



## **The Role of a Process Agent (English law)**

In today's global economy, transaction parties are frequently located in countries different from another. These so-called 'cross-border' transactions are often governed by (and subject to) English law. A process agent may be required when a transaction party does not have a physical presence in England, and the transaction is subject to English law. Understanding the role of the process agent, and what is involved in appointing a process agent, can help avoid costly delays in the closing of a cross-border transaction.

### **Why is a process agent needed?**

In order to start English court procedures correctly, it is necessary to serve court papers to the relevant transaction party. If a transaction party does not have a physical presence or address within England, the process for serving these court papers can be very lengthy and cumbersome, as they will have to be served abroad (where the relevant transaction party has its presence). It is therefore a market standard, and in many instances a requirement by transaction parties, that each transaction party with no presence or representation in England appoints a process agent in England, and agrees that service at the address of its process agent will constitute proper service for the purposes of the court procedures.

### **When is a process agent needed?**

The role of a process agent can be vital for cross-border transactions under English law. When any of the transactions parties are not present or represented in England, they may need a process agent. Cross-border transactions that are frequently subject to English law are loans (bilateral or syndicated), swaps (ISDA), credit facilities, leasing agreements, and other types of funding instruments.

For instance, assume a borrower located in France receives a loan subject to English law. The lender would typically require the French borrower to appoint a process agent in England in order to receive court papers on behalf of the French borrower, should court proceedings become necessary.

In addition, a process agent can also act in a broader capacity for the appointing company, including acting as a process agent for receiving documents in connection with arbitration proceedings and receiving notices under contracts where an independent party is needed.

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### **What is important when appointing a process agent?**

When choosing a process agent, it is not only important to engage a company that will respond to your request quickly to set up the initial appointments, but one that understands their role once appointed. A professional process agent will provide immediate notice of receipt of any legal proceeding and will maintain an accurate database of its process agent appointments and current contact information.

### **How can a process agent be appointed?**

In many cases, the appointment of a process agent is a condition precedent to closing. The following steps are typically required to appoint a process agent:

- Communicate the key information of the transaction to the process agent, such as name of transaction parties, closing date, name of contacts, who should receive any service of process. The process agent may have a standard form to provide this information.
- If the transaction requires bespoke process agent services, it may be required to deliver all agreements in which process agent is to be named.
- Coordinate with the Process Agent to draft the appointment letter. The process agent may have a standard letter.

Engaging the right process agent in advance of the closing date will ensure that its written acceptance of the appointment is received by the closing date, thus preventing delays.

### **About London Central Services**

London Central Services is a business support and advisory company, delivering a comprehensive range of business services, together with its correspondent firm with over 40 years of experience. Please visit our process agency page on [www.londoncentralservices.co.uk/process-agent-england](http://www.londoncentralservices.co.uk/process-agent-england).

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