

2022 No. 725

COMPANIES

The Register of Overseas Entities (Verification and Provision of Information) Regulations 2022

Made - - - - - *29th June 2022*

Laid before Parliament *30th June 2022*

Coming into force in accordance with regulation 1(1)

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 16, 43(2) and 67(2) of the Economic Crime (Transparency and Enforcement) Act 2022(a).

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Register of Overseas Entities (Verification and Provision of Information) Regulations 2022 and come into force on the day section 3 of the ECTEA comes into force.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Interpretation

2. In these Regulations—

“the ECTEA” means the Economic Crime (Transparency and Enforcement) Act 2022;

“the Money Laundering Regulations” means the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017(b);

“relevant activity” has the meaning given in regulation 4;

“relevant information” has the meaning given in regulation 5;

“relevant person” has the meaning given in regulation 3;

“section 42(1)(c) information” is information delivered to the registrar under section 42(1)(c) of the ECTEA (requirement for certain unregistered overseas entities to provide information).

(a) 2022 c. 10 (“the ECTEA”).

(b) S.I. 2017/692, as amended by S.I. 2019/253, 680, 1511, 2021/494, there are other amendments but none is relevant.

Meaning of “relevant person”

3.—(1) Subject to paragraph (2), a “relevant person” is a person who is a relevant person for the purposes of the Money Laundering Regulations(a).

(2) A person is not a relevant person where that person—

- (a) is a high value dealer within the meaning given in regulation 14(1)(a) of the Money Laundering Regulations;
- (b) is a casino within the meaning given in regulation 14(1)(b) of the Money Laundering Regulations;
- (c) is an art market participant within the meaning given in regulation 14(1)(d) of the Money Laundering Regulations;
- (d) is a cryptoasset exchange provider within the meaning given in regulation 14A(1) of the Money Laundering Regulations;
- (e) is a custodian wallet provider within the meaning given in regulation 14A(2) of the Money Laundering Regulations;
- (f) has been convicted of an offence—
 - (i) in Great Britain under section 32 of ECTEA (general false statement offence), and that conviction has not yet become spent within the meaning of the Rehabilitation of Offenders Act 1974(b), or
 - (ii) in Northern Ireland under section 32 of ECTEA, and that person’s conviction has not yet become spent within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978(c);
- (g) has been convicted of an offence—
 - (i) in Great Britain under regulation 86, 87 or 88 of the Money Laundering Regulations, and that conviction has not yet become spent within the meaning of the Rehabilitation of Offenders Act 1974; or
 - (ii) in Northern Ireland under regulation 86, 87 or 88 of the Money Laundering Regulations, and that conviction has not yet become spent within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978.

Meaning of “relevant activity”

4.—(1) A “relevant activity” is an activity described in paragraph (2) that is to be undertaken by an overseas entity(d).

(2) The activities described in this paragraph are—

- (a) making an application under section 4 of the ECTEA (application for registration);
- (b) complying with section 7 of that Act (updating duty);
- (c) making an application under section 9 of that Act (application for removal);
- (d) complying with a notice under section 27 of that Act (resolving inconsistencies in the register), but only in so far as it relates to any of paragraphs (a), (b) or (c);
- (e) making an application under any regulations made under section 29 of that Act (application to rectify register), but only in so far as it relates to any of paragraphs (a), (b), or (c); and
- (f) complying with section 42(1)(c) of that Act (requirement for certain unregistered overseas entities to provide information).

(a) See in particular regulations 3 and 8 of those Regulations.

(b) 1974 c. 53.

(c) 1978 No. 1908 (N.I. 27).

(d) “Overseas entity” has the meaning given by section 2 of the ECTEA.

Meaning of “relevant information”

5.—(1) “Relevant information” is information described in any of paragraphs (2), (3), (4), (5), (6) or (7).

(2) Where an overseas entity seeks to undertake a relevant activity within regulation 4(2)(a) (application for registration), the information is—

- (a) the information specified in the column headed “Information” in the table in section 4(2) of the ECTEA, as that information corresponds to whichever statement is being made as part of the relevant activity in question; and
- (b) where relevant, the information mentioned in section 4(3) of that Act.

(3) Where an overseas entity seeks to undertake a relevant activity within regulation 4(2)(b) (updating duty), the information is—

- (a) the information mentioned in sub-paragraphs (a) and (b) of paragraph (2) of this regulation;
- (b) the information specified in the column headed “Information” in the table in section 7(2) of the ECTEA, as that information corresponds to whichever statement is being made as part of the relevant activity in question; and
- (c) where relevant—
 - (i) the information mentioned in section 7(3) of the ECTEA;
 - (ii) the information mentioned in section 7(4) of the ECTEA.

