

New Disclosure Requirements Imposed on Overseas Entities Holding UK Property

A new Register of Overseas Entities, expected this summer, requires disclosure of beneficial owners.

The UK government has introduced legislation¹ in Parliament to pave the way for the launch of the new Register of Overseas Entities (the Register). The Register was one of a number of measures announced in March 2022 as part of the Economic Crime (Transparency and Enforcement) Act 2022 (ECA) in an effort to stem the flow of illicit funds through the UK in response to Russia's invasion of Ukraine. Concerns persist that the UK provides a safe haven for money laundering, and, in particular, that large amounts of suspected ill-gotten gains are being cached in prime London real estate via foreign-registered entities whose beneficial owners are unclear. As discussed in Latham's [previous blog post](#), the ECA aims to address these concerns by forcing non-UK entities that hold UK property to submit information about their "registrable beneficial owners" and managing officers for inclusion on the Register.

Companies House expects a commencement order to be laid in Parliament on 1 August 2022, and it is intended that the Register will come into effect on the same date.

The new regime will mean that overseas entities with real estate assets:

- in England and Wales, that they purchased on or after 1 January 1999; or
- in Scotland, that they purchased on or after 8 December 2014,

will have just six months to submit the required details to Companies House, meaning that companies should prepare for these requirements now.

Any failure to meet the requirements carries a significant penalty of up to two years' imprisonment and a fine for the entities' officers. It can also lead to a restriction on the title register, which would prevent the property from being sold, mortgaged, or leased. Once an overseas entity is registered on the Register, it will be required to update its details annually or face fines of up to £2,500 per day of default.

The new legislation clarifies how "registrable beneficial owner" is defined, what steps must be taken to verify the information provided, and in what (limited) circumstances information can be withheld from publication.

Registrable Beneficial Owners

An *individual* is a “registrable beneficial owner” if they are a beneficial owner and they are not exempt from registration on the Register. A “beneficial owner” is anyone who, in relation to an overseas entity:

- holds more than 25% of the shares or voting rights;
- has the right to appoint or remove a majority of the directors; or
- otherwise exercises or has the right to exercise significant control.

The categories of exemption are very narrow and cover only beneficial owners that:

- hold an interest in an overseas entity through one or more legal entities that are “subject to their own disclosure requirements”; or
- have been exempted by the Secretary of State, either in the interests of national security or for the purposes of preventing or detecting serious crime.

*Legal entities*² are registrable beneficial owners if they are beneficial owners, not exempt, and “subject to their own disclosure requirements”, which is the case when, for instance, they:

- have shares traded on a regulated market;
- are registered on the Register; or
- are governed by the law of a country outside the UK and provide trust services, if the provision of trust services is regulated in that country.

Verification Checks

Information about a beneficial owner or managing officer must go through verification checks (Checks) before it is provided to the Register. Checks must be carried out by a “relevant person”, which is more narrowly defined than in the UK’s money laundering rules, and includes UK-based:

- credit institutions;
- financial institutions;
- auditors, insolvency practitioners, external accountants, and tax advisors;
- independent legal professionals;
- trust or company service providers; and
- estate agents and letting agents.

A “relevant person” is not permitted to verify information about an individual beneficial owner or managing officer if the relevant person is a family member or a “known close associate”, which would include someone with close business relations with the individual. Upon verifying information, the relevant person must provide a statement to Companies House, confirming that Checks have been carried out in

accordance with the ECA. A relevant person must retain any material provided for verification purposes for at least five years.

Publication of Information

Certain information from the Register is expected to be publicly available online, in particular, the names of an overseas entities' beneficial owners and managing officers. However, an individual who is a beneficial owner or managing officer can apply to have information withheld from publication if doing so would put them at serious risk of being subjected to violence or intimidation due to:

- the activities of the relevant overseas entity; or
- one or more characteristics or personal attributes of the individual when associated with the relevant overseas entity.

Applications to withhold publication will be determined by the Registrar of Companies, who has the power to request that supporting evidence be provided.

Looking Ahead

Further reforms to the powers of Companies House are expected to follow the launch of the Register and likely will include the ability for the Registrar to reject submissions of information and a requirement for identity to be verified for directors and shareholders of UK companies. These reforms form part of the Economic Crime and Corporate Transparency Bill, announced in the [Queen's Speech](#) in May, which also included strengthened transparency requirements for limited partnerships and more efficient seizure of cryptoassets.

If you have questions about any of these changes, including the information you will have to submit to the Register, please contact Stuart Alford QC or the Latham lawyer with whom you normally consult.

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Endnotes

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- 1 The Register of Overseas Entities (Delivery, Protection and Trust Services) Regulations 2022; The Register of Overseas Entities (Verification and Provision of Information) Regulations 2022; The Land Registration (Amendment) Rules 2022.
 - 2 Governments and public authorities are excluded from the category of legal entities, and are always registrable if they are beneficial owners.