **Chapter Four** seeks views on whether reporting requirements for limited partnerships should be increased and brought more into line with those currently required of limited companies.
- **Chapter Five** sets out proposals to give the Registrar of Companies powers to strike off the register the limited partnerships that fall within scope of certain conditions.

CHAPTER ONE: HISTORY, USE AND MISUSE OF LIMITED PARTNERSHIPS

28. This chapter sets out the history, uses and misuse of limited partnerships, as informed by the call for evidence. Though the legislative framework for limited partnerships has remained largely unchanged for over a century, it is clear from the evidence provided that limited partnerships, including those registered in Scotland, provide a valuable business framework for a range of important and legitimate commercial activity across the economy.

29. However, evidence also points to a surge in limited partnership registrations in Scotland in recent years (at least up until June 2017), and that some of this is driven by those wanting to take advantage of this form of business entity for illicit purposes.

Legislative history and scope

30. The structure of UK partnerships is set out in the Partnership Act 1890 (the 1890 Act). The 1890 Act defines persons who have entered into a partnership as a firm. It recognises that in Scotland a firm is a legal person distinct from the partners. This difference means that a Scottish partnership is able to own property, hold rights and assume obligations. It can sue and be sued and be a partner in another partnership or member of another entity. It can also enter into contracts with its partners who can be creditors or debtors of the partnership. It is the firm and not its partners that is primarily liable for debts and obligations incurred in its name.

31. In contrast, in England and Wales, and Northern Ireland a partnership is not a separate entity from its partners. Property is usually held by the partners or a company on trust for the partners.

32. In 1907 the Limited Partnership Act introduced the limited partnership, a new form of partnership. The 1907 Act allowed for limited liability for one or more of the partners (limited partners) who did not take part in the management of the limited partnership. However, to benefit from one or more partners having limited liability, the limited partnership must have at least one general partner with unlimited liability. Limited partnerships registered in Scotland (SLPs) benefit from separate legal personality, as do all partnerships in Scotland as mentioned above.

-
33. In 2000 the Limited Liability Partnership Act created limited liability partnerships (LLPs). An LLP is a body corporate with legal personality separate from that of its members. Broader legislation governing partnerships does not apply to LLPs except as it is set out in the Limited Liability Partnership Act 2000 and regulations. Many of the requirements of the Companies Act 2006, including those relating to accounts, are applied (sometimes with modifications) to LLPs. However, LLPs are treated like partnerships for tax purposes provided that they are carrying on a business with a view to profit. An LLP combines the flexible structure of a partnership with the benefits for its members of limited liability.
34. Most recently the 1907 Act was amended by the Legislative Reform (Private Fund Limited Partnerships) Order 2017, which created private fund limited partnerships (PFLPs). This new form of limited partnership closely defines the role, rights and responsibilities of the limited partner, to ensure that UK limited partnerships continue to be a useful structure for private equity and venture capital funds. It also increased legal clarity for investment management firms.
35. PFLPs, being a type of limited partnership, would fall within scope of any amendments made to the limited partnership regime following this consultation. LLPs would not.

Uses

36. Limited partnerships offer a great deal of flexibility and this is reflected in the wide-ranging ways in which they are used across the economy. They range from relatively informal arrangements with just two or three partners to very complex multi-layered structures with many partners. In a limited partnership the separation of the roles of general partners and limited partners, and tax transparency (meaning that tax is paid by the individual partners and not the partnership) present a very flexible business entity. And, as above, those registered in Scotland also benefit from separate legal personality.
37. Limited partnerships continue to play an important role in the economy. In Scotland, limited partnerships were traditionally used for agricultural tenancy structures; although that situation is changing following changes to land law in Scotland in 2003 (see Box A).
38. More recently, limited partnerships have been used across the UK for more varied purposes, for example oil and gas exploration and production, real estate development and film production.

Box A: Agricultural uses of Scottish limited partnerships

The Agricultural Holdings (Scotland) Act 1949 and its replacement, the Agricultural Holdings (Scotland) Act 1991, provided that where the lease of a farm was granted this gave the tenant security of tenure indefinitely and also provided for family succession so that the landlord might not recover vacant possession for several generations.

The practice of using a Scottish limited partnership tenancy for letting an agricultural holding became a widespread practice. It provided the both the landlord and tenant with security of tenure. For the landlord (limited partner) it encouraged them to let farms as they may not otherwise have been prepared to do so, without having the assurance of being able to bring the lease to end and remove the opportunity for indefinite security of tenure. For the tenant (general partner) it provided security of tenure for a period of years. The landlord or their representative was typically installed as the limited partner, with powers to bring the partnership to an end on due notice.

The Agricultural Holdings (Scotland) Act 2003 introduced Short Limited Duration Tenancies and Limited Duration Tenancies which now allows farm tenancies to be granted for fixed periods with the Landlord recovering vacant possession of the farm at the end of the contract period. These provisions did away with the need to use the limited partnership vehicle for new farm tenancies. Scottish Government data indicate that there are still approximately 500 agricultural limited partnerships operating that were established prior to the 2003 Act.

39. Limited partnerships play an important role in private fund structures used by private equity, real estate and infrastructure managers. Recent research conducted by Oxford Economics for BVCA has considered the impact of venture capital on the economy.¹ The research shows that approximately half of venture capital users appear to be in digital industries, including media, entertainment, IT and telecoms services. The remainder comprises financial services, health, biological research, life sciences and related fields. When taking into account supply chain and employee spending impact, firms using venture capital were estimated to contribute close to £30bn to GDP, sufficient to support 480,000 jobs.

¹ Available at: <https://www.bvca.co.uk/Portals/0/Documents/Research/TIN/Angel-and-VC-users-economic-impact-report.pdf>

