

# Registering Security Interests created by an Isle of Man Company

When a company incorporated in the Isle of Man ("IoM") creates a charge over any company property, it must be registered at the IoM Companies Registry (the "**Registry**") within one month of its creation.

Failure to register the security will render the charge void against the liquidator and any creditor of the company. However, this does not affect the underlying obligation to repay the secured debt but may impact the priority of the security interest.

It is advisable for a lender to register the security as soon as possible to protect its position to ensure their enforceability and to secure priority over competing claims. Registration also provides notice to other creditors, which can indirectly affect priority by preventing subsequent creditors from claiming ignorance of any earlier security.

## Registration process

The registration process involves submitting a form at the Registry setting out the particulars of the charge, which must include details such as the company's name and registration number, the date of creation of the charge, and particulars of the property or undertaking charged.

This is typically carried out by lender's counsel (where appointed in the IoM) to ensure the particulars are submitted within the time frame and with the correct details to protect its position.

## Late registration

The IoM has two separate company law regimes and there are different steps required for the late registration of charges (i.e. after the one-month period from creation of the charge) for companies incorporated under each regime.

For companies incorporated under the Companies Act 2006, an application can be made to the Registry at any time before commencement of any winding up procedures.

For companies incorporated under the Companies Acts 1931 – 2004, an order from the Court is required to register the charge out of time. Once the court order is obtained, an application can be made to the Registry. This will incur further costs and may take some time.

For both types of company, late filing fees will be payable to the Registry.

### Variation of security

If the terms of a security document are subsequently varied, an application setting out the further particulars can be made to the Registry for details of the variation to be registered and noted against the original charge. There is no prescribed time limit to register a variation.

If a variation to the charge results in the creation of a new charge or materially alters the terms of an existing charge in a way that would have required registration had the variation been part of the original security, the variation itself may need to be registered as a standalone charge (within one month of its creation).

### Registration of enforcement of security

There is also a requirement for any person who appoints a receiver under any powers contained in any charge instrument to notify the Registry within 7 days from the date of the appointment using the prescribed form.

### Other things to consider

Please note that this note sets out the details for the Isle of Man Companies Registry filings only. Please bear in mind that if security is being granted over specific types of assets such as real property in the Isle of Man or Isle of Man registered aircrafts or vessels, further filings may need to be made in the specific asset registries in the Isle of Man and our Property and Shipping and Aviation teams can advise further.

Please get in touch with a member of the Banking and Finance team for assistance with any registration filings or any other related queries.

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*This guidance note is intended to provide a high-level overview of the IoM law position on taking security over shares; it should not be relied upon or construed as legal advice. Please do get in touch with a member of our banking and finance team if you have any queries.*

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