EXPLANATORY MEMORANDUM TO

THE COMPANIES ACT 2006 (ANNUAL RETURNS) REGULATIONS 2011

2011 No. 1487

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These Regulations amend the requirements for a company's annual return under the Companies Act 2006 ("the 2006 Act") as regards:

- the information about members and their shareholdings; and
- the classification scheme that companies may use to describe their principal business activities.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The Regulations amend the provisions of the 2006 Act which deal with the required contents of a company's annual return (sections 854 to 858). Those provisions were previously amended by the Companies Act 2006 (Annual Return and Service Addresses) Regulations 2008 (SI 2008/3000) (the 2008 Regulations). Among other things, an annual return must contain the following information.

- Under section 855(1)(b), the company's principal business activities; and section 855(3) provides that this information may be given by reference to one or more categories of any prescribed system of classification. The 2008 Regulations provide that the classification system is the Standard Industrial Classification 2003 (SIC) with the addition of extra codes for non-trading, residents' property management and dormant companies.
- Under section 856A and section 856B, information about members and their shareholdings. The requirements differ depending on whether any of the company's shares were admitted to trading on a "regulated market" at any time during the period covered by the return. The expression "regulated market" is defined in section 1173 of the 2006 Act, essentially by reference to the meaning in Article 4.1(14) of the Markets in Financial Instruments Directive (MiFID) (Directive 2004/39/EC).
    - Under section 856A, a company which did not have any shares admitted to trading on a regulated market is required to provide the names of everyone who was a member of the company at any time during the return period, details of transfers of shares to and from such persons during the return period, and also the number of shares of each class held by each person who held

shares in the company at the end of the return period; but there is no requirement to provide their addresses. The full information specified is required only in the first annual return after incorporation and then every third year; in the intervening two years, the company need only provide the particulars relating to those who became or ceased to be members during the return period and the shares transferred during that period.

- Under section 856B, a company which had shares admitted to trading on a regulated market must provide the name and address of every member who held 5% or more of the issued shares of any class of the company at any time during the return period, details of share transfers to and from such persons during the return period, and the number of shares held by every member who had a shareholding of this size at the end of the return period. The full information specified is required only in the first annual return after incorporation and then every third year; in the intervening two years, the company need only provide the particulars relating to those who came to hold or ceased to hold 5% or more of the issued shares of any class of the company at any time during the return period and the shares transferred during that period.

4.2 Sections 856A and 856B of the 2006 Act only draw a distinction between companies any of whose shares were traded on a "regulated market" and companies none of whose shares were traded on a "regulated market". Not all of the markets on which the shares of a UK company might be admitted to trading are "regulated markets". For example, neither AIM nor the PLUS-quoted market operated by PLUS Markets plc is a "regulated market". Those two markets are, however, markets established under the rules of UK recognised investment exchanges and are therefore covered by the definition of "prescribed market" which applies for the purposes of certain provisions of the Financial Services and Markets Act 2000 dealing with market abuse. All "regulated markets" are also covered by that definition. Therefore, the full requirements of section 856A currently apply to (for example) companies which did not have any shares traded on a regulated market during the period covered by the return but did have shares traded on AIM or PLUS-quoted.

4.3 With certain exceptions, UK companies whose shares are admitted to trading on a "regulated market" or another "prescribed market" are subject to the Disclosure and Transparency Rules ("DTR5") made by the Financial Services Authority. Among other things, DTR5 requires a person to notify a company when, as a result of acquiring shares in the company, the percentage of voting rights held by that person as shareholder reaches certain percentage thresholds (starting at 3%). The company must then notify the market by forwarding the information to a Regulated Information Service provider. Insofar as these requirements apply to companies traded on regulated markets, DTR5 implements requirements of the Transparency Obligations Directive (Directive 2004/109/EC).

4.4 Every company must keep a register of members. The exact nature of these registers differs depending on whether the company issues certificates for its shares or is an issuer of "uncertificated" shares (ie shares the title to which is recorded in and transferred by means of the computer-based CREST system). However, in all cases, sections 116 and 117 of the 2006 Act (modified as appropriate by the Uncertificated Securities Regulations 2001, SI 2001/3755) provide a public right, on request and payment of a fee, to inspect any company's register of members and/or obtain a copy of it except where (on application by the company) the court rules that access is not sought for a proper purpose. The conditions for public access to registers of members are prescribed by section 116 and the Companies (Company Records) Regulations 2008 (SI2008/3006;) and the fees are prescribed by the Companies (Fees for Inspection and Copying of Company Records) Regulations 2007 (SI2007/2612), modified as appropriate by the Uncertificated Securities Regulations 2001.

4.5 Paragraph 13 of Schedule 1 to the Unregistered Companies Regulations 2009 (SI 2009/2436) applies sections 854 to 858 of the 2006 Act to unregistered companies with modifications. The requirements for annual returns also apply to a company that was not formed under companies legislation but that has registered under section 1040 of the 2006 Act or under an equivalent provision in a previous Companies Act: see Regulation 18 of the Companies (Companies Authorised to Register) Regulations 2009 (SI 2009/2437) and section 1297 of the 2006 Act.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Edward Davey, Minister for Employment Relations, Consumer and Postal Affairs has made the following statement regarding Human Rights:

In my view the provisions of the Companies Act 2006 (Annual Returns) Regulations 2011 are compatible with the Convention rights.

7. Policy background

- ***What is being done and why***

7.1 Every company is required to make key information available to the public. This is part of the price to be paid in return for the benefit of limited liability. This ensures sufficient transparency of information so that incorporation is not a cloak for those who own or control companies. The cheap, easy and anonymous availability of information filed with Companies House is greatly valued and widely used by credit reference agencies, companies' potential creditors, customers and suppliers, individuals for legal and other purposes, and by academic researchers and Government bodies as a source of statistics and evidence.

