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Catch me if you can: Gaps in the Register of Overseas Entities

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Executive summary

The Register of Overseas Entities (ROE) was introduced by the government in Spring 2022 with the commitment that it would **"require anonymous foreign owners of UK property to reveal their real identities".**[1] We use data released by Companies House and HM Land Registry to assess to what extent the ROE is currently delivering on this aim. We identify and quantify several major 'gaps' in the scope and operation of the register and make recommendations for how the register could be improved.

Key findings

- **152,000 properties in England & Wales are currently held by overseas entities. For 71% of these properties (109,000 properties), essential information about their beneficial owners remains missing or publicly inaccessible, despite the ROE.**[2] This means that we still cannot know whether sanctioned individuals, money-launderers or other corrupt individuals may be benefiting from these properties.

- **These problems are due to several major gaps in the legislative scope of the ROE, not just non-compliance.** A detailed understanding of each of gap is crucial to devising appropriate legislation to close loopholes and align the operation of the register with the government's public commitments. **We identify five main issues, and quantify their importance:**

    1. **Failures to register –** 10% of all properties known to be held via an overseas entity (15,000 properties) cannot be matched with any record in the ROE using available information. Around 4-7% of properties (2000 to 6000 properties) cannot be matched due to poor data quality resulting in missed matches and out-of-date records. However, around 6-9% of properties (9,000-13,000 properties) appear to be owned by companies that have failed to register in breach of the ROE.
    2. **No beneficial owners** – 10% of overseas entities (relating to 11,000 properties) have not registered any beneficial owners. This is most likely because the entity has no shareholders with at least a 25% shareholding or who exercise control. However, these cases could include non-compliant failures to report beneficial owners that should be registrable. Additionally, 1,800 of overseas entities (relating to 7,300 properties) only report controllers and no one with a beneficial interest, meaning that no actual beneficiaries have been identified.

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[1] UK Government, Policy Paper: Register of Overseas Entities (4th March 2022).
[2] Our analysis reflects the position as of 1st August 2023.

3. **Trusts** – at least 27% of overseas entities (relating to 69,000 properties) are part of a trust structure, meaning that the beneficial owners of the property are not made public. This includes at least 3% of overseas entities (18,000 properties) that are acting as trustees, where trust information is not reported to Companies House. Of these, we estimate that trust information is reported to HMRC for 1,300 properties, but for the remaining 17,000 properties it is currently not reported to any arm of government.
4. **Partnerships –** At least 2% of overseas entities (relating to 2,400 properties) are part of an unincorporated partnership structure. Of these, 85% (relating to 2,000 properties) have at least one partner that is registered as a beneficial owner, but this leaves open that there may be additional 'silent' partners who have not been registered. In the remaining 15% of cases (relating to 400 properties), the overseas entity itself appears to be acting as a partner in an unincorporated partnership.
5. **Corporate beneficial owners** – 34% of overseas entities (relating to 69,000 properties) report at least one corporate beneficial owner, whose individual beneficial owners should be registered elsewhere. Of these, 11% are supposed to be covered by the PSC Register, but this does not currently verify registrations or indicate whether PSCs are acting on behalf of another. In a further 17% of cases where a corporate entity has been registered as beneficial owner (relating to 8,000 properties), there appears to be no valid basis for the registration.

These issues do not sum to 100%, both because there are entities/properties that do not have any problem (that we can identify), and because some entities are problematic on more than one ground. The ratio of entities to properties depends on the characteristics of the entity and so varies across issues.

- **The government argues that the purpose of the ROE is not to reveal the beneficial owners of the *property*, but instead the beneficial owners of the *overseas entity* that holds the property** (who can be different, especially in the case of trusts and unincorporated partnerships). Moreover, the government argues that trust information should not be revealed to be public, but instead only be available to government agencies. On this basis, the ROE does perform better, but **it is still the case that essential information is missing – even for government – for around 38% of overseas entities** that hold titles in England & Wales that should be within the current scope of the ROE (relating to 31% of properties).

Summary and recommendations

- Although the ROE is a major step forwards in tackling corruption and improving transparency of land ownership in the UK, **there is no point building a dam halfway across a river.** The existence of major gaps is threatening the efficacy of the entire register, whether measured against the government's previous statements or current policy position.

- **In its current form, the Economic Crime and Corporate Transparency Bill (ECCTB) will not be sufficient to close these gaps.** Amendments proposed by Lord Agnew and Lord Vaux would close two important gaps, but the government is currently opposing these amendments. Even if they are adopted, several major legislative gaps will remain.

- We make **ten recommendations**, which could be adopted by the government as part of the ECCTB or implemented in subsequent legislation:

    1. Publish the title numbers of the properties held via registered overseas entities so that they can be more reliably matched to data published by HM Land Registry.
    2. Increase the frequency with which updates to information are notified to and published by Companies House and HM Land Registry.
    3. Improve enforcement action against overseas entities that have failed to register or that may have supplied insufficient or inaccurate information, by implementing a programme of targeted and random compliance checks.
    4. Reduce the shareholding threshold needed to trigger identification of a beneficial owner from 25% to 5%.
    5. Require beneficial owners to report the size of their shareholding, so that it is possible to ascertain how much of the total shareholding is unaccounted for.
    6. Publish the information that Companies House holds about trusts, unless covered by the protection regime for vulnerable individuals (as proposed by Lord Agnew).
    7. Require overseas entities to provide trust information to Companies House where they are acting as trustees or nominees.
    8. Require overseas entities or registered beneficial owners acting as partners in unincorporated partnerships to provide partnership information, including details of all of the other partners.
    9. Amend the PSC Register to require nominees and trustees to report on whose behalf they are acting, so that UK entities cannot be used to circumvent the ROE (as proposed by Lord Vaux). Ideally, full trust information should be provided as well.
    10. Require overseas entities to specify the statutory ground on which a corporate entity is entitled to be registered as a beneficial owner.

Introduction

> "What we are bringing forward now is the exposure of the ownership of properties in London, and across the whole of the UK, in a way that has not been possible before ... [These measures will] whip aside the veil of anonymity of those who own assets in this country."[3]
>
> The Prime Minister, 2nd March 2022

The Register of Overseas Entities (ROE) was introduced by the Economic Crime (Transparency and Enforcement) Act 2022 (ECA2022) in March 2022, with a commitment by the government that it would "require anonymous foreign owners of UK property to reveal their real identities to ensure criminals cannot hide behind secretive chains of shell companies, setting a global standard for transparency."[4] In this paper, we analyse to what extent the register is delivering on this aim, and how it could be improved.

Although the ROE originated at the London 2016 Anti-Corruption Summit,[5] the trigger for its introduction in Parliament was Russia's invasion of Ukraine in 2022. At that time, the explicit imperative was to provide information about the real owners of UK property needed to freeze assets held by those connected with the war.[6] This short-term goal was coupled with a more longstanding "widespread concern ... about the lack of transparency around who ultimately owns land in the UK, where the land is registered to an overseas company or other entity."[7] It also followed from the creation of the Persons of Significant Control (PSC) Register for UK entities, which had been implemented in 2016.

The ROE became operational in August 2022, with a deadline for registrations on 31st January 2023. It is a major step forwards in tackling corruption and improving transparency of land ownership in the UK. In many respects, the register is world leading. Once the impetus of the war in Ukraine had arrived, the register was legislated and implemented with impressive speed. However, journalists and civil society organisations have raised concerns that – despite the ROE – many individuals with links to corruption have still been able to hide their ownership of UK property using overseas entities.

The earliest investigation into overseas ownership of UK land was published by Private Eye in 2015,[8] the year before the government's commitment to (what became) the ROE. Since then, there have been several major investigations into hidden land

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[3] Hansard, Wednesday 2 March 2022.
[4] UK Government, 'Policy Paper: The Register of Overseas Entities' 4th March 2022.
[5] UK Government, Anti-Corruption Summit London 2016: UK Country Statement, 12th May 2016.
[6] Hansard, Thursday 24 February 2022, the Prime Minister: "oligarchs in London will have nowhere to hide".
[7] ECA2022, Bill 262 EN 2021-22, Explanatory Notes, Para 2.
[8] Private Eye (2015) Selling England (and Wales) by the pound: map and special report.

ownership in the UK by journalists,[9] as well as an emerging academic literature.[10] Since the ROE became fully operational, data from the public register has been widely used by journalists, academics, NGOs and the public.[11]

In February 2023, Transparency International UK (TIUK) drew attention to several problems with the scope and enforcement of the ROE.[12] The existence of major gaps has the potential to severely threaten the efficacy of the register. Whilst some individuals will fall innocently outside the scope of existing legislation, it is also a certainty that any gaps will have been actively exploited by those with corrupt intent. Furthermore, those who manage to keep their names off the published register – despite reporting to Companies House – are not randomly selected; this severely limits the current register's usefulness for transparency and analysis purposes.

In this paper, we provide new analysis of the ROE using data published by Companies House (under the ROE itself) and HM Land Registry, together with data from BVD Orbis. Our approach combines detailed technical scrutiny of the legislative framework of the ROE with quantitative analysis of the available data on how the ROE is operating in practice. The Economic Crime and Corporate Transparency Bill (ECCTB), which is currently going through Parliament, includes new measures that will reform the ROE. Now is therefore a crucial moment to take stock of how the current register is performing, and whether the proposed changes go far enough.

