

Over the past week, reports have emerged about filings that have been made at Companies House marking a charge as satisfied, without the company's or relevant lender's knowledge.

There were rumours last week, which were simply that, because Companies House had not publicly announced any issue, but, as we have seen over the weekend and is now widely reported in the news, it appears that there have been at least 800 erroneous filings.

There is no discernible pattern to the filings. The companies operate in different sectors, have different directors, lawyers and lenders, so trying to create a picture of what has happened, why, and which companies are affected, has been difficult.

We have seen the list of companies affected that was provided to UK Finance, and, on a quick check, we have spotted at least one company that is in liquidation affected by the apparent false filing.

The register of charges at Companies House is important for those in the restructuring industry, not least because:

- It is relied on by practitioners when looking at refinancing options.
- It governs the order of priority of payment of debts.
- It influences the route by which administrators are appointed and to whom notice must be given.

It has been suggested that the register will be amended to remove those filings made without the knowledge of the company or lender, without the need for either to apply to court to reinstate the charge, but the registrar's powers are limited by statute. As of this week, the registrar has new powers that allow the registrar to remove filings where:

- Information in a document is false.
- A document has been sent without the company's knowledge or authorisation.
- A document records a transaction that never occurred.

Hopefully, these powers will be wide enough to reverse the position and restore confidence in the register, but they rely on the relevant company making an application.

Although a charge marked as satisfied at Companies House is still valid, if lenders have acted in haste and sought to reregister their security, both lenders and practitioners should be mindful of the risk posed to that security by S245 of the Insolvency Act 1986 and, of course, the impact that this could have on the priority of charges.

Until the position is clear, practitioners should exercise additional caution – double-check the filings at Companies House as to when and by whom they have been made, and check with the directors, the lender and shareholders to ensure that, as far as they can confirm, the information filed at Companies House is correct.

To discuss the impact of the above on a specific matter, please contact one of the key contacts listed below.

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