-
40. The venture capital and private equity industries consider that SLPs, in particular, have become a critical building block in UK private equity structures. The SLP is a suitable entity that allows investment to a larger fund management structure and permits any profits to flow back to the original investor. It can serve a variety of purposes within wider fund structures, acting for example as ‘feeder funds’ or ‘carried interest vehicles’. The industry has argued that, without the SLP, the UK would not be able to fully support UK, European or global private equity structures and there would be a risk that large parts of the industry would move offshore, where equivalent corporate forms are available.
41. Submissions to the call for evidence also highlighted that limited partnerships, in particular SLPs, have provided an innovative funding mechanism for asset-based contribution pension schemes or pension deficit structures. Such structures require the underlying asset to be removed from ownership of the sponsoring employer and placed in the limited partnership. The general partner would be a company controlled by the employer. There would be at least two limited partners, one who is the employer and the other would be the pension trustee. There is a contractual funding arrangement between the limited partners through which an income stream is provided to a pension scheme. The income stream is usually given a net present value by the trustees and treated as an asset thereby reducing or eliminating the scheme's deficit.
42. However, there are risks attached to these arrangements as it is possible to have a distorted view of the income stream and the pension scheme's funding position. Trustees of pension schemes who enter into such arrangements must report them to the Pensions Regulator, which, if it were concerned, could exercise appropriate powers in relation to the scheme.² Reporting requirements ensure that such structures are entered into openly and with full disclosure.
43. Legislation that limits the amount of investment into employer-related assets was introduced in 2010. The use of SLPs in the design of pension schemes thus saw a particular increase around that time. A 2015 survey by KPMG suggested that the total value of transactions (assets being transferred) as part of creating asset-based contribution schemes had totalled nearly £9bn by the end of 2014.³ Evidence we have received suggests that there are currently over 60 asset-backed pension arrangements with a total value of over £10bn of securities (up from £9bn by 2014), and that these schemes cover in excess of 700,000 pension scheme members.

² <http://www.thepensionsregulator.gov.uk/guidance/asset-backed-contributions.aspx>

³ http://kpmg.co.uk/creategraphics/2015/01_2015/CRT032099/Asset_Backed_Funding_for_Pensions/files/assets/common/downloads/publication.pdf

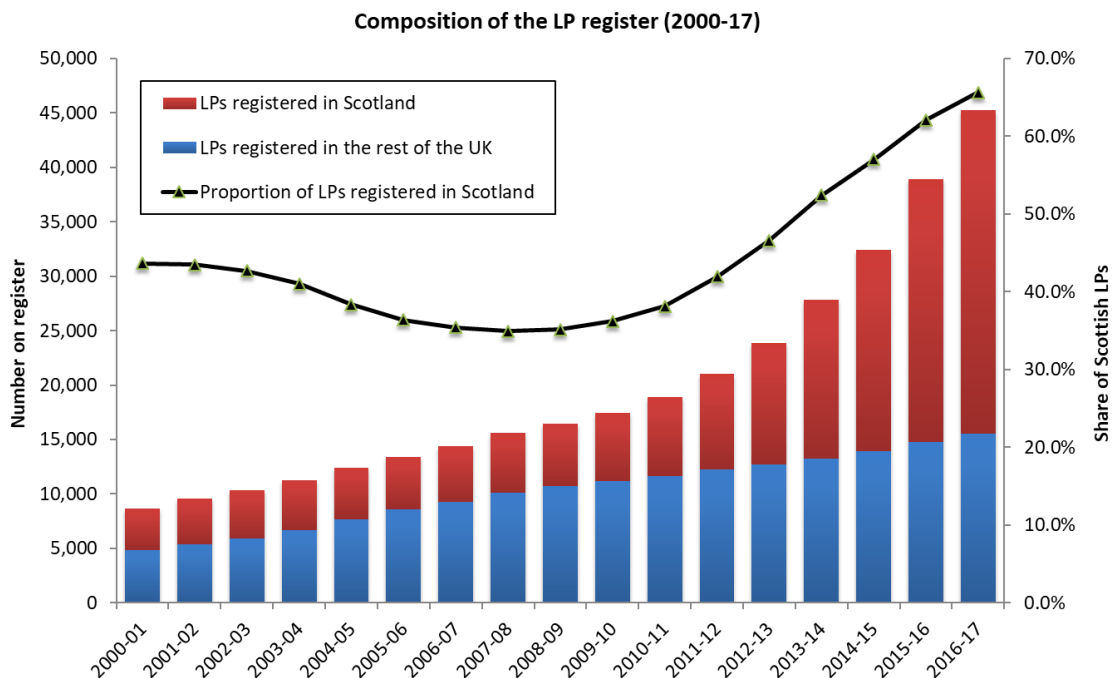
44. Asset-backed arrangements are being used by some of the UK's largest companies and household names, such as J Sainsbury PLC, Centrica PLC, Diageo PLC, John Lewis and M&S PLC among others. In many instances the transaction value (value of the assets transferred into the partnership to act as security) are in the hundreds of millions of pounds for individual schemes.

45. In conclusion, it is clear that limited partnerships, including SLPs, continue to play an important role in the UK economy.

Trends in registration, and evidence of misuse

46. The past decade has seen a steady rise in registrations of limited partnerships in England and Wales, and Northern Ireland, but an exponential rise of registrations in Scotland (Figure 1). The call for evidence noted that in the five-year period March 2011 – March 2016, the growth in the number of SLPs on the register of companies was 236%. Limited partnerships registrations in England and Wales, and Northern Ireland grew by 26% over the same period. The growth in SLPs continued in the 2016-17 financial year, with the number of SLPs on the register growing by over 5,500 SLPs (23% growth), while the number of limited partnerships registered elsewhere in the UK grew by only c.800 (5% growth). As at March 2018, there are just over 48,000 limited partnerships (c.31,000 of which are SLPs) on the register of companies, compared to just under 19,000 in March 2011 (7,200 of which were SLPs).

Figure 1: The disproportionate growth in SLPs between 2009 and 2017



-
47. There may be a range of causes for this rise in the number of SLPs, including new regulatory requirements. Their growing use in pension schemes since 2010 has been set out above. Their attractiveness to the investment industry grew following changes made by the Companies Act 2006 section 155 which came into effect in 2008 that required that at least one of the directors in a company be a natural person. As a result, those wishing to establish a business with corporate passive investors now found limited partnerships a more flexible entity to use, relative to limited companies and LLPs.
48. However, broader evidence suggests that these factors can likely only explain some of the rise in SLP registrations. Law firms providing partnership formation services to the above industries have reported they have not seen an exponential rise in demand for SLPs. Rather, they report steady growth.
49. There is evidence that some of this rise may be due to SLPs being created for illicit purposes. The national risk assessment of money laundering and terrorist financing 2017 found that “[SLPs] are particularly attractive to criminals due to the fact that under Scottish law the partnership is a distinct legal personality, separate from the partners and is subject to fewer reporting and transparency obligations than most other corporate forms”.⁴
50. The National Crime Agency has informed the Government that there appears to be a high volume of suspected criminal activity involving SLPs. As covered in Chapter 2, a very small number of presenters have been responsible for a great number of registrations of SLPs in recent years. Most of those presenters did not respond to our call for evidence, but available information on those presenters who did not respond does not fit the normal profile of formation agents responsible for high volumes of applications.
51. Recent years have seen some well-publicised instances of SLPs alleged to have been used in illicit activity. According to an investigation by the Organized Crime and Corruption Project (OCCRP) and Novaya Gazeta, at least US\$20.8 billion was alleged to have been secretly moved out of Russia between 2010 and 2014 through an extensive money laundering scheme comprising over 5,000 legal entities.^{5 6} Amongst the entities involved were 113 SLPs.
52. In conclusion, there is evidence of misuse of SLPs and this may well have driven some of the significant rise in registrations over the past decade.

⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/65

⁵ <https://www.occrp.org/en/laundromat/>

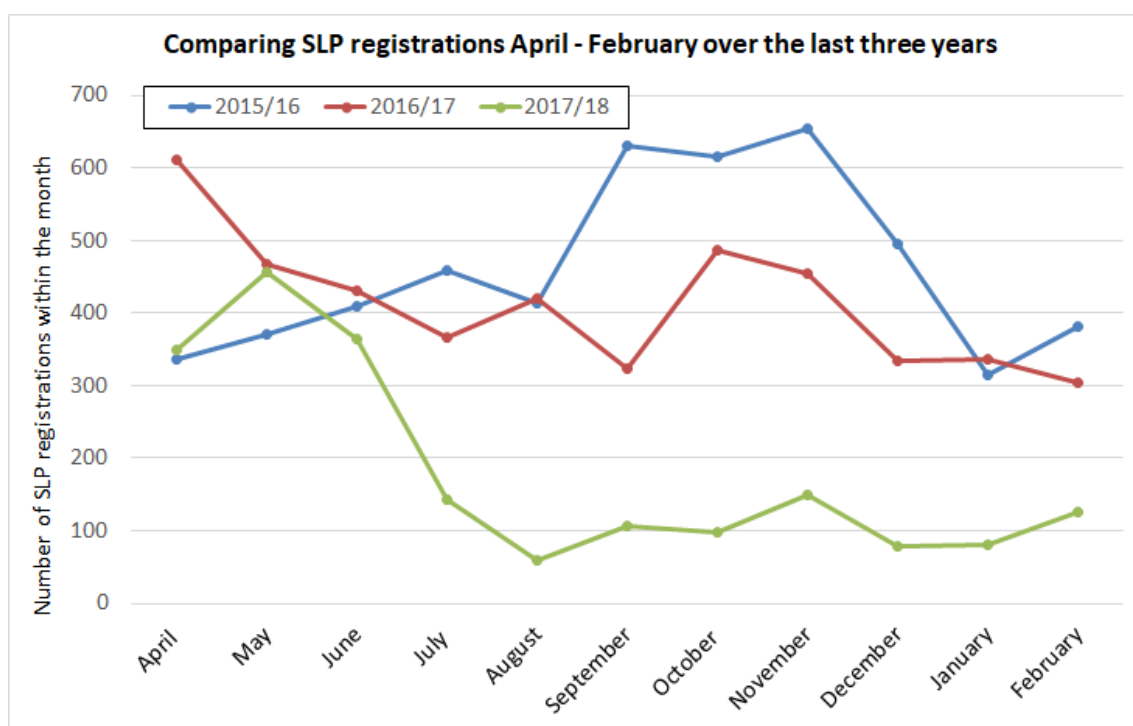
⁶ <https://www.theguardian.com/world/2017/mar/20/the-global-laundromat-how-did-it-work-and-who-benefited>

Trends in registration since the closure of the call for evidence

53. The most recent data shows a marked slowdown in new registrations of SLPs since June 2017. Figure 2 highlights how new registrations have been very low compared to previous years. For example, there were 97 new registrations in October 2017; compared to 487 in October 2016 (a fall of 80%) and 616 in October 2015. Overall, the level of new SLP registrations appears to have stabilised at around 100 per calendar month: around one fifth of the previous trend.

54. This probably means a fall in the total number of active SLPs. As covered in Chapter 5, limited partnerships cannot be removed from the register, and so total numbers include many inactive or dissolved partnerships. The total stock of partnerships is overstated by at least several thousand, and the lower number of new monthly registrations is likely to translate to a net fall in the total number of active SLPs.

Figure 2: Drop-off of new SLP registration since June 2017.



55. There are a number of possible causes for this change. In Summer 2017 Luxembourg introduced two new limited partnerships. The société en commandite (SCS), and the special limited partnership (société en commandite spéciale or SCSp). The SCS acquires its own separate legal personality separate from that of its partners. The SCSp does not have a separate legal personality. These new limited partnerships may have attracted some in the private equity and venture capital sector to establish new funds in Luxembourg as opposed to the UK.

56. Another possible cause is that, in June 2017, the Government brought SLPs into scope of the People with Significant Control (PSC) regime. This may have deterred those looking to establish SLPs for illicit purposes; as SLPs are now required to provide information about those who ultimately own or control the partnership. This information includes their name, month and year of birth, nationality, and details of their interest in the partnership.

57. A further recent trend is a rise in registrations of limited partnerships in Northern Ireland. Historically, there have only been a very small number of limited partnerships registered in Northern Ireland. In 2012-13 only four were registered, and in 2013-14 only one. The number of annual registrations in Northern Ireland then jumped up to 64 (2014-15), 96 (2015-16) and 73 (2016-17), though these are still small numbers in absolute terms. There is no clear evidence to indicate the reason for this increase and the Government is investigating.

Consultation Question

1. **Can you provide any additional evidence to help explain the trends in registrations of limited partnerships across the UK in recent years?**

CHAPTER TWO: REFORM OF REGISTRATION REQUIREMENTS

58. This chapter sets out a proposal that would require all presenters (those seeking to register a limited partnership) to provide information that confirms their registration and that they are subject to anti-money laundering supervision (AML) with an appropriate supervisory body. Anti-money laundering supervisors are a mixture of self-regulatory bodies, including large global professional bodies, smaller professional and representative bodies, as well as regulatory agencies. The full list of these supervisory bodies in the UK is set out at Annex B.

Current registration requirements

59. The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the MLRs) define formation agents as being Trust or Company Service Providers (TCSPs). TCSPs can include management and chartered accountants, lawyers and legal advocates and those offering registered office services as a company director or secretary. Under the MLRs, all TCSPs must be supervised by an appropriate body in order to legally act as a TCSP.

60. Supervised businesses need to meet a range of obligations, including having risk assessments, policies and procedures and staff training in place, carrying out customer due diligence checks and reporting suspicious activity to the National Crime Agency.

61. In England and Wales, and Northern Ireland an application for registration of a limited partnership is undertaken using an LP5 form. To set up a private fund limited partnership a variant is used: the LP7 form. In Scotland the LP5(s) form must be used, or for a Scottish private fund limited partnership an LP7(s).

