



Impact of the Fifth Money Laundering Directive (5MLD)

HMRC's Trust Registration Service has been in operation since 2017 and is the mandatory, online route for trusts (and complex estates) to comply with their registration obligations under Article 31 of the Fourth Money Laundering Directive (4MLD).

Currently, trusts must register with HMRC only if the trust becomes liable to pay income tax, capital gains tax, inheritance tax or stamp duty. New trusts with UK tax liabilities have to sign up to the registration service in order to obtain the trust's unique taxpayer reference (UTR).

The amount of information required to complete the registration is particularly onerous. It includes details of the trust assets, such as the addresses of UK properties and the market value of the assets held at the date that they were settled; and, the name, date of birth and National Insurance Number (NINO) for all related parties such as the settlor, trustees, any person exercising control over the trust and the beneficiaries. Where individual beneficiaries have yet to be determined or identified, the registration service allows the use of a description of the 'class' of beneficiaries.

Changes on the horizon

The government recently announced plans to implement an expansion to the TRS following the Fifth Money Laundering Directive (5MLD).

Under the draft legislation, the requirement to register with the TRS will expand to apply to all UK express trusts



and some non-EU resident express trusts, whether or not the trust has incurred a tax liability, as is currently the case.

These changes have been going through a consultation period which finally closed on 21 February 2020 and we await the results.

A number of exceptions to the blanket requirement for registration have been proposed, namely:

- statutory trusts;
- trusts where two or more people co-own an asset e.g. a joint bank account;
- maintenance fund trusts for historic buildings;
- approved share option and profit-sharing schemes;
- vulnerable beneficiary trusts;
- personal injury trusts;
- registered pension schemes held in trust (subject to regulation by the FCA or Pensions Regulator);
- charitable trusts;
- trusts already registered in another EU member state.

HMRC has proposed some new deadlines for registration:

- trusts in existence at 10 March 2020, must register by 10 March 2022;
- trusts that are set up after 10 March 2020 must register within 30 days or by 10 March 2022, whichever is the later;
- trusts that are set up on or after 10 March 2022 will have 30 days to register;
- once registered on the updated system, trustees will have 30 days from when they are aware of any changes to update the details.

How we can help

These are potentially significant developments, of which trustees and agents should be aware. If you have any questions concerning your obligations, please do not hesitate to contact a member of the [trust management](#) team.