

TECHNICAL SALES BRIEFING

CHANGES TO THE UK TRUST REGISTRATION SERVICE ("TRS") THE IMPACT OF THE FIFTH MONEY LAUNDERING DIRECTIVE

KEY POINTS

- › The EU's Fifth Money Laundering Directive ("5MLD") introduced changes that mean most existing UK express trusts and some non-UK resident trusts, as well as trusts with a UK tax charge (Taxable Relevant Trusts), need to be registered via the UK Government's online service. More information about the type of trusts that need to be registered can be found on page 2
- › Trustees of such trusts needed to register by 1 September 2022 or within 90 days of being created (whichever is later). Note that this September date was an extension of the original deadline of 10 March 2022 or within 30 days of being in scope
- › HMRC also confirmed that UK express trusts in existence on or after 6 October 2020, which are not otherwise exempt, still need to register even if they subsequently cease to exist, for example due to being fully distributed
- › Trusts having a UK tax event prior to 6 April 2021 will still need to make sure they register by 31 January following the first tax year they become subject to a UK tax charge. Following 6 April 2021, any trusts having a UK tax event will also need to register by 1 September 2022 or within 90 days of it being created or becoming liable for tax (whichever is later)
- › Individual trustees should make sure they understand their reporting responsibilities and, if necessary, seek professional advice
- › Where professional trustees are appointed, the responsibility to report will rest with them
- › Trustees with business relationships in the Republic of Ireland (including holding investment bonds issued in Ireland) will be required to register on the Irish register. This requirement applies even if the trust has already been registered on the UK register.

BACKGROUND TO THE TRS AND THE EU'S FOURTH MONEY LAUNDERING DIRECTIVE ("4MLD")

The requirement for UK trusts to be registered first appeared in 2017 when the requirements of the 4MLD were introduced into UK legislation through the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (referred to as the '2017 regulations' in this briefing).

The 4MLD was designed to further enhance money laundering and terrorist financing regulations across the EU. As implemented by the UK's 2017 regulations, trusts were required to register in the UK when the trust first incurred a relevant 'UK tax charge'; these were known as **Taxable Relevant Trusts** under the 2017 regulations.



This information is based on Utmost's understanding of current tax and HM Revenue & Customs' practice as at 1 May 2025. Tax rules may change and depend on individual circumstances. This information does not constitute legal or tax advice and must be taken as such. The companies in the Utmost Group can take no responsibility for any loss which may occur as a result of relying on this information.

This trust registration process serves a dual purpose, in that it notifies HMRC when a UK tax event occurs and also meets the requirements of the 4MLD.

A 'UK tax charge' includes the following, as listed under schedule 14 of the 2017 regulations:

- › any UK Income Tax (charged against the trustees)
- › any Capital Gains Tax (charged against the trustees)
- › any Inheritance Tax (charged against the trustees), such as taxation of relevant property trusts where the trust is potentially liable to Inheritance Tax charges. These will include any charges on the trust's creation, any 10 year anniversary charges (principal charges) and any exit charges where the trustees pay the tax (grossed up)
- › Stamp Duty Land Tax or Stamp Duty Reserve Tax
- › Land and Buildings Transaction Tax (Scotland).

CHANGES TO THE TRS UNDER THE 5MLD

The majority of the 5MLD was transposed into UK legislation by the Money Laundering and Terrorist Financing (Miscellaneous Amendments) Regulations 2018 (S.I. 2018/1337) on 10 January 2019 and by the Money Laundering and Terrorist Financing (Amendment) Regulations 2019 which came into force in January 2020.

A consultation specifically on the TRS aspect was issued in January 2020 and the 5MLD response can be found here:

Technical consultation: Fifth Money Laundering Directive and Trust Registration Service - GOV.UK

To comply with obligations under EU law, which still applied during the transitional period ending on 31 December 2020, the UK implemented the 5MLD through the Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020 (the '2020 regulations') which amend the 2017 regulations.

