

# Trust Registration Service (TRS) – Where are we up to?



[kraftery@qbparkers.co.uk](mailto:kraftery@qbparkers.co.uk)  
07760 880626

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- Broader estate planning issues
- Background to TRS & HMRC attitudes
- Summary of 4MLD & 5MLD
- Registering your own Trust (Lay trustees)
- QB/ZEDRA Trust Registration Service
- Why should advisers consider a campaign?
- Issues facing providers

*This presentation is designed to supplement the multiple technical outputs with a look at the practicalities of registration.*



# Which trusts are caught?



1. Pensions
2. Express trusts registered in another EU Member State
3. Statutory trusts
4. UK Charitable trusts
5. Life insurance written into trust (including shareholder protection trusts)
6. 18 – 25 trusts established in the will
7. Trusts created by a will which are wound up within two years of death
8. 'Pilot' trusts created before the Regulations come into force (max value of trust property is £100)



1. Discretionary trusts
2. Interest in possession trusts
3. Bare trusts and nominee arrangements
4. Employee ownership trusts
5. Discounted gift schemes
6. Loan trusts
7. Gift trusts



Trusts created by will not wound up within 2 years of death

# Which trusts need to register?

HMRC white paper raising standards in the tax advice market: professional indemnity insurance and defining tax advice .

One of the examples quotes is of financial advisers & estate planning using trusts.

Raising standards in the tax advice market



Trustee meeting notes



Record of gifts sharing



TRS reporting



Reviewing letters of wishes, wills, LPAs



Communicating with trustees, executors, solicitors etc



Reviewing options

## 4MLD Basics

June 2017 new rules required certain trusts to register with the TRS (on-line only – making tax digital)

Applies to express **“taxable relevant property trusts.”**  
Bond/trusts can be caught by a periodic charge or chargeable event **only if it results in a trustee tax bill**

These trusts should already have reported on start up & filed regular returns to HMRC

Existing trusts should have registered by 5<sup>th</sup> March 2018. HMRC estimate 30% missed the deadline. **New trusts must register within 30 days of completion**

**EU directives transposed into UK law with 2 statutory instruments 2017/2020**

Lead trustee must access the TRS via an “organisational” government gateway account (one for each trust)

The trustee will need to provide the TRS with **detailed** information on trustees, the trust, beneficiaries, assets etc

Penalties are not automatic but there are guidelines for late reporting under 4MLD

## 4MLD - Penalties

- HMRC have said that they will not automatically charge penalties for late TRS returns, but will instead take a pragmatic and risk based approach to charging penalties under 4MLD. That being said they do have guidelines!
- A failure to register a trust or a failure to notify any change of information by the due date, can result in the following penalties chargeable on the lead trustee:
  - (a) registration made up to three months from the due date – £100 penalty;
  - (b) registration made three to six months after the due date – £200 penalty; and
  - (c) registration more than six months late – either 5% of the tax liability or £300 penalty, whichever is the greater sum.
- A penalty will not be payable if HMRC are satisfied that a trustee took reasonable steps to comply with the regulations.
- HMRC also have the power to apply a penalty for money laundering offences.
- **Legislation:** *Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017* (SI 2017/692), [reg. 42](#), [44](#), [45](#), [45ZA](#), [Sch. 3A](#)
- No mention of penalties in the current TRS manual! Watch this space, will be added to the TRS manual soon



## 5 M L D Basics

New rules came into force in 10/01/2020. Again under the “making tax digital” initiative

Express trusts (**now includes bare trusts**) regardless of whether they are subject to tax need to register.

Trusts need to register within 12 months of “go live” date (early September 2021 and 12 months from then to register. New trusts will have 30 days from that point.

Again legislation on the form of 2 statutory instruments

No penalties exist yet. **The big risk will be if providers/DFMs/platforms stop taking instructions once deadlines are missed**

Again lead trustee must access the TRS via an “organisational” government gateway account (one for each trust)

The trustee will need to provide detailed information on trustees, the trust, beneficiaries, **assets**? There are new mental capacity questions for settlors & named beneficiaries

HMRC have announced an extension on the exemption on protection policies to include policies with a SV. More to follow!

