



Background Note: Consultation on Cross-Border Transfers of Registered Offices of Companies

In its [2012 Action Plan on European company law and corporate governance](#) launched on December 12, the European Commission announced further investigation of the need for and the feasibility of a Directive on the cross-border transfers of registered offices of companies.

This issue was already addressed by the European Commission in a public consultation launched in February 2012 on the future of European company law. The issues covered by the consultation included: the objectives and scope of European company law; whether all existing EU company law directives or those with a similar scope, should be merged in order to reduce inconsistencies; overlaps or gaps; the value and shortcomings of existing European legal entities; whether the cross-border mobility of companies (including cross-border transfers of a company's registered office, cross-border mergers and cross-border divisions) should be subject to further regulation; the need for EU intervention to deal with issues arising in relation to groups of companies; and the need to review the capital regime for European companies.

The Commission published a [summary of responses](#) to the consultation in July 2012. The majority of respondents were in favour of the legislative instrument regulating the cross-border transfer of registered offices. There were no replies from Malta to the consultation.

The 2012 Action Plan outlines the initiatives which the Commission intends to take in this area in the coming years in order to modernise and enhance the current framework. The initiatives, which will be both legislative and non-legislative, follow three main lines (i) enhancing transparency between companies and investors; (ii) encouraging long-term shareholder engagement; and (iii) improving the framework for cross-border operation of companies. In addition, the Action Plan also launches a process of codification of most company law directives.

Due to the complexity of the issues involved, the Commission has not taken any decision yet as to the need for, and the feasibility of, the legislative instrument on the cross-border transfer of registered offices. In addition to the views already collected during the recent public consultation, the Commission needs to further analyse in particular whether the costs of such legislation would not outweigh its benefits. Before taking its final decision, it will need to be clear to the Commission that a possible future initiative would bring a real added value to European companies, taking into account existing legislation and the developments of the case-law of the Court of Justice of the EU.

In this regard, the Commission has launched [a public consultation on the cross-border transfers of registered offices of companies](#). The consultation period will run from January 14 to April 16, 2013. The purpose of the consultation is to get more in-depth information on the costs currently faced by companies transferring their registered offices abroad and on the range of benefits that could be brought by the EU action on the cross-border transfer of them. The responses will be taken into account in assessing the need for and the impact of a possible new instrument.

The public consultation contains five sets of questions, mainly regarding the need for a legislative instrument at EU level, together with questions about its possible content and barriers that currently exist for companies that want to transfer their registered offices across borders.