

Getting your ducks in a ROE: understanding and working with the Register of Overseas Entities

Abstract: In this paper, **Barry Vickery** returns to his legal information background and interviews Sam Lloyd, a Director at CRO Info, who has worked with Companies House for over 40 years and is one of the UK regulated agents authorised to complete verification checks on beneficial owners of overseas entities. Here they discuss the newly incorporated Register of Overseas Entities (ROE), share its brief history to date, the reasons for its introduction, and the challenges and benefits of creating and maintaining it.
Keywords: Beneficial owners; Data protection; Public registers; company information; Companies House

Barry Vickery: What is the Register of Overseas Entities?

Sam Lloyd: The idea of a register of overseas entities that own land or property in the UK has been around for some time. In 2016, the UK government published a consultation paper on the issue. The paper proposed a register of overseas entities (ROE) that would be held by Companies House and would be open to the public to access.

The consultation paper was met with mixed reactions. Some welcomed the proposal as an important step in the fight against economic crime. Others expressed concerns about the impact of the register on businesses and individuals.

The consultation paper was not implemented, but the issue of a register of overseas entities did not go away. In 2022, the Economic Crime (Transparency and Enforcement) Act 2022 was introduced. The Act established the ROE and made it a requirement for overseas entities to register with Companies House and also register their beneficial owners and/or managing officers if they own land or property in the UK.

For the purposes of the legislation ‘Overseas entity’ means a legal entity that is governed by the law of a country or territory outside the UK and ‘legal entity’ means a body corporate, partnership, or other entity that (in each case) is a legal person under the law by which it is governed.

The ROE registration process was expedited due to Russia invading Ukraine in February 2022, and so Companies House had short notice to create the register, and this has led to a number of challenges and limitations.

BV: What have been the initial challenges for Companies House?

SL: Due to the process being expedited, Companies House has had to rush through the creation of the

register, and a great deal of detail regarding the register and ongoing maintenance is yet to be determined, including:

- Updating the register is not possible at the present time.
- The legislation requires annual updates – the update service is currently in production and not yet available.
- If entities sell their land or property, then they would need to apply to remove the entity from the register – the removal service has not yet been launched.
- At the time of writing, the second part of the legislation is currently at committee stage which includes legislation pertaining to the annual update – the cost of filing is yet to be determined.
- Once an overseas entity is registered on the ROE the entity, or an agent, will be expected to carry out further verification and register a yearly statement.
- It is anticipated that the yearly statement is likely to be similar to the current Confirmation Statement filed for ordinary companies.

BV: Will there be sanctions for those who do not comply?

SL: Failure to register means that the entity and every officer commit an offence and a person found guilty may be liable to a fine, imprisonment or both.

On registration, Companies House allocates a unique overseas entity ID (the ‘OE’ ID). Overseas entities that fail to register will not be able to make any application to register any of the relevant dispositions for the purposes of the Act, when buying, leasing, transferring, or registering charges against the land.



Barry Vickery sat down with Sam Lloyd, a director at CRO Info, to talk through the intricacies of the new Register of Overseas Entities

Fines of up to £2500 per day and sentences of up to five years in prison may be imposed. However, it will be difficult to prosecute people who live outside of the UK and so the biggest deterrent will be that overseas entities will not be able to dispose of their land.

BV: Is there a deadline for registration?

SL: The Register of Overseas Entities (ROE) came into force in the UK on 1 August 2022, and the deadline for filing was 31 January 2023. This applies to overseas entities who bought land on or after:

- 1 January 1999 in England and Wales.
- 8 December 2014 in Scotland.
- 1 August 2022 in Northern Ireland.
- All entities that disposed of land or property between 28 February 2022 and 31 January 2023 will also need to give details of those dispositions.

BV: What sanction will be imposed on those that have missed the deadline?

SL: It is not yet known what sanctions will be imposed on entities that register after the deadline date

of 31 January 2023. However, it is important that overseas entities that have not registered yet proceed to do so with the minimum of further delay.

At the time of writing, there are currently around 27,000 overseas entities registered on the ROE out of an estimated 32,500 that should have registered by the deadline date. CRO, and other agents, continue to register entities that have failed to register before the deadline as Companies House continue to accept and register applications.

BV: How can you access the Register of Overseas Entities?

SL: You can look up an entity by inserting the name into the Companies House System (CHS)¹ – for example Moss Associates Inc. OE004654. The system will then allow you to view the registration document for the entity.