## Recent quote from HMRC VIA STEP

HMRC has been consulting the industry on the interpretation of Sch3A(4) and Sch3A(8) of the *Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017* in relation to the Trust Registration Service (TRS). HMRC has now confirmed that Sch3A(4) can be properly interpreted as **including trusts holding policies that have surrender values, and that those trusts would remain excluded until such time as the policy is actually surrendered.** It follows from this that pay-outs received from such policies on death would continue to benefit from the exclusion at Sch3A(8). HMRC has informed STEP that it will include this position in the next iteration of the TRS manual.





**4MLD**

**“Trusts that pay tax” i.e., not just taxable but tax paid by trustees**

**5MLD**

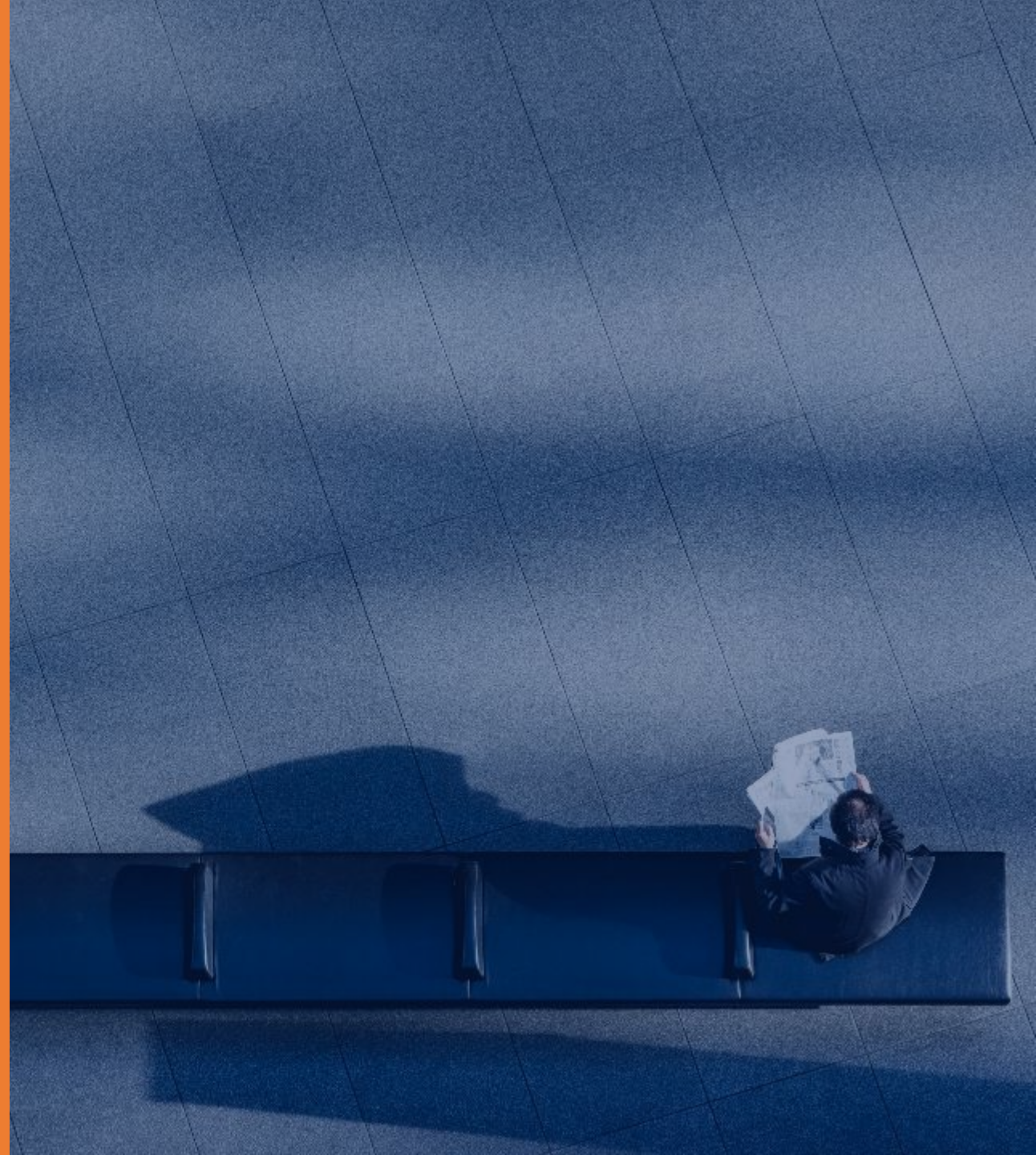
**“Trust that do not pay tax” either because they invest in non-taxable assets or because where a tax charge arises it does not fall on the trustees**

