

## Protecting directors and LLP members from fraud

The UK's Fraud Prevention Service (CIFAS) recently reported that company directors are more than twice as likely to be the victims of identity fraud compared to the rest of the general population (*CIFAS and Lexis Nexis Risk Solutions collaborative report 'Assessing the characteristics of impersonation to identify those most at risk', 15 June 2017*). This is not surprising considering the accessibility of directors' personal information from Companies House including name, address, occupation, nationality and date of birth.

This article considers the changes that the implementation of the *Companies (Disclosure of Address) Regulations 2018 ('2018 Regulations')* this summer will bring to the *existing Companies (Disclosure of Address) Regulations 2009 ('2009 Regulations')* with respect to the protection of directors' and limited liability partnership ('LLP') members' personal information.

### Existing Law

The *Companies Act 2006 ('CA 2006')* requires companies to file at Companies House a service address for each director accessible by the public, and a residential address to be accessed by certain credit reference agencies and specified public authorities such as HM Revenue & Customs and the police. The *2009 Regulations* allow directors, secretaries, registered charge holders or companies to apply to the Registrar of Companies to remove residential addresses filed at Companies House on or after 1 January 2003.

The key criticism of the *2009 Regulations* lies with the constraints of the test that must be met to remove a director's residential address from Companies House. There is a need to demonstrate a serious risk of

violence or intimidation and this does very little by way of identity theft protection. The date restriction of 1 January 2003 also means that many residential addresses have not even been considered.

### Changes to the Law

The *2018 Regulations* propose to facilitate the removal of long-standing residential addresses from the public record in the following ways:

- 1 The Residential Address of an Individual Becoming Unavailable for Public Inspection: Removing the need for individuals with a residential address filed at Companies House to demonstrate a serious risk of violence or intimidation to them or anyone living with them linked to the activities of the company of which they are a former, current or prospective director and for the information to have been filed on or after 1 January 2003.
- 2 The Residential Address of an Individual Filed in Connection with the Registration of a Charge Becoming Unavailable for Public Inspection: Removing the need for a charge to have been registered on or after 1 January 2003 in order for an individual to have the ability to apply for their residential address filed at Companies House in connection with the registration of the charge to be made unavailable to the public (please note, however, that the individual will still need to demonstrate that there is a serious risk of violence or intimidation to him, applicable employees or anyone living at the address because of the activities of the company subject to the charge).

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- 3 The Residential Addresses of Company Members, Former Members or Subscribers to the Memorandum of Association Filed at Companies House Becoming Unavailable for Public Inspection: Removing the need for all members, former members or subscribers to the memorandum of association filed at Companies House to have filed their residential addresses on or after 1 January 2003 (please note that the company will still need to demonstrate a serious risk of violence or intimidation to the members, subscribers or anyone else living at the relevant residential addresses).

Importantly, the *2018 Regulations* and the *2009 Regulations* being updated also apply to LLPs. This means that, not only can directors, subscribers and companies take advantage of the changes to the law, but LLP members, proposed members of LLPs and LLPs can also benefit from these new fraud protection measures.

### Next Steps for Directors and LLP Members

By taking advantage of the *2018* and *2009 Regulations*, directors and LLP members can ensure that their home addresses will no longer appear at Companies House. This will thwart instances of fraud including the possibility of impostors obtaining loans and even credit on their behalf.

Applications can be made online using WebFiling or in the post by completing and submitting the relevant form to the Registrar of Companies. Directors will need *Form EW02 (Withdrawal of election to keep information from register of directors' usual residential addresses on the central (public) register)* and LLP members will need Form

*LL EW02 (Withdrawal of election to keep information from register of LLP Members' usual residential addresses on the central (public) register)*. No fee will be required and submitting these applications under the *2018 Regulations* will mean that the company or LLP will no longer provide a directors' or LLP members' usual residential address information for the public register.

Directors and LLP members are urged to prepare applications to remove their information once the *2018 Regulations* are implemented this summer and to take practical steps to minimise their risk of fraud in the meantime. This includes using strong passwords for different bank accounts, staying informed of bank transactions, destroying all documents with personal information, not providing any personal information over the telephone and cautious use of social media.

Directors should also consider registering for the protected online filing and monitoring services offered free of cost by Companies House. Signing up to these services will ensure that directors are alerted of any changes to company information and could bring some peace of mind in the months leading up to the implementation of the *2018 Regulations*.

Please refer to your usual contact at Thomson Snell & Passmore for further information. Alternatively, please contact Joanne Gallagher on 01322 623708 or email at: [joanne.gallagher@ts-p.co.uk](mailto:joanne.gallagher@ts-p.co.uk) or Carmen Mohammed on 01892 701178.