

# Economic Crime Act Offering

PwC Legal

## Register of Overseas Entities

The UK's Economic Crime (Transparency and Enforcement) Act 2022 ('the Act') came into force on 15 March 2022. A key element of the Act is the creation of a new public Register of Overseas Entities. This represents a significant shift in disclosure requirements for foreign companies who hold land or property in the UK. Similar to the UK's Persons of Significant Control regime ('the PSC Regime'), which requires the beneficial ownership of UK companies to be publicly listed, this new register will require the disclosure of those beneficial owners who own UK land or property through non-UK entities ('Overseas Entities').



## What overseas entities need to register



- Any body corporate as governed under the laws of its country of incorporation;
- Any Partnership as governed under the laws of its country of incorporation; and
- Any other entity governed by the law of its country which is considered a legal person under those laws.

## When will the requirement to register come into force?



The register will launch 1 August 2022, at which time the six-month transitional period will be triggered meaning Overseas Entities who already own land or property in England, Wales and Scotland must register during this time to avoid penalty.

The register will have retrospective application. For England and Wales, it will apply to all land or property purchased since 1 January 1999, and in Scotland since 8 December 2014. If the land or property was still owned on 28 February 2022 the Overseas Entity will have an obligation to register, even if the land or property has since been sold or leased.

The transitional period is intended to give Overseas Entities time to register. We urge businesses to start gathering the information that they need to comply with the register now.

In addition to the initial registration, there will be an annual compliance requirement to file a confirmation statement notifying of any changes to registrable beneficial owners or confirmation that the beneficial owners have not changed.

## What are the consequences of not registering?



Failure to comply with the registration obligations will constitute a criminal offence for the Overseas Entity and may also prevent the Overseas Entity from being able to buy, sell or mortgage UK land or property going forward.

For those Overseas Entities which transfer land or property in breach of the registration requirement, this will also constitute a criminal offence for both the entity and every responsible officer of it. This may lead to a fine or imprisonment for up to five years.

## What is the definition of beneficial ownership for these purposes?



The thresholds for beneficial ownership match those applied under the PSC Regime i.e.:

- Directly or indirectly holding 25% or more of the shares or voting rights;
- Directly or indirectly having the right to appoint or remove a majority of its directors; or
- Otherwise having significant control or influence over the entity (including through a trust arrangement).

## What information needs to be disclosed on the register?



It will be necessary to include information in relation to both the Overseas Entity itself and in relation to those identified as beneficial owner(s):

### Information required about the Overseas Entity

- Its name;
- Country of incorporation or formation;
- Registered office address;
- Service address;
- Email address;
- Whether they meet the relevant conditions by virtue of being a trustee (conditions set out below); and
- Whether they are a designated person within the meaning of the Sanctions and Anti-Money Laundering Act 2018.

### Information required about individual beneficial owner(s)

- Name, date of birth, nationality;
- Usual residential address;
- Service address;
- Date on which the individual became a registrable beneficial owner in relation to the Overseas Entity;
- Which of the beneficial ownership conditions are met, and a statement as to how they are met;
- Whether they meet the conditions by virtue of being a trustee; and
- Whether they are a designated person within the meaning of the Sanctions and Anti-Money Laundering Act 2018.

Where there are trusts in the ownership chain additional disclosure may be required in relation to the trust itself and the trustee(s). It will also be necessary to consider whether there may also be disclosure requirements in relation to either the settlor, beneficiaries or any other individuals related to the trust.

## Register of Overseas Entities: Our recommended approach



Structures that own land or property in the UK will need to have procedures in place to ensure they comply efficiently and comprehensively with the new rules in relation to the new Register of Overseas Entities. We generally recommend a risk-based response which includes the following steps:

### A. Conduct an impact assessment

Determine the potential impact of the legislation on your structure and your disclosure and reporting requirements, as well as what steps you need to take.

### B. Due diligence

Given the retrospective effect of the Act, you should analyse relevant historic corporate structures to determine the disclosures necessary for any overseas entities. This exercise should include conducting due diligence on land and property portfolios and the beneficial owners in order to determine the disclosures.

Identification of these points may not be a simple exercise, especially in the context of complex structures involving trusts. It is advised that advice is sought, as failure to comply within 14 days of the end of a 12-month update period may result in a daily default fine, which will be open to the public.

### C. Analysis of disclosure requirements and disclosure

Based on the findings of the previous steps, you will need to make the necessary Companies House filings. As detailed above, failure to make annual declarations will carry penalties.

### D. Enhancements and ongoing compliance

These may include the preparation of an implementation plan, to ensure appropriate registrations by appropriate dates as well as ensuring that the annual declarations as to any changes to registrable beneficial owners or confirmation that the information is up to date are made as required.

### E. Ongoing monitoring

Structures should ensure that their compliance process is subject to routine review.

## Our experience and how PwC can help

We are a multidisciplinary team of regulatory, governance and tax experts with a wealth of experience in financial crime compliance and corporate governance, who can provide multi-faceted and practical advice. In bringing together and harnessing a range of different skill sets and credentials, we can advise you on the deployment and implementation of a tailored and proportionate set of compliance and governance processes and procedures to prepare your business in the best way possible. We can support you in all elements of our proposed approach, leveraging from our experience and technology where possible.

### Who to contact



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