

Trust Registration Services (UK & Ireland)

This Technical Bulletin will detail the key requirements of the Trust Registration Services in the UK & Ireland and the impact of the 5th Anti-Money Laundering Directive (5AMLD).

Key Points

- + All UK express trusts will have to register with the UK Trust Registration Service (TRS) whether they do or do not have any UK tax liability (unless excluded)
- + Trusts which are already registered will have to provide some additional information about their beneficial owners and assets of the trust
- + Non-UK trust will be required to register if it becomes liable for tax on income coming from the UK or on UK assets
- + If the trust has a UK tax liability but this is covered by a relief, you'll need to register the trust to claim the relief through self-assessment
- + Third parties will be able to access information on the UK Register
- + Trustee will have 90 days from the creation of a trust or from the date of any changes of the trust to report the relevant information
- + The Trust ranges available from both Canada Life and Canada Life International i.e. gift trusts, discounted gift trusts, gift & loan trusts, and probate trusts together with our packaged solutions; Wealth Preservation trust and the Controlled Access trust; will all need to be registered on the TRS by the trustees or their authorised agent

Overview

Following the transposition of 5AMLD into UK law on 10 January 2020, new rules were implemented by HMRC with effect from 06 October 2020 to extend the scope of the trust register to the majority of UK and some non-UK trusts, with some specific exclusions, regardless of whether or not the trust is liable to pay any tax in the UK.

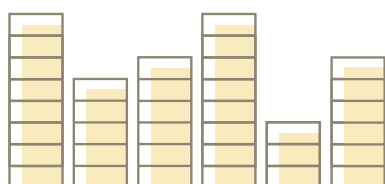
Background to the TRS and the European Union's Fourth Money Laundering Directive (4MLD)

The EU's 4th anti-money laundering directive (4MLD) required the UK to introduce a centralised beneficial ownership register for all express trusts with UK tax liabilities. HM Revenue and Customs (HMRC) accordingly set up the Trust Registration Service (TRS), which has been in operation since 26 June 2017.

Where the only asset held by a discretionary trust was an investment bond, provided the settlor was alive in the tax year of the chargeable gain and UK resident as the tax liability rested on them and not the trust, registration was not required. The trust only needed to be registered if a chargeable gain occurred and the trustees were liable (settlor had died in a previous tax year or was not UK resident), or when an IHT entry, ten year or exit charge were payable.

However, fast forward to 2022 and aspects of the 5AMLD about registration of trusts, have now been transposed into UK law under "The Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020".

The regulation removes the link with taxation, widening the definition of those trusts required to register; so that all express UK resident trusts set up before 06 October 2020 (other than those which are specifically excluded) will need to be registered on the TRS on or before 01 September 2022.



What type of Trusts need to be registered on the TRS?

Within the regulations the trusts that now require registration have been categorised into three types - "Type A", "Type B" and "Type C".

+ Type A

A UK trust where either all the trustees are resident in the UK or at least one trustee is UK resident, and the settlor was resident, or UK domiciled at the time the trust was set up.

Most providers' standard trusts, when wrapped around an investment bond, will fall within this category. The Trust ranges available from both Canada Life and Canada Life International i.e., gift trusts, discounted gift trusts, gift & loan trusts, and probate trusts together with our packaged solutions; Wealth Preservation trust and the Controlled Access trust; will all need to be registered on the TRS by the trustees or their authorised agent.

+ Type B

A non-UK trust where there is at least one UK resident trustee and will only be required to register on entering a business relationship with a UK obliged entity which includes a relationship with a UK based adviser. The adviser must be acting in the course of business carried out in the UK, carrying on business outside the UK will not trigger a registration requirement under this category.

+ Type C

A non-UK trust with no UK resident trustees, where the trustees acquire an interest in UK land, that is where at least one trustee becomes registered on the legal title as the proprietor of a freehold interest or a lease granted for an initial term of more than seven years.

+ Which types of trusts are excluded from registering?