We start by defining what we mean by a 'gap' in the register. We then explain and quantify five main gaps, including: (1) failures to register; (2) entities reporting no beneficial owners; the use of (3) trusts and (4) unincorporated partnerships, which hide beneficial owners from the public (and sometimes also from government); and (5) corporate beneficial owners whose ultimate owners should be registered elsewhere, but where adequate information is unavailable in practice. Finally, we draw on these findings to make ten recommendations for how the ROE could be improved via reforms to the existing legislation.

How we define 'gaps'

Our primary benchmark for defining 'gaps' in the ROE is whether information about all of the beneficial owners of the property (held by an overseas entity and located in England or Wales) is publicly accessible. There are three key components to this definition: (1) beneficial owners; (2) of the property; (3) publicly accessible. In each case, we argue that our focus reflects the policy intent articulated in the government's official statements during the passage of the ECA2022 (which created

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[9] E.g. Shrubsole (2020); Bullough (2022).
[10] Sá (2016); Bomare & Herry (2022); Johannesen, Miethe & Weishaar (2022); Bourne, Ingianni & McKenzie (2023).
[11] E.g. Collin, Hollenbach & Szakonyi (2023); Open Ownership (2023); BBC, UK property register: What three luxury homes reveal about who owns UK real estate; Guardian, UK for sale: how the wealthy hold British property via offshore firms.
[12] Transparency International UK (2023) 'Through the Keyhole: Emerging insights from the UK's register of overseas entities.'

the ROE) through Parliament. However, even if one were to disagree on this issue as a matter of historical interpretation, we also explain why we think these are the goals that the government *should* be seeking to achieve, now.

Beneficial interest

We define a 'beneficial owner' as an *individual* who is entitled to *benefit* from an asset – for example to use it, derive income from it, and/or receive the proceeds if sold – whether or not they have control over it. Under the ROE (which was modelled directly on the PSC Register, in this respect), the test for beneficial ownership may be satisfied by *either* benefit *or* control.[13] Condition 1 applies to shareholdings in or rights to a share of the profits or capital of an entity, without any control requirement. Conditions 2-5 all broadly apply to the exercise of significant influence or control over the entity, without any benefit requirement. We welcome the plurality of this test, but our primary focus is on benefit. This means that where an individual has *only* the right to significant influence or control, but no rights to benefit, we do not count them as a *beneficial* owner in our analysis.

This choice does not have any implications where a registered beneficial owner has rights to both control and benefit. Nor does it have any implications where at least one registered beneficial owner has a right to benefit, even if there are others with the right to control. However, where an overseas entity *only* registers beneficial owners that have rights to control without any rights to benefit, we treat it as having not disclosed any valid beneficiaries. We think that this approach reflects the primary purposes of the ROE, as articulated in the explanatory notes to the legislation: "(1) To prevent and combat the use of land in the UK by overseas entities as a means to launder money or invest illicit funds; and (2) To increase transparency and public trust in overseas entities engaged in land ownership in the UK."[14] Where an overseas entity has reported no one who actually stands to benefit from the entity (let alone the property), we find it hard to see how either of these aims could be fulfilled.

In the property

Our focus is on the beneficial owner of the *property*, not the beneficial owner of the overseas entity, if different. In straightforward ownership structures, these amount to the same thing. However, where trusts or unincorporated partnerships (or other equivalent arrangements) are in play, they can come apart.[15] The most prominent official statements about the ROE, given immediately prior to its passage through Parliament, strongly suggested that its ultimate aim was to reveal the beneficial owners of the *properties* held by the overseas entities. In the introduction we already

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[13] Para 6, Schedule 2, ECA2022 (ROE); Part 1, Schedule 1A, Companies Act 2006 (PSC Register).
[14] ECA2022, Bill 262 EN 2021-22, Explanatory Notes, Para 6.
[15] Contra ECA2022, Bill 262 EN 2021-22, Explanatory Notes, Para 2: "It is therefore not clear who really owns and controls the entity and, *by extension*, the land itself" (emphasis added). This does not follow, and the error indicates that the importance of the distinction may not always have been fully appreciated. This impression is reinforced by the fact that trusts information was not required under the original draft legislation (

quoted the Prime Minister on the day after the ROE was formally introduced in Parliament, and the government's official policy paper published two days after that: they refer explicitly to revealing "the ownership of *properties* in London" and "owners of UK *property*".[16] Likewise, the explanatory notes to the ECA2022 specify that the ROE is motivated by the "widespread concern expressed about the lack of transparency around *who ultimately owns land in the UK*".[17]

In the other direction, during the passage of the ECA2022 through the House of Lords, Lord Callanan (minister responsible for the ROE) took a different tact, arguing that "There may be a wider policy debate to be had about capturing ultimate economic beneficiaries of land, but this register, focused as it is on overseas entities and not on land held by individuals or UK companies, would not be the appropriate vehicle."[18] However, this statement is ambiguous since it was also preceded by the remark that "If [law enforcement] cannot obtain information about the entity itself, they will almost certainly never be able to identify any ultimate economic beneficiary of the land", again suggesting that revealing the beneficial owner of the land was – if not the sole purpose of the ROE – at least one of the important purposes. In any case, we do not think that Lord Callanan's view achieved the same prominence as the official statements that we have highlighted above.

One may also consider briefly statements made about the ROE prior to 2022. In our view, these go both ways. It is certainly true that the first official announcement of (what became) the ROE in 2016, was for a "register of *company* beneficial ownership information for foreign companies who already own or buy property in the UK".[19] On the other hand, there are plenty of statements throughout the period 2017-2021 that explicitly referenced the importance of the register for uncovering the ownership of UK property, specifically.[20] In the end, however, we would not give any statements from this earlier period very much weight, given that they were under a different government and very different global conditions. Policy intentions can evolve over time, or even change suddenly as a result of events. The Russian invasion of Ukraine clearly increased the importance of identifying the owners of UK property, whatever may have been the government's position beforehand.

In any case, what *should* the purpose of the ROE be now? In our view, there are a multitude of reasons to care about who beneficially owns UK property, but very few (if any) to care about who owns overseas entities, *for their own sake*. In certain other contexts – for example the Cameron government's original idea of a register for overseas entities "who bid on UK central government contracts" – we can see why

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[16] Hansard, Wednesday 2 March 2022; UK Government, 'Policy Paper: The Register of Overseas Entities' 4th March 2022.
[17] ECA2022, Bill 262 EN 2021-22, Explanatory Notes, Para 2.
[18] Hansard, Monday 14 March 2022.
[19] UK Government, Anti-Corruption Summit London 2016: UK Country Statement, 12th May 2016.
[20] See e.g. Call for Evidence, April 2017, p10: "use of offshore corporate vehicles to obscure the true owners of UK property"; "cases where tenants do not know who truly owns the property they are renting". See also March 2021 Economic Crime Plan, 2019 to 2022: "Action 44: Enhance transparency of overseas ownership of UK property".

ownership of the overseas entity would have independent importance. But where the only relevance of the overseas entity is the fact that it holds UK property, it is hard to see why information about the overseas entity and its owners that tells us *nothing* about the UK property, is of any use. A different and broader question is why we should care about who *beneficially* owns UK property only when it is held via an overseas entity.[21] However, fixing the scope of the ROE in this way does not mean that we must only be interested in the ownership of the overseas entity itself.

Publicly accessible

Our test is whether the information about the beneficial owners of the property is *publicly accessible*. The majority of information collected by Companies House under the ROE is made freely available to search via its website or to download in bulk (as we have done for this paper). However, there are some types of information that are automatically withheld from public access and are only shared with specified other government agencies (such as HMRC) and law enforcement.[22] At present, all information supplied about trusts is automatically withheld,[23] except for the statement that a registered beneficial owner is acting as a trustee. Additionally, there is a protection regime that applies (on application) to any individual who "would be at serious risk of being subjected to violence or intimidation" if information about them was made public.[24]

We think that, whilst not inexorable, public access to the essential information needed to identify the beneficial owners of the property should be a strong default. This follows from the stated purpose of the ROE to "increase transparency and public trust in overseas entities engaged in land ownership in the UK",[25] or as the Prime Minister put it, "to whip aside the veil of anonymity".[26] In this context, we also interpret the government's commitment to "require anonymous foreign owners of UK property to reveal their real identities" as meaning to reveal to the public, and not merely within government.[27] In practice, the only major area in which the withholding of information from public access under the ROE is controversial is in relation to trusts. This issue is discussed in detail below.

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[21] To some extent, Part 11 of the Levelling Up Bill seeks to address this.
[22] Section 22, ECA2022.
[23] Section 22(1)(c), ECA2022.
[24] Section 25, ECA2022; Part 3, The Register of Overseas Entities (Delivery, Protection and Trust Services) Regulations 2022. In practice, there currently appear to be fewer than 30 cases in which this regime has been applied.
[25] ECA2022, Bill 262 EN 2021-22, Explanatory Notes, Para 6.
[26] Hansard, Wednesday 2 March 2022.
[27] Hansard, Wednesday 2 March 2022; UK Government, 'Policy Paper: The Register of Overseas Entities' 4th March 2022.