(4) Where an overseas entity seeks to undertake a relevant activity within regulation 4(2)(c) (application for removal), the information is—

- (a) the information mentioned in sub-paragraphs (a) and (b) of paragraph (2) of this regulation;
- (b) the information specified in the column headed “Information” in the table in section 9(2) of the ECTEA, as that information corresponds to whichever statement is being made as part of the relevant activity in question; and
- (c) where relevant—
 - (i) the information mentioned in section 9(3) of the ECTEA;
 - (ii) the information mentioned in section 9(4) of the ECTEA.

(5) Where an overseas entity seeks to undertake a relevant activity within regulation 4(2)(d) (complying with a notice under section 27 of the ECTEA), the information is such information as the registrar^(a) may by notice request.

(6) Where an overseas entity seeks to undertake a relevant activity within regulation 4(2)(e) (making an application under any regulations made under section 29 of the ECTEA), the information is such information as regulations made under section 29 of the ECTEA may specify as required when making that application.

(7) Where an overseas entity seeks to undertake a relevant activity within regulation 4(2)(f) (requirement for certain unregistered overseas entities to provide information), the information is the information mentioned in section 42(1)(c) of the ECTEA.

(a) “Registrar” has the meaning given in section 3 of the ECTEA.

PART 2

Verification

Verification: general

6.—(1) An overseas entity may only undertake a relevant activity after a relevant person has verified the relevant information.

(2) Where a relevant person verifies information under paragraph (1), the verification is valid for the period of three months beginning with the day on which the relevant person verifies the information.

(3) Where a relevant person—

- (a) has verified relevant information on behalf of an overseas entity; and
- (b) delivers the relevant information to the registrar themselves,

they must deliver the statement referred to in paragraph (5) at the same time.

(4) Where a relevant person—

- (a) has verified relevant information on behalf of an overseas entity; and
- (b) does not deliver that relevant information to the registrar themselves,

they must deliver the statement referred to in paragraph (4) to the registrar within 14 days of that information being delivered to the registrar.

(5) The statement is a statement to the registrar providing—

- (a) confirmation that—
 - (i) the relevant person has undertaken the verification of the relevant information; and
 - (ii) that verification has complied with the requirements of these Regulations and the ECTEA;
- (b) the date on which the verification was undertaken;
- (c) the names of the registrable beneficial owners^(a), and as the case may be, the managing officers^(b) whose identity has been verified, but where it has not been possible to obtain full names, so much of that information as it has been possible to obtain;
- (d) the relevant person's service address;
- (e) the relevant person's email address;
- (f) the name of the relevant person's supervisory authority;
- (g) where available, the relevant person's registration number, or a copy of the certification details, given to the relevant person by their supervisory authority; and
- (h) the name of the individual with overall responsibility for identity checks, where that is different to the name of the relevant person.

(6) For the purposes of this regulation—

- (a) “supervisory authority” in relation to any relevant person, means the supervisory authority specified for such a person by regulation 7 of the Money Laundering Regulations;
- (b) “verify” means verify on the basis of documents or information in either case obtained from a reliable source which is independent of the person whose identity is being verified, and “verified” and “verification” are to be interpreted accordingly;

(a) “Registrable beneficial owner” has the meaning given in Schedule 2 to the ECTEA.

(b) “Managing officer” has the meaning give in section 44(1) of the ECTEA.

- (c) 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.

Verification: individuals

7.—(1) This regulation applies where a relevant person seeks to verify relevant information relating to an individual.

- (2) A relevant person must not be—
 - (a) a family member of the individual;
 - (b) a known close associate of the individual;
 - (c) the same individual as the information relates to.
- (3) An individual’s family members include—
 - (a) their spouse or civil partner;
 - (b) any other person (whether of a different sex or the same sex) with whom the individual lives as partner in an enduring family relationship;
 - (c) their grandparent or grandchild, sister, brother, aunt or uncle, or nephew or niece;
 - (d) their children or step-children;
 - (e) the spouses or civil partners of those children or step-children;
 - (f) any other person (whether of a different sex or the same sex) with whom any of those children or step-children lives as partner in an enduring family relationship;
 - (g) the children or step-children of a person within paragraph (b) (and who are not children or step-children of the individual) who live with the individual and have not attained the age of 18;
 - (h) their parents.
- (4) A known close associate of an individual means—
 - (a) an individual known to have joint beneficial ownership of a legal entity or a legal arrangement or any other close business relations with the individual;
 - (b) an individual who has sole beneficial ownership of a legal entity or a legal arrangement which is known to have been set up for the benefit of the individual.