You can also view all current entities that are registered on the ROE on the Companies House System (as shown in [Figure 1](#))

BV: Who can register an entity on the ROE?

SL: Agents that are based in the UK and supervised under the Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017 can apply for an agent assurance code from Companies House.³ They can be individuals or corporate entities, such as:

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

Although Solicitors and Accountants can register entities on the ROE, the Law Society and ICAEW have warned their members against becoming UK-regulated agents.

In CRO's opinion, the reluctance of solicitors and accountants to become UK-regulated agents is largely due to the onerous verification responsibilities and the fact that there may be a conflict of interest if they are acting for one of their own clients or associated clients. There are also criminal penalties for failure to carry out the verification process compliantly.

BV: What does the verification process entail?

SL: The general guidance regarding verification was originally vague and inconsistent – and CRO made the decision to follow the BEISS (Department for Business, Energy, and Industrial Strategy) guidance.

Advanced company search

Fill in one or more fields to search the Companies House register.

[Open all](#)

Company name	+
Registered office address	+
Incorporation date	+
Company status	+
Nature of business	+
Company type	-

Overseas entity

Private limited by guarantee without share capital

Private limited company

Private Limited Company by guarantee without share capital, use of 'Limited' exemption

1. Click on “Advanced company search.”²
2. Click on the “Company type” filter.
3. Check the “Overseas entity” box.
4. Click “Search”

Figure 1: Companies House advanced company search function

The verification process requires agents to collect certain information regarding the beneficial owners to register the ROE. It is the overseas entity’s responsibility to collate this information. This can involve sending notices to persons they know or have reasonable cause to believe know the identity of a Registerable Beneficial Owners (RBO).

BV: What are the criteria for registering a beneficial owner?

SL: Not every beneficial owner is registrable. A beneficial owner is any individual or entity that has significant influence or control over the overseas entity. It can be:

- an individual person
- another legal entity, such as a company
- a government or public authority
- a trustee of a trust
- a member of a firm that is not a legal person under its governing law

You must register any beneficial owner that meets one or more of the following conditions known as the ‘natures of control’:

- the beneficial owner is an individual person, other legal entity, government, or public authority and:
- holds, directly or indirectly, more than 25% of the shares in the entity
- holds, directly or indirectly, more than 25% of the voting rights in the entity

- holds the right, directly or indirectly, to appoint or remove most of the board of directors of the entity
- has the right to exercise, or actually exercises, significant influence or control over the entity

Once the beneficial owners are established, the agent must complete verification checks on all beneficial owners /managing officers before the entity can be registered and complete a statement to confirm this has been done.

BV: What verification process and checks does the agent have to follow?

SL: There are differences between the Money Laundering Regulation (MLR) requirements and the ROE verification procedure, for example, ROE verification is not risk based.

Verification involves verifying information about the overseas entity, beneficial owners/managing officers, looking at evidence to match their identity as well as evidence of the condition met to be a beneficial owner /managing officer.

To ‘verify’ information means to verify based on documents or information obtained from a reliable source which is independent (see box out) of the person whose identity is being verified. People not permitted to verify information include a family member or close associate – someone you have a business relationship with.

Documents issued or made available by an official body are to be regarded as being independent of a person even if they are provided or made available to the relevant person by or on behalf of that person. [See box out for a case study on this].

CASE STUDY SHOWING THAT THE VERIFICATION PROCEDURE IS NOT ADHERED TO BY ALL. WORDS BY SAM LLOYD OF CRO

We had a situation while trying to verify the information for an overseas entity which involved a trust. The trustee of the trust was a trust service provider. They had a legal entity (limited company) which acted as the trustee for the trust. As documentation for the verification process was provided by the client, we had to have the documents independently certified. This included a register of members and trust deed. The documents were certified by the company that was providing the trust services. We then explained that they needed to be independently certified by someone who didn't have a business relationship with the overseas entity. The documents were then re-certified by a solicitor; however, we noticed that the address for the law firm was the same as the trust service provider. On further investigation, we discovered that the law firm and the trust service provider were owned by the same people. We therefore didn't regard the certification of the documents as independent.

When we asked for the documents to be certified by an independent party, they refused. We therefore couldn't register the overseas entity. The client told us they would find someone else who would accept the documents. We discovered two days later that another agent had registered the overseas entity.

BV: What is the registration process?