Gap 1: Failures to register

The Overseas Companies Ownership Dataset (OCOD), published by HM Land Registry Data, provides a list of all titles in England & Wales that are known to have at least one registered owner ('proprietor') that is an overseas entity.[28] The ROE requires that any overseas entity that owns a title acquired after 1st January 1999 must register with Companies House to provide details of its beneficial owners.

The number of registered overseas entities has steadily increased from 19,790 on 1st February 2023 - the day after the deadline for registrations closed - to 28,897 in the most recently available data from Companies House.[29] However, we find that there are still 5,500 proprietors that are listed in OCOD – meaning that they own at least one title in England or Wales – but which cannot be matched with any of the overseas entities registered at Companies House. This means that there is no beneficial ownership information available for these entities. At the title level, there are 11,600 titles in OCOD that have no matched proprietors at all, and an additional 200 titles with at least one unmatched proprietor.

One might initially assume that *all* of these unmatched proprietors represent cases of non-compliance with the ROE i.e. failures to register by entities that are legally obliged to do so. However, there are at least three other major reasons why an overseas proprietor listed in OCOD may not be successfully matched to any entity registered at Companies House:[30] first, titles acquired pre-1999; second, poor data quality leading to missed matches; and third, out-of-date information provided by HM Land Registry in OCOD.

Titles acquired before 1999

Prior to 1st January 1999, entities applying to register their ownership of titles in England and Wales were not required to provide information about the jurisdiction where they were incorporated. Consequently, HM Land Registry lacks a comprehensive record of titles acquired by overseas entities before this date. Under the ECA2022 (which implemented the ROE), overseas entities that became a registered proprietor before 1st January 1999 are exempted from the requirement to register. This was essentially on the basis that HM Land Registry lacks the information needed to reliably enforce such a requirement.

In practice, we find that there are 1,900 titles (linked to 300 proprietors) listed in OCOD for which the 'date proprietor added' is prior to 1st January 1999. Although the true number of old registrations is likely to be higher, this indicates that there

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[28] A title can have up to 4 registered proprietors. Proprietors that are not overseas entities (e.g. individuals or UK entities) are removed from the dataset.

[29] The most recently available 'bulk' data was published on 1st August 2023. The number of registered overseas entities returned via the Companies House online search was 28,953 on 31st August 2023.

[30] Additionally, Companies House informs us that in some cases the overseas proprietor may have been dissolved without having disposed of the land, and hence has not registered with Companies House. We are unable to quantify the extent of this issue.

are some cases where a proprietor has been identified by HM Land Registry (and included in OCOD) despite having acquired the title before the cut-off date of 1st January 1999 that was subsequently adopted for the ROE. It follows that, although these proprietors are not matched with any registered overseas entity in Companies House data, this does not indicate that they are non-compliant, since they are simply outside the scope of the ROE.

Whilst recognising the practical challenges of enforcement, given the lack of information currently held by HM Land Registry, we think that overseas entities that acquired titles prior to 1st January 1999 ought to be brought within the scope of the ROE registration requirement. Enforcement still ought to be possible at the point when the overseas entity (eventually) attempts to dispose of the title, and such measures could include penalties accruing from the earliest instance of failure to register, which would serve as a significant deterrent. To further assist enforcement, HM Land Registry could commission further analysis of its Commercial and Corporate Ownership Data (CCOD) in order to identify acquisitions by overseas entities prior to 1999.

Out of date information

In some cases, HM Land Registry may still list titles as being owned by an overseas entity in OCOD, even though in fact the overseas entity has already disposed of the land. Although all overseas entities that owned a qualifying estate anywhere in the UK on 28th February 2022 are required to provide a statement to Companies House even if they subsequently disposed of all of the land prior to the initial deadline for registrations (31st January 2023),[31] these statements have not been included in published data. We understand from Companies House that there are approximately 800 such entities in total, although without also knowing their names, we are unable to say how many of these remain (erroneously) listed in OCOD.

A converse problem (although this does not affect matching) concerns out-of-date information held by Companies House. Under Section 7 ECA2022, registered overseas entities are only required to file an update statement notifying any changes to required information every 12 months. This means that where new beneficial owners have been added shortly after the last filing, it could be almost a full year before the updated information is published. In the meantime, the land could have been sold without the buyer or anyone else having been aware of the new owner. We recommend that additional updates should therefore be required outside the regular 12-month cycle, where new beneficial owners have become registrable.[32]

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[31] Section 42 ECA2022; Q7 Part1 Form OE01.

[32] This follows the intention underlying Lord Vaux's amendment no115 to the ECCTB.

Missed matches

Currently, the data provided by Companies House on registered overseas entities, and the data provided by HM Land Registry on titles owned by overseas entities (OCOD) do not share common identifiers. Consequently, the only way to link registered overseas entities with titles is based on the 'company name' field that is included in both datasets. Since a single company may be named in slightly different ways (or with typos) in each dataset, a process of 'fuzzy matching' is required. Inevitably, this leads to some missed matches.

For two main reasons, it is also not possible to interpret all of the unmatched registered overseas entities in Companies House data as missed matches. First, overseas entities that own titles in Scotland and Northern Ireland are required to register under ROE, but they will not have any matching entry in OCOD, since this dataset only covers England and Wales. Around 1000 registered overseas entities own titles only in Scotland.[33] The number for Northern Ireland is unknown, since their Land Registry does not publish any equivalent of OCOD. Second, overseas entities are permitted to register with Companies House pre-emptively in anticipation of buying a property where the transaction has not yet completed. We do not have any estimate of how many such entities have registered.

These issues make it difficult to precisely estimate the rate of missed matches using our matching algorithm. However, to provide some indication, we took a random sample of 100 unmatched proprietors in OCOD (having already excluded titles acquired before 1999), and attempted matching using manual methods based on the company name, country of incorporation and other information available in OCOD and at Companies House. Using this approach, we successfully obtained matches for 13 proprietors in our sample. A central estimate for the total number of missed matches in the full population of unmatched proprietors (excluding those only owning titles registered before 1st January 1999) is around 700 (between 400 and 1,100 at 95% confidence interval).

For Companies House, the problem of missed matches will soon be resolved by Section 155 of the Economic Crime (Corporate Transparency) Bill (ECCTB), which requires overseas entities to report the title numbers of the titles that they own. This is a welcome step to ensure that Companies House can match their own data with HM Land Registry records effectively. However, under current plans, these title numbers will be withheld from the public register.[34] This amounts to unnecessary and ineffective 'security by obscurity': HM Land Registry already publishes title numbers in OCOD, so these will not actually be protected from anyone matching Companies House records manually; it will just make analysis harder for researchers and civil society groups to do at scale.

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[33] This figure is based on Companies House analysis using the Country of Origin Company Report dataset (COCR), which is Scotland's equivalent of OCOD.
[34] Section 166 ECCTB.

Failures to register

To estimate a lower bound for the number of non-compliant failures to register under the ROE, we start with the 5,500 proprietors that we find listed in OCOD that we were unable to match with any of the overseas entities registered at Companies House. We then subtract the 300 proprietors that are listed in OCOD as owning titles acquired before 1999, since these are not currently required to register. We then further subtract the 800 overseas entities that have disposed of all titles since 28th February 2022, assuming that none of these records have yet been updated by HM Land Registry in OCOD. Finally, we subtract 1,100 proprietors as our upper-bound estimate of the number of missed matches using our algorithm but which are in fact registered at Companies House, based on manual matching of our random sample.

This approach yields an estimated total of at least 3,400 overseas entities that have failed to register under the ROE despite being legally required to do so, equating to 12% of all overseas entities owning titles in England and Wales. As an upper bound, assuming that there are zero out-of-date records in OCOD and that our algorithm only misses 300 true matches, there could be as many as 4,900 overseas entities that have failed to register (17% of all overseas entities). Unless there are other *major* sources of failed matches that we have not accounted for at all, the true rate of failures to register is highly likely to fall within this 12%-17% range.

This analysis demonstrates that failures to register are currently a major problem. It may also be suggestive of wider risks of non-compliance such as false or incomplete reporting.[35] Under the powers created by Sections 32-29 of ECA2022, Companies House and HM Land Registry have a suite of enforcement measures at their disposal including criminal sanctions, financial penalties, and the ability to 'freeze' land registrations to prevent disposals of affected titles. Companies House has published guidance on how it intends to use its powers where non-compliance has been identified.[36] However, it is currently less clear what strategies Companies House is using to detect non-compliance in the first place; this is a pre-requisite to enforcement and also an important contributor to the deterrence effect.

We recognise that Companies House must operate within resourcing constraints and is also responsible for enforcement of other major new initiatives such as the Persons of Significant Control (PSC) Register, as well as more longstanding filing obligations. We are therefore realistic that the approach to detecting non-compliance cannot involve manual checks by Companies House on 100% of filings that are made (or should have been made) by an overseas entity. Instead, Companies House should think of itself less like HM Passport Office and more like

[35] Due to the nature of data that is available to us, we are unable to provide any direct estimate of the extent of these other forms of non-compliance.
[36] Companies House, 'Guidance: Register of Overseas Entities: approach to enforcement' 6th July 2023.

