

A Register of Beneficial Owners of overseas companies and other legal entities

Response from NAEA Propertymark

May 2017

Background

1. NAEA Propertymark (National Association of Estate Agents) is the UK's leading professional body for estate agency personnel; representing more than 10,000 offices from across the UK property sector. These include residential and commercial sales and lettings, property management, business transfer, auctioneering and land.
2. NAEA Propertymark is dedicated to the goal of professionalism and by appointing an NAEA Propertymark agent to represent them consumers will receive in return the highest level of integrity and service for all property matters. NAEA Propertymark agents are bound by a vigorously enforced Code of Practice and adhere to professional Rules of Conduct. Failure to do so can result in heavy financial penalties and possible expulsion from the organisation.

Questions

Objectives, scope and impacts

Question 1: Do you agree that all legal forms that can hold properties should be in the scope of the new register's requirements? If not, what legal forms should we consider an exemption for and why?

1. Yes, we agree that all legal forms that can hold properties should be in the scope of the new register's requirements.

Question 2: Is the suggested definition of leasehold appropriate?

2. Yes, we believe that the suggested definition of leasehold is appropriate.

Question 3: Will setting the leasehold definition at leases over 21 years create any unintended consequences?

3. We are not aware of any unintended consequences.

Question 4: Do you agree that the definition of beneficial owner for the new overseas register should be aligned to the definition of PSC in the PSC regime?

4. Yes, we agree that the definition of beneficial owner for the new overseas register should be aligned to the definition of People with Significant control (PSC) in the PSC regime.

Question 5: Do you agree that entities that are not similar to UK companies limited by shares should use these adaptations to identify their beneficial owners?

5. Yes, we agree that entities that are not similar to UK companies limited by shares should use these adaptations to identify their beneficial owners.

Question 6: Do these adaptations provide sufficient flexibility in the beneficial owner conditions to apply to most legal entities? If not, what additional adaptations should there be?

6. NAEA Propertymark believes that these adaptations do provide sufficient flexibility in the beneficial owner conditions to apply to most legal entities. We think that companies that are held by trusts pose the biggest threat in getting round any loopholes, as the company may only need to confirm the trustee on the register.

Question 7: What methods of raising awareness would be most effective?

7. We believe it is important that solicitors, lenders, banks and estate agents and their relevant professional bodies are aware of the register and how the new rules will affect them. NAEA Propertymark is the UK's leading professional body for estate agency personnel and can help disseminate information.
8. In relation to overseas legal entities we believe that British Chambers of Commerce can also assist in raising awareness.

Question 8: Do you have any information that is relevant to our assessment of the cost and benefits of the policy to businesses, society and the economy?

9. Our members will benefit economically through easier access to information to enable them to establish the beneficial owners of properties marketed for sale.

Question 9: What, if any, impact do you think that the proposed policy will have on the UK property market (residential and commercial)? Please describe the impacts and provide evidence.

10. NAEA Propertymark believes that greater transparency through the register is likely to enhance the UK's reputation as a mature and stable destination for international buyers as well as improving the reputation of the property sector as a whole.
11. Furthermore, we have long held the view that properties allegedly bought with dirty money impacts supply in the housing market as they are unavailable to potential other 'buyers' who really do want a home.

Registering information

Question 10: Do you agree that the duration of the period given to overseas entities to comply with the new requirements should be one year?

12. Yes, we agree that the duration of the period given to overseas entities to comply with the new requirements should be one year.

Question 11: Is a system of statutory restrictions and putting notes on the register, backed up by criminal offences, a comprehensive way to ensure compliance?

13. Yes a system of statutory restrictions and putting notes on the register, backed up by criminal offences are a comprehensive way to ensure compliance as long as companies have direct access to the register and it is kept up-to-date.

Overseas entities buying property after the law comes into force

Question 12: Do you agree that we should prevent any beneficial interest in the property passing to an overseas legal entity that does not have a valid registration number at completion or settlement?

14. Yes, we agree that any beneficial interest in the property should be prevented from passing to an overseas legal entity that does not have a valid registration number completion or settlement.

Question 13: Do you agree that the most appropriate way to do this would be to void the transfer document?

15. We do not have a view on whether the most appropriate way to do this would be to void the transfer document.

Question 14: Is there another way that we could achieve this result?

16. The transaction could be put on hold until the criteria for the register is fulfilled.

Registration - procurement

Question 15: Which is your preferred option for procurement and why?

17. It is not relevant for us to answer this question.

Required Information

Question 16: Do you agree that the information on the new register for overseas entities should be the same as the information required under the PSC regime?

18. Yes, for consistency we agree that the information on the new register for overseas entities should be the same as the information required under the PSC regime.

19. From the Required information we think that 'usually reside' should be defined more clearly in relation to length of time and location as its current use is too vague.

Question 17: Do you agree that entities unable to give information about beneficial owners should be asked to provide information about their managing officers?

20. Yes, we agree that entities unable to give information about beneficial owners should be asked to provide information about their managing officers.

Question 18: Is there any additional information that we should ask for from entities that are unable to give information about their beneficial owners?

21. We do not have any further information to add in order to answer this question.

Keeping the information on the register up-to-date

Question 19: Is a requirement for an update every two years appropriate?

22. The PSC register for UK companies requires information to be updated annually. Therefore it would seem logical that the overseas register follows the same timeframe.

Question 20: Would a criminal offence be an appropriate way of enforcing the requirement to update information?

23. We do not think that a criminal offence would be an appropriate way of enforcing the requirement to update information because how would this be enforced on people based overseas.

Compliance

Question 21: Do our proposals achieve the right balance between ensuring compliance and enabling overseas entities to maintain existing assets?

24. Yes, we believe that the proposals achieve the right balance between ensuring compliance and enabling overseas entities to maintain existing assets.

Question 22: Are these mechanisms enough to deal with situations where bidders provide false beneficial ownership information or do not keep their information up to date?

25. Yes, we believe that the proposals achieve the right balance between ensuring compliance and enabling overseas entities to maintain existing assets.

Protection regime

Question 23: Do you think that this provides the correct balance between protecting individuals from harm and ensuring transparency of how properties are owned?

26. Yes, we do think that it provides the correct balance between protecting individuals from harm and ensuring transparency of how properties are owned.

Question 24: Are there additional situations we should consider where protections should be granted?

27. We believe that this would be a decision for the appropriate enforcement agency.

Question 25: Are there other situations where exemption from putting information on the register should be permitted for entities participating in procurement?

28. It is not relevant for us to answer this question.

Third Party protections

Question 26: How can we best ensure that only legitimate lenders are able to repossess and dispose of a property with a restriction against it?

29. We do not have information available to answer this question.

Question 27: We are interested in views and evidence of other commercial transactions that could be disrupted by the proposed restrictions regime.

30. We do not have information available to answer this question.

Joint Ventures/ Co-Ownership

Question 28: Are there additional third party impacts that should also be addressed?

31. We do not have information available to answer this question.