The 2020 regulations extend the types of trust required to register. There is no longer a sole requirement for a UK tax event to trigger the need to register the trust. Instead, the 2020 regulations extend the scope of the registration requirements beyond those with a UK tax event to most UK express trusts and even some non-UK express trusts.

TRUSTS THAT REQUIRE REGISTRATION

As a result of the 2020 regulations the following trusts need to be registered:

- › any trust which has a 'UK tax event' - so called **Taxable Relevant Trusts** (as per the 4MLD and the 2017 regulations)
- › any 'UK express trust' other than ones that are exempt¹ or an EEA registered trust - known as "**Type A**" trusts
- › any non-UK express trusts, other than ones that are exempt¹, with at least one trustee resident in the UK, which is not an EEA registered trust, which enter into a UK business relationship² on or after 6 October 2020 with a relevant person or acquires an interest in UK land - known as "**Type B**" trusts
- › any non-UK express trusts, other than ones that are exempt¹, with no UK resident trustees which acquire an interest in UK land on or after 6 October 2020 - known as "**Type C**" trusts.

The term 'express trust' under the 5MLD is generally interpreted as a trust that was **deliberately created** by the settlor.

A UK express trust is defined as one where (as of 6 October 2020):

1. all the trustees are UK resident.

OR

2. at least one of the trustees is UK resident and the settlor was both UK resident and domicile (mixed trustee).



DEFINITION OF UK EXPRESS TRUST

It should be noted that the mixed trustee rule is different to the definition of a UK resident trust for Income Tax and Capital Gains Tax purposes (as per section 475 ITA 2007 and s69 TCGA 1992). Under the UK tax legislation when there are both UK resident and non-UK resident trustees then the trust will be considered UK resident where the settlor was **either** UK domiciled **or** UK resident at the time of the settlement. The rules under the 5MLD are different in this regard.

DEFINITION OF AN EEA REGISTERED TRUST

An EEA registered trust is defined in the regulations as one which was established in a country other than the UK. There is no statutory definition of 'establishment' provided. However, the HMRC TRS Manual states that: "a trust can be considered as established in an EEA member state for TRS purposes if that is where the trustees are resident or where the administration of the trust is carried out". Trusts which need to register in Ireland due to having a business relationship in Ireland (such as holding a life policy), but where the trustees are not actually resident in Ireland, would therefore not be considered to be EEA registered trusts for these purposes and would need to still register in the UK as well.

TRUSTS THAT END BEFORE THE DEADLINE

It should also be noted that trusts that are required to register, due to meeting one of the various requirements on or after 6 October 2020, are still required to register by the deadlines given on page 6 even if they subsequently end, for example by fully distributing the trust assets. HMRC have confirmed that the Trustees should register the trust and immediately close the trust record.

1 Exemptions to registration

HMRC recognised when implementing the 5MLD that certain UK trusts pose little or no risk of facilitating money laundering. This included trusts that were not deliberately created by the settlor and those under tax reporting and/or restricted contribution regimes, such as UK registered pensions.

A full list of the exemptions can be obtained by reviewing schedule 3A of The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended) or by reading the HMRC guidance manual TRS23000. The list below is simply a summary of the exempt types of trusts:

- › **Trusts imposed by statute**, where these do not result from the clear intention of the settlor. HMRC give the example of a statutory trust arising on intestacy, perhaps due to a legacy being left to a minor
- › **Trusts imposed by Court Order**
- › **UK registered pension trusts**
- › **Charitable trusts registered in the UK**
- › **Pure protection life insurance policies** and those paying out on critical illness or disablement, including group life policies*
- › **Trusts used by government and other UK public authorities**
- › **Trusts for disabled beneficiaries (within the meaning of Schedule 1A of the Finance Act 2005) or bereaved minors**
- › **Personal injury trusts**
- › **Save as you earn schemes and share incentive plans**
- › **Maintenance fund trusts**
- › **Certain trusts incidental to commercial transactions** or used as part of **financial markets infrastructure**
- › **Authorised unit trusts**
- › **Co-ownership trusts**, a trust of jointly held property where the trustee and beneficiaries are the same person(s)
- › **Certain will trusts** created on death that only receive assets from the estate and trusts that only receive death benefits from a life insurance policy and are wound up within two years of death
- › **Pilot trusts holding assets valued at or less than £100**
- › **Trusts created for opening a bank account for the sole benefit of a minor**, such as a so called “re’ account”, or a person who lacks capacity as provided under schedule 3A (6A) of the Money Laundering and Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 as amended. This is also confirmed in guidance - reference TRSM23160.