### Quote from the published regulations

“all firms subject to AML obligations under the 2017 regulations entering into a business relationship with a trust which is subject to the new registration requirements must check whether the trust has been properly registered and must investigate and report any discrepancies”



Partners



Client's registering  
their own trusts



Partners



# Clients registering own trusts

Lead trustee applies for a tax reference number then an “organisational” gateway account. **One for each trust!**

Trustees must use up to date technology as the gateway service cannot be accessed if using VISTA/XP or older systems

TRS reporting will create a string of unproductive client meetings all questionable from a compliance view.

Trustees must collate & check data. They will also need help with the process for accessing TRS via gateway accounts

Trustees must retain data used, passwords etc & **update the TRS of all changes, no change declarations (taxable trusts only) & upgrades to requirements.**

QB Trust Registration  
Service



# Clients using the QB/ZEDRA service to register trusts

Firms complete our on-line questionnaire which populates report & contract & invoice.

Zedra complete the (initial) trust registration and return a “certificate” with the TRS reference number. They can also return tax reference number & passwords etc for future use.

QB will supply commentary on issues highlighted by the data will report back on trends analysis. QB can also provide on-going technical support & report writing.

Advisers contact trustees with a copy of the data, an invoice & contract. The fee for a non-taxable trust is £300 (includes VAT) per trust.  
**NB who pays the fee and fees for taxable trusts?**

Full professional trustee services are an option and can sit alongside “lay trustees”.

# New issues

TRS now requires trustees to confirm capacity for **named beneficiaries** & the settlor. They also require additional contact info for lead trustees

Lead trustees need to consider the need to update the register of any changes but also in respect of changing requirements (e.g. new capacity questions) even **no change declarations**

**Adviser firms acting as agents** need to review the TRS notes for agents updates. Advisers should check the compliance position first. NB TRS requires clients to appoint agents first!

The TRS system now produces a certificate to prove that trusts have been registered. This may be essential in dealing with providers, DFM's etc

Reporting under 5MLD goes live from early September 2021. We await the revised TRS manual to support this.

## Hot off the press...

HMRC had previously updated its [guidance on the Trust Registration Service \(TRS\)](#) to confirm that from 29 June trustees would no longer need to claim a trust prior to authorising an agent, removing one step from the process.

On 9 July, HMRC confirmed that further investigations had revealed that it was not possible to remove this step from the process.

It stated: “The ‘claim-a-trust’ process is a security requirement which is in place to protect the data held on the service and ensure that only those who are entitled to see the data can do so. Therefore, the requirement for the trust to be claimed by the client to authorise an agent to make changes to the trust details must remain in place.”

HMRC apologised for the confusion caused by announcing the change and pledged to continue working to improve the experience for TRS users.

[ICAEW’s Tax Faculty](#) described the announcement as disappointing and reminded trustees that they must claim a trust before they can authorise an agent.