7.2 The main way in which companies are required to make key information public is by filing it with Companies House. The annual return is the principal means of ensuring that companies keep the public record up-to-date. The procedures for completing annual returns in practice ensure that companies only have to provide information that is different to that provided previously. For the majority of companies, the only information that is changed from the previous year is the date of the Return itself: for them, completing the annual return takes seconds, not hours. .

7.3 The United Kingdom Standard Industrial Classification of Economic Activities (SIC) is used to classify business establishments and other standard units by the type of economic activity in which they are engaged. It provides a framework for the collection, tabulation, presentation and analysis of data and its use promotes uniformity. In addition, it can be used for administrative purposes and by non-government bodies as a convenient way of classifying industrial activities into a common structure. The latest version is SIC 2007 which is identical to the EUROSTAT System NACE at the four digit class level and the United Nations system ISIC at the two digit Divisional level. The Office of National Statistics will not support use of the 2003 SIC after 2011. Therefore a decision had to be taken. The options were:

- not to provide any classification scheme for companies to use to describe their principal business activities; or
- to update the code - thereby enabling companies to describe their principal business activities by reference to the codes in the 2007 SIC; or
- to repeal the requirement to state principal business activities.

The Government decided to update the reference to SIC in the 2008 Regulations – because the information provided by companies is used in Government, the private sector, and academia, for example by the Office of National Statistics to produce statistics on trends.

7.4 The current requirement for companies with share capital to provide information about their shareholders and their shareholdings (described in paragraph 4.1 above) has been reviewed in the light of the disclosure requirements under DTR5. A major consideration was the cost of providing details of share transfers for companies whose shares are publicly traded. The Government concluded that there was little or no benefit from having annually updated information about major shareholdings available at Companies House in addition to the public right of access to all companies' registers of members (see paragraph 4.5) and the availability online, since 1 September 2010, on the National Storage Mechanism at www.hemscott.com/nsm.do of major shareholder notifications under DTR5. Therefore the 2006 Act is amended so that, in effect, no disclosure of shareholder details is required in the annual return of a company which was covered by the obligations under DTR5 throughout the period covered by the return. For other companies with shares admitted to trading on a "prescribed market" (see paragraph 4.2) – for example companies whose shares were admitted to trading on such a market for only part of the period or which are not covered by DTR5 – there are disclosure requirements, but they are not as extensive as those which currently apply. New section 856B only requires details in respect of persons who were (in effect) significant shareholders as at the date of the annual return.

7.5 The amendments made by the Regulations use the expression "relevant market" to described "prescribed markets". This is so as to avoid any confusion which might arise from the fact that "prescribed" is a defined term in the 2006 Act (see section 1167).

7.6 Disclosure requirements are also reduced for companies whose shares were traded during the return period on any other market (ie a market other than a "regulated market") outside the UK. Treating such companies the same as companies whose shares were not publicly traded would (among other things) have risked putting the UK in breach of EU law as a result of imposing lesser disclosure burdens – taking account of any obligations under DTR5 – on a company with shares traded on a "prescribed market" which is not a "regulated market" (for example, AIM or PLUS-quoted) than would be imposed on a company with shares traded on the equivalent of such a market elsewhere in the EU. Noting that the record at Companies House is not useful to anyone wanting up-to-date information on a company's shareholders, the Government concluded that it was not necessary to require the company to file information about transfers at Companies House. The new requirement for any such company is to provide details of (in effect) their significant members and their shareholders as at the date of the annual return.

7.7 For the vast majority of companies with share capital, the Regulations do not change the requirement to provide information about their shareholders and their shareholdings. The changes affect only companies whose shares are publicly traded on a "regulated market" or on any other "prescribed market" or on any other market outside the UK.

7.8 The amended annual return provisions will apply to unregistered companies and companies authorised to register which have registered (see paragraph 4.6 above).

8. Consultation outcome

8.1 The 2008 Regulations followed a Government commitment during the Parliament's consideration of the Companies Act 2006 that no company would be required to provide the names and addresses of all their shareholders in their Annual Returns; the then expectation was that private companies be required to provide the names of all shareholders and that public companies be required to provide the names and addresses of significant shareholders. Following consultation in 2007, the Government concluded that public companies whose shares were not traded on regulated markets should be subject to the same requirement as private companies.

8.2 After the 2008 Regulations were made, there were further representations arguing that AIM and PLUS-quoted companies should be treated the same as those traded on regulated markets as they are subject to the same disclosure requirements. These Regulations follow further discussions with stakeholders over this issue.

9. Guidance

9.1 Companies House will update their guidance on Annual Returns; this is available on http://www.companieshouse.gov.uk/about/gbhtml/gp2.shtml#ch1. The guidance will be update in line with this instrument.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is the requirement that Companies House update its procedures in line with the changed requirements. Companies House will also provide guidance..

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is not to introduce a distinction based on the number of employees.

11.3 The basis for the final decision on what action to take to assist small business is that the number of employees is not relevant to these Regulations.

12. Monitoring & review

12.1 It is intended to review these Regulations in 2015.

13. Contact

Anne Scrope at the Department for Business, Innovation and Skills, Tel: 0207 215 2194or email: anne.scrope@bis.gsi.gov.uk, can answer any queries regarding the instrument.

Title:	Impact Assessment (IA)
Annual Returns to Companies House **Lead department or agency:** Business, Innovation and Skills **Other departments or agencies:** Companies House	**IA No:** **Date:** 20/01/2011 **Stage:** Final **Source of intervention:** Domestic **Type of measure:** Secondary legislation **Contact for enquiries:** anne.scrope@bis.gsi.gov.uk 0207 215 2194

Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

Every company is required to place key information about itself on the public record held by Companies House. This is part of the price to pay for the benefit of limited liability. The cheap, easy and anonymous availability of this information is greatly valued by all who ever need to check up on a company. The Annual Return ensures companies keep the public record up-to-date. The requirements for the Annual Return need revising because (a) they are unnecessarily detailed as regards shareholders and their shareholdings and (b) the edition of the Standard Industrial Classification used is out of date.