HM Revenue and Customs (HMRC). In particular, we recommend development of a programme of targeted and random compliance-checks, learning from the approach to tax compliance adopted by HMRC. This would allow Companies House to target its resources using a risk-based approach and (separately) to obtain representative evidence of non-compliance across the full population.[37]

Gap 2: No beneficial owners

Out of all of the overseas entities that are registered at Companies House and are matched to titles in England and Wales,[38] a substantial share has not reported any beneficial owners. These cases fall into three main categories: (1) those where no registrable beneficial owners have been identified; (2) those where the only registered beneficial owners are individuals or entities with significant influence or control but which do not have any significant *beneficial* interest in the entity; and (3) a minority of cases where some beneficial owners have been reported but there are others who should be registrable but are nevertheless missing.

No registered beneficial owners

First, 2,300 overseas entities (relating to 10,600 properties) do not report any registrable beneficial owners. Of these, the majority (86%) stated on their registration that that "no beneficial owners have been identified".[39] This statement is permitted under Section 4(2) ECA2022 where the entity "has no reasonable cause to believe that it has any registrable beneficial owners".[40] It will apply where there is no individual or entity that meets any of the statutory definitions of a beneficial owner, in relation to the overseas entity.[41] It could, however, also be submitted where there *are* in fact individuals or entities that meet the criteria, but the overseas entity has failed to identify them.

Information provided by the overseas entity to Companies House must be verified by a UK regulated professional. This process includes verification of required information about the overseas entity itself, and of any registrable beneficial owners that have been identified. However, it does *not* extend to verifying the statement that the overseas entity has no reasonable cause to believe that it has

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[37] Such audits could also be used to begin to develop 'compliance gap' analysis following the model implemented by HMRC in its annual 'Measuring Tax Gaps' publication.
[38] Hereafter, all references to 'overseas entities' mean registered overseas entities that have been matched to at least one title.
[39] Q2 Part2 Form OE01. Conversely, 17 overseas entities made this statement despite having in fact reported at least one registrable beneficial owner: these appear to be reporting errors.
[40] Section 12 ECA2022 requires that the entity must take 'reasonable steps' to identify any registrable beneficial owners, including giving an information notice to any person that it has reasonable cause to believe is a registrable beneficial owner.
[41] Para 6, Schedule 2, EC(TE)A2022. Broadly, these definitions mirror the conditions for identifying 'persons of significant control' under the Companies Act 2006.

any registrable beneficial owners.[42] Kiepe and Townsend review the verification process in detail and conclude they are effective at checking identities but not 'status'.[43] Accordingly, there is scope for non-compliance by entities stating that they have no beneficial owners without reasonable cause to do so.

Notwithstanding this concern about compliance, an overseas entity may legitimately report no beneficial owners where it has no shareholders that hold (directly or indirectly) more than 25% of the shares, and there is no other person that has significant influence or control over the entity. In other words, provided that the overseas entity has at least 5 shareholders, it can be the case that none of them meet the shareholding threshold for registration.[44] This 25% threshold is the same as the current level for shareholders of UK entities under the Persons of Significant Control (PSC) Register.[45]

If shares in the overseas entity are traded on a regulated market, then it may still be possible to identify its major shareholders. FCA rules require that any person with at least a 3% shareholding in a UK-listed company (5% for non-UK issuers) must notify the company,[46] which in turn must make this information publicly available.[47] However, there is no centralised and free-to-use register, so in practice such information is cumbersome and/or expensive to access, especially in bulk. In any case, we find that only 1% of the overseas entities that reported no registered beneficial owners (31 entities) are listed on a regulated market.[48]

This leaves 2,300 overseas entities (relating to 10,500 properties) that report no registrable beneficial owners and for which – in almost all cases in practice – no other public source of information about their shareholders exists. Where the entity owns very valuable property, the market value of an individual shareholder's beneficial entitlement could still be extremely high, despite their percentage shareholding remaining below the 25% threshold. In extremis, consider for example a syndicate of 5 sanctioned oligarchs who each own a 20% stake in an overseas entity, which in turn owns a portfolio of prime London properties: under current legislation, none of them would be registrable.

We recommend that the shareholding threshold for registering beneficial owners under the ROE should be significantly reduced, from its current level of 25% down

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[42] Regulation 5(2), The Register of Overseas Entities (Verification and Provision of Information) Regulations 2022. See also [DBT, Guidance for the Registration of Overseas Entities (August 2023)].
[43] [Kiepe & Townsend (2022)].
[44] Para 6, Schedule 2 ECA2022.
[45] Schedule 1A, Companies Act 2006.
[46] FCA Disclosure Guidance and Transparency Rules Sourcebook, Chapter 5 (DTR 5). These rules are derived from EU Directive 2004/109/EC and hence similar rules apply to companies listed in other EU regulated markets.
[47] DTR 6.3.
[48] This is obtained by linking registered overseas entities to BVD Orbis – a global database of company information – by matching on name. Orbis enables us to filter listed companies by their Market Identifier Code (MIC) to align with the statutory list of qualifying regulated markets.

to 5%.[49] This would place all overseas entities covered by the ROE on the same footing as companies traded on a regulated market. Although this would not entirely prevent circumstances where shareholdings with high market values went unreported, it would significantly increase the number of shareholders required to keep all shareholders unreported (from 5 individuals to more than 20) which in practical terms would make any fragmentation strategy much more difficult.

No actual beneficiaries

Second, there are additionally 1,800 overseas entities (relating to 7,300 properties) where all of the registered beneficial owners are 'controllers' rather than major shareholders. In other words, none of the registered beneficial owners state that they meet Condition 1 (i.e. >25% shareholding) but instead only report meeting one or more of Conditions 2-5, which all relate the concept of significant influence or control over the activities of the entity (or a related trust or partnership). There is nothing inherently problematic about this: indeed, it is a good thing that the conditions extend to control *as well as* benefit.

However, where an overseas entity reports *only* controllers, the implication is that there must still be other individuals or entities that hold a *beneficial* interest in the overseas entity, that have not been reported. If none of them have a shareholding above 25%, then the legislative gap raised by these instances is the same as for the preceding case. Alternatively, if in practice reporting controllers provides convenient cover for failures to report registrable beneficiaries, then this could be exploited by bad actors as a means of circumventing the verification process. We would recommend oversampling overseas entities that report only controllers when conducting compliance checks.

Missing beneficial owners

In addition to cases where no beneficial owners or only controllers have been reported, 150 overseas entities (relating to 1,300 properties) report having identified only *some* of their beneficial owners.[50] Again, this statement is permitted under Section 4(2) ECA2022 where the entity "has reasonable cause to believe that there is at least one registrable beneficial owner that it has not identified". Although under the current legislation an overseas entity could legitimately reach this conclusion, it seems difficult to envisage circumstances in which an entity is aware of the existence of major shareholders or controllers but is unable to provide *any* substantive information about them. These cases ought to be targets for compliance checks.

A further difficulty for Companies House when checking compliance with the conditions for registering beneficial owners, is that there is currently no

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[49] Para 25, Schedule 2 ECA2022 already empowers the government to make regulations adjusting this threshold, so no additional primary legislation would be required.
[50] Q2 Part2 Form OE01, boxes 3 and 4.

requirement for overseas entities to report the *size* of shareholding held by its registrable beneficial owners. By contrast, under the PSC Register, UK entities are required to report the shareholding percentage, albeit only in wide bands of 25-50%, 50-75% or >75%. Without such information, it is impossible to know whether the combined shareholdings of all registered beneficial owners totals anything close to 100%. We recommend that beneficial owners who meet Conditions 1 or 2 (based on percentage shareholding) should be required to state the exact percentage, or at least within suitably narrow bands.

Gap 3: Trusts

The concept of a trust is alien to most people (even some lawyers); consequently, it requires some initial explanation.

Normally, the owner of property has the power to manage it (e.g. to control how it is used or invested, whether it is sold etc) *and* the right to benefit from it (e.g. to use it, derive income from it, or receive the proceeds if sold etc). A trust effectively separates these two aspects of ownership so that they can reside in different individuals or entities. In short, under a trust, the person who manages the property (the 'trustee') can be different from the person who benefits from it (the 'beneficiary'). Furthermore, trustees are often professionals, acting under instructions given to them by the individual who set up the trust (the 'settlor'), rather than having any personal connection to the other trust parties.

Typically, the beneficiaries under a trust have no powers to manage the trust property unless/until the capital is distributed to them, and they may not even be identified with precision until this time. Likewise, they will often have no control over the trust itself: for example, over when or whether they become entitled to distributions of income or capital. But the beneficiary under the trust is still (by definition) the one who stands to benefit from the trust property. Frequently, the identity of the trustees is a matter of pure administrative convenience (often for tax and/or regulatory purposes) and knowing the identity of the trustee's shareholders – if a corporate trustee – tells us nothing about who stands to benefit from the trust property itself.