62. The following information is required both on the LP5 and LP5(s) forms:

- I. the name of the firm;
- II. the general nature of the partnership's business;
- III. the address of the PPOB;
- IV. the term, if any, for which the limited partnership is to be entered into;
- V. names and signatures of the general partners;
- VI. names, amount contributed and signature of limited partners; and,
- VII. the name of the presenter and presenter's reference.

The LP5(s) also requires information about people with significant control.

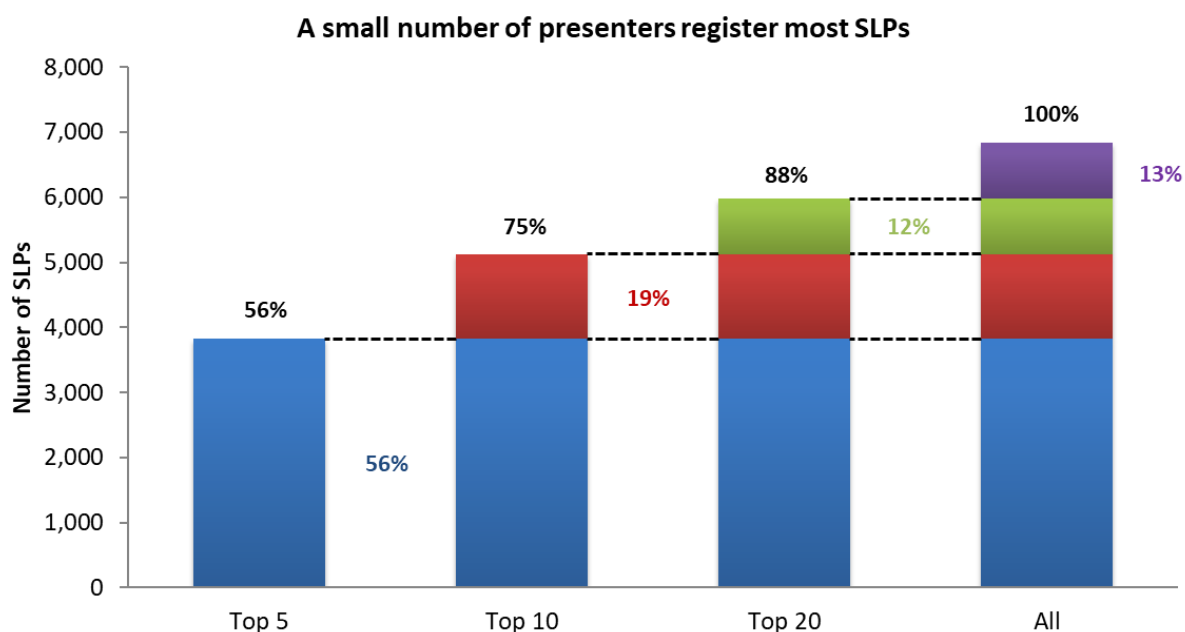
63. The vast majority of applications for registrations of limited partnerships are presented by formation agents. However, there are currently no checks in place to ensure that formation agents registering limited partnerships with Companies House are appropriately supervised for AML purposes.

64. A small number of applications for limited partnerships are made directly (i.e. by those who are likely to be a proposed partner of the limited partnership) to the Registrar, i.e. Companies House. In the past five years, fewer than 20 limited partnerships have been registered directly by individuals or organisations, rather than via a TCSP.

The Case for Reform

65. A significant number of recent registrations were carried out by only a few presenters. For example, between January 2016 and 11 May 2017, just five presenters were responsible for around 3,800 out of the roughly 6,800 registrations of SLPs. These five presenters presented applications for 56% of all SLPs registered over that period. Figure 3 illustrates this by showing what proportion of total SLP registration over the time horizon was carried out by the largest five, ten and twenty presenters (in terms of SLP registrations) respectively.

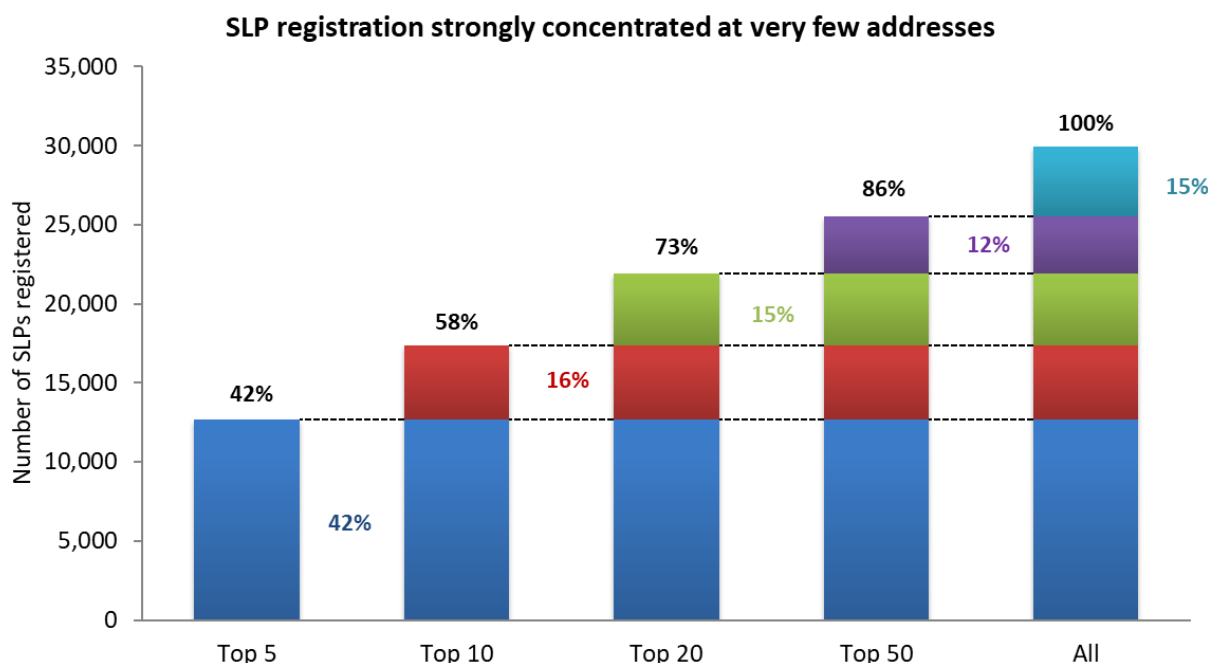
Figure 3: Concentration of SLP registrations between January 2016 and May 2017



66. Mass registration of limited partnerships (or in fact of companies) is not in itself suspicious. The 'batching' of registration forms is efficient and helps enable limited partnerships to be established for legitimate purposes with speed and ease.