## Hot off the press...

HMRC has clarified that the exclusion for life and retirement policies at Schedule 3A(4) does encompass trusts holding policies which have or can acquire surrender values...

There have been some questions about bonds as some are life policies & some are not. Regardless surely they should not be exempt from TRS reporting.

We have received this response from HMRC

**“However, in making this clarification we did not intend for this to mean that other types of policies with a principal investment purpose would also benefit from this exclusion. HMRC’s position remains that such policies (including investment bonds, discounted gift trusts and endowment policies) are, if held in trust, required to register. We intend to issue further clarification on this point later in the year.”**



# Hot off the press...

HMRC announced that systems for registering non-taxable trusts go live from early September 2021, with 12 months from that date to register.

## Go live 5MLD HMRC

“The Trust Registration Service

We’re pleased to tell you that the Trust Registration Service will open for non-taxable trust registrations for all customers from the beginning of September. All UK express trusts, including non-taxable trusts are now required to register with HMRC, unless they are specifically excluded. Non-taxable trusts have approximately 12 months to register from the date the Trust Registration Service is made available to all non-taxable trusts.”



Partners



## Issues facing providers

Is it sufficient to issue technical guidance & not touch on the practicalities of how trustees register?

Providers should consider clients they advise direct (In particular this applies to “vertically integrated” businesses)

Providers should consider what approach they will take with “orphan clients” & “disengaged clients” (where advise fees have been switched off)

Authorities may expect a more proactive approach e.g. nudge letters & or disclosure of data?

Providers obligations for due diligence & discrepancy reporting are dependant on jurisdiction

# Next Steps?



Firms should review back office systems re identifying clients & extract data



Firms should review compliance issues around adviser involvement



Firms should review options of using external partners & consider process efficiency & due diligence



Firms should roll out this message to all staff dealing with trustee clients



Firms should consider how they explain TRS to clients & focus on whether it's impractical for lay trustees



Firms should review the data captured & reflect on any priority actions for their book of trust clients

# Should advisers consider a campaign?

Lay trustees will find trust registration & the government gateway service highly problematic. **Advisers will be pressed into offering help.**

Advisers cannot ignore the due diligence & discrepancy reporting requirements (remember the paragraph from the 2017 SI).

Providers may not take instructions on trust plans without evidence of compliance with TRS from 12 months post the “go live” date for 5MLD.

This is an opportunity to re-establish contact with disengaged clients.

The process has the fewest number of interventions by adviser firms.

This is also an ideal opportunity to review all aspects of best practice for trust planning. QB will report back on any obvious issues based on the data received.

**Advisers should consider staying one step ahead of HMRC/FOS/FCA**



# Sources of information

There is a real problem with HMRC pages being misinterpreted when they do not reflect the revisions such as moving from 4MLD to 5MLD. But do use:

HMRC daily updates (e.g. 30<sup>th</sup> June 2021 notes on updating trusts), appointing agents etc. [Manage your trust](#)

The two statutory instruments 2017 & 2020

[2017 statutory instrument](#)

[2020 statutory instrument](#)

TRS manual (HMRC) [TRS Manual](#)