An overseas entity can be part of a trust structure either where it is *itself* acting as a trustee (i.e. holding the UK property on trust for the benefit of another), or where it is *owned by* an individual or entity that is acting as a trustee (i.e. holding the shares in the overseas entity on trust for the benefit of another). From the perspective of the beneficiaries under the trust, these two cases are essentially similar: in both cases, they stand to benefit from the UK property, either directly (if the overseas entity is itself a trustee) or indirectly via the shareholding in the overseas entity (where the entity is owned by a trustee). However, for reporting purposes, these two situations are treated very differently.

Where the overseas entity is *owned by* a trustee, information about the trust may (although not always, under current legislation)[51] need to be provided to Companies House under the ROE. By contrast, where the overseas entity is *itself* acting as a trustee, this trust information is entirely outside the scope of the ROE.[52] Instead, similar but different information about the trust may potentially (if the title was acquired after 5th October 2020)[53] need to be provided to HMRC, under the Trusts Registration Service (TRS). The result is a messy overlap of regimes, neither of which is comprehensive even within its own sphere.

The following sub-sections explain and quantify (where possible) three key types of case involving trust structures: (1) where the overseas entity is owned by a trustee, and the trustee meets one of the criteria for registering as a beneficial owner; this will typically occur where the trustee is an individual, or where it is a corporate trustee providing regulated overseas trust services; (2) where the overseas entity is owned by a trustee that is *not* required to register as a beneficial owner; this will typically be where a corporate trustee is incorporated overseas but is unregulated; and (3) where the overseas entity is itself acting as a trustee.

Registered beneficial owner is a trustee

First, are cases where the overseas entity is owned by a trustee, and the trustee meets one of the criteria for registering as a beneficial owner. Both individual and corporate trustees can be registered beneficial owners. Corporate trustees – companies that manage trust assets on behalf of the beneficiaries – may be reported as registered beneficial owners for one of three reasons: (i) they are a UK company or other legal entity within the scope of the PSC Register;[54] (ii) they are company that is listed on a regulated market;[55] or (iii) they are providing regulated overseas trust services.[56] In all such cases, the overseas entity is required to state that the registered beneficial owner is acting as a trustee,[57] and this information is publicly available.

We find that 5,800 overseas entities (relating to 54,000 properties) have at least one registered beneficial owner that is acting as a trustee. Of these, 5,200 entities had at least one corporate trustee, compared with 1,000 that report being owned

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[51] See ‘Overseas entity is owned by an unregulated trustee’, below.
[52] The logic for this exclusion, according to the ROE’s architects, is that the fact the overseas entity is holding the UK property on behalf of someone else is irrelevant to the ownership of the entity itself.
[53] See further ‘Overseas entity is owned by an unregulated trustee’, below.
[54] Para7(1)(a) Schedule 2 ECA2022.
[55] Para7(1)(b) Schedule 2 ECA2022. The market must be a qualifying market in the UK, EU/EEA, USA, Japan, Switzerland or Israel.
[56] Reg 14, The Register of Overseas Entities (Delivery, Protection and Trust Services) Regulations 2022 (ROE(DPTS) Regulations 2022).
[57] Q6 Part5 OE01 (individuals); Q8 Part6 OE01 (other legal entities).

by at least one individual trustee.[58] In these cases, the overseas entity must provide 'trust information' to Companies House,[59] including the verified identities of all of the parties to the trust, including the beneficiaries and settlor. However, under current legislation, a major drawback is that this information is withheld from the public, with no prospect of applying for access.[60] The information collected by Companies House is shared only with HMRC and law enforcement. Any journalist, researcher, or member of the public wishing to find out who owns the overseas entity will hit a brick wall ending at the trustee.

As already highlighted, individuals or firms acting as trustees are often professionals with no personal connection to any of the other trust parties. Knowing their identity tells us precisely *nothing* about who benefits from the entity, or where the assets that were used to purchase it came from. This is in sharp contrast to 'regular' registered beneficial owners under the ROE, who – in virtue of holding shares in their own capacity – stand to benefit from the overseas entity and typically provided the funds for it as well. Non-trustees have no equivalent right to privacy: their name, month and year of birth, and nationality is publicly available.

The government has argued that trust information is special because "most trusts are family affairs, and many are set up for minors or other vulnerable people".[61] But there is currently no general exemption from public access for 'regular' registered beneficial owners who are minors, or for those whose ownership of the overseas entity is part of a family arrangement. Section 25 ECA2022 empowers the government to make regulations for protecting the information of any registered beneficial owner that meets specified criteria. In line with the transparency objective of the ROE, the criteria that the government have chosen are (rightly) narrow, covering only those who 'would be at serious risk of being subjected to violence or intimidation' if the information were public.[62] It is open to the government to widen this test – for all registrable beneficial owners – if it wishes. But it is not clear why trust beneficiaries and settlors *as a class* should automatically receive special treatment.

The amendment to the ECCTB proposed by Lord Agnew would remove trust information from the list of automatically protected information.[63] The existing protection regime for vulnerable individuals could be extended to apply to the parties to a trust as well as to other registered beneficial owners.[64] Trust

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[58] These do not sum to the total number of overseas entities with at least one registered beneficial owner acting as a trustee (individual or corporate) because some entities could be owned by a mix of individual and corporate trustees.
[59] Para8, Schedule 1 ECA2022.
[60] Section 22(1)(c) ECA2022.
[61] Lord Johnson, Hansard Vol 831, 20th June 2023.
[62] Reg 7(2)(a), The Register of Overseas Entities (Delivery, Protection and Trust Services) Regulations 2022.
[63] Lords amendment 117, deleting Section 22(1)(c) ECA2022.
[64] Doing so would require an amendment to Section 25 ECA2022, which currently only applies to the registrable beneficial owners or managing officers of an overseas entity.

beneficiaries and settlors would then be placed on the same footing as any other 'regular' registered beneficial owner: protected if they are genuinely vulnerable, but not otherwise. The government's current plan to consult on a bespoke regime for access to trusts information on application, does not achieve this level playing field. It also does not provide sufficient assurance that trusts information will be accessible in bulk rather than merely on a case-by-case basis, which is essential for systemic analysis of corruption risks by researchers and civil society organisations.

Overseas entity is owned by an unregulated trustee

Second, are cases where the overseas entity is owned by an unregulated overseas corporate trustee. Typically, this is where the settlor has chosen to appoint a private rather than professional trust company to manage the trust assets. The lack of any regulatory oversight of the trust makes such arrangements inherently riskier from the perspective of money-laundering and corruption, and yet at present, information about the trust falls outside the scope of the ROE altogether. Since the corporate trustee is not registrable as a beneficial owner,[65] the overseas entity is directed to 'look through' the trustee for the purpose of reporting its beneficial owners. This means that there is no trigger to provide trust information to Companies House, or even to declare the existence of any trust structure.

Although the overseas entity must look through the trustee, it is directed to provide information about the shareholders of the corporate trustee rather than the beneficiaries under the trust. These shareholders are – bluntly – a complete irrelevance: they have no entitlement to benefit from, or in most cases even control, the overseas entity (let alone the UK properties that it holds). This means that the situation is actually *worse* than if the overseas entity had provided no beneficial ownership information at all. If no information was provided, then someone searching for the overseas entity in the ROE would at least be alerted to the fact that they cannot identify a beneficial owner. Instead, the trust arrangement will make it *appear* as though they have – because an individual registered beneficial owner will typically be shown – even though in fact the individual is irrelevant.

Unfortunately, it is impossible for us to estimate the current extent of this problem, precisely because the ROE directs that the trustee should not be reported, so no data (even a name) exists for them. Consequently, our trusts statistics in this paper are highly conservative: although this issue *could* be substantial, we have no way of knowing its magnitude and so do not include it in any of our estimates. Fortunately, this gap is now being corrected by Section 160 ECCTB, which extends the definition of a registrable beneficial owner to include all corporate trustees irrespective of whether they are regulated or unregulated. In turn, this will trigger the requirement for such entities to state that they are

[65] In particular, because Reg 14, ROE(DPTS) Regulations 2022 only applies to *regulated* trustees, and invariably no other condition under Para 7, Schedule 2 ECA2022 would apply.

acting as trustee and to provide trust information to Companies House. However, in line with the government's general position on trusts, this information will be withheld from the public.

Overseas entity is itself a trustee

Third, are cases where the overseas entity is itself acting as a trustee. The overseas entity is not required to provide any information about the trust (or nominee arrangement) to Companies House, nor even to report that it is holding the UK property on behalf of another individual or entity. With respect to transparency of the beneficial owner of the property, the situation is again worse even than if the overseas entity had reported no beneficial ownership information at all. This is because, just as with the second case described above, the beneficial ownership information that is shown on the register actually relates to the shareholders of the (overseas entity) corporate trustee, who typically have no beneficial interest in or even control over the UK property. From this standpoint, the information provided is actively misleading.

