

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

Date: 06/10/2021

Time: 2.30pm to 3.45pm

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### Attendees:

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

External Stakeholders: Aileen Keogan – STEP, Annelies Coughlan – CII, Brendan Wallace & Shane Martin – IDSA, Clare McGuinness, Camilla Cullinane, Julia Considine – ITI, Dee Moran - CCAB-I, Nollaig Greene- IF, Sean O'Connor- Charities Regulator, Tony Ward - The Wheel, Padraic Courtney – LS, Salvador Nash & Jillian O'Sullivan- CGI, Christine Lutz – PA, Debbie Anderson – ACOI, Louise Carey - SI

### Apologies:

Michael Kavanagh – ACOI

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### Agenda:

Minutes

Update on queries received

Q&A updates document

Charities sub-group update

Due diligence process update

Communications Update

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### Approval of Minutes 22/09/21

Note regarding identification & vesting on feedback query 2 to be adjusted. Otherwise approved.

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### Introduction & Update from the Trust Registrar:

MOC noted the distributed Q&A should address further issues raised from the last two meetings.

SS provided a brief update on functionality developments and recent fixes to the register. She acknowledged some queries were still outstanding which we hope to have answers to by the end of the week. She also noted that we were currently working on an Access FAQ for Designated Persons which would be distributed to the working group and uploaded to the website in due course.

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### Update on Queries Received and Feedback on Q&A updates:

Members provided the following feedback on the responses given in the Q&A document and presented further queries:

1. It was noted that the inability of the register to do bulk uploads was slowing up the registration process.

SS said that the facility of bulk uploads was currently unavailable however we would liaise with our development team and try to come up with a work-around to deal with bulk uploads for beneficial owners on a case by case basis.

MOC acknowledged there appeared to be a need for this functionality where there were many beneficial owners and that we would work with users on this.

2. A point was raised regarding a discretionary trust in a will and that the trust only came into effect when there was assignment of the trustees. It was also noted that there may be contingencies in a will like a gift over clause, where for example, on a spouse's survival after a certain period the interests in the trust are not vested and thus the trust is not executed.

Members are going to provide an example of this in a real-life context.

SS said that if a will or estate provided for a trust, the executor is the beneficial owner during the course of the administration of the estate until the trust comes into effect and the trustees are identified.

3. It was asked when is the start date of the trust, is it at the grant of probate? It was noted that a will would not become effective and that no authority is given to executors until grant of probate, and that executors administering a will before that date were acting at their own risk.

SS said that trust was in effect from date of death but that she would review again with our technical team

4. Members acknowledged the work undertaken by the Revenue officials in the working group and sub-group and thanked them for their assistance with queries and registration issues.
5. Some members noted that they are receiving a smaller number of queries than was expected and believed there may be a need for a media push.

MOC acknowledged the complexity of getting the right message across when clarity was needed in some sectors and recognised the need for further communications as soon as possible.

6. A query was raised on the reporting requirement where a beneficial owner of a trust was in-fact another trust already registered on CRBOT?

SS noted that we had not received that query yet and would look into how to manage this situation.

7. It was asked if Revenue would change its stance on the de minimis in relation to value of assets held in trust.

MOC stated that there was no de minimis provided for in the legislation.

8. It was asked if the Q&A provided in the meeting could be distributed to the members own memberships.

SS confirmed that members could distribute Q&As and that all Q&As from working group sessions would be added to the FAQs. Updated FAQs would be posted on the website in the coming days.

9. A query was raised PC in relation to gaining the details of a deceased settlor and the difficulty that this may pose. It was noted that they cannot be a beneficial owner or be a risk under AML as they are deceased.

It was also noted that there would be difficulty identifying a settlor in trusts under Sections 189 & 189A, where the funds were raised by public subscription.

SS said she would bring this to Revenue's technical team.

10. It was noted that the FAQs should include an addition, that confirms, that where a beneficial owner dies within the six months of creation of the trust that their details will still need to be included on the registration of the trust.

11. It was again noted the need for a print view for presenters of the trust. All details, as input to the register and with a time stamp, are required on this print view.

SS recognised the need for this, and that we had sought this functionality with our development team.

12. A query was asked in relation to Trustees ability to provide an access number to a designated person for due-diligence undertaking, without the need to go to the presenter.

SS confirmed that, at the moment, the presenter could only provide an access number, but we have sought functionality to allow a trustee to provide access numbers to designated persons.

13. A query was raised in relation to time limit on the proposed token for access to the register by designated persons.

SS provided that the 5-day period was a starting point as we were unsure of the time required by designated persons in their due diligence process. However, after speaking with some organisations a longer period was deemed more appropriate. SS also recognised that there may be data protection concerns if we were to allow access for too long, but that we could come to a compromise to allow sufficient access.

MOC added, that if the access period was too lengthy, there may be a concern that information could change between the period of access and inspection, and that the access given on creation of the relationship may not be relevant a week or a month later, or in some circumstances relationships may change. The possibility of access only being provided by the trustee confirming the token was also raised and this is being examined by the Registrar team.

14. It was asked could access be cancelled.

SS said she would check this with our development team.

15. It was noted that advices were given externally that within the EU AML legislation there was scope to allow charities register on a company's register if applicable or an equivalent trust register.

SS believed that the legislation may have been misunderstood in this context and provided the only two scenarios where a cross reference of registers was applicable were:

- Where a relevant trust is administered or where the trustees reside in more than one member state, or a business relationship has been entered into in another MS on behalf of the trust or land/property has been acquired in another MS in the name of the trust *and* the trust has registered on an equivalent trust register to CRBOT or,
- Where a legal entity is a beneficiary of a trust and is also registered on another register, such as the RBO. The trustee/presenter in this case, need only provide the Legal Entity's RBO (CRO)

number to CRBOT when entering the beneficial ownership details of that Legal Entity. All other beneficial owners of the trust will need to be added to CRBOT in their relevant capacities.

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#### **Charities sub-group update:**

MOC told the group that he hoped to provide clarity on subgroup queries by the end of the week.

It was noted that the sub-group was very useful and acknowledged the importance of getting clarity on what sub-section of the charities sector it applies to, to avoid confusion.

MOC said that the door is always open to engagement with sector.

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#### **Due Diligence:**

SS Provided a brief synopsis of the due diligence process and how designated persons could access the register. It was noted that a protection for minors was in place that disallowed viewing of minor information.

NM will provide an FAQ on access for designated persons in the coming days.

It was queried whether there is a de minimis on discrepancy reporting.

SS provided that the principle was that if the designated person believed that there was a barrier to identifying a beneficial owner after review of the internal register and CRBOT then this would be cause for discrepancy reporting. MOC confirmed some further clarity on this would be provided in due course.

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#### **Communications Update:**

MOC noted that a communication piece was provided to those who requested same for their publications. He recognised that this piece was basic in its notification of the register but that further guidance would be provided as the register develops. He also confirmed that an updated FAQs would be uploaded to the Revenue website in the coming days.

NM confirmed that the updated FAQs sections were highlighted throughout the manual.

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#### **Conclusion**

MOC asked members to keep sending in any queries they had. He noted that our role in managing the register is to implement the legislation as laid out. We would however engage with the Department of Finance to make them aware of any concerns raised.

SS said we hoped outstanding queries in the general working group and the sub-group would be delivered by the end of the week.