What are the policy objectives and the intended effects?

The policy objectives are:
(a) to minimise the burden on companies when updating information about them on the public record
(b) to ensure that the public record has useful information on companies.
The main effect of the regulations is to remove the requirement for any information about shareholders and their shareholdings in the Annual Return of any company that is subject to similar requirements under the FSA's Disclosure and Transparency Rules. They also prescribe the 2007 Standard Industrial Code in place of the 2003 Code. The intended effect is to ensure that the requirements are kept in line with changes which have been made elsewhere.

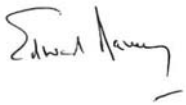
What policy options have been considered? Please justify preferred option (further details in Evidence Base)

The options considered cover the requirements relating to (a) shareholders and shareholdings; and (b) principal business activities. The preferred options are:
(a): to reduce significantly the information required from any other companies whose shares are publicly traded (option 3); and
(b) to update the Standard Industrial Classification code used for reporting principal business activities (option 6).
The preferred options balance practicality, cost-savings and usefulness of the public record.
For information about shareholders and shareholdings, in addition to the no change, th other options considered all involved reducing significantly the information requireed from companies whose shares ae publicly traded. The preferred option removes the requirement from most such companies while requiring only a snapshot from those for whom the information is not publicly traded elsewhere.

When will the policy be reviewed to establish its impact and the extent to which the policy objectives have been achieved?	It will be reviewed 01/2015
Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes

SELECT SIGNATORY Sign-off For final stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.



Signed by the responsible Minister: ***Date:03-05***

Summary: Analysis and Evidence

Policy Option 1

Description:

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0.78m	**High:** 1.46m	**Best Estimate: 1.10m**

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.25m		0	**0.25m**
High	0.31m		0	**0.31m**
Best Estimate	0.28m		0	**0.28m**

Description and scale of key monetised costs by 'main affected groups'

Costs are only compromised of transitional costs. There ar no perceived annual costs. Transitional costs are estimated at £0.28m and will occur in the first year. These are comprised of costs borne by Companies House (which operates as a trading fund). These costs cover estimated costs of making the necessary changes to its systems for processing Annual Return filings. The current procedure for completing an Annual Return ensures that the transtitional costs for companies are negligble.

Other key non-monetised costs by 'main affected groups'

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0		0.13m	**1.09m**
High	0		0.20m	**1.71m**
Best Estimate	0		0.16m	**1.38m**

Description and scale of key monetised benefits by 'main affected groups'

The new system will reduce the costs of providing shareholder information in the Annual Return for companies whose shares are publicly traded. The level of cost savings will be dependent upon the number of companies with traded shares on regulated and non regulated markets. Savings are estimated to be £15 per company traded on regulated markets (approx 1020 companies) and £90-£100 per company traded on unregulated markets (approx 1500 companies). This amounts to £0.16m pa.

Other key non-monetised benefits by 'main affected groups'

Key assumptions/sensitivities/risks **Discount rate (%)** 3.5

Cost savings related to the removal of providing shareholder information in the Annual Return have been estimated, following discussions with commerical registrars, at £15 for the 1020 companies whose shares are traded on regulated markets and either £90 or £100 for the 1500 companies traded on non-regulated markets.

The upper and lower estimates are based upon a 10% sensitivity analysis on the number of companies and using a range of cost savings as set out on in the table on page 12 presenting a range of benefits of between £0.13m and £0.20m per annum.

Impact on admin burden (AB) (£m):			Impact on policy cost savings (£m):	In scope
New AB:	**AB savings:**	**Net:**	**Policy cost savings:**	Yes/No

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			United Kingdom		
From what date will the policy be implemented?			01/10/2011		
Which organisation(s) will enforce the policy?			Companies House		
What is the annual change in enforcement cost (£m)?			0		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			No		
What is the CO_2 equivalent change in greenhouse gas emissions? (Million tonnes CO_2 equivalent)			**Traded:** 0	**Non-traded:** 0	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			**Costs:** 0	**Benefits:** 0	
Annual cost (£m) per organisation (excl. Transition) (Constant Price)	**Micro** 0	**< 20** 0	**Small** 0	**Medium** 0	**Large** 0
Are any of these organisations exempt?	No	No	No	No	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on…?	**Impact**	**Page ref within IA**
Statutory equality duties[1] Statutory Equality Duties Impact Test guidance	No	p13
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	
Small firms Small Firms Impact Test guidance	No	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

[1] Race, disability and gender Impact assessments are statutory requirements for relevant policies. Equality statutory requirements will be expanded 2011, once the Equality Bill comes into force. Statutory equality duties part of the Equality Bill apply to GB only. The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessment of earlier stages (e.g. Consultation, Final, Enactment).

No.	Legislation or publication
1	The Companies Act 2006
2	The Companies (Fees for Inspection and Copying of Company Records) Regulations 2007 (SI2007/2612)
3	The Companies (Company Records) Regulations 2008 (SI2008/3006)
4	The Companies Act 2006 (Annual Return and Service Addresses) Regulations 2008 (SI2008/3000)
5	The Disclosure Rules and Transparency Rules sourcebook issued by the Financial Services Authority

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y_0	Y_1	Y_2	Y_3	Y_4	Y_5	Y_6	Y_7	Y_8	Y_9
Transition costs	0.28	0	0	0	0	0	0	0	0	0
Annual recurring cost	0	0	0	0	0	0	0	0	0	0
Total annual costs	0.28	0	0	0	0	0	0	0	0	0
Transition benefits	0	0	0	0	0	0	0	0	0	0
Annual recurring benefits	0.16	0.16	0.16	0.16	0.16	0.16	0.16	0.16	0.16	0.16
Total annual benefits	0.16	0.16	0.16	0.16	0.16	0.16	0.16	0.16	0.16	0.16

* For non-monetised benefits please see summary pages and main evidence base section

Evidence Base (for summary sheets)

Background

1. Every company is required to make key information available to the public. This is part of the price to paid in return for the benefit of limited liability. This ensures sufficient transparency of information so that incorporation is not a cloak for those who own or control companies.