Against this, the government makes two main arguments. The first (as discussed above) is that the purpose of the ROE was never to reveal the beneficial owners of *properties* held by overseas entities, but only the beneficial owners of the entities themselves. From this perspective there is no misdirection when the shareholders of the (overseas entity) corporate trustee are reported. We have explained why we disagree with this argument, based on both the government's own official statements and the principled reasons for caring about who owns the property. The second, alternative, argument is that the government *does* care about UK properties held by trusts, but that this is dealt with via a parallel regime operated by HMRC, the TRS. We address this argument further below.

We estimate that there are currently *at least* 700 overseas entities acting as trustees, relating to 18,000 properties. This is a highly conservative estimate based on a simple analysis of the names of overseas entities.[66] To understand how many of these trust arrangements are likely to be registered under HMRC's TRS, we distinguish between properties (linked to titles) that were registered before or after 6th October 2020. This is because, where the trust is non-resident and does not have any UK tax liability, it is only registrable with HMRC if it acquired UK property after that date. On this basis, we estimate that only 100-200 overseas entities (relating to 1,300 properties) are currently within scope of TRS, leaving 500-600 overseas entities (relating to 17,000 properties) where information is not available to either Companies House or HMRC, and hence – in most cases – not to law enforcement either.

The government is currently proposing or considering two reforms that would partially address this gap:

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[66] We include the following terms: "trust", "trustee", "nominee" and plurals of these.

First, Lords amendment no111 to the ECCTB (put forward by the government) would require an overseas entity that is acting as a 'nominee' to report information about the individual beneficial owner on whose behalf it is acting.[67] There are two key reasons why this reform, although a small step forward, is inadequate. First, it would not apply to other types of trust arrangement. We estimate that out of the 700 overseas entities that identify as acting as trustees, only 150 are nominees (caught by this provision),[68] relating to just 3,000 out of 18,000 properties. Second, the provision would not require the overseas entity to provide further information about the trust, such as details of the settlor (if different from the beneficiary) or the date on which the arrangement was created. As we have noted, information about the settlor is crucial for tracing funds as required for the investigation of money-laundering and proceeds of corruption.

Second, the government is reportedly considering extending the scope of the TRS to UK properties acquired by non-resident trusts prior to 6th October 2020. If this cut-off date were removed entirely then – unlike the nominee reform – it would at least ensure that government held full trust information for all forms of express trusts over UK property. However, this solution would fail to meet the government's transparency objectives, unless the access regime under the TRS was radically extended. At present, access to TRS information by the public is virtually impossible in practice. Moreover, we disagree that information about the capacity in which the overseas entity holds the UK property is outside the scope of the ROE: indeed, the government appears to have already conceded this point in supporting the reform for nominees.

We recommend that, instead, a registered overseas entity should be required to state if it is holding the UK property as a trustee, and if so, provide to Companies House the same trust information that would be required if a registered beneficial owner was acting as a trustee. In line with the arguments that we have already made above, we also consider that this information should be publicly available unless the protection regime for vulnerable individuals applies.

Gap 4: Partnerships

Partnerships also represent a major challenge for the ROE. A partnership is an arrangement that allows two or more members (known as 'partners') to carry on a business together, such as trading or investment, with a view to sharing the profits. The partners could be individuals, or a legal entity such as a company, or a mix of these. A key distinction is whether or not the partnership *itself* is treated as a legal entity under the law by which it is governed. If is not, the partnership is known as 'unincorporated'. UK law recognises two types of unincorporated

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[67] A nominee arrangement is a type of trust where the trustee (nominee) does nothing but hold the property on the beneficiary's behalf and subject to their direction.
[68] Based on overseas entities with "nominee" or "nominees" in their name.

partnership: general partnerships and limited partnerships.[69] The latter is not to be confused with Limited Liability Partnerships (LLPs) or Scottish Limited Partnerships (SLPs) which are treated as legal entities.[70]

Incorporated partnerships

Under the ROE, if a partnership is treated as a legal entity under the law by which it is governed (outside the UK), and it owns UK property directly, then it is required to register as an overseas entity.[71] The partnership must then provide information about any partners who meet one or more of the statutory tests for beneficial ownership.[72] The test is the same as for other types of overseas entity, except that Condition 1, which applies where a person has at least a 25% shareholding, is treated as satisfied where the partner has a right to share in more than 25% of the capital or profits of the partnership.[73] Although these cases are afflicted by some of the same gaps in coverage already discussed above – such as failures to register, or partners with a beneficial interest less than 25% – they do not raise any novel problems.

Where a registered overseas entity is owned by an incorporated partnership, the partnership's treatment under the ROE is again essentially the same as for other types of legal entity. Accordingly, it may be a registrable beneficial owner if it meets the statutory test for being 'subject to its own disclosure requirements', such as if it is an LLP or SLP, which are covered by the UK's PSC Register.[74] If not, the registered overseas entity must 'look through' the partnership for the purpose of reporting its beneficial owners. Any individual partners in the partnership will be registrable beneficial owners of the overseas entity if they hold (directly or indirectly) a right to share in more than 25% of the capital or profits of the partnership (Condition 1), or if they exercise significant influence or control over the activities of the partnership (Condition 5). Again, this does not raise any novel problems.

Unincorporated partnerships

The gaps in the ROE, with respect to partnerships, all relate to unincorporated partnerships. To explain why, a short primer is required.

Because (by definition) an unincorporated partnership is not a legal entity, it cannot own assets – whether land, shares, or anything else – in its own right.

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[69] Partnership Act 1890 (general partnerships); Limited Partnership Act 1907 (limited partnerships). Limited partnerships are required to register with Companies House, whereas general partnerships are not.
[70] Limited Liability Partnerships Act 2000 (LLPs). SLPs are governed by the Partnership Act 1890 and Limited Partnerships Act 1907. Both LLPs and SLPs are required to register at Companies House.
[71] Section 2(2) ECA2022.
[72] Para 6, Schedule 2 ECA2022.
[73] Para 13(2) Schedule 2 ECA2022.
[74] See further 'Corporate Beneficial Owners' below.

Consequently, if the partners wish to hold assets as part of the partnership business, these must be legally owned in the names of one or more of the partners, rather than the partnership itself. Typically, the means by which one partner holds the assets for the partnership (rather than in their own capacity) is via a trust or nominee arrangement. Where the asset is held for the partnership,[75] all of the partners are entitled to a share of any profits generated from it, and to a share of the capital if the asset is sold.[76] As such, *all* of the partners stand to benefit from the partnership assets, even if they are not named as one of the legal owners.

This gives rise to two main gaps under the ROE: (1) where the overseas entity is owned by a partner in an unincorporated partnership; and (2) where the overseas entity is itself a partner in an unincorporated partnership.

First, where an overseas entity is owned by a partner in an unincorporated partnership (as a partnership asset), there is no requirement to provide information about *all* of the other partners. Partners are only required to be registered if: (1) they are named as shareholders in the overseas entity and the combined shareholding of all partners is at least 25%;[77] or (2) they have significant influence or control over the overseas entity;[78] or (3) they have significant influence or control over the partnership.[79] This leaves out 'silent partners', who are not named as shareholders of the overseas entity and are not actively involved in the management of the partnership business, but who may nevertheless be entitled to a share of more than 25% of the profits from the overseas entity and the proceeds if sold (usually on the basis that they provided funds for the partnership to invest).

This gap for silent partners is important because it means that there could be additional partners with a beneficial interest in the entity that have not been registered as beneficial owners. Moreover, by their nature, these silent partners are highly likely to have contributed funds towards the purchase of the overseas entity and underlying UK properties. This raises a clear money-laundering and corruption risk. At least in some commercial contexts, the existence of silent partners is already commonplace. More worryingly, the gap means that – regardless of the commercial context – bad actors could channel funds via an unincorporated partnership as part of a deliberate strategy to circumvent the ROE.

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[75] This can arise by operation of law or under the terms of the partnership agreement made between the partners.
[76] Or if a partner exits or the partnership is dissolved.
[77] Condition 1, Para 6, and Para 12, Schedule 2 ECA2022. This rule does apply to the limited partners in a limited partnership (or foreign equivalent), who are specifically exempted: Para 23, Schedule 2 ECA2022. However, by definition limited partners (wishing to remain as such) are unlikely to own partnership assets in their own name.
[78] Conditions 2-4, Para 6, and Para 12, Schedule 2 ECA2022.
[79] Condition 5, Para 6, Schedule 2 ECA2022. This condition also requires that at least one other partner is registrable under one of Conditions 1-4.

It is difficult to estimate the size of this gap using the available data. We find that 200 overseas entities (relating to 1,300 properties) have at least one registered beneficial owner that is reported as acting as a partner in an unincorporated partnership.[80] However, an additional 130 overseas entities (relating to 800 properties) have registered beneficial owners with corporate names that are suggestive of being a partner in an unincorporated partnership, despite not having been reported as acting as such.[81] Combining these indicators, we estimate that there could be as many as 300 overseas entities (relating to 2,100 properties) that have at least one registered beneficial owner acting as a partner in an unincorporated partnership. In all of these cases, it cannot be ruled out that there are additional silent partners who have not been reported.