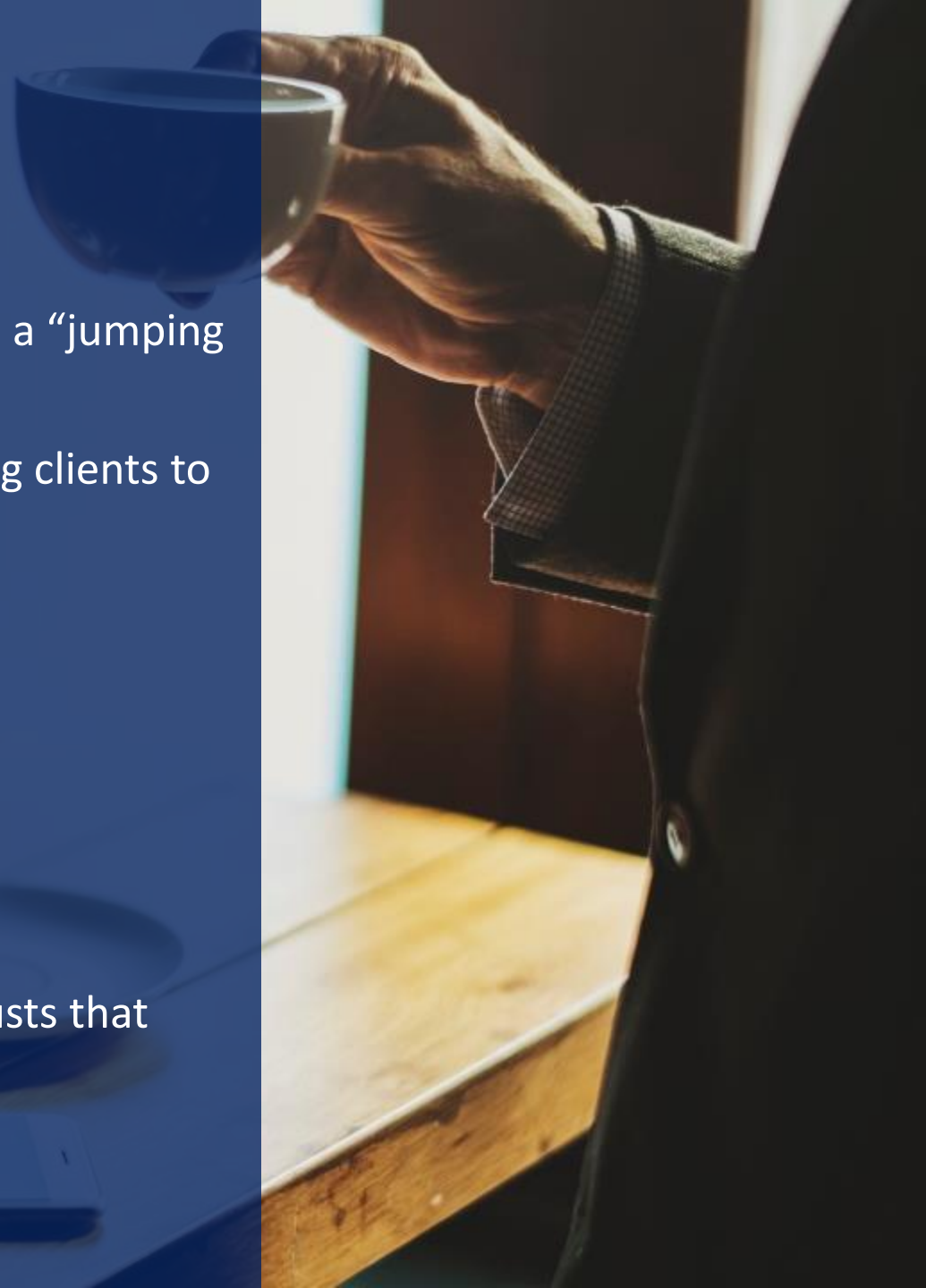
[Go live 5MLD HMRC](#)

[QB TRS website \(coming soon\)](#)



## Conclusions & trends

- Broader estate planning issues can be addressed using the data as a “jumping off point”
- Advisers need to review compliance/business risks if directly aiding clients to register
- Lay trustees will find the TRS extremely difficult to navigate
- There will be less trust business & more BPR business transacted
- There will be more use of professional trustee services
- Suitable trusts will consider distributing out to wind up trusts
- QB/ZEDRA Trust Registration Service should be a “benchmark”
- Providers/Platforms/DFM’s may have to suspend dealings with trusts that cannot evidence compliance with the new rules
- The TRS manual now pulls together 4MLD & 5MLD



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[kraftery@qbpartners.co.uk](mailto:kraftery@qbpartners.co.uk)



07760 880626



[qbpartners.co.uk](http://qbpartners.co.uk)