2. The main way in which companies are required to make key information public is by filing it with Companies House. The Annual Return is the principal means of ensuring that companies keep the public record up-to-date. Every company is required to file an Annual Return to Companies House made up to a date not later than the anniversary of its incorporation (or, if the company's previous annual return was made up to a different date – ie brought forward – the anniversary of that different date). Companies are sent a reminder 5-7 days before the due date but may choose to bring forward the date. In the case of information which companies are required to notify changes in-year, the Annual Return is an effective enforcement mechanism. In addition, the Annual Return ensures compliance with EU requirements for certain information to be disclosed on a public register.

3. The cheap, easy and anonymous availability of information filed with Companies House is greatly valued and widely used by credit reference agencies, companies' potential creditors, customers and suppliers, individuals for private law and other purposes, and by academic researchers and Government bodies as a source of statistics and evidence. In July 2010, over half-a-million searches were made of the information held at Companies House. In addition, 25 companies – primarily credit reference agencies - have contracts with Companies House under which they daily download all changes to the register.

4. Companies are also required to allow public inspection of certain records and registers at their Registered Office (or another place in the same jurisdiction which the company has notified to Companies House as its "single alternative inspection location"). For private companies, inspection is by appointment; for public companies, the specified records and registers must be available for at least 2 hours on every working day. Companies may charge a prescribed fee for inspection, currently £3.50 an hour. They may also charge a prescribed fee for any record which they are required to provide copies: For registers, the prescribed fee depends on the number of entries: £95 for 1,001-100,000 entries; £125 for longer registers. Following consultation, these fees were set so as to cover the company's costs. Companies that keep registers electronically are required to meet requests to provide an electronic copy.

The Current Requirement

Information required

5. The information that every company must file annually is specified in the Companies Act 2006, as amended by The Companies Act 2006 (Annual Return and Service Addresses) Regulations 2008 (SI2008/3000). The information currently required is:

- the date to which the Return is made up
- the type of company it is (eg public limited company), using a prescribed code;
- its principal business activities, with the option of using a prescribed code;
- the address of the company's registered office
- the address of the alternative to the registered office, if any, for inspecting the company's records;
- details of its directors. For directors who are individuals, the required details are name; any other name used for business purposes during the return period; a service address; the part of the United Kingdom (or other country or state) where usually resident; nationality, business occupation (if any); and date of birth). For corporate directors, the required details include name and registration details are required;
- details of its secretary (if any). For secretaries who are individuals, the required details are name; any other name used for business purposes during the return period; and a service address. For corporate secretaries, the required details include its name and registration details; and

- whether it was a “traded company” during the period covered by the return (ie whether any of its shares were admitted to trading on a EU regulated market)..

6. For companies with share capital, the following information is also required:

- a statement of capital with:
  - the total number of shares;
  - the aggregate nominal value of those shares;
  - for each class of shares;
    - the voting rights attached to the shares;
    - the total number of shares of that class;
    - the aggregate nominal value of shares of that class;
  - the amount paid up and the amount (if any) unpaid on each share; and
- specified information about its shareholders.

Specified information about shareholders

7. For the vast majority of companies with share capital, the following information is also required:

- the name of everyone who was a shareholder at any time during the return period (in alphabetical order or with an index);
- the number of shares of each class held at the end of the return date by each person who was a shareholder at that time; and
- the number of shares of each class transferred to or by each such shareholder during the return period, and the dates of registration.

The full information is required only in the first annual return after incorporation and then every third year. In the intervening two years, the company need only provide the particulars relating to:

- those who became or ceased to be members during the return period; and
- the shares transferred during that period.

8. This requirement described in paragraph 7 applies not only to all private companies but also to those public companies whose shares were not traded on a regulated market at any time during the return period. If the company’s shares were admitted to trading on a regulated market during the return period (a “traded company”), then the following information is required instead:

- the name and address of any shareholder who held 5% or more of any class of its shares at any time during the return period (in alphabetical order or with an index);
- the number of shares of each class transferred to or by each such shareholder during the return period, and the dates of registration;
- the number of shares of each class held at the end of the return date by each person who, at the end of the return date, held 5% or more of any class of the company’s shares.

The full information is required only in the first annual return after incorporation and then every third year. In the intervening two years, the company need only provide the particulars relating to:

- those who came to hold , or ceased to hold, at least 5% of the issues shares of any class during the return period; and
- the shares transferred during that period.

Procedures

9. The procedure is very simple, particularly for the 93% of companies who currently file their Annual Returns electronically whether via Companies House’s WebFiling or through a software provider.

10. For companies who use WebFiling, the screen shows the information currently on the public record for the company to confirm or to change. If there has been a change which should have been already notified but, in practice has not (for example, a change in a director’s details), then the system automatically takes the filer to the notification form which must then be completed before the Annual Return. (Unless there are other suspicious circumstances, no other enforcement action is taken.) For the majority of companies, the only information that is changed from the previous year is the date of the Return itself: for them, completing the Annual Return takes seconds, not hours.

11. Some companies choose to file electronically via a software provider, this will typically be an accountant or Company formation agent. They will use a bespoke interface that will vary depending on the software package that they are using, however all such software filing packages are designed to be compatible with Companies House's e-filing systems.