Currently, the following trusts do not need to be registered:

1. Registered pension scheme master trusts for the purposes of Part 4 of the Finance Act 2004(b)
2. Charitable trusts provided not taxable
3. Group life insurance trusts*
4. Pure protection policies in trust
5. Whole of life policies in trust with a surrender value are excluded until either a policy is surrendered during life assured's lifetime or when the benefits are paid out from the trust within 2 years of death
6. Statutory trusts created on Intestacy
7. Bereaved minor trusts and 18-25 trusts
8. Personal Injury Trusts, subject to certain conditions being met**
9. Trusts where the beneficiary meets the definition of a 'disabled person' under Schedule 1A of the Finance Act 2005
10. Will trusts created on death that only receive assets from the estate and benefits are paid out within 2 years from death
11. Pilot trusts set up prior to 6 October 2020 with a value of £100 or below. Those set up after this date will need to be registered

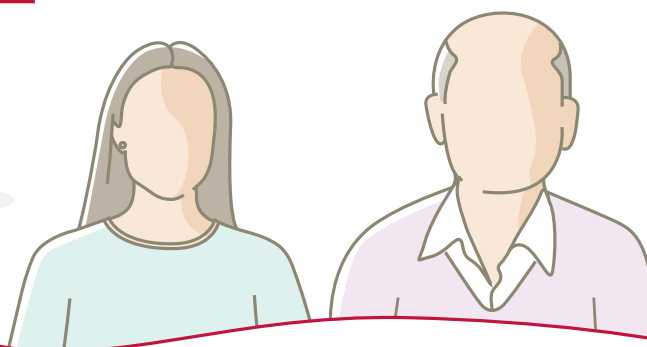
Trusts are excluded from the requirement to register as express trusts on the Trust Registration Service (TRS) where the trust is established in a European Economic Area (EEA) member state and is required to be registered on the equivalent beneficial ownership register of that member state***

*Most trusts relating to insurance products are excluded from registration including the following:

1. The Canada Life Group Master Trust
2. The Canada Life Excepted Solution
3. Registered Group Life trusts established by employers
4. Excepted Group Life trusts except in the very rare circumstances tax is payable
5. Trusts associated with individual protection policies where those are the only items in the trust

Trusts

All other trusts will need to be registered.



In addition, further changes to legislation are planned to ensure that trusts created in the course of setting up a bank account for minors or vulnerable persons are excluded from registration. However, bare trust created for grandchildren, even where policies are assigned to facilitate the surrender on the grandchild's behalf, are not excluded from registration, unless beneficial ownership has already been declared in a separate trust, as is the case in the Wealth Preservation Account.

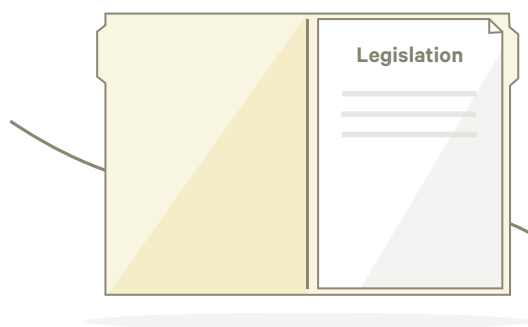
****For full details, please see:**

TRSM23030 - Trust Registration Service Manual
www.gov.uk/hmrc-internal-manuals/trust-registration-service-manual/trsm23030

*****Further information can be found here:**

TRSM23150 - Trust Registration Service Manual - HMRC internal manual - GOV.UK (www.gov.uk)

All other trusts will need to be registered.



The deadlines for registering a trust with the TRS

All UK resident Trusts in existence on or after 06 October 2020 (other than those which are specifically excluded) will need to be registered on the TRS by the trustees, or their agent before 01 September 2022.



Any new trusts created after 01 September 2022, will need to register on the TRS within 90 days.

Trustees will also need to update the trust register, with any changes, within 90 days from when they become aware of any change. Such changes could be a change of trustee, addition of a beneficiary or appointment of policies to bare trust on a Wealth Preservation Account. Where trusts were in existence on 06 October 2020 but have subsequently closed, the trustees will still need to register the trust, but can close the trust record immediately.

Registering a trust – how to register

- + The UK register can be found at:
www.gov.uk/guidance/register-a-trust-as-a-trustee
- + Updates to the trust register can be managed at:
www.gov.uk/guidance/manage-your-trusts-registration-service

Important: Before you can register a trust as a trustee on the TRS, you need to have an Organisation Government Gateway user ID and password. This will be required for each trust that you register on the TRS.

Trustees will need to provide an email address (linked to the trust's Government Gateway account) and the full name of the person registering.