In some cases, the overseas entity may have stated that the partner who is registered as a beneficial owner is holding the shares "by virtue of being a trustee",[82] since this is one of the ways in which a partner of an unincorporated partnership may hold assets for the partnership. The overseas entity would then be required to provide information about the trust, including – in effect – details of all of the other partners (although such information would be withheld from the public). However, out of all of the 550 registered beneficial owners that we indicate could be acting as a partner in an unincorporated partnership, fewer than 50 are reported as trustee. The rest, presumably, did not provide any trust information and so the identities of any silent partners (if any) will not have been reported to Companies House.

To close this gap, we recommend that whenever a registered beneficial owner holds shares in the overseas entity by virtue of being a partner in an unincorporated partnership,[83] the overseas entity must (1) provide a statement to this effect; and (2) provide information about the partnership including the name of the partnership, the date on which it was created, and for each partner, the same information as if they were a registered beneficial owner. These reforms would be effective to catch any silent partners and prevent the abuse of unincorporated partnerships as a means of circumventing the ROE. We recognise that this would have significant implications for limited partners, who are currently expressly exempted from being registered as beneficial owners.[84]

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[80] Of these, 80 entities had at least one *corporate* partner as a registered beneficial owner, and 130 had at least one *individual* partner. Fewer than 10 entities register government (or sovereign fund) partners. These do not sum to the total number of overseas entities with at least one registered beneficial owner acting as a partner (individual or corporate) because some entities could be owned by a mix of individual and corporate partners.
[81] We include the following terms for matching: "general partner", "GP", "G.P" These terms were selected conservatively to minimise the risk of false positive matches with entities that are incorporated partnerships that are not acting as partners in an unincorporated partnership. We have no estimate for individual partners because these are impossible to detect based on name.
[82] Para 3(1)(f) (individuals) and Para 5(1)(h) (other legal entities), Schedule 1 ECA2022.
[83] Or a member of any other unincorporated association or other entity that is not a legal person under the law by which it is governed.
[84] Para 23, Schedule 2 ECA2022.

However, it would be consistent with the other steps that government is already taking to increase transparency requirements for limited partnerships.[85]

The second gap arising from unincorporated partnerships is where the overseas entity is itself acting as a partner. In these cases, although the UK property is registered in the name of the overseas entity, there could be other partners that are also entitled to a share of the rent from the property and any proceeds of sale, but that are not registered proprietors.[86] There is currently no requirement for the overseas entity to report to Companies House that it is acting as a partner, let alone provide information about the other partners in the partnership. This is so even if the undisclosed partners are actively managing the partnership and/or the UK property. The overseas entity should provide information about the partnership to HMRC if it has a UK tax liability, but this assumes that it is generating taxable income or gains and is tax compliant.

Due to this existing lack of reporting, the only way to estimate the number of overseas entities that may be acting as partners in an unincorporated partnership, is by their name. We find 60 overseas entities (relating to 400 properties) have a name that is suggestive of being a partner in an unincorporated partnership.[87] For 130 of these properties, the overseas entity is the sole registered proprietor, meaning that there *must* be other partners that are not reported to Companies House. As with overseas entities acting as trustees, the government may argue that it is not the purpose of the ROE to uncover these other beneficial owners of the property. Nevertheless, in the interests of tackling corruption and increasing transparency over UK land – which were amongst the express aims of the ROE – we recommend that overseas entities should be required to state when they are acting as partners and provide details of the partnership to Companies House.

Gap 5: Corporate beneficial owners

The ROE allows a legal entity to be registered as a beneficial owner where that entity is 'subject to its own disclosure requirements'.[88] This is the only circumstance where an entity that is not an individual or a government or public authority can be registered. Where the test applies, the individual beneficial owners above legal entity in the ownership chain are exempt from registration.[89] The aim – which is broadly sensible – is to avoid duplication where equivalent information about ultimate beneficial owners of the overseas entity is already available elsewhere. In practice, however, the exemption can result in gaps where

[85] Part 2, Chapter 1, ECCTB.
[86] Indeed, when the overseas entity is the only proprietor registered on the title, this will necessarily be the case, since a partnership always has at least two partners.
[87] We include the following terms for matching: "general partner", "GP", "G.P" These terms were selected conservatively to minimise the risk of false positive matches with entities that are incorporated partnerships that are not acting as partners in an unincorporated partnership.
[88] Para 3(b), Schedule 2 ECA2022.
[89] Para 8, Schedule 2 ECA2022.

essential information is not available anywhere. This is because it means that the ROE is only ever as strong as the weakest link in each of the other registers that it relies upon.

There are currently four types of legal entity that qualify for registration as a beneficial owner: (1) overseas entities that are already registered under the ROE;[90] (2) UK entities that are within the scope of the Persons of Significant Control (PSC) Register;[91] (3) regulated overseas corporate trustees;[92] and (4) listed companies that are traded on a qualifying regulated market.[93]

First, we find that 3,700 overseas entities (relating to 17,000 properties) have at least one registered beneficial owner that is itself a registered overseas entity. This will occur where one registered overseas entity owns another (as well as holding UK property directly). In principle, such arrangements do not pose any problems: they just make the path to identifying the ultimate beneficial owners somewhat more convoluted. In practice, however, we find that in 77% of cases (87% at the property level), it is not actually possible to obtain valid information from the parent registered overseas entity about its beneficial owners. This can be for any of the reasons already discussed in this paper. In that sense, the problem is not novel, but it means that any problem with the information provided by the parent overseas entity 'infects' all those lower down, without this being immediately apparent on the face of the record.

Second, we estimate that there are 900 overseas entities (relating to 7,300 properties) that report at least one registered beneficial owner that is within the scope of the UK's PSC Register.[94] The PSC Register applies to most types of UK legal entity that are registered at Companies House, including private limited companies, Limited Liability Partnerships, Scottish Limited Partnerships, and public limited companies (unless they are traded on a qualifying regulated market). The ROE took significant inspiration from the PSC Register and shares many key features: most notably, both regimes use the same conditions for defining a beneficial owner. However, there are two important respects in which the ROE's (indirect) reliance on the PSC Register is problematic.

One problem is that the PSC Register is notorious for non-compliance. A 2018 report by Global Witness documented a host of issues including circular ownership structures and PSCs that were companies registered in secrecy

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[90] Para 7(1)(e), Schedule 2 ECA2022.
[91] Para 7(1)(a) and (c), Schedule 2 ECA2022. By Para 7(1)(d), this also includes Scottish Limited Partnerships (SLPs) and Scottish Qualifying Partnerships (SQPs), which were added to the scope of the PSC Register in 2017. An SQP is a Scottish general partnership with solely corporate partners.
[92] Para 7(1)(e) Schedule 2 ECA2022; Reg 14, ROE(DPTS) Regulations 2022.
[93] Para 7(1)(b) Schedule 2 ECA2022.
[94] This is an estimate because matching UK legal entities that have been reported as registered beneficial owners to their record at Companies House is not straightforward, since in 19% of cases the company registration number provided is invalid.

jurisdictions.[95] There are also significant difficulties with analysing the data, exemplified by reports of "a man who had spelled his name six different ways, thus foiling attempts to search for him electronically".[96] New measures included in the ECCTB, which will introduce identity verification for PSCs, will go some way towards addressing these concerns.[97] However, the verification process under the PSC Register will still be weaker than under the ROE, in particular because current plans are for a pure 'ID check' with no attempt to verify the individual's *status* as a beneficial owner, or an entity's statement that it has no beneficial owners.[98]

The other major problem with reliance on the PSC Register is its current approach to trusts. Unlike under the ROE, an individual or entity reported as a PSC does not need to provide trust information to Companies House. Although there is a provision for nominees to be 'looked through' when identifying shareholders, this does not apply to other types of trust arrangement. Consequently, by interposing a UK company between the registered overseas entity and the trustee, it is possible to avoid providing trust information to Companies House and to make it look as though the trustee is the beneficial owner.[99] An amendment to the ECCTB proposed by Lord Vaux – which the government is opposing – would address this problem by requiring shareholders to state whether or not they are holding the shares on behalf of another, and if so to provide information about that individual or entity.

Third, we estimate that there are 2,000 overseas entities (relating to 37,000 properties) that report at least one registered beneficial owner that is a regulated overseas corporate trustee. This type of entity was not included in the original list of entities to be treated as 'subject to its own disclosure requirements' under the ECA2022 but was added by subsequent regulations.[100] In this instance, the aim was not the avoidance of duplication, but rather to plug an unforeseen gap in the ROE. There cannot have been any (realistic) prospect that information about the ultimate beneficial owners of the corporate trustee would be available to search elsewhere, but by triggering a requirement for the corporate trustee to register as a beneficial owner, this at least enabled Companies House to obtain information about the trust. These cases are covered by the discussion of registered beneficial owners acting as trustees, above.