12. Companies with large numbers of shareholders are able to file a disc with the required information about them. The process is less simple for companies whose shares are traded publicly, whether on regulated markets or on AIM or PLUS-quoted or other non-regulated markets, as for these companies there are frequent transfers of shares. .

Policy Objective

13. The underlying policy is to ensure that the public continue to have easy access to essential information on companies while minimising the burden on companies when updating information about them on the public record. The information is used daily – the Companies House website receives over 6 million hits a year; information taken from the Annual Return is usually the starting point and will often provide all the information required.

14. The objectives for the Regulations are:
(a) to minimise the burden on companies when updating information about them on the public record
(b) to ensure that the public record has useful information on companies.
The main effect of the regulations is to remove the requirement for any information about shareholders and their shareholdings in the Annual Return of any company that is subject to similar requirements under the FSA's Disclosure and Transparency Rules. They also prescribe the 2007 Standard Industrial Code in place of the 2003 Code. The intended effect is to ensure that the requirements are kept in line with changes which have been made elsewhere

Consultation

15. The 2007 consultation over implementation of the Companies Act 2006 included the question:

Do you agree that:

(a) whether companies are exempt from the requirement to supply addresses of all shareholders should depend on whether they are trade on EU regulated markets?

(b) companies that are traded on EU regulated markets should be required to provide addresses of shareholders who held 5 per cent or more of any class of shares at any time during the year in question.

24 respondents answered this question, with the great majority agreeing that, in general, companies limited by shares should not be required to include the addresses of their shareholders in their Annual Returns. There were differences as to which companies should be required to provide some of their shareholders' addresses. All agree that those traded on EU regulated markets should be required to file this information; a significant minority considered this requirement should also apply to those traded on AIM.

16. The 2008 Regulations were published in draft in August 2008 on the basis of the proposal. The draft also updated the SIC code. However the 2008 Regulations did not update the SIC code as there was concern that it would not be possible to make the software changes in time.

17. In 2010, the commercial registrars made further representations relating to the information required about shareholders and shareholdings in the Annual Returns of companies whose shares are publicly traded. As the bodies that maintain the registers of shareholders for companies whose shares are publicly traded, the commercial registrars are more aware than companies themselves of the cost of extracting the information for Annual Returns. The commercial registrars are members of the Institute of Chartered Secretaries and Administrators (ICSA). In July 2010, officials asked ICSA and the principal commercial registrars:

> what the saving for such a company is likely to be if the significant shareholder requirement related only to holdings at the return date (rather than for the period covered by the return).

They also asked what would be the likely reduction in the regulatory burden for affected companies if companies whose shares are publicly traded but not on a regulated market were treated the same as those whose shares are traded on a regulated market. Discussions with the commercial registrars continued over the Summer.

Problems under Consideration and Rationale for Intervention

18. The information required in the Annual Return has been reviewed to ensure that it meets the policy objective that the public have easy access to essential information on companies while minimising the burden on companies when updating information about them on the public record. Two areas have been identified where change would be desirable: shareholders and their shareholdings; and the classification system for principal activities.

A. Information about shareholders and their shareholdings

19. The problems under consideration are:

- whether there are companies currently required to provide information about all their shareholders for which there is a public interest in the contact details of those with a significant shareholding rather than in the identity of all their shareholders; and.
- what information about shareholders and their shareholdings should be available from Companies House for any company that is of economic significance.

20. For private companies, the information on the public record about all the shareholders and their shareholdings of these companies is valued particularly as it makes it possible to check quickly, cheaply and anonymously the distribution of power within a company and changes in the balance of power. It is also used extensively by the credit- reference agencies and those checking connections between companies. The same considerations apply to public companies whose shares are not publicly traded (over half of public companies). 95 per cent of active companies, ie some 2,000,000 have fewer than 5 shareholders. The public interest in the contact details for their shareholders is low.

21. There is a strong public interest in both the identity and the contact details of those shareholders with a strategic interest of any company that, by virtue of its size alone, is economically significant in terms of size. When considering information about shareholders, the most appropriate proxy for a company's "economic significance" is considered to be whether its shares are publicly traded. For these companies, the public interest is primarily in the current distribution of power whereas the information provided with the Annual Return is historic. For current information, third parties have had to rely on their right to inspect (and to be provided with copies of) companies' registers of members (see paragraph 4). This access is generally easy for publicly traded companies as, typically, their registers are held by one of the major commercial registrars.

22. At present, the information required about shareholders and shareholdings of companies depends on whether the company's shares were admitted to trading on a regulated market at any time during the period covered by the annual return (see paragraph 6). This criterion has been criticised because companies whose shares are traded on non-regulated markets are treated the same as those whose shares are not traded publicly. However as regards both the public interest, these companies whose shares are traded on non-regulated markets are akin to those whose shares are traded on regulated markets. Furthermore, providing the name of every shareholder and every transfer during the return period is costly for any company whose shares are publicly traded, not just for those where the shares are traded on a regulated market.

23. 1,020 companies are traded on regulated markets: they typically have over 10,000 shareholders. These companies (with some exceptions) are also covered by Chapter 5 of the Disclosure and Transparency Rules (DTR5) which requires them to notify Regulated Information Service providers when certain percentages (starting at 3%) of the total voting rights of any class of its shares are acquired by a person. Noting that formerly there was no provision for the retention on the public record of the information disclosed in accordance with DTR5, the Annual Return requires information on those shareholders whose holding at any time during the return period included 5% or more of any class of share. The difference in the definition of the thresholds (the DTR5 thresholds relate to voting rights) affects the cost of compliance with the current Annual Return requirement.

