

The Register of Overseas Entities – annual update

July 2023



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In our previous REF Insights [[here](#) and [here](#)] we wrote about the register of overseas entities (the “ROE”) which was established by the Economic Crime (Transparency and Enforcement) Act 2022 (the “ECTEA”) and went live at Companies House on 1 August 2022.

Under the ECTEA, overseas entities that own or have a lease of UK land not only have an obligation to register themselves on the ROE but, from 1 August 2023, they also have an annual obligation to keep the ROE up to date.

We have set out below some high-level points to be aware of in relation to the annual filing obligation:

- **Who?** All entities on the ROE will need to file an annual update, even when there has been no change to the information last filed.
- **When?** The annual update is due 12 months from the date of initial registration on the ROE and overseas entities will have 14 days from the statement date (which is visible on the ROE) to complete the update.
- **How?** Unless there are trusts involved in the overseas entity, filing can be done online at Companies House using an authentication code (which should be requested via Companies House). If there are any changes in information, then the filing will need to be independently verified by a UK regulated agent.

For further detailed guidance on how to file an annual update, especially where there have been changes in information, we would recommend contacting a UK regulated agent in good time prior to the deadline. Even where there have been no changes, an overseas entity must get its beneficial owners to confirm that information about them is correct before filing the annual update and they must allow up to a month for beneficial owners to respond.

What are the implications of a failure to file an annual update?

Failure to file the annual update is a criminal offence: the overseas entity and every officer of the entity in default may face prosecution or a financial penalty (of up to £50,000) for failing to comply.

Overseas entity IDs will be invalid if the entity does not file the update statement in time and will remain invalid until the update has been filed. Where an overseas entity is registered but has not filed its update statement, Companies House will add a note to the public record to that effect.

Implications from a lender's perspective

Where the ROE is relevant, it is now market practice for any new facility agreement to require (as a CP) a certificate from the authorised signatory of the overseas entity confirming it has complied with its obligations in section 3 of the ECTEA, together with a certified copy of the ROE in respect of the overseas entity.

If a new facility agreement is being entered into and/or any new security is being taken around the first anniversary of registration on the ROE by the relevant overseas entity, care must be taken to ensure that the annual filing requirements have been met, as failure to do so will void the overseas entity ID, which will make it impossible to register any transfer of land or grant of a legal mortgage at HM Land Registry.

Existing facility agreements will generally contain undertakings regarding compliance with laws and authorisations (and may also, subject to the commercial party's agreement, contain a specific undertaking to comply with the ECTEA), so a failure to file an annual update will result in a breach under the facility agreement.

Further changes on the horizon...

In addition to the annual updating obligations coming into force in August, draft legislation passing through Parliament may introduce an obligation to file on certain trigger events (such as the grant of a new lease) with an updating requirement (with a 14 day deadline) from the point any changes are known. Overseas entities may also be required to provide details of their UK land holdings when the update filing is made. These changes could create a significant additional burden on affected entities, and real estate industry bodies are lobbying for them to be dropped or modified but as things stand, the House of Lords is not backing down.