67. However, it can be considered that some of this activity is unusual. The register shows that there is a significant number of SLPs with their PPOB listed at the same residential address. It would not be unreasonable to infer that it is unlikely that such a large number of limited partnerships could all be conducting business from that same address.

Figure 4: Concentration of SLPs at few addresses (as at May 2017)



68. As highlighted by Figure 4, the register shows that a very small number of addresses host a large majority of SLPs registered until May 2017. For example, by the end of May 2017, over 17,000 SLPs were registered at just ten addresses, accounting for 58% of all SLPs on the register at that time, which is sizeable.

69. Furthermore, while some presenters provide services from, for example, law or accountancy firms, where it would appear they have the expertise and resources in place to carry out the required money laundering checks, other presenters that have registered many hundred SLPs having their PPOB at the same address do not obviously appear to have such expertise or resource in place, nor have they responded to last year's call for evidence.

70. Formation agents are TCSPs and must be supervised by an appropriate AML supervisory body. Supervisory bodies carry out checks to ensure that businesses are complying with their AML and counter terrorist financing obligations.

71. There have been instances of persons acting as TCSPs without this supervision. Where such activity has been identified, law enforcement agencies are taking action. To enable closer monitoring of supervised businesses, the MLRs require HMRC and the FCA to maintain central registers of all those who are registered with the supervisory bodies.

72. The Government considers that an additional check may be useful in supporting enforcement action against TCSPs that are making applications to register limited partnerships but are not supervised for AML purposes. The Government recently legislated for the establishment of a central TCSP register, hosted by HMRC, which includes the details of all businesses acting as a TCSP regardless of supervisor (except for TCSPs registered with the FCA, who hold their own register). HMRC is in the process of implementing the register. Once implemented, it has the potential to improve the overall transparency of limited partnerships at the registration stage.

The Proposal

73. The Government is proposing an amendment to the registration process for limited partnerships which would require anyone presenting an application for limited partnerships to provide evidence of supervision under money laundering regulations on the application form.

74. The intention is that if the presenter does not disclose the necessary information, or if it cannot be checked, then the application for registration will be refused.

75. The Government will be considering whether and in what form it will accept information from presenters supervised by supervisory bodies in other jurisdictions having similar AML requirements to the UK.

76. The proposal aims to ensure that those TCSPs that operate lawfully can continue to do so with minimal additional burden; yet, at the same time making it easier to force those currently operating in breach of money laundering regulations to comply or exit the market. Evidence from a range of respondents, including the Association of Company Registration Agents (ACRA), suggests the proposal would create only minimal burdens on TCSPs.

77. An implication of the proposal is that no applications could be made to the Registrar directly by individuals as evidence of AML supervision will be required. Rather, a TCSP would have to be used to register a new partnership. This would incur a fee of typically £40 – £100.

78. The Government recognises this will result in a position whereby it would be more burdensome to register a limited partnership than a limited company, where direct registrations can be made. But it believes this is justified given the very low number of direct registrations of limited partnerships in recent years (In the past five years there have been 100 direct registrations). In contrast, there are over 300,000 direct registrations of companies annually, many of these by entrepreneurial sole traders growing their businesses. The Government is committed to maintaining the ease and speed with which companies can be established, in order to support economic growth. But the relatively small number of direct registrations of limited partnerships, and the different uses for which limited partnerships are created, mean that for them an alternative approach may be justified.

Consultation Question

- | | |
|----|--|
| 2. | Do you agree that presenters should be required to demonstrate they are registered with an AML supervisory body? Please explain your answer, and provide evidence on its potential impacts. |
|----|--|

Consultation Question

- | | |
|----|---|
| 3. | How should this measure be applied to registrations from overseas? |
|----|---|

CHAPTER THREE: PRINCIPAL PLACE OF BUSINESS

79. This chapter sets out two alternative options to ensure limited partnerships maintain some connection with the UK. The first would require a limited partnership's principal place of business (PPoB) to remain in the UK. The alternative would allow a PPoB to move outside the UK but introduce a requirement for a service address to be maintained within the UK.

Current requirements

80. The Limited Partnership Act 1907 requires that on application for registration, the presenter provides the address of the proposed PPoB of the partnership. The PPoB has to be in the same location in the UK as the jurisdiction in which it is being registered (e.g. to register an SLP, the address must be within Scotland).

81. It is a statutory requirement under the 1907 Act that a limited partnership inform the Registrar if its PPoB moves. The legislation is silent on whether the PPoB should remain in the UK post registration. As of June 2017, SLPs are required to provide an annual confirmation statement including confirmation that the PPoB address is up to date.

82. This position is in contrast to companies which are required to have a registered office that must remain in the country of incorporation.⁷ Companies are required to produce a confirmation statement at least every 12 months within which they are obliged to confirm the address of the registered office.

The Case for Reform

83. It is a statutory requirement under the 1907 Act that a limited partnership inform the Registrar if it moves its PPoB. A review of Companies House data (from Oct14 – Sep15 and Dec15 – May17), showed that only about 40 SLPs changed their PPoB within two months of their registration; and most of them moved their PPoB to another address within the UK.

84. These numbers are remarkably low, especially when it is considered that a great proportion of limited partnerships, particularly SLPs, are registered at common addresses (see Chapter 2, Figures 3 and 4). It is possible therefore that a number

⁷ Companies Act 2006 s1139

of limited partnerships are moving their PPOB without informing the Registrar.

85. Evidence from the investment sector suggests that it is routine practice for specific fund structures to use SLPs, with a PPOB registered in Scotland, but that management of the fund will be conducted elsewhere. In practice this is often outside the UK. Many such funds may well be acting properly and informing the Registrar of a change in the PPOB, including through the new confirmation statement for SLPs. But if management of such funds outside the UK is such a common practice, the small number of notifications suggests that at least some limited partnerships are not informing the Registrar of a change in their PPOB.

86. Further evidence comes from Transparency International, who, on an examination of 5,215 SLPs incorporated in 2016, reported that 3,677 (71%) were controlled by companies based in offshore jurisdictions.⁸ Though it is possible that the corporate general partner resides in a different jurisdiction to the PPOB, it seems unlikely that this is the case for such a large proportion of the SLP population. Rather, this data appears consistent with the notion that many SLPs, and perhaps other limited partnerships, operate with a PPOB outside of the UK without informing the Registrar.