Further information on the UK Trust Registration Service can be found at the following link:
www.gov.uk/hmrc-internal-manuals/trust-registration-service-manual

Bulk registration is not possible. Each trust must be registered separately using its own organisational government gateway account. It is possible to use the same email address for different gateway accounts. Trustees must nominate a 'lead' trustee to be the main point of contact for HMRC. For taxable trusts, TRS is the portal used to obtain a Unique Tax Reference number (UTR) enabling the trustees to submit tax returns to HMRC under Self Assessment. The UTR is usually sent to the lead trustee within 15 working days of registration.

For reportable but non-taxable trusts, no UTR is required; instead HMRC issue a Unique Reference Number (URN) which will be sent to the lead trustee. The URN may be requested by third party organisations as evidence of registration in some instances, although it cannot be used as proof for AML purposes.

Registering a Trust

What information needs to be provided

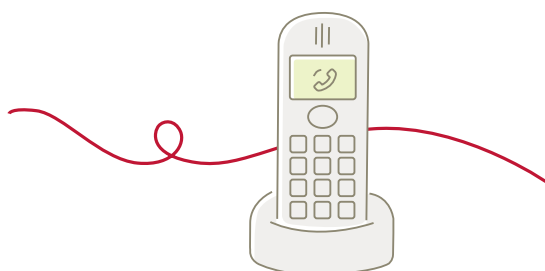
The following information is required and needs to be input on the register for the settlor, trustees, protector (where appropriate) and the beneficiaries:

- + Full Name (as it appears on their personal tax return)
- + Date of birth
- + National Insurance Number (NINO)
- + Full residential address (if UK resident), as it appears on their personal tax record
- + Passport details and address (if non-UK resident and no NINO)
- + Telephone number
- + Country of residence
- + Country of nationality



If the lead trustee is an organisation, then the following is required:

- + Organisation name
- + Organisation UTR
- + Address
- + Telephone number
- + Email address
- + Country of residence



Deceased Settlers

Trustees must provide their name, and if available their:

- + Date of birth
- + Date of death
- + NINO
- + Last known country of residence
- + Country of nationality



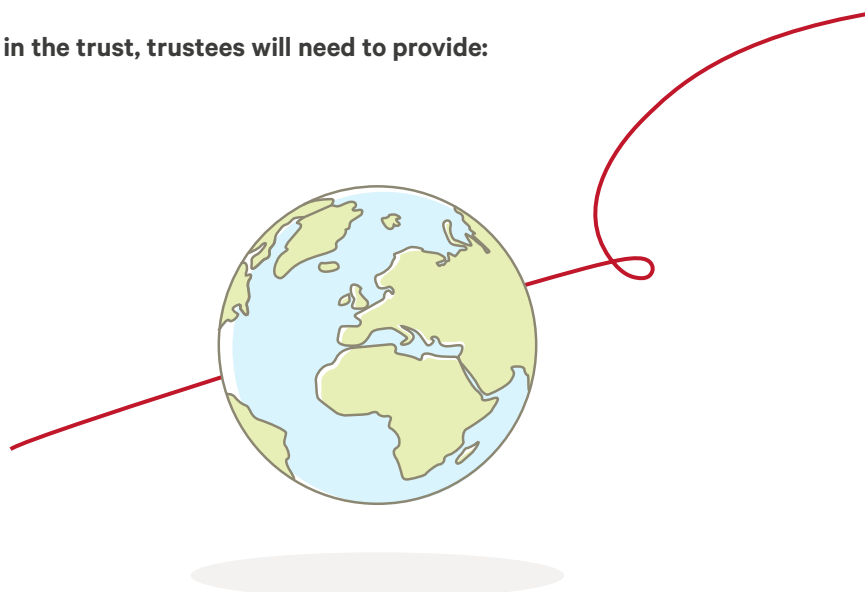
Other individuals and organisations

For other individuals involved in the trust such as additional trustees, living settlers, protectors and beneficiaries the following information should be provided:

- + Full name
- + Date of birth
- + NINO (if available)
- + Full residential address (if UK resident)
- + Country of residence
- + Country of nationality
- + Mental capacity at the time of registration – HMRC will assume the individual has mental capacity, unless told otherwise. Further information can be found:
www.gov.uk/hmrc-internal-manuals/trust-registration-service-manual/trsm32100

For all other organisations involved in the trust, trustees will need to provide:

- + Organisation name
- + Address
- + Country of residence





Beneficiary details

Named Beneficiaries - Trustees must provide details of all individuals, trusts, charities and organisations named as beneficiaries within the trust deed.

