

BMT REACH “Only Representative” Checklist

Once you have completed this checklist and sought any additional advice on the BMT REACH website, please do not hesitate to contact us (REACH@bmtreach.com) if you wish to discuss your answers and any further support or advice you may require.

1. EU Legal Entity Status

If you are a non-EU organisation that manufactures chemicals that are exported to the European Economic Area (EEA), you are not able to register chemicals under REACH.

However, if you have an office in the EEA that has legal entity status (i.e. the office can have an EU bank account), then you can use this office as the legal entity for REACH.

2. Are you a manufacturer or a formulator?

Both non-EU manufacturers and formulators may appoint an Only Representative to register chemical substances under REACH. This registration will cover all exports to Europe by a company or their downstream users.

Distributors located outside the EU are not permitted to appoint an Only Representative under REACH, the appointment must be made by a manufacturer or formulator.

3. Have you fully assessed your chemical inventory?

Have you identified all of the chemicals you need to register under REACH?

If you have a chemical substance that is just under the 1 tonne per year threshold, or you have a product that you think may take off during the REACH phase-in period (2008-2018) it would be worth pre-registering this substance.

This would allow you to monitor the joint registration status, and leave you free to join the process up until 12 months before the relevant registration deadline.

4. How thoroughly have you assessed your potential OR Service Provider(s)?

You should check that the OR service provider is an established organisation, ideally with a solid track record in regulatory consultancy.

Has the OR service provider made you fully aware of the requirements for pre-registering and registering a chemical under REACH? REACH is a complex process with many variables, so it is important that the non-EU organisation is fully aware of the processes involved in registration.

Be sure that the OR service provider has covered the costs for all the processes in REACH, and they have clearly identified unquantifiable processes appropriately.

Being an OR is a huge responsibility, one that does not finish after full registration. The OR will need to maintain the registration, and update it when necessary.

Under Article 8 of REACH, an Only Representative must be technically capable and have sufficient background in the handling of chemicals to perform OR duties. Check that the OR service provider has suitably qualified people and/or support from external sources where necessary.

5. How many substances do you need to pre-register and/or register?

Planning a strategy for REACH is essential to ensure that your company's transition into the new Regulation runs as smooth as possible.

You need to consider which pre-registered substances you intend to fully register. In addition, there may be certain processes of REACH registration that are more efficiently conducted in-house, reducing external consultancy costs.

Be sure to discuss your approach as a whole with your OR service provider and make sure they understand your needs fully and will share your approach.

6. Have you considered "spreading the risk" of your chemical inventory?

If you have a large chemical inventory, or you are uncertain of the risks associated with a number of OR service providers, spreading your risk by appointing a number OR service providers may be a sensible approach.

7. Is your potential service provider an approved REACH service provider for Only Representation?

REACH is in its infancy and there are very few organisations with proven REACH track records. Consider OR service providers with track records in supporting compliance with other regulatory regimes. In addition, accreditation and quality standard organisations such as REACH Ready and the Only Representative Organisation are good indicators of proficiency.

8. Does your potential OR service provider have established links with legal representatives and contract testing laboratories?

Legal support and the services of contract testing laboratories are very important for an OR service provider to perform their duties effectively. Ensure that your potential OR service provider has legal support at hand with experience under EU regulatory frameworks and ideally REACH.

All OR service providers should have contacts in, and knowledge of, a variety of testing laboratories. When planning your testing strategy, it is important to know which laboratories are best suited to each individual test, or set of tests. Pricing is also an important factor, so make sure your potential OR service provider is willing to supply you with quotes from a range of contract testing laboratories that they have fully audited and have an established working relationship with.

9. Be aware that you can change OR during the registration process.

Although it is not ideal to change your OR during the REACH registration process, in some situations it will be unavoidable. This may happen for a variety of reasons, so it is essential to make sure this eventuality is considered when appointing an OR.

Be sure to discuss with potential OR service providers issues concerning data ownership and access to information, should the need arise to change OR.

10. Finally, decide whether your potential OR service provider can support you in meeting the strict REACH deadlines.

Whilst REACH represents many burdens to non-EU organisations exporting chemicals to the EU, it also offers potential opportunities to establish new, or reinforce, existing markets.

Ensure that you and your OR service provider have the capabilities and resources to fulfil REACH requirements by the relevant registration deadlines.