

STEP

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STEP 
ADVISING FAMILIES ACROSS GENERATIONS

CRBOT - summary

- 1 What is registrable?
 - 1 Which trusts?
 - 2 What excluded?
 - 3 What still uncertain?
- 2 Practical considerations
 - 1 Preparations
 - 2 'How to'
- 3 Effect of Registration



What is to be registered?

CRBOT – what is excluded?

- Specific exclusions
 - Approved occupational pension schemes
 - Approved retirement funds
 - Approved profit sharing schemes or employee share ownership schemes
 - Trusts for restricted shares
 - Haemophilia HIV trust
 - Unit trusts
 - More to be added?
- Less specific – not ‘in scope’
 - Non express trusts
 - Statutory trusts
 - Intestacies benefiting minors
 - Testate estates?
 - Solicitors client accounts?
 - Trusts where trustees are not Irish resident/not administered in the State
 - Trusts registered already in other EU country



CRBOT - uncertainties

- Definition of Irish resident trust
 - Tax residence?
 - Income tax definition – **any** trustee?
 - CGT definition – **majority** of trustees?
 - Legislation envisages many EU states might qualify so then consider which is the best one to register in first
- Definition of “otherwise administered in State”
 - All/majority/some trustees administering duties?
 - Holding assets here (majority of trust assets?)
 - Cross over with designated persons and business relationships/occasional transactions?
 - Carpet bagging of non EU trusts into Ireland?
- Default trusts
 - Post contract default trust
 - Post discretionary trust default clauses
 - How identify such beneficiaries if they may never benefit?



CRBOT – uncertainties cont'd

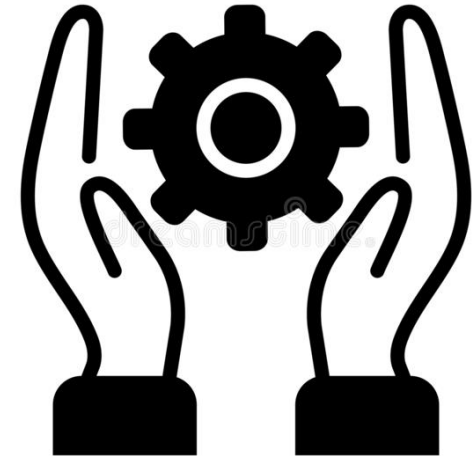
- Future interests – if not contingent, yes?
- Contingent trusts – ignore contingency like with CAT?
- Vulnerable adults – not excluded but will they be (should be similar to minors)?
- Joint bank accounts (convenience) – effect of non registration, falls out of estate and CAT issues?
- Estates
 - If a trust is created under the Will, timing of registration under legislation = post administration
 - Wills without trusts being administered still – statutory trusts?
 - Legislation allows executor be the BO for designated persons =/= the estate being an express trust
 - Dormant estate for one beneficiary – is this a trust?
 - FAQs to be redrafted



Practical issues

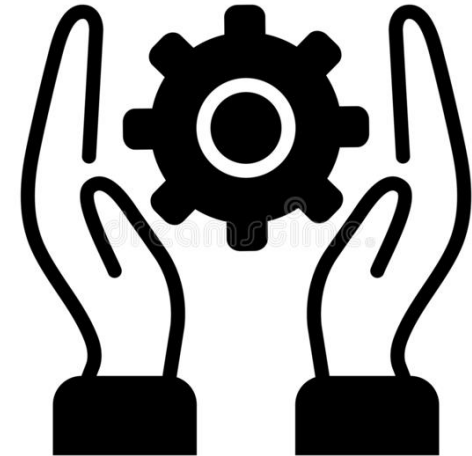
CRBOT – Practicalities

- Register existing pre 23/10/21
- Any trusts since 23/4/21 = register before +6 months.
- Preparation
 - Inform clients – feedback to date = concern around trust assets being disclosed
 - TAIN link form
 - One trustee sign or all?
 - PDF for upload
- List out all details in one spreadsheet – settlors, trustees, beneficiaries, protector, other controlling persons (e.g. veto) – all called BO
- Use this as updated internal register
- Date of internal register = not earlier than 29/1/2019
- Register each person in each category
- Drop down for ‘residence’ and ‘nationality’ frustrating!
- Multiple breakdowns – error messages brings you back to ROS edit screen but it is better to start all over again in fact.



CRBOT – Practicalities

- Example 1
 - bare trusts for 3 children
 - parents are settlors and trustees
 - need to input each parents' details 6 times!
 - Same home address entered 15 times!
 - request in to ask for one person to have multiple status
- Example 2
 - Discretionary trusts
 - Deceased settlor
 - Acting trustees
 - Class of beneficiaries
 - Relatively simple registration!



CRBOT - practicalities cont'd

- TAIN
 - Upload pdf of signed link on prompting
 - Only if ROS (and Ran) enabled
 - Remember solicitors are advisors, not agents
 - Not on ROS services record – stand alone register
- Print out not available – keep record number and trust number
- Screen shots impractical as needed for each BO
- Once go back in, need to resubmit (new record number)
- Requests in for this to be reviewed
 - to allow print outs of what is filed
 - to allow print outs of what may be amended later
 - to allow access to view without need to resubmit
 - to allow save of part completed details without submitting those parts
 - to allow back buttons to work!



CRBOT – practicalities cont'd

- When registration complete, jumps back to main ROS page so need to re-access trust register page
- Trust register on front page is only in order of date of registration – search issues in future for multiple trusts?

- How the access code will work for designated persons TBC
- Will this be available to trustees direct or must they route it through the advisor/agent?

- Future access of legitimate interests?
 - Need confirmation of criteria for what will be accessible for minors
 - Protection for vulnerable adults
 - Protection for 'backdoor' access through other EU access points



CRBOT - effect of registration

- Designated persons with business relationships will later verify the registration
- Right to ask trustees to rectify mistakes (or is this tipping off?)
- Competent authorities will access this
- Those with proven legitimate interest will access this – criteria needed regarding how this will work to allow trustees understand this in practice – privacy / GDPR considerations particularly if cross EU border
- If delay registration
 - Penalties
 - Designated person cannot act
- NB keep internal and CRBOT registers up to date
- 10 years CRBOT retention



CRBOT

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