Some named beneficiaries will only benefit when a certain event happens, such as when another beneficiary dies. They can be included as “potential beneficiaries” in a class of beneficiaries until the event occurs. Once the event occurs their details should be added to the register as a named beneficiary.

Classes of beneficiaries – Trustees can use a “class” of beneficiaries to describe a group of individuals who are not yet known or named individually in the trust deed, for example, future grandchildren. The class of beneficiaries can also include named potential beneficiaries. When a member of the class of beneficiaries benefits from the trust, the trustees must provide their details on the register.

It is worth pointing out that Trustees will also be asked to provide a description of each class on the register, for example:

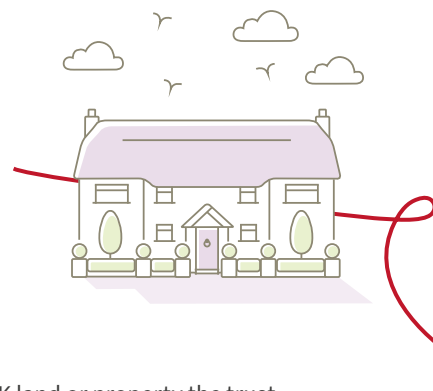
“ **My widow, my children, my grandchildren and their issue together with the spouses, widows, widowers of my children, grandchildren and their issue** ”

Registering a Trust

Trust information

Trustees will need to provide information on the trust itself, such as:

- + The name of the trust
- + The date the trust was created
- + Whether all or some of the trustees are based in the UK
- + Whether any of the settlors are based in the UK
- + Confirm if the trust is an express trust or not
- + Details about whether a non-UK trust has a business relationship in the UK
- + Details about any UK land or property the trust has purchased
- + Has the trust been listed on a European Economic Area (EEA) register – NB. if a trust has already been registered on another EEA register, then there is no requirement to register on the TRS



Important

If the only asset held is an investment bond, the trust will only be taxable if a chargeable event gain occurs which is assessable on the trustees for income tax purposes under the current chargeable event tax provisions, or when an inheritance tax entry, 10-year principal or exit charge is payable.

Trust Assets

Only taxable trusts need to provide this information on the register. However, it is good practice for Trustees to keep a record of the initial value of the trust's assets for future taxation purposes, as part of the requirement under the EU 4MLD.

For example, if the trust holds shares, they will need to include:

- + Class and type of share
- + Company name
- + Approximate value of the shares when the trust is registered
- + Number of shares

For property and land the trustees will need to provide the address and name of the property or land, along with the value at time of registration and the estimated value of the portion of property or land if the trust does not own all of it outright.

The total amount of money (cash) that the trust holds should also be declared on the TRS record, along with any other assets that might be owned such as cars, jewellery, art. For these items, a description and value will be required.

After registration

For a taxable trust, once a trust has been registered HMRC will send the lead trustee a Unique Tax Reference number (UTR), usually within 15 working days.

The UTR will be needed to file Self-Assessment tax returns. This can be done by either:

- + Sending electronically by 31 January
- + Fill in paper forms SA900 and post it to HMRC by 31 October

If a Trust has any Inheritance Tax liability to pay, they must apply for a separate reference number by completing form IHT122.

- + This form must be completed 3 weeks before any payment is made



Where a trust is only liable to tax that is not related to Income Tax or Capital Gains Tax, trustees should contact HMRC to:

- + Stop any Self-Assessment forms being issued
- + Make sure they do not need to send any Self-Assessment tax return if they have already received one

For reportable but non-taxable trusts the Unique Reference Number (URN) will be issued to the lead trustee within 15 working days.

Viewing or making changes to the Trust details

Trustees should use the online service to make changes to any of the details about the trust that they have given at registration. This may include changes to the settlors, trustees or beneficiaries.

If trustees want an agent to view or make changes to the trust's registration details, they must authorise the agent to do so. Further information can be found here:

www.gov.uk/guidance/manage-your-trusts-registration-service

- + How to close a trust
- + Update trust details
- + How to authorise an agent
- + Make declaration
- + How to use the online service
- + Deadlines

Let's look at an example— Registering a Wealth Preservation Trust (WPT)

We are using the WPT as an example as the registration process is more complex than a simple bare or discretionary gift trust, due to the two-trust structure. We will not go over the full registration process but will provide useful guidance on how to register the WPT.

HMRC have confirmed that where the trustees differ on both the initial trust and discretionary settlement, two separate registrations must take place.