Retention of information

8.—(1) This regulation applies in respect of any material provided to a relevant person by or on behalf of an overseas entity for the purpose of verifying relevant information.

(2) The relevant person must keep copies of the material mentioned in paragraph (1) for the period of five years beginning with the day on which that person verifies the information.

PART 3

Information provided under section 42(1)(c) of the ECTEA

Provision of information under section 42(1)(c)

9.—(1) Subject to paragraph (2), a person who delivers section 42(1)(c) information to the registrar must do so by email.

(2) Paragraph (1) does not apply in respect of information to which the exception in regulation 4 of the Register of Overseas Entities (Delivery, Protection and Trust Services) Regulations 2022 applies.

Publication of section 42(1)(c) information

10.—(1) Subject to paragraph (2), section 4(2)(1)(c) information must be made available for public inspection for a period of no less than two years, following which the registrar may transfer any such information to the Public Record Office.

(2) The registrar must not make any section 42(1)(c) information available for public inspection where that information comprises material of a type described in section 22 of the ECTEA (material unavailable for inspection).

Modification of section 20 of the ECTEA

11. Section 20 of the ECTEA (annotation of the register) applies in respect of section 42(1)(c) information as if—

- (a) for the heading there were substituted “Annotation of section 42(1)(c) information”;
- (b) in subsection (1)—
 - (i) for the words before paragraph (a) there were substituted—

“The registrar may place a note on a document containing section 42(1)(c) information recording”;
 - (ii) for paragraph (a), there were substituted—

“(a) the date on which a document containing section 42(1)(c) information is delivered to the registrar or otherwise in connection with the information”;
- (c) subsections (2) and (6) were omitted;
- (d) in subsection (5), for the words before paragraph (a) there were substituted—

“The exercise of the registrar’s power under subsection (1) with respect to annotation of section 42(1)(c) information is subject to the court’s power under section 31 (power of court on ordering removal of material) to direct”.
- (e) after subsection (5) there were inserted—

“(5A) In this section and sections 28 and 30, “section 42(1)(c) information” is information delivered to the registrar under section 42(1)(c) of this Act (requirement for certain unregistered overseas entities to provide information).”.

Modification of section 28 of the ECTEA

12. Section 28 of the ECTEA (administrative removal of material from register) applies in respect of section 42(1)(c) information provided to the registrar as if—

- (a) for the heading there were substituted “Administrative removal of section 42(1)(c) information from public inspection”;
- (b) in subsection (1) in the words before paragraph (a), for “the register” there were substituted “public inspection”;
- (c) in subsection (2)—
 - (i) at the end of paragraph (a) there were inserted “or”;
 - (ii) paragraph (c) were omitted.

Modification of section 30 of the ECTEA

13. Section 30 of the ECTEA (court order to rectify register) applies in respect of section 42(1)(c) information as if—

- (a) for the heading there were substituted “Court order to remove section 42(1)(c) information from public inspection”;
- (b) in subsection (1)—

- (i) in the words before paragraph (a), for “the register” there were substituted “public inspection”;
- (ii) in the words after paragraph (b), for “the register” there were substituted “public inspection”;
- (c) subsections (2) and (3) were omitted.

29th June 2022

Callanan
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to the register of overseas entities (“the register”) kept by the registrar of companies for England and Wales (“the registrar”) in accordance with Part 1 of the Economic Crime (Transparency and Enforcement) Act 2022 (c. 10) (“the 2022 Act”).

Part 2 of these Regulations makes provision in respect of the verification by a relevant person of certain information pertaining to a person who is or was a registered beneficial owner or managing officer of an overseas entity.

Part 3 of these Regulations makes provision in respect of the provision and processing of information coming within section 42(1)(c) of the 2022 Act.

A full regulatory impact assessment of the effect that the overseas entities register will have on the costs of business and the voluntary sector is available from the Department for Business, Energy and Industrial Strategy, 1 Victoria Street, London SW1H 0ET and is published with the Explanatory Memorandum to this instrument on www.legislation.gov.uk.

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