24. Since 1 September 2010, major shareholder notifications required under DTR5 have been available online on the National Storage Mechanism at Hemscott (www.hemscott.com/nsm.do); this means that there is no longer a significant public interest in Companies House holding historic information on the holdings of major shareholders of companies subject to DTR5.

25. DTR5 applies not only to companies traded on regulated markets. It also applies (subject to exceptions) to those UK public companies, and to other UK companies with a principal place of business in the UK, that are traded on any prescribed market which is not a regulated market (eg AIM or PLUS-

quoted). The public interest in these companies' shareholders and shareholdings is the same as for companies traded on regulated markets.

26. There may be companies whose shares are publicly traded but which are not subject to DTR5. On the one hand, it would be unfair to subject these companies to the requirement that applies to companies whose shares are not publicly traded. On the other hand, the public interest in the identity and contact details of their significant shareholders is not met by Hemscott (www.hemscott.com/nsm.do).

27. To conclude, there is no intention to change the requirement for companies whose shares are not publicly traded. For other companies,

- the first issue is whether they should continue to be required to provide information about share transfers during the return period or whether they should only be required to provide a "snapshot" of their significant shareholders and their shareholdings as at the return date; and
- the second issue is whether there should be no requirement to provide information about any shareholdings and their shareholdings for companies for which information about significant shareholders is available on www.hemscott.com/nsm?

B. Information about the company's principal business activities

28. Companies are required to give their principal business activity or activities (up to 4 activities are accepted). This may be by reference to a prescribed system of classification. At present, the prescribed system is the 2003 Standard Industrial Classification (SIC) codes with the addition of extra codes for a non-trading company; a residents' property management company; and a dormant company. In practice, fewer than 100 companies (out of about 2.5 million) do not use the prescribed system although a significant number use the code for "other business activities". The companies that do not use a prescribed code have to file on paper as electronic filing will only accept the prescribed codes.

29. The 4-digit 2003 SIC has been replaced by the 5-digit 2007 SIC (which is consistent with the European Industrial Codes). The changeover will soon be complete. Companies already use the 2007 SIC code for their VAT returns.

30. No change to the Annual Return Regulation is not an option as the Office of National Statistics will cease supporting use of the 2003 SIC from end-2011

31. Under the procedures for filing Annual Returns electronically, the information is first provided in a company's first Annual Return; thereafter a company will usually simply confirm the previously given information; only if the company's principal business activity has changed since its previous Annual Return, will it provide the information.

Options Considered

A. Information about shareholders and their shareholdings

32. The options are:

Option 1: No change to the information required.

Option 2: Revise the requirements for information about shareholders so that the requirement depends on whether of not any of the shares of the company were admitted to trading on either a "prescribed market" or any other market outside the UK at any time during the return period. Under this option, the 2 alternative requirements would be as follows:

A: the requirement to provide information, excluding addresses, relating to every shareholder (as set out in section 856A) would apply generally but not to any company any of whose shares are admitted to trading on either a "prescribed market" or any other market outside the UK at any time during the return period; and

B: all other companies be required only to provide details of those with 5%+ shareholdings on the date to which the return is made up , ie no longer require information about in-year transfers.

Option 3: Revise the requirements for information about shareholders so that there are 3 alternative requirements. These would be:

A: the requirement to provide information, excluding addresses, relating to every shareholder (as set out in section 856A) applies generally but not to any company any of whose shares were admitted to trading on either a "prescribed market" or any other market outside the UK at any time during the return period,:

B. the requirement to provide details of those with 5%+ shareholdings on the date to which the return is made up (ie section 856B revised to require a snapshot of significant shareholders on the return date) should apply to any company which is excluded from section 856A and was not covered by DTR5 throughout the return period; and

C. no requirement to provide information about shareholders and their shareholdings for any company that was subject to DTR5 throughout the return period.

Option 4: Abolish the requirement for any company to provide information about their shareholders and their shareholdings.

33. **Element A** of Option 3 effectively dis-applies section 856A from all companies whose shares were publicly traded at any time during the return period.

Element B revises section 856B to require only a snapshot of significant shareholders and their shareholdings on the date of the return. But the only companies that will be subject to this requirement are those whose shares were publicly traded but which were not covered by DTR5 throughout the return period.

Element C means that there will be **no** disclosure requirement under either section 856A or section 856B for any company which was subject to DTR5 throughout the return period.

It might be argued that having 3 elements is excessive and that there should simply be no requirement for a company whose shares were admitted to trading on a regulated market or any other prescribed market at any time during the return period to include shareholder details in its Annual Return, and that therefore all we should do is exclude such companies from section 856A and repeal section 856B. However, among other things, this would leave section 856A applying to UK companies with shares admitted to trading on a market outside the UK equivalent to a non-regulated prescribed market. This would risk putting the UK in breach of EU law as a result of imposing greater disclosure burdens on such companies than would be imposed on UK companies with shares admitted to trading on a non-regulated prescribed market (taking account of any obligations under DTR5). Element B meets this concern, while at the same time making sure that there are disclosure requirements in the Annual Return for a company whose shares were traded on a prescribed market (including a regulated market) during the return period but which was not covered by DTR5 for the whole of the period (either because it is a company excluded from the scope of DTR5 or because its shares were only traded on a prescribed market for part of the period).

34. The practical alternative to Option 3 is Option 2, ie applying the snapshot requirement to every company which had shares admitted to trading at any time during the return period on a regulated market, any other prescribed market or any other market outside the UK.

35. Option 4 would abolish the requirement for any company to provide information about shareholders and their shareholdings in their Annual Returns. This is not an EU requirement. There is widespread variation across member states in the rules relating to shareholding information of these companies; there is no EU requirement for a register of members. As noted in paragraph 16, the information on the public record about all the shareholders and their shareholdings of these companies is valued particularly as it makes it possible to check quickly, cheaply and anonymously the distribution of power within a company and any changes in the balance of power. It is also used extensively by the credit- reference agencies, those conducting checks under Money Laundering Regulations, and those checking connections between companies - these users greatly regret that the information no longer includes shareholders' addresses. The independent Company Law Review also noted the proven usefulness of the information on the public record in private law and that the requirement for its inclusion in the Annual Return is the cheapest and most effective way of ensuring that those companies whose shares are not publicly traded keep their registers of members up-to-date.

C. Information about the company's principal business activities

36. No change to the Annual Return Regulations is not an option as the Office of National Statistics will cease supporting use of the 2003 SIC from end-2011. Furthermore, companies are already using the 2007 Code. The minimum change would be to only revise this part of the Annual Return.

37. The options are:

Option 5: Remove the requirement for companies to give their principal business activity.

Option 6: Replace the 2003 SIC code with the 2007 SIC code.

Costs and benefits of options

38. The benefits of the options for changing the requirements are low as the procedures for filing an Annual Return are designed to minimise the burden on companies (see paragraphs 9-12 above). As the current burden is already small there is little scope for further reduction.

A. Information about shareholders and their shareholdings

39. Option 1 is no change. For most companies, the cost is zero in two years out of three and probably about £3 every third year. The costs are greater for the 1,020 companies whose shares are traded on regulated markets. These companies' registers of members are generally held electronically by one of the commercial registrars who will generally run a specifically designed program to extract the information required for the Annual Return. Following conversations with commercial registrars (see paragraph 17 above), we believe that this currently costs around £15. There are about 1.500 other companies whose shares are publicly traded (eg on AIM and PLUS-quoted and on non-UK non-regulated markets). For these companies, the costs are believed to be significantly higher as they have to provide information about all share transfers, not just those involving significant shareholders. The information is collated electronically nevertheless, given the volume of information involved; we estimate that the costs may be as high as £100.

40. Option 2 would affect the companies whose shares are traded on regulated markets and also those whose shares are publicly traded on a non-regulated prescribed market (eg AIM and PLUS-quoted) or on non-regulated markets outside the UK. The cost of option 2 is likely to be about £5 per annum for these companies: a reduction of £10 for those traded on regulated markets and of £90 for the others. Therefore the best estimate for total reduction in costs would be:

Cost Savings: 1020 companies x £10 cost saving per company + 1500 companies x £90 cost saving per company = £145,200 per annum

41. Option 3 would remove the total cost of proving shareholder information in the Annual Return from all companies which qualify for the exemption therefore resulting in a benefit of £15 per company (as above) traded in regulated markets and of £90 for other companies subject to DTR5 throughout the return period. It is unclear how many companies traded on non-regulated markets would benefit but the number is expected to exceed 1,000 leaving fewer than 500 to provide a snapshot of their shareholders as at the return date. The best estimate for total reduction in costs would therefore be:

Cost Savings: 1020 companies x £15 cost saving per company + 1000 companies * £100 cost saving per company + 500 companies x £90 cost saving per company = £160,300 per annum.

42. Both Options 2 and 3 would bring a reduction in the information available from Companies House about the ownership structure of companies whose shares are publicly traded. However up-to-date information on all shareholders and their shareholdings can be obtained directly from the company at any time (see paragraph 4) if it is sought for a proper purpose. Under Option 2, the Annual Return would include a snapshot of those with a strategic interest in the company on the date of the Annual Return and this information would then be available from Companies House. Under Option 3, Companies House would no longer hold information about shareholders who held more than 5 per cent of the voting rights of any class of shares during the period covered by the return of any company which was subject to DTR5 throughout the return period. However these companies' notifications of major shareholdings can now be inspected on the National Storage Mechanism online at Hemscott. Therefore there is little or no loss of any benefit resulting from the removal of the requirement for these companies to include shareholder information in the Annual Return.

B. Information about the company's principal business activities

43. Option 5 is to remove the requirement for companies to give their principal business activity. There is no EU requirement for this information to be collected. The removal of the requirement would be a significant loss of data for those – in Government, private sector, and academia – who analyse data split by main industry sector. For example, the Office of National Statistics uses the data for the National Accounts and to produce statistics on trends. The costs associated with removing such benefits are not quantifiable.

44. Option 6 would not affect annual costs for companies as the information only has to be provided in a company's first Annual Return and thereafter action (ie providing the information) is needed only if the company's principal business activity has changed since its previous Annual Return. This is expected to take less than a minute as the changeover to the 2007 Code has already been made for all other purposes, including water bills and VAT returns. When making subsequent Annual Returns, companies will only have to select a code if their principal business activity has changed.

Transitional Costs

45. Any change to the requirements would involve some transitional costs for Companies House, which would need to make changes to its systems for processing Annual Return filings – including web-filing and software filing systems, give notice to software filers to enable them to change their systems, and communicate the changes to companies and users of the register more generally. This cost is estimated by Companies House to be about £250,000. Companies House estimate that the additional transitional cost of either Option 2 or Option 3 to be £13,000 to £26,000. These estimates are based on the estimated length of the project required to implement the changes and the internal staff resources required to deliver the various tasks within the project. Each staff member involved has a daily rate based on their grade and that is multiplied up by the amount of time each staff member will be engaged on the project.

46. Option 1 is no change. Neither it nor Option 4 (abolition of the requirement) would involve transitional costs for companies.

47. Option 2 could involve a transitional cost for all companies whose shares are publicly traded. However we understand that virtually all these companies' registers are maintained by one of three commercial registrars. As the commercial registrars routinely extract information on the basis of size of shareholding, we believe that Option 2 would not bring transitional costs.

48. Option 3 would also not bring transitional costs. It is the same as Option 2 for most companies; and the same as Option 4 – ie abolition – for a few.

49. Option 5 would not involve a transitional cost for companies. Option 6 would involve a small transitional cost for companies. In its first Annual Return after 30 September 2011, every company will need to select the new code; Companies House will present them with the list. This is expected to take less than a minute as the changeover to the 2007 Code has already been made for all other purposes, including water bills and VAT returns. When making subsequent Annual Returns, companies will only have to select a code if their principal business activity has changed.

50. As noted above the procedures for completing an Annual Return ensure that the transitional costs for companies would be negligible. However the changes would also involve transitional costs for software filers (see paragraph 11) to update their systems, etc. There are about 70 of these firms. The change is likely to take them each up to an hour of skilled time, the Office for National Statistics Annual Survey of Hours and Earnings estimates that the average hourly wage rate for software providers is £18.47. This therefore estimates that the total transition cost would be 70 hours * £18.47 = £1,300

Risks and Assumptions

51. It is assumed that the cost of providing the information about shareholdings and shareholders that is currently required is £15 (as above) for companies whose shares were traded on regulated markets and about £100 for other companies whose shares were publicly traded. It is assumed this cost would be reduced to £5 under Option 2. Under option 3, this cost would be removed for companies whose shares were traded on regulated markets or were subject to DTR5.

52. It is assumed Options 4 and 5 would not affect companies' ongoing costs. We believe that this is a reasonable assumption and have no evidence to indicate otherwise.

53. A sensitivity analysis on the above assumptions was used to give upper and lower bounds of the costs and benefits resulting from the preferred options. A 10% sensitivity analysis was used on the estimated transition costs from Companies House and the number of companies the benefits would apply to and a range of cost savings were used as illustrated in the table below.

Lower and Upper bound calculations under preferred options

	Benefits	Costs	Net Present Value
Upper Bound of Net Present Value	(1122 companies * £20) +(1100 companies *£110) + (550 companies *£100) = £198,000	£248,400 + £1163 = £250,000	£1,459,000

	Present Value = £1,708,000	Present Value = £250,000	
Best Estimate of Net Present Value	(1020 companies * £15) + (1000 companies *£100) + (500 companies *£90) = £160,000 Present Value = £1,380,000	£276,000 + £1292 = £277,000 Present Value = £277,000	£1,103,000
Lower Bound of Net Present Value	(918 companies * £10) + (900 companies *£90) + (450 companies *£80)= £126,000 Present Value = £1,086,000	£ 303,600 + £1422 = £305,000 Present Value = £305,000	£781,000

Totals rounded to the nearest thousand.

Administrative burden and policy savings calculations under preferred options

54.

Costs – Transitional Costs	
Familiarisation Costs to Businesses	£1,300
One-off costs to Companies House	£276,000
Total Transitional Costs	**£276,000**
Benefits – Annual Cost Savings*	
Annual Benefits to Business	£160,300
Total Benefits to Businesses	**£160,300**
Net Present Value (over 10 years starting 2011)	**£1,103,000**

Wider impact

55. The wider impact was described in the rationale for intervention above. The proposed changes ensure that only useful information is required in the Annual Return.

Coalition Agreement/Department Business Plan/Legislative Programme

56. The proposal meets the commitment to review regulations regularly. It reduces the regulatory burden from existing regulations.

Summary and preferred option with description of implementation plan

57. The preferred options are:

Option 3: Abolition of the requirement to include any information about shareholders and shareholdings in their Annual Returns for companies traded on regulated markets at any time during the return period and for any other company subject to DTR5 throughout the return period. The requirement for other companies whose shares are publicly traded will be changed so that they are required to provide a "snapshot" of significant shareholders and their shareholdings.

Option 6: Replacing the 2003 SIC code with the 2007 SIC code for companies to use when giving their principal business activity.

Implementation plan

58. It is intended to bring the changes into force on 1 October 2011. This common commencement date will be the second anniversary of the last changes to the Annual Return, when the Companies Act 2006 was brought into force. Making the changes on the anniversary ensures that all companies are affected equally. It is intended to make the Regulations at least 6 months earlier so that the associated software changes are made in time for those companies that file electronically through a software provider.

One in One Out

Under the ‘One In, One Out’ rule whereby a measure that has a net cost to business must have a measure or measure of equivalent cost removed in order to be implemented, the net benefit of these changes is £130,000 over the ten year period. This represents a saving to business and is therefore a one out.

Specific Impact Tests

Statutory Equalities Duties
The proposed changes are not expected to have any impact.

Economic impacts
There will be no competition effects associated with this policy. Small firms are not expected to be disproportionately affected.

Environmental Impacts
The proposed changes are not expected to have any significant impact. There may be a negligible effect due to an increased amount of paper.

Social Impacts
The proposed changes will not have any impact.

Sustainable Development
The proposed changes are not expected to have any impact.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added to provide further information about non-monetary costs and benefits from Specific Impact Tests, if relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

Basis of the review: [The basis of the review could be statutory (forming part of the legislation), it could be to review existing policy or there could be a political commitment to review]; Regulations will have to be amended in consequence of other changes that affect the information required. The effect of the currently proposed changes will be reviewed at any such time.
Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] The objective will continue to be ensure that key information about companies on the public record is updated regularly in a way that minimises the cost for the companies concerned.
Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach] The main approach will be a scan of stakeholder views. The "rejection rate" for incorrect Annual Returns will also be monitored but this is affected by many factors. The review will also consider the number of companies either using the SIC for "other business activities" or not using any prescribed SIC.
Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured] The number using "other business activities" was 1627 in 2009/10. The number not using a prescribed SIC is under 100.
Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] A decrease in the number using "other business activities" and not using a prescribed SIC.
Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection systematic collection of monitoring information for future policy review] Companies House routinely collect data on Annual Returns
Reasons for not planning a PIR: [If there is no plan to do a PIR please provide reasons here] Not applicable

Add annexes here.