87. The Government considers that current requirements are not sufficient to ensure that the PPOB is a meaningful address by which competent authorities (any person or organisation that has the legally delegated or invested authority, or power, e.g. Her Majesty's Revenue and Customs) can contact the limited partnership. A lack of a meaningful connection with the UK was also raised by a number of respondents to the call for evidence, who argued it increased the risk of limited partnerships being used for money laundering or other criminal activity.

The Proposal

88. The Government is seeking views on two alternative options. Either would be facilitated by proposals for more routine filing of information with the Registrar, which are detailed in Chapter 4.

Option A: To require that a limited partnership's PPOB must remain in the UK.

- The PPOB would have to remain in the jurisdiction of registration, e.g. an SLP's PPOB once registered, would have to remain in Scotland;
- The PPOB would be the address that the competent authorities could use to communicate with the LP and serve proceedings;

⁸ <http://www.transparency.org.uk/wp-content/plugins/download-attachments/includes/download.php?id=6734>

- All limited partnerships would return a confirmation statement, at least once every 12 months, confirming or updating the PPOB as being an address within the country of registration. That this address is genuinely the PPOB, and not just a service address, would need to be evidenced, e.g. through provision of documents setting out evidence of real commercial activity taking place at that address.

Option B: To retain the existing PPOB, but introduce an additional new requirement of a service address which should remain in the UK. This would in effect operate in the same way as a company's registered office.

- The current provision for a PPOB would remain unchanged, but it may be helpful for the legislation to be changed to clarify that the PPOB can be based or moved outside of the country of registration;
- The service address would be an additional requirement to the PPOB and would have to remain in the country of registration, e.g. an SLP service address would be and remain in Scotland;
- The service address would be the address that the competent authorities could use to communicate with the limited partnership and serve proceedings; and,
- All limited partnerships would return a confirmation statement confirming or updating a UK-based service address, and also confirming the address of the PPOB.

89. This option is a variant of a recommendation made by the Law Commission and the Scottish Law Commission, which proposed abolishing the PPOB and replacing it with a requirement to have a registered office. The Government considers that retaining the PPOB is desirable, to improve transparency of the activities of UK-registered limited partnerships.⁹

90. The private equity and venture capital industry have argued that the introduction of a service address, akin to a company's registered office, would significantly impact on their obligations under, and ability to comply with, other regulatory regimes, e.g. adherence to the Alternative Investment Fund Managers Directive. Currently a fund structured as a UK limited partnership with a PPOB outside the European Economic Area does not fall within the full scope of the Directive. This would change if there were a requirement for a PPOB to remain within the UK (Option A). However, the requirement for a UK-based service address (Option B) would not have the same impact.

⁹ (LAW COM No 283) (SCOT LAW COM No 192) PARTNERSHIP LAW Report on a Reference under Section 3(1)(e) of the Law Commissions Act 1965

91. The Government also recognises the need to consider the effect of this proposal on existing limited partnerships with a PPoB overseas and whether any transitional provisions would be needed. For any obligations in legislation originating from the EU, the Government would take account of amendments to relevant legislation as a result of the UK's exit.

92. An important consequence of either option is that non-compliance with official notices sent to the PPoB (option A) or service address (option B) could ultimately result in the limited partnership being struck off the register. Proposals to introduce strike off are set out in Chapter 5. Such provisions are absent from the existing legislation.

Consultation Question

- | | |
|----|--|
| 4. | Would it be better to require a limited partnership's PPoB to remain in the UK, or alternatively to allow the PPoB to be based anywhere but require a UK-based service address? Please evidence your answer, including if possible an assessment of the likely costs of compliance. |
|----|--|

Consultation Question

- | | |
|----|---|
| 5. | If a new requirement of a UK-based service address were introduced, but existing operation of the PPoB retained, what, if any transparency requirements should be put in place relevant to the PPoB? |
|----|---|

CHAPTER FOUR: REPORTING AND TRANSPARENCY REQUIREMENTS

93. This chapter seeks views on whether reporting requirements for limited partnerships should be brought more into line with those currently required of limited companies.

Current position

94. Following registration, limited partnerships have a statutory obligation under the Limited Partnership Act 1907 to inform the Registrar of specified changes during the continuance of the partnership, for example, a change in its partners or the relocation of its PPOB (section 9 of the 1907 Act refers). There are no further reporting requirements on limited partnerships under the 1907 Act.

95. Since 26 June 2017, SLPs have been under an obligation to register their persons of significant control (PSCs).¹⁰ They are required to keep this information up to date and advise the Registrar of any changes. SLPs must also send to the Registrar a confirmation statement (form SLP CS01) at least every 12 months which confirms all information in regards to the SLP on the register is correct. There is no similar requirement on limited partnerships registered in England and Wales or Northern Ireland to file a confirmation statement.

96. A limited partnership is not required to file accounts with the Registrar in the same way as a company.¹¹ For most limited partnerships, reporting requirements are less onerous than those in place for limited companies. Box B sets out the statutory reporting and transparency requirements placed on a limited company.

97. Currently, a company must file a confirmation statement at least every 12 months (see Box B below) with the Registrar that confirms the information on the register is up to date. A confirmation statement must be filed even if the data is unchanged, and it is a criminal offence not to do so within 14 days of the review date. The confirmation statement is a tickbox and only where the information is not correct must a company complete parts 1-4 of the form.

¹⁰ Scottish Partnerships (Register of People with Significant Control) Regulations 2017

¹¹ 1. However, where a limited partnership is a qualifying partnership under the Partnership (Accounts) Regulations 2008 its members (as defined in those regulations) are subject to requirements in relation to preparation, publication and delivery of accounts of the limited partnership.

2. A limited partnership is a qualifying partnership if each of the general partners is either a (i) limited company (ii) an unlimited company each of whose members is a limited company, (iii) or a Scottish partnership which is not a limited partnership, each of whose members is a limited company, or (iv) a Scottish partnership which is a limited partnership, each of whose general partners is a limited company.

Box B: Reporting Requirements under the Companies Act 2006

There are a number of accounting and reporting requirements placed upon companies registered under the Companies Act 2006, which may vary according to the size and nature of the company. For a private limited company, the requirements can be grouped under the following categories:

- A balance sheet drawn up on the last day of the financial year setting out the assets and liabilities of the company as at that date;
- unless the company is small and subject to the small companies accounting framework, a profit and loss account for the financial year;
- a directors' report setting out key information on the company for the financial year (although for micro-sized companies, this is not required);
- a strategic report reviewing the business of the company over the financial year and setting out its future strategy (although under the small companies' accounting framework, this is not required).