*It should be noted here that trusts holding single premium life insurance and capital redemption bonds are not exempt and the life policy exemption only relates to pure life policies. The 2020 regulations make it clear that a trust of a life policy or retirement policy is only exempt if it pays out only:

(a) on the death, terminal or critical illness or permanent disablement of the person assured

OR;

(b) to meet the cost of healthcare services provided to the person assured.

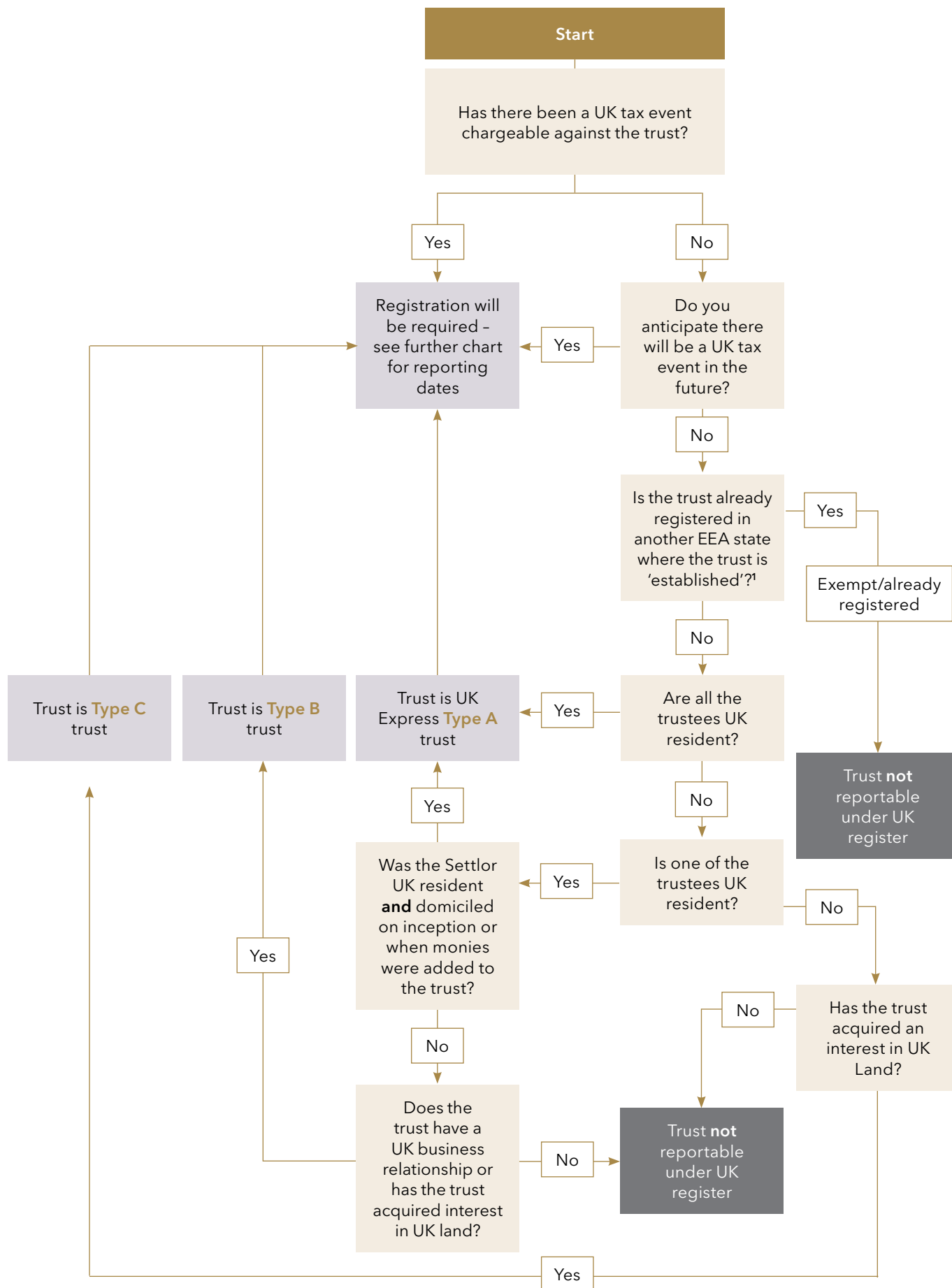
This would not include lump sum policies or regular policies of the type commonly issued by insurers such as Utmost which have a surrender value throughout the policy term and can be surrendered prior to death.

