

Central Register of the Beneficial Ownership of Trusts Working Group Meeting - Minutes

Date: 01/12/2021

Time: 2.30 to 3.30pm

Attendees:

For Revenue: Patrick (Mick) O'Connor (MOC), Suzanne Sheahan (SS)

External Stakeholders: Aileen Keogan – STEP, Brendan Wallace, Shane Martin – IDSA, Julia Considine, Camilla Cullinane, Clare McGuinness – ITI, Christine Lutz – PA, Sean O'Connor- Charities Regulator, Tony Ward - The Wheel, Padraic Courtney, Richard Hammond – LS, Salvador Nash, Jillian O'Sullivan - CGI, Louise Carey – SI, Gillian Byrne – BPF

Apologies: Nicola Moran

Agenda:

- Minutes of previous meeting
 - Updates to FAQs & Queries
 - Register Forms
 - BORIS update
 - IT issues
 - AOB
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Minutes of Previous Meeting

Agreed.

Updates to FAQs & Queries: – It was confirmed that further legal advice has been received and this allowed for further updates to be made.

SS provided the following updates –

Estates - Following further review it can be clarified that a will trust is not a relevant trust for the purpose of the Regulations until the estate has been administered, as it is not possible to identify with certainty the subject matter of the relevant trust until then.

Deceased Beneficial Owners – Where a beneficial owner of a trust is deceased prior to 23 April 2021 it is not necessary to enter their beneficial ownership details on CRBOT. On the death of a beneficial owner on 23 April 2021 or after this date, the beneficial ownership information must be registered on the CRBOT, but the date of death can be entered as the date on which the deceased ceased to be a beneficial owner. For estates that provide for a relevant trust, the trust is not established until after the death of the testator, therefore the deceased is not a beneficial owner for the purposes of CRBOT.

Legal Entities – Revenue continues to consider the position of legal entities as trustees, settlors and protectors. The SI only provides for cross referencing to another Central Register if the legal entity is a beneficiary of a trust and beneficial ownership information is already recorded on another Central Register. With a view to proportionality and practicality, Revenue will now allow for cross referencing in instances similar to legal entities as beneficiaries, where trustee, settlors etc that are legal entities are on another Register. The

functionality to enter a reference of the other register is not currently available on the CRBOT but will be updated shortly.

Administered in the State – MO’C noted that the position as outlined previously that this was to be considered as widely as possible has been confirmed.

Update to Website and FAQs - The website data and FAQ document is under review and will be updated shortly. Some items from the FAQ document will be absorbed into the main CRBOT page.

IT Development Update- SS gave an update on upcoming developments on the Trust Register including the functionality to cross reference to the RBO and CFV Registers, print view for trustee or presenters who have filed, the extension of the period for which the access code is valid for as part of the designated person access.

Forms

MOC advised that the Trust Register team have developed a form to allow designated persons to make a discrepancy notice to Revenue in relation to a trust. A form to make a request to access minor beneficial ownership data on the grounds of public interest has also been drafted. Draft forms were circulated prior to the meeting for feedback. As there was no further feedback these forms will now be published. Further forms will be provided to the group for observations in advance of being published.

Round Table

MOC provided members with the opportunity to raise an issues or queries. The following items were raised –

A member asked if the website update on Estates could be simplified to the extent that they are outside the scope of CRBOT.

SS advised that this will be clear from the website update.

A member asked if Revenue will be deleting any estates that have been registered. The member highlighted the amount of effort exerted on updating the CRBOT with estate beneficial ownership information.

SS advised that any open queries on estates would be reviewed with a view to assisting the trustee in deleting any data that is not required. However, Revenue does not have any mechanism to auto delete estates or to identify cases that are not within the scope of the CRBOT. Agents, advisors and trustees are welcome to contact Revenue for assistance in relation to deletions.

A member raised the issue of the due diligence process for designated person in regard to estates and that it would be of assistance if Revenue clarified that as estates did not have to register on the CRBOT that designated persons should note that the beneficial ownership data of estates are not recorded on the CRBOT.

SS advised that considerations on the due diligence process was outside the scope of the working group and not within Revenue’s role regarding administering and managing CRBOT. However, the point is noted and will be reviewed when the website is being updated.

A member raised the point regarding the ability to cross reference the RBO register for trustees, if amendments should now be made to registrations in light of the recent update.

SS advised that it wasn’t necessary to update a registration that was already filed but that the trustees could consider an amendment.

A member asked if designated persons ‘tipping off’ trustees of discrepancies was allowed.

SS advised that there was no explicit mention in SI 194 of 2021 about ‘tipping off’ but the interaction with Section 49 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2021 will need to be considered and Revenue will consider further.

A member noted that validation issues in relation to DOB of BO was causing some issues in relation to progressing registrations.

A member queried if there would be any further outreach events or communication items for the charity sector. Another member noted that if working group members could be provided with the updated website link and FAQ document, that this could be circulated to the different stakeholders and representative groups.

MOC advised that Revenue would continue to engage with the different sectors and that website updates would be forwarded to the group.

A member raised a query in regard to death in benefit trusts.

SS advised that the website update would include more guidance on the definition of express trusts including the requirement for the presence of the ‘Three Certainties’

BORIS Update:

MOC confirmed that he is continuing to engage very actively with the Department of Finance and all the other Irish Beneficial Ownership Registers with a view to ensuring the interconnector is developed as soon as practicable. He noted that the GDPR concerns raised by members were part of that ongoing engagement.

A member raised a query regarding whether it was just equivalent competent authorities in other EU countries that will gain access to BORIS or is it will be wider than this.

MOC advised that queries such as this all formed part of the current discussion with DOF.

A member raised a query on the practicalities for trusts who were within the scope of multiple registers. The FAQs provided that a cert from the MS where the trust was registered must be acquired by the trustees. Is Revenue issuing similar certs and how do trustees ascertain that the same information is captured by both registers.

SS advised that the trustees have to ascertain if there are differences in the information required on different Registers in a situation where they are in the scope of different central registers in different states. Revenue will review their role in the provision of certs in such an instance.

AOB

None

Conclusion

MOC concluded that the Working Group would hold another meeting prior to Christmas, but change to a monthly meeting in the new year.

The next WG meeting has been scheduled for Wednesday 15th December at 2.30pm.