Information Required on a Company's Confirmation Statement:

- Details of the registered office, directors, secretary and the address where records are kept.
- Statement of capital and shareholder information
- The SIC code (the number that identifies what the company does)
- Register of People of Significant Control (PSC)

The accounts and reports of the company must also be audited, unless the company is subject to the small companies framework, in which case the company may take advantage of audit exemption. For a private company to qualify as a small or micro-sized company it must meet two out of three of the following requirements:

	Micro Sized	Small
Turnover	Not more than £632,000	Not more than £10.2 million
Balance Sheet	Not more than £316,000	Not more than £5.1 million
Employees	No more than 10	No more than 50

98. In conclusion, limited partnerships have considerably lower reporting requirements than limited companies, but there are comparable reporting requirements in place where a limited partnership is both an SLP and a qualifying partnership under the Partnership (Accounts) Regulations, because it must deliver PSC information and a confirmation statement to the Registrar, and its members must prepare the like accounts and reports for the partnership as if it were a company.

The Case for Reform

99. Transparency is an important underpinning of a trusted business environment, and limited partnerships can be used in multi-layered, complex corporate structures, just as companies can. This is true for limited partnerships created anywhere in the UK.

100. Given the reporting requirements that now exist for companies there could be a risk that limited partnerships create a weak point in the broader framework. Furthermore, the relative freedom from filing obligations, notably regular reconfirmation of address information, reduces the ability of the Registrar to know if the limited partnership is still operating.

101. The difference in reporting requirements for limited partnerships and companies was widely acknowledged in responses to the call for evidence. A number of respondents from the investment sector, who emphasised the ongoing value of limited partnerships as a business entity, stated that greater transparency would be justified, if this helped mitigate the risk of misuse.

102. Others argued that the recent regulations that fall on SLPs go far enough. They also questioned whether any limited partnerships being used for illicit purposes would actually comply with any new reporting requirements. A number of these respondents suggested that, as the UK is already a leader in transparency, any further reporting requirements would be both unnecessary and a disincentive to use a UK-registered entity, compared with those available in other jurisdictions.

The Proposal

103. The Government is seeking views on whether a confirmation statement should be required from all limited partnerships, confirming the information on the register is correct i.e.

- Details of the principal place of business, general and limited partners and details of the service address (as proposed in Option B),

- The sum contributed by each limited partner, and whether it's paid in cash or otherwise.

104. The Government is also interested in views on whether there is a case for limited partnerships to have to prepare accounts and reports in line with the requirements for private companies, as is already the case for qualifying partnerships.

Consultation Question

- | | |
|----|--|
| 6. | Should all limited partnerships be required to file an annual confirmation statement? |
|----|--|

Consultation Question

- | | |
|----|---|
| 7. | If you are in favour of an annual confirmation statement, what information should be included and who should file it? Please consider whether that should be for the whole partnership or the difference in requirements for general partners against limited partners – including corporate partners. |
|----|---|

Consultation Question

- | | |
|----|--|
| 8. | Is there a case for limited partnerships to have to prepare accounts and reports in line with the requirements for private companies, as is already the case for qualifying partnerships? |
|----|--|

CHAPTER FIVE: STRIKE OFF PROVISIONS

105. This chapter sets out proposals to give the Registrar powers to strike off limited partnerships in certain circumstances.

Current position

106. The Registrar currently has no powers to remove limited partnerships from the register. A general partner, might choose to use the form LP6 to notify the Registrar of the voluntary dissolution of the limited partnership. The Registrar accepts it in good faith; however, the limited partnerships name will remain on the register. During the call for evidence, a number of legal firms informed us of their frustration at seeing limited partnerships they knew had been dissolved still on the register despite informing the Registrar that they had ceased trading. In contrast when a company is dissolved and the Registrar is notified, the Registrar can strike the company's name off the register.

107. Nor is there any equivalent in limited partnership law akin to how companies can be struck off the register where the Registrar has reason to believe the company is no longer in operation. Provisions for striking a company from the register are set out in Box C.

Box C: The provisions for striking off a company:

The Registrar has the power to strike off a company in the following circumstances:

1. Voluntary strike off

If a company decides it no longer wants to carry on in business then it can apply to Companies House to have its name struck off the register (subject to section 1003 and 1004 circumstances in which an application is not to be made). This is done using Form DS01 and submitting it to the Registrar.

2. Non-operating strike off

Where the Registrar has reasonable cause to believe that a company is not carrying on business or in operation, then the Registrar may (once the proper procedures have been followed) strike the name of the company off the register (section 1000 of the Companies Act 2006).

3. The registrar may think a company is not operating or carrying on a business if:

- The registrar has not received company documents that should have been delivered, for example accounts.
- Mail that the registrar has sent to a company's registered office is returned undelivered
- The company has no directors.

Before striking a company off the register:

- The registrar is required to write two formal letters and send notice to the company's registered office to inquire whether it is still carrying on business or in operation.
- If the registrar is satisfied that it is not, s/he will publish a notice in the relevant Gazette stating the intention to strike the company off the register unless it is shown reason not to do so.
- A copy of the notice will be placed on the company's public record. If the registrar sees no reason to do otherwise, the company will be struck off not less than 2 months after the date of the notice.
- The company will be dissolved on publication of a further notice stating this in the relevant Gazette.

The Case for Reform

108. The register of companies underpins business activity across the economy. It is important that it is as up to date as possible in providing information to users. The current situation where dissolved partnerships are not removed from the register can cause confusion for anyone interrogating the register.
109. Data indicates that over 4,000 SLPs used an LP6 form to advise the Registrar of their dissolution between January 2014 and May 2017. None of these 4,000 SLPs have been removed from the register.¹² The official figures for the overall stock of SLPs, and limited partnerships in general, are therefore significantly inflated. This is clearly undesirable and correcting this will assist competent authorities and the general public in establishing a better understanding of limited partnerships, their uses and the industries they operate in.

The Proposal

110. The Government believes it would be desirable to give the Registrar powers to strike off limited partnerships in the same circumstances that mirror those in place for limited companies. Those situations would be as follows.

1. Voluntary strike off:

The Registrar routinely receives information indicating that limited partnerships are dissolved. However, despite receiving that information, the Registrar is unable to use that information to strike off the name of the limited partnership from the register because the Registrar does not have that power.

2. Non-operating strike off:

The proposal to extend the requirement to file a confirmation statement from SLPs to all limited partnerships would result in a regular filing to the registrar by all limited partnerships.

A limited partnership's failure to deliver a confirmation statement may form the basis for the Registrar's belief that a limited partnership is not carrying on a business or in operation.

111. The process would follow those already in place for companies (Box C above), namely written letters and notification in the relevant Gazette and on the public record of the partnership.