2 UK business relationship

As set out in TRSM24010 a business relationship for these purposes is ‘a business, professional or commercial relationship’ between the trustees and a UK “relevant person”; that is expected by the Relevant Person, at the time the relationship commences, to have an element of duration. What is meant by ‘an element of duration’ is not set out in the regulations but further guidance is given in TRSM24030 that any business relationship that goes beyond a one off short lived transaction is likely to have an element of duration.

It is also important to note that a non-UK express trust will not be required to register (due to a UK business relationship) unless it **also** has a UK trustee. This means that UK service providers, such as tax advisers or financial advisers, can still provide services to non-UK resident trusts without triggering the requirement for the trust to be registered. Furthermore, the business relationship must have occurred on or after 6 October 2020, so existing relationships would not bring this rule into play unless they are amended.

Of course, if there was a UK tax charge, the trust would still be required to register as a Taxable Relevant Trust.



¹ Note it will be 'established' in that EEA state if the trust is being administered there, i.e. some or all of the trustees are resident in that EEA state and it was not registered solely because of a business relationship in that state.

LIFE POLICY TRUSTS AND THE REQUIREMENT TO REGISTER

Insurers commonly offer trust drafts for their policyholders to use after receiving legal and/or tax advice. These trusts will include basic discretionary and bare (absolute) gift trusts where the settlor cannot benefit, loan trusts and excluded property trusts which can be used to mitigate Inheritance Tax. Insurers will also offer 'packaged trust' solutions such as discounted gift trusts whereby their policyholders are able to act as trustee.

Prior to the changes in the 5MLD, most of these trusts would not have been required to register as Taxable Relevant Trusts. Tax on any chargeable event gains would usually fall on the UK resident settlor(s) when a bond is held in trust and would only be assessable on the UK resident trustees where the settlor is dead and the trustees surrender in a following tax year. Tax will also fall on the UK resident trustees where the settlor is non-UK resident. However, as chargeable events gains (above the standard rate band) are taxable at 45% in the hands of any UK resident trustees, the trustee rate of tax is often mitigated in practice by the trustees assigning policies to the beneficiary prior to surrender. Tax events under the 4MLD, where the bond was the only asset, were therefore limited in practice to perhaps Inheritance Tax charges and few would have registered.

Under the 5MLD the position is quite different and trusts holding only life policies will also need to be registered by the trustees if they fall within any of the new categories described above. In general, given the widening of the register, most trusts holding single premium life policies falling into type A, B or C are required to register irrespective of having a 'UK tax event' but some exceptions are worth pointing out:

- › trusts for disabled persons, bereaved minors and personal injury trusts holding insurance-based products will not need to be registered
- › registered pension schemes such as SIPPs holding insurance-based products will not need to be registered
- › non-UK express trusts will not need to be registered even if the settlor is UK resident and/or domiciled, unless the trustees enters into a UK business relationship and there is also a UK resident trustee
- › finally, trusts which have already been 'registered in an EEA state' due to them being "established" there (see page 2 for definition) will not need to also be registered on the UK register.

This only covers the UK implementation of the 5MLD and if trustees are resident in other EU countries then advice should be sought as to how the 5MLD has been implemented in those countries.

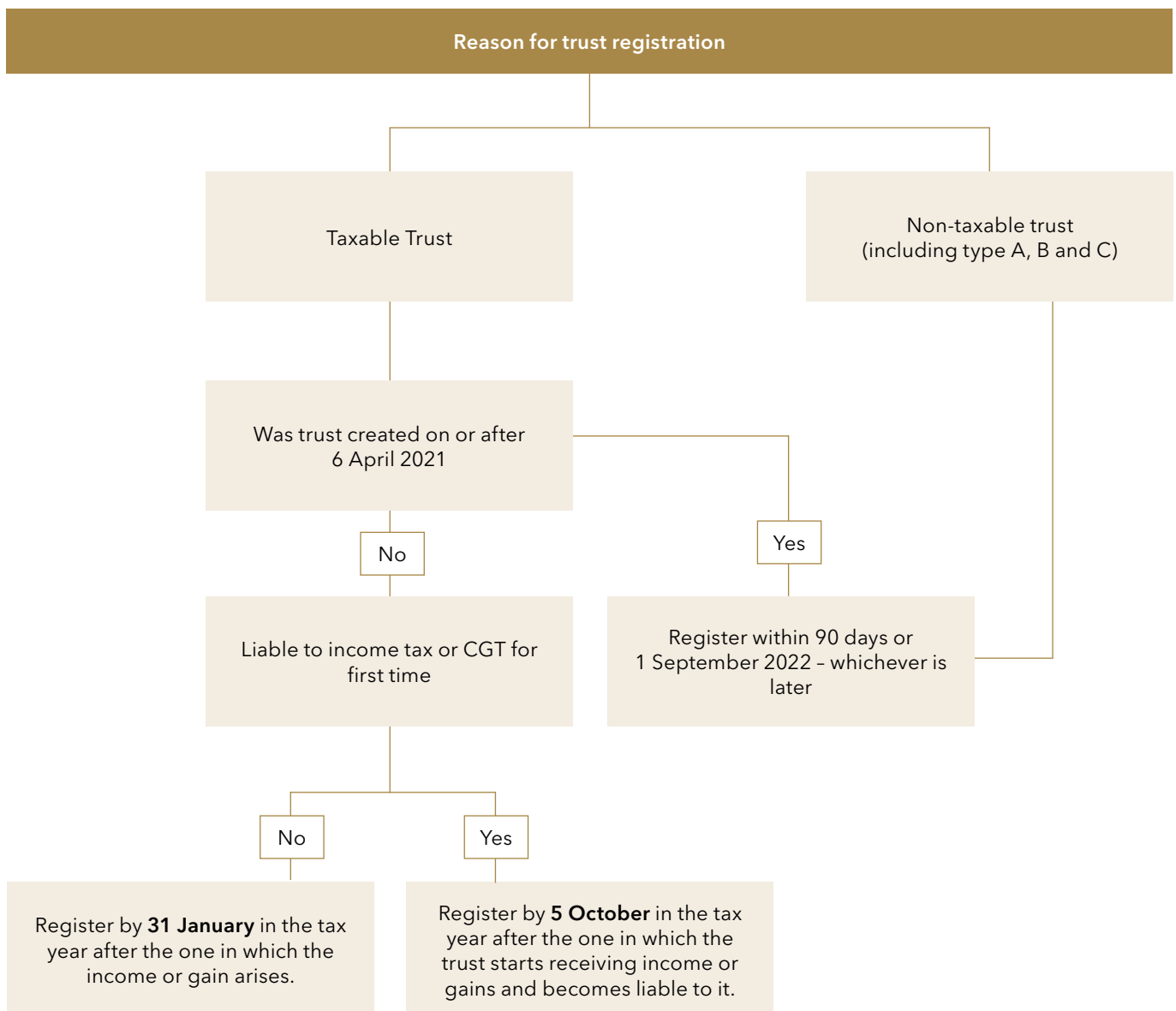
REGISTRATION PROCESS AND REPORTING DATES

The registration deadline depends on:

a) when the trust was created

b) whether the trust needs to be registered due to it being a taxable trust or due to it being a non-taxable trust, i.e. Type A, B and C.