SL: The registration is quite straightforward once the verification has been done and the information collated.

There is an online service available. However, if there has been a disposal of land or property after 28 February 2022 a paper form must be completed and sent by email to Companies House. You will need the disposal date and the land title for the form in addition to the other information required. You will also need to state if all the property the entity owns has been disposed of. Registration should take approximately 24 hours.

The entity can register themselves with Companies House, but an agent must file Form OE VF01 confirming the verification process took place within 14 days. You could ask the agent to complete the whole process on behalf of the entity.

Once the registration process is complete a complete file of evidence regarding the whole verification process must be kept by the agent for five years.

BV: What are the Pros & Cons of the ROE?

SL: The ROE has been welcomed by many as an important step in the fight against economic crime. However, there have also been concerns about the impact of the ROE on businesses and individuals and there are certainly pros and cons.

Pros:

- ROE will help to tackle economic crime, such as money laundering and tax evasion
- ROE will make it more difficult for criminals to hide their assets
- ROE will help to protect consumers and investors

Cons:

- ROE could be costly and time-consuming for businesses to comply with
- ROE could be a privacy issue for some individuals
- ROE is a new piece of legislation, and it is not yet clear how it will be enforced

Overall, the ROE has the potential to have a significant impact on businesses and individuals. The ROE is designed to tackle economic crime, but it could also have a negative impact on legitimate businesses and individuals.

BV: What specific challenges does the ROE present to UK Law Firms?

SL: The Register of Overseas Entities does impose additional compliance burdens on firms, and with Companies House struggling to cope with its newest responsibility, time and effort will need to be invested by firms and businesses alike.

Assistance can be sought from regulated agents, but as the case study [see box out] highlighted, it's imperative to choose an agent that is going to be fully conversant and compliant with the ROE rules and processes.

The ROE requires all UK law firms to register with Companies House and to disclose information about their clients, including the names and addresses of their beneficial owners. This information will be made public on the ROE website.

Some firms may find it difficult to comply with these requirements, especially if they have many overseas clients. The ROE also requires firms to carry out due diligence on their clients, which could be a costly and time-consuming process.

A decline in business from overseas clients could occur as some clients may be reluctant to do business with UK law firms if their personal information is to be made public on the ROE website.

BV: What other jurisdictions have a ROE equivalent?

SL: The UK is unique in its attitude and application regarding this level of transparency. Indeed, back in 2016,

the UK was the first country to implement public registers of beneficial ownership of UK companies (known as the People with Significant Control, or PSC, registers).

With the UK Government planning the Economic Crime (Transparency and Enforcement) Act 2022 and Russia invading Ukraine, it was the next natural step to create the ROE, however, the UK appears to be the only country to make such moves.

BV: What does the future hold for the ROE?

SL: Despite the pros and cons above, there is no doubt that despite any short-term disruption, the ROE is clearly designed to tackle economic crime. However, the European Court of Justice recently ruled against the PSC

and Beneficial ownership regime⁴, ruling that it was against a person's right to privacy to disclose this information in the public domain.

As the UK still follows the European GDPR principles, this EU judgement could have a significant impact on the UK's PSC registers and the ROE.

But overall, the benefits of the registry of overseas entities look to outweigh the losses. It is a valuable tool that could help to make the UK a safer and more transparent place to do business. It's in situ, and we should all comply with its filing requirements. However, its very existence is cause for concern not only for those who wish to knowingly hide their assets in this country, but also for those who seek to protect the fundamental privacy rights of law-abiding citizens.

Footnotes

¹ <www.gov.uk/get-information-about-a-company> accessed 8 May 2023.

² <<https://find-and-update.company-information.service.gov.uk/advanced-search>> accessed 8 May 2023.

³ <www.gov.uk/government/publications/find-a-uk-regulated-agent-to-verify-information-for-an-overseas-entity/list-of-uk-regulated-agents-who-can-complete-verification-checks-on-beneficial-owners-of-an-overseas-entity> accessed 8 May 2023.

⁴ Judgment of the Court in Joined Cases C-37/20 Luxembourg Business Registers and C-601/20 Sovim.

Biography

Barry Vickery is the Head of UK for Digital Ventures, a London based group specialising in online marketplaces for over 20 years. He has worked for the group for five years, and this was preceded by almost two decades in the legal sector, providing law firms, predominantly, with UK and International company information, working from both the UK and Australia. He has been a consulting adviser to CRO over the last five years.