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Central Register of Beneficial Ownership of Trusts (CRBOT) – an update

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1

CRBOT

Background

2

CRBOT – in context

1. RBO – Central Register of Beneficial Ownership of Companies and Industrial and Provident Societies (managed by CRO)
2. Beneficial Ownership Register of Certain Financial Vehicles (CFV) (managed by Central Bank)
3. CRBOT – Central Register of Beneficial Ownership of Trusts (managed by Revenue)

RBO



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CRBOT – in context

Worldwide initiative – EU leading

- FATF – Financial Action Task Force - originally did not consider a register a useful tool to reduce ML risk (beneficiaries do not provide the seed capital to the trust)
- EU Parliament insistence on register for EU
- Panama papers, Pandora papers, Paradise papers
- Administrative burden & Privacy issues - v - AML Value
- Proportionality - estates, charities, nominal trusts
- Duplication - Revenue, Charity Regulatory Authority, Central Bank
- ... is this likely to lead to more tax...?



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What is to be registered?

7

CRBOT - What is to be registered?

Legislation refers to “Relevant Trusts”

A relevant trust is an -

“express trust established by deed or other declaration in writing and any other arrangement or class of arrangement prescribed”

- Irish resident
- otherwise administered in the State
- as specifically prescribed (none as yet)
- that are not specifically excluded



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CRBOT – working group

- Registrar, Assistant Registrar, Secretary to WG
- STEP Ireland
- Law Society
- ITI
- CCABI
- Irish Funds
- CEO Compliance Officers group
- IDSA (Irish Debt Securities Association)
- Pensions Regulator
- Charities sector
- Meet every two weeks generally
- Updated FAQs and trouble shooting
- Considers submissions re practical issues
- Separate legislative change – Department of Justice



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CRBOT - uncertainties

- Default trusts
 - Post contract default trust
 - Post discretionary trust default clauses
 - How identify such beneficiaries if they may never benefit?
- Future interests
 - If vested – registrable – so default n/a?
 - If not vested – discretionary class?
 - Even if defeasible, registrable
 - Contingent trusts – defeasible? ignore contingency like with CAT?
 - Consider post discretionary trusts not vested
- Foundations
 - Considered usually corporate, not trusts, but sometimes hybrid
 - Specific imposition of discretionary trust levies
 - Ss 806 / 579 / 579A TCA97 applications
 - Care that if not a trust under CRBOT, then corporate under RBO



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CRBOT

Practical issues

15

CRBOT – Practicalities

- CRBOT portal – very useful FAQs and forms, updated with feedback
- Registration of trusts before 23/10/21-still open for registration - eBrief 195/21 – make efforts and notify CRBOT (no time limit)
- Any trusts since 23/4/21 = register before +6 months.
- No longer register deceased settlors (cut off RIP pre 23/4/2021)
- No longer register estates with trusts



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