However, where the trustees are the same on both trusts then only one registration is required.

It is important to note that where any change occurs on either trust in the future, which means that there is a difference in the legal or beneficial ownership, such as a trustee change which only impacts one trust, then the trust impacted by the change will need to be registered separately.

Registering two trusts

When the initial trust and settlement are being registered separately, the initial trust is a bare trust, and the beneficiary of this trust is the assignor/settlor.

Both trusts should be easily identifiable, so we recommend a naming convention as follows:

- + Trustees of the J Doe WPA Initial Trust
- + Trustees of the J Doe WPA Settlement

When providing an initial value for the initial trust, this will be the value of the policies assigned into trust on the date of assignment i.e., the premium at inception.

The initial value for the settlement will be the same.

The current value of the initial trust would be a nominal amount and for the settlement this would be the current market value of the investment bond.

Registering one trust

If registering once, we suggest you refer to the trust as Trustees of the J Doe WPA Initial Trust & Settlement.

The settlement is a discretionary trust, and the class of beneficiaries is defined within the deed.

When providing an initial value of the Settlement, this will be the value of the policies assigned into trust on the date of assignment i.e., the premium at inception.

The current value of the settlement would be the current market value of the investment bond at the time of registration.

Additional points to note

Where Settlement trustees appoint policies into bare trust for the beneficiaries, there are two scenarios that need to be considered: immediate surrender and retention of policies within the bare trust.

If the appointed policies are to be surrendered immediately after the appointment into bare trust, the trustees should update the record of the settlement on the TRS register to show that a beneficiary has received the benefit. Trustees have 90 days to note this change.

Alternatively, if the policies are not to be surrendered immediately, the trustees of the settlement would need to register the bare trust as a separate entity on the TRS register. The name of this trust would be Trustees of the “beneficiaries name” bare trust.

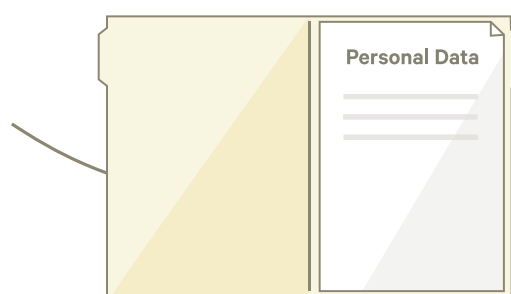
Irish Central Register of Beneficial Ownership of Trusts (CRBOT)

EU Anti-Money Laundering legislation requires each EU member state to establish a Central Register of Beneficial Ownership of (CRBOT) the purpose of which is to help prevent money laundering and terrorist financing by improving transparency of who ultimately owns, and controls trusts.

The CRBOT is the register of beneficial ownership of trusts in Ireland which is managed by the Revenue Commissioners.

Where a trust holds or takes out a policy with a company based in Ireland such as Canada Life International Assurance (Ireland) (CLIAI), the regulations state that the trust must register with the Irish Revenue CRBOT. This requirement applies to UK trusts even if they have registered with the UK Trust Registration Service. The requirement also applies to the Channel Islands and Isle of Man trusts.

Under the current regulations in Ireland, CRBOT makes no exception for a trust which has already been registered in the UK, as the UK is no longer a part of the EU. Therefore, CRBOT requires trustees of trusts which hold an Irish situate asset to register through the Trust Register Functions portal on the Irish Revenue Online Service (ROS). See next page.





How to register on the CRBOT (revenue.ie)

Initially, the adviser will need to complete an application to obtain a TAIN (tax advisor identity number) for CRBOT, link below

The advisor will then need to complete and submit a CRBOT TAIN form (letter of authority) in order to start the registration process on ROS

It is important to note that, although the TAIN form appears to only be designed for Irish resident agents and advisers who have an Irish tax reference, the Revenue Commissioners in Ireland have confirmed that a UK accountant or financial adviser can register a trust through the ROS (Revenue Online System), by making the application for a TAIN without an Irish tax reference. Once the adviser has a TAIN they can register for ROS as a 'Tax Agent' and subsequently register trusts in the Trust Register Functions section.

There is an email address which an adviser can use to contact the CRBOT team at the Revenue Commissioners directly for assistance during the registration process, using the following email address:

TrustRegister@revenue.ie



How can we help?

Range of support material

Brochures
Newsletters
Technical Eye
Briefing notes
Budget summary
Tech-casts



Account Manager support



ican Technical Services





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