

Original registration details Trust Registration Service

Questions and Answers

Under the 5th EU Money Laundering Directive, a wider range of Trusts are now required to be registered on the HM Revenue & Customs (HMRC) Trust Registration Service (TRS). All relevant Trusts must be registered with HMRC by 1st September 2022, or within 90 days of being set up, whichever is the later. Failure to register a Trust may result in a fine.

General questions

What is an express trust?

An express trust is a trust that has been deliberately created by a settlor(s) and would usually be constituted by capturing these details in a document called a Trust deed, created during a person's lifetime or via a Will.

What Products are in scope?

For HSBC Life, the requirements of the TRS only cover investments such as the Onshore Investment Bond, Flexible Bond, or Distribution Bond.

This means that any Maximum Investment Plans (MIPs) Endowments, Whole of Life policies and Protection policies held in trust are excluded unless the trust becomes taxable.

Which type of trusts must register via the TRS?

Relevant Express trusts that are taxable and non-taxable must register. All trusts holding a life insurance bond like that of HSBC Life's are required to register.

Which trusts are exempt from registration?

There are several types of trust which are exempt, and which do not need to register unless they become liable to tax, as follows:

- ◆ Bereaved minor trusts
- ◆ Vulnerable persons trust

- ◆ Personal Injury trusts
- ◆ Trusts that arise because of statutory requirements – for example a trust arising under intestacy rules
- ◆ Will trusts created on death that only receive assets from the estate and are wound up within two years of death
- ◆ Registered pension scheme for the purposes of Part 4 of the Finance Act 2004(b)
- ◆ Trusts that only hold pure protection life insurance policies and those paying out on critical illness and disablement

Why are protection policies in trust excluded from the TRS?

The majority of pure protection policies have no value and are seen as low risk for money laundering or terrorist financing and extremely unlikely to need to file a tax return as they will not incur any UK tax liability unless a claim is made, and the money not distributed. As such, they have been excluded from the need to register.

Do I have to register a trust that already pays tax?

Yes, even if the trust already has a Unique Taxpayer Reference (UTR) because it has been taxable in an earlier year, it must still be registered as a taxable trust on TRS.

Registration questions

By what date do I have to register my trust?

- ◆ Trusts that were in existence on or after 6th October 2020 must register by 1st September 2022.
- ◆ Trusts set up immediately before 1st September 2022 must register within 90 days of the date of creation.
- ◆ Trusts set up after 1st September 2022 must register within 90 days of the date of creation.

Whose responsibility is it to register a trust?

The trustees have the legal responsibility for registering the trust via the TRS.

What happens if a Trust is not registered by the deadlines stated?

HMRC have the power to impose a penalty for not registering the trust, late registration or for not keeping the trust details up to date.

Who will be liable for any fines?

The trustees will be liable for any penalty that HMRC impose.

Who is responsible for registration?

It is the responsibility of the trustees who will choose a lead trustee to complete the trust registration process and be HMRC's main point of contact.

How much does it cost to register a trust?

It does not cost anything to register a trust directly with HMRC via the TRS. However, there may be a charge if the trustees appoint an agent, such as an accountant or solicitor, who registers the trust on their behalf.

What if the trustees do not have access to the internet?

Where possible trusts must be registered via TRS, which is an online service only. HMRC do offer a paper option, but you must request this directly from them. The trustees can appoint an agent to register on their behalf, but if this is a professional, they may charge for their services.

What information will the trustees need when they register a trust?

The Trust - