



## COMPANIES BILL

FLA (Finance & Leasing Association) is the major UK industry body for the asset finance, consumer finance and motor finance sectors.

### ISSUE DESCRIPTION

The Government's Companies Bill (formerly known as Company Law Reform Bill) is aimed at modernising company law to make it more accessible, and less bureaucratic and costly, for all types and sizes of company, and their directors and shareholders.

### CURRENT STATUS

The Bill is currently awaiting House of Commons report stage (it has already been considered by the Lords).

### FLA ISSUES

While FLA supports the overarching principles of the reforms we are keen to ensure that worrying unintended consequences of the reforms are avoided and that members' interests are safeguarded.

#### Directors' Home Addresses

- Under the terms of the Bill as drafted, clause 220(3) allows for the disclosure of the protected register to CRAs. Further, clause 220(3) will enable the Secretary of State to make supplementary regulations to specify how data may be disclosed and used.
- The incorporation of these provisions followed discussions between industry stakeholders and DTI and FLA believe it imperative that they are maintained.
- Opposition to the Bill has called for a right for directors to have their home addresses kept confidential from the public record, and for a service address to appear on the public record instead.
- Any proposal to restrict CRA access to the protected register would have significant consequences for the corporate lending and financing sectors, by limiting a lender's ability to verify directors' details against the public record.

#### Companies' Capacity

- There is an issue around existing safeguards provided to lenders under section 35 and 35B of the 1985 Companies Act which do not appear to have been transposed into the new Bill.

- The Bill does not appear to include a provision making clear that a party dealing with a company is not bound to enquire whether the transaction that is being entered into is permitted by the company's constitution, as was the case under Section 35B of the 1985 Act.
- Clause 31 (1) of the Bill essentially replicates section 35 (1) of the 1985 Act. However, the explicit safeguard for parties (lenders) dealing with a company provided under 35B of the 1985 Act appears to be missing.
- The DTI Company Law Bill Team have confirmed that the intention was to transpose existing standards through Clause 40 (2) (b) (i), however we believe that drafting has been misapplied and does not achieve equivalence with the 1985 Act.