Fourth, we estimate that there are 600 overseas entities (relating to 3,100 properties) with at least one registered beneficial owner that is listed on a qualifying regulated market.[101] Broadly, these are regulated markets located in the

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[95] Global Witness (2018), 'The Companies We Keep'
[96] Bullough, 'Britain, headquarters of fraud' The Guardian 22nd April 2018.
[97] Section 63, ECCTB.
[98] UK Government, 'Policy Paper: Identity verification and authorised corporate service providers' 20th June 2023.
[99] Unless Condition 5, Schedule 1A Companies Act 2006 is met in relation to the trustee's influence or control over the trust, which often it will not be.
[100] Reg 14, ROE(DPTS) Regulations 2022.
[101] This is obtained by linking registered beneficial owners that are legal entities to BVD Orbis – a global database of company information – by matching on name. Orbis enables

UK, EU/EEA, USA, Japan, Switzerland and Israel. The disclosure requirements for companies listed on these markets are in many respects more stringent than under the ROE. For example, the shareholding threshold for publishing information about a shareholder is typically 3% (sometimes 5%), rather than 25%. However, as mentioned above, there is no centralised and free-to-use register of listed companies, so in practice this information is cumbersome and/or expensive to access, especially in bulk.

Finally, this leaves a residual of 1,400 legal entities (relating to 8,000 properties) that do not appear to satisfy any of the grounds for registering as a beneficial owner. The implication is that these entities should have been treated by the overseas entity as transparent and their individual beneficial owners should have been registered directly by the overseas entity. It is not possible to say for certain that all of these cases involve non-compliance. However, even if they do in fact qualify as a registrable beneficial owner, it remains the case (by construction) that we have been unable to obtain information about their individual beneficial owners in practice. We recommend that whenever a legal entity is registered as a beneficial owner, the overseas entity should be required to provide an additional statement detailing which statutory ground applies, together with any further identifiers that are needed to search the relevant register in practice.[102]

Summary and recommendations

When the government introduced draft legislation for the ROE to Parliament in March 2022, its official policy paper led with the commitment that: "The new register will require anonymous foreign *owners of UK property* to reveal their real identities."[103] The government also promised that the register would set "a global standard for transparency", implying that 'revealing' the identities of the owners of the relevant property meant making them *publicly* available. We think it is fair to assess the success of the regime according to these standards.

Accordingly, the primary benchmark that we have adopted in this paper is whether information about all of the beneficial owners of the property (held by an overseas entity and located in England or Wales) is publicly accessible. This entails that for a property to satisfy our benchmark, it must be possible for the public to: (1) obtain information about the identity of at least one valid beneficial owner of the property (the 'sufficiency' test);[104] and (2) rule out the possibility that there may

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us to filter listed companies by their Market Identifier Code (MIC) to align with the statutory list of qualifying regulated markets.

[102] For example, the Market Identifier Code (MIC) of the qualifying regulated market on which a company is listed, or a valid Company Registration Number if it is within the scope of the PSC Register.

[103] UK Government, 'Policy Paper: The Register of Overseas Entities' 4 March 2022 (emphasis added).

[104] Specifically, the sufficiency test requires that all of the overseas entities registered on the title have *at least one* registered beneficial owner that: (a) is an individual that has a *beneficial* interest in the overseas entity (as opposed to only control) and is acting in its

be other missing beneficial owners of the property whose identities have not been disclosed (the 'comprehensiveness' test).[105] If either (or both) of these tests is failed, we determine that the information available about the property is inadequate.

Applying these criteria, out of the 152,000 properties in England & Wales (relating to 94,000 titles) that are known to be registered to an overseas entity, valid beneficial ownership information is only available for 29% (relating to 36% of titles). That is an astonishingly low proportion, reflecting the multitude of gaps that we have identified. Summarising each main gap in turn:

(1) **Failures to register –** 10% of all properties known to be held via an overseas entity (15,000 properties) cannot be matched with any record in the ROE using available information. Around 4-7% of properties (2000 to 6000 properties) cannot be matched due to poor data quality resulting in missed matches and out-of-date records. However, around 6-9% of properties (9,000-13,000 properties) appear to be owned by companies that have failed to register in breach of the ROE.

(2) **No beneficial owners** – 10% of overseas entities (relating to 11,000 properties) have not registered any beneficial owners. This is most likely because the entity has no shareholders with at least a 25% shareholding or who exercise control. However, these cases could include non-compliant failures to report beneficial owners that should be registrable. Additionally, 1,800 of overseas entities (relating to 7,300 properties) only report controllers and no one with a beneficial interest, meaning that no actual beneficiaries have been identified.

(3) **Trusts** – at least 27% of overseas entities (relating to 69,000 properties) are part of a trust structure, meaning that the beneficial owners of the property are not made public. This includes at least 3% of overseas entities (18,000 properties) that are acting as trustees, where trust information is not reported to Companies House. Of these, we estimate that trust information is reported to HMRC for 1,300 properties, but for the remaining 17,000 properties it is currently not reported to any arm of government.

(4) **Partnerships –** At least 2% of overseas entities (relating to 2,400 properties) are part of an unincorporated partnership structure. Of these, 85% (relating to 2,000 properties) have at least one partner that is registered as a beneficial owner, but

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own capacity (i.e. not as a trustee or a partner of an unincorporated partnership); or (b) is a listed company traded on a qualifying regulated market, or a government or public authority. This test is also satisfied if the overseas entity is itself a listed company traded on a qualifying regulated market.

[105] Specifically, the comprehensiveness test requires that none of the overseas entities registered on the title have any registered beneficial owners that: (a) are acting as a trustee or a partner of an unincorporated partnership; or (b) are a legal entity that (i) is another registered overseas entity with invalid information; or (ii) appears to have no valid basis for registering as a beneficial owner. This test is also failed if the overseas entity is itself acting as a trustee or a partner in an unincorporated partnership.

this leaves open that there may be additional 'silent' partners who have not been registered. In the remaining 15% of cases (relating to 400 properties), the overseas entity itself appears to be acting as a partner in an unincorporated partnership.

(5) **Corporate beneficial owners** – 34% of overseas entities (relating to 69,000 properties) report at least one corporate beneficial owner, whose individual beneficial owners should be registered elsewhere. Of these, 11% are supposed to be covered by the PSC Register, but this does not currently verify registrations or indicate whether PSCs are acting on behalf of another. In a further 17% of cases where a corporate entity has been registered as beneficial owner (relating to 8,000 properties), there appears to be no valid basis for the registration.

The government argues that the purpose of the ROE is not to reveal the beneficial owners of the *property*, but instead the beneficial owners of the *overseas entity* that holds the property (who can be different, especially in the case of trusts and unincorporated partnerships). Moreover, the government argues that trust information should not be revealed to be public, but instead only be available to government agencies. To test how well the ROE is performing on these terms, we repeat our analysis but now permit cases where: (1) beneficial ownership information is validly reported for the overseas entity albeit not for the underlying property; and (2) the information is available to at least one government agency, albeit not to the public.

On this basis, the ROE does perform better, but it is still the case that essential information about ownership of the overseas entity is missing – even for government – for around 38% of the overseas entities that hold titles in England & Wales registered after 1st January 1999 (relating to 39% of titles and 31% of properties).[106] This includes between 3,300-4,900 overseas entities that have failed to register despite being required to do so; 4,100 overseas entities that report no actual beneficiaries (and are not listed on a qualifying regulated market); 330 overseas entities that could be beneficially owned by a silent partner in an unincorporated partnership; 900 overseas entities that register a corporate beneficial owner within the scope of the PSC Register, which does not require the provision of trust information; and 1,400 overseas entities that register a corporate beneficial owner but do not appear to have any valid basis for doing so.

In summary, the ROE is a major step forwards in tackling corruption and improving transparency over UK properties held via overseas entities, but there is no point building a dam halfway across a river. To fully achieve the commitments made by the government when introducing the ROE to Parliament in Spring 2022, the gaps we have identified urgently need to be closed. Some gaps are already being addressed in the ECCTB and this is welcome. However, other major gaps remain, and will require further legislation. In this paper, we have made ten recommendations that could be adopted by the government as part of the

[106] This does not include non-compliance other than failures to register, since we are not able to evaluate this using available data.

ECCTB, or implemented via subsequent regulations or (where necessary) primary legislation:

(1) Publish the title numbers of the properties held via registered overseas entities so that they can be more reliably matched to data published by HM Land Registry.

(2) Increase the frequency with which updates to information are notified to and published by Companies House and HM Land Registry.

(3) Improve enforcement action against overseas entities that have failed to register or that may have supplied insufficient or inaccurate information, by implementing a programme of targeted and random compliance checks.

(4) Reduce the shareholding threshold needed to trigger identification of a beneficial owner from 25% to 5%.

(5) Require beneficial owners to report the size of their shareholding, so that it is possible to ascertain how much of the total shareholding is unaccounted for.

(6) Publish the information that Companies House holds about trusts, unless covered by the protection regime for vulnerable individuals (as proposed by Lord Agnew).

(7) Require overseas entities to provide trust information to Companies House where they are acting as trustees or nominees.

(8) Require overseas entities or registered beneficial owners acting as partners in unincorporated partnerships to provide partnership information, including details of all of the other partners.

(9) Amend the PSC Register to require nominees and trustees to report on whose behalf they are acting, so that UK entities cannot be used to circumvent the ROE (as proposed by Lord Vaux). Ideally, full trust information should be provided as well.

(10) Require overseas entities to specify the statutory ground on which a corporate entity is entitled to be registered as a beneficial owner.