

September 2010

## Companies House Newsletter

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Shareholdings held on trust and the Company Register

The Registrar is seeing an increase in the number of widely held corporate bodies with significant numbers of shareholdings, as the Funds and insurance industries in Gibraltar continues to grow and develop. In these and other industries, Companies House has seen an increased use of professional nominee shareholders such as banks and trust companies. It has become apparent that, for the shareholders own internal accounting purposes, it would be useful for the register of such shareholdings to have some identifying features in respect of individual shareholdings.

Shareholdings are disclosed to Companies House either at the time of allotment by compulsory Return of Allotments, a voluntary Return of Members at any time, a voluntary Return of Share Transfers at any time, and with the Annual Return.

In order to assist local industry, the Registrar has decided to issue the following guidelines as to what can be included on the public register to enable identification, should the shareholder so wish.

### **Section 151 Companies Act**

Section 151 provides that “No notice of any trust, express, implied or constructive, shall be entered on the register, or be receivable by the Registrar”

The object of the section is (1) to relieve the company from taking notice of equitable interests in shares, and (2) to preclude persons claiming under equitable titles from converting the company into a trustee for them.<sup>1</sup>

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<sup>1</sup> Buckley “the Companies Act 1929” p 254



In the view of Companies House, within certain parameters, the section does not preclude a specific title or other identifying feature being entered onto the public register, as follows:

### **Acceptable Formats**

ABC Limited (1234); or  
ABC Limited (XYZ); or  
ABC Limited (John Smith); or  
ABC Limited (Account 123); or  
ABC Limited (file XYZ123); or

John Smith (John Doe); or  
John Smith (XYZ),  
John Smith (ref. 1234)

would not give the Registrar specific notice of the underlying legal relationship which gives rise to the appendix, and therefore all of these formats are acceptable to the Registrar.

### **Formats which will not be accepted - within or without brackets**

ABC Limited as trustee of the XZY Trust  
ABC Limited (as trustee of the XZY Trust)  
ABC Limited as nominee for John Smith  
ABC Limited on behalf of John Smith  
ABC Limited for John Smith  
ABC Limited (XYZ trust)

It should be noted that any identification in accordance with the above is entirely **voluntary**. Companies House is not empowered under the Act to become a register of beneficial ownerships and any information in brackets (curved or square) has no bearing on who Companies House considers to be the legal registered shareholder. In light of section 151 and in view of the fact that Companies House undertakes no verification as to the information in brackets, any such information is to be treated as nothing more than an aide memoir for the named legal registered shareholders.

The above does not in any way constitute advice to company secretaries as to what form of wording is acceptable pursuant to section 151 Companies Act in respect of the register of members of a company and no liability arising can be accepted by Companies House.

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