The following chart gives the relevant dates for registration depending on why the trust is required to register. The registration deadline for 5MLD changes was 1 September 2022 – after this date any trust meeting type A, B or C will be required to register within 90 days of creation or becoming liable for tax. The deadline for taxable trusts also moves to 90 days for trusts set up on or after 6 April 2021.



ACCESS TO INFORMATION ON THE REGISTER

Firstly, it is important to understand that the UK trust register cannot be accessed by everyone. The information on the register can only be accessed by those with a **legitimate interest** in relation to money laundering or terrorist financing activities which includes, but is not restricted to, law enforcement agencies. Access to information can be refused if there are reasonable grounds to believe it is not in line with the regulations. When considering whether someone has a legitimate interest in the beneficial ownership of any trust, matters such as the following will be taken into account with respect to that person:

- › whether the person is involved in an investigation on money laundering or terrorist financing
- › whether the person is making a request in order to further an investigation in money laundering or terrorist financing
- › whether, amongst other matters, the information disclosed would be likely to prejudice any criminal investigation or proceedings, or any investigation under the Proceeds of Crime Act 2002.

Access to information may also be requested by a country (outside EEA) where a trust holds a controlling interest in a non-EEA legal entity.


Trustees can obtain an extract from the register, also known as a Proof of Registration document. This can be provided to 'relevant persons' (those entering a business relationship with the trust which would trigger registration) at the outset of the business relationship and also to satisfy relevant persons' ongoing due diligence requirements.

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 have been updated to introduce the requirement that, from 1 April 2023, relevant persons undertake discrepancy checks of the information they hold for trusts against the register extract as part of their ongoing monitoring and at certain trigger points such as a change in beneficial ownership. Where there is a material discrepancy (a discrepancy that may reasonably be considered to be linked to Money Laundering or Terrorist Financing or to conceal details of the business of the trust) this must be reported to HMRC by the relevant persons.

Finally, the July 2020 responses to the consultation expressed concern about data privacy given the register is not entirely restricted to law enforcement agencies. HMRC's response makes it clear that information will not be shared when it would be disproportionate to the risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation or when the beneficial owner is a minor or otherwise legally incapable.

UK REGISTER LOCATION

The UK register can be found at the following location:
<https://www.gov.uk/guidance/register-a-trust-as-a-trustee>
Updates to the trust register can be managed via this link:
<https://www.gov.uk/guidance/manage-your-trusts-registration-service>


 Before you can use the service you will need to set up a government gateway user ID which can be obtained by following the steps on the website.

WHAT INFORMATION IS REQUIRED TO BE PUT ON THE REGISTER?

The following information is required in relation to each settlor, trustee, protector and beneficiary:

- › individual's name
- › individual's date of birth
- › country of residence of beneficial owner²
- › nationality of beneficial owner²
- › nature and extent of beneficial interest held
 - the nature being their role, i.e. settlor, trustee or beneficiary
 - the extent gives the context of that interest, i.e. one of three trustees etc.

Trusts of types A and B must also provide information on the register of any controlling interest in a third country entity including the entity's name, the country or territory by whose law the third country entity is governed and the register or principal office of that third country entity.

 ² 'Beneficial owners' includes classes of beneficiaries who have not been defined, the information required under the register being a description of that class where applicable.