¹² The 'real' number of actually dissolved SLPs is likely to be different as: a) some SLPs might have continued trading after their dissolution; and b) some SLPs might not have informed the Registrar of their dissolution. We think it is likely that the second effect dominates and that the 'real' number of dissolved SLPs is actually higher than reported here.

112. 'Strike off' for a company means that its historical record remains on the register but its entry in the register is clearly marked as 'Dissolved'. This means the company is not operating and does not exist. This proposal is that limited partnerships should have the same treatment.
113. Responses to the call for evidence suggest that a general power for the Registrar to remove from the register, or mark as inactive, limited partnerships that are no longer carrying on a business or are dissolved would generally be welcomed.
114. During the consultation in relation to the proposal to introduce the PFLP, the Government consulted on the possibility of introducing a procedure to strike off dissolved limited partnerships from the register. At that time, significant concerns were raised by respondents of the potential risk should strike off be enacted in error via maladministration or 'grievous malevolence' and without the knowledge of all the partners. During the call for evidence the financial industry and certain members of the agricultural community raised similar concerns.
115. There are provisions in Section 72 of the Agricultural Holdings (Scotland) Act 2003 which apply to SLPs that hold a 1991 Act tenancy in situations where a tenancy is purported to be terminated as a consequence of the limited partnership (the tenant) being dissolved by notice served by a limited partner (the landlord or an associate of the landlord; or a partnership or a company in which the landlord has a relevant interest). In such cases the general partner (the tenant) has the right under Section 72(6) to serve a notice on the landlord which continues the tenancy and the general partner becomes the tenant in the partner's own right. Thereafter the landlord can serve a series of notices and recover vacant possession two or three years later depending on the timing. This in effect gives the general partner a substantial additional period to operate the farming business.
116. The operation of Section 72 is the result of steps taken by the limited partner. If the limited partnership were struck off, the tenancy would cease to exist as at the date of striking off and the protection afforded to the general partner by Section 72(6) would not apply. If the partners were not aware that the limited partnership had been struck off this would create significant legal problems with the farm business.
117. The Scottish Land Commission has issued a code of practice in association with the Scottish Tenant Farmers Association (STFA), the National Farmers Union Scotland (NFUS), Scottish Land and Estates (SLE) and the Royal Institution of

Chartered Surveyors (RICS).¹³ The code of practice prescribes the steps that should be taken when the limited partnership is approaching its dissolution date, or when either party considers it is appropriate to discuss the future of the arrangement. A landlord or tenant who considers that the other party has been in breach of the code of practice can make a formal inquiry to the Tenant Farming Commissioner.

118. As part of any strike off procedure, the Government considers the Registrar would likely need to take into account, considerations under the operation of section 72 and may need to liaise with the Tenant Farming Commissioner.

119. The Government takes the concern of strike off being enacted in error seriously. In regards to companies, prior to enacting a strike off procedure commencing under s1003, the Registrar completes checks to ensure that companies are not seeking a strike off inappropriately. This includes requiring that in the last three months:

- The company has not traded;
- The company name has not changed;
- Any assets have not disposed of inappropriately;
- Nothing has been done which would impede the strike off.

120. In relation to companies where a company's name has been struck from the register following the voluntary strike off procedure, an application must be made to the court to restore the company. However where the Registrar has struck the company's name from the register under sections 1000 or 1001, the Registrar may restore the company to the register by way of administrative restoration. The company is deemed to have continued in existence.

121. Given that similar safeguards could be put in place for limited partnerships, the Government considers that there is still a strong reason to introduce strike off powers for the Registrar. The proposed introduction of an annual confirmation statement for all limited partnerships would support the procedure and mitigate against the concerns expressed by the agricultural and financial sectors. The Government would be interested in views on any additional safeguards that should be put in place.

122. During the strike off procedure, where necessary, additional operational safeguards would be introduced.

¹³ <https://landcommission.gov.scot/wp-content/uploads/2018/01/Limited-Partnerships-CODE-Web-Jan-2018.pdf>This c

Consultation Question

9. Do you agree with the proposal to give the Registrar a power to strike off partnerships from the register of companies?

Consultation Question

10. Are there any other factors or criteria that the Registrar could consider in order to conclude that the partnership is not carrying on a business or in operation?

Consultation Question

11. What operational and legislative procedures could be put in place to mitigate the concerns of strike off done in error?

Annex A: Measures proposed in the Call for Evidence that will not be taken forward as part of this consultation

The call for evidence produced a rich source of information. There were some additional themes that came through from the submissions that were presented as areas that the Government might explore, or as potential remedies to the issue of SLPs being established to enable criminal activity.

The Government has determined that going forward the following issues will not form part of the formal consultation:

1. **Formation Agents** – That they should be brought under greater regulatory control.

As set out in Chapter 2, the Government has recently taken steps to improve the supervision of formation agents.

2. **Fees** – That the Government should look to review the LP registration fees with a view to proposing an upward revision in the registration fee structure.

The Government considers that to maintain impartiality and equity, any revision in the registration of fees for limited partnership incorporations should be completed as a broader piece of work that reviewed the entire corporate regime.

3. **Online e-registration** – To improve the ease of registration by allowing LPs to be registered electronically.

Companies House is committed to becoming a fully digital organisation, and recognises that enabling digital LP filings would deliver an improved customer experience, for those filing the information and those wishing to access it. Companies House takes all factors into account when prioritising development work, such as the relative benefits to users of the register. The immediate focus is on companies, as there are almost 4 million on the UK register in comparison to fewer than fifty thousand limited partnerships.

Annex B: Anti-Money Laundering Supervisors

List of Supervisors

Accountancy professional body AML supervisors

- Association of Accounting Technicians
- Association of Chartered Certified Accountants
- Association of International Accountants
- Association of Taxation Technicians
- Chartered Institute of Management Accountants
- Chartered Institute of Taxation
- Insolvency Practitioners Association
- Institute of Certified Bookkeepers
- Institute of Chartered Accountants in England and Wales
- Institute of Chartered Accountants in Ireland
- Institute of Chartered Accountants of Scotland
- Institute of Financial Accountants
- International Association of Bookkeepers

Legal professional body AML supervisors

- Chartered Institute of Legal Executives
- Council for Licensed Conveyancers
- Faculty of Advocates
- Faculty Office of the Archbishop of Canterbury
- General Council of the Bar
- General Council of the Bar of Northern Ireland
- Law Society
- Law Society of Northern Ireland
- Law Society of Scotland

Statutory AML supervisors

- HM Revenue and Customs
- The Financial Conduct Authority
- The Gambling Commission