GUIDANCE ON THE UK REGISTER

Guidance on the UK register is available in the form of an online manual:
<https://www.gov.uk/hmrc-internal-manuals/trust-registration-service-manual>

USE OF PROFESSIONAL TRUSTEES

When a corporate or other professional trustee is appointed, the professional trustee will have responsibility for trust registration and for information updates for any trusts they manage which require to be registered. When choosing whom to appoint as trustee, the appointment of a professional trustee may be helpful to reduce the burden of regulatory reporting, assuming that the scope and cost of a professional trustee service is reasonable and appropriate for the circumstances of a particular trust or family.

The introduction of these regulations may also provide an opportunity for professional advisers to review trust arrangements. They may wish to take this opportunity to reinforce the trustees' understanding of existing fiduciary and statutory duties as well as outlining their obligation to register their trust and maintain the information, if it is within the scope of these regulations.

TRUSTS HOLDING LIFE POLICIES AND CAPITAL REDEMPTION POLICIES ISSUED FROM THE REPUBLIC OF IRELAND

Any UK express trusts that hold an Irish-domiciled bond will be deemed to have a 'business relationship' in Ireland under Ireland's registration rules and the trustees must therefore register the trust on the equivalent Irish trust register.

This requirement still applies even if the trustees have registered the trust on the UK register as a UK express or taxable trust.

More information on the requirements to register on the Central Register of Beneficial Ownership of Trusts can be obtained under the following FAQ. The FAQ also covers how such trusts would register on their portal.

<https://revenue.ie/en/crbot/trusts-that-must-register/non-residents.aspx>

Further, unlike the UK business relationship rules, the Irish rules do not exclude existing business relationship or have the requirement for an Irish trustee, meaning that **all** existing trusts that hold Irish domiciled policies are likely to be required to register.

The CRBOT register was generally unavailable for non-resident trustees for a period up to April 2025. In April 2025 a new version of the registration process for non-resident trustees was launched by the CRBOT which is available by clicking on "non-residents - important update for UK trustees" on the home page www.revenue.ie/en/crbot/index.aspx. Guidance on how to complete the register on CRBOT is available on the site.

Important note regarding registering on CRBOT

Failure to register on the CRBOT could lead to penalties against the trustees and/or delays in paying proceeds or processing transactions on accounts held with financial institutions in Ireland. This is because such financial institutions are required to run discrepancy checks against the CRBOT register when transacting with trustees. This involves making sure that the details on the register match those on their records.

Requirement to hold an internal register

Under the European Union (Anti-Money Laundering: Beneficial Ownerships of Trusts) Regulations 2021 (the 'Regulations'), trusts that enter into a 'business relationship' with Irish Financial Institutions, such as Utmost PanEurope dac ('UPE'), are also required to hold a beneficial ownership register ('Internal Register'). The requirement to hold this register is in addition to the trustees' requirement to register on the CRBOT. UPE have a template internal register available to use which can be obtained via our website.

<https://www.revenue.ie/en/crbot/trusts-that-must-register/non-residents.aspx>

PENALTIES

The 5MLD requires the implementation of a penalty regime that is "effective, persuasive and proportionate". HMRC set out the following penalties:

- › for failure to register or for late registration there is no financial penalty for a first offence but a notification (nudge) letter will be sent setting out the trustee's responsibilities and giving a deadline for registration or requesting an explanation for the late registration, as applicable.

However, where non-compliance is seen to be deliberate by the trustees, a £5000 penalty may be imposed on the lead trustee. This includes for failure to register and for failing to keep the information on the register up to date.

Furthermore, any trustees found to be involved in money laundering or terrorist financing may, in addition to any penalties for not registering, be subject to separate penalties under the Money Laundering (information on the Payer) regulations 2017 and the Proceeds of Crime Act 2002.

CONCLUSION

It would appear the list of exemptions has now been finalised and the resulting increased scope will mean that many trusts holding investment-type life policies will be required to register. HMRC have released technical guidance in this area and this continues to be updated.

Trustees who believe they could be in scope should start reviewing their position and if necessary seek professional advice.

Technical Services - first issued November 2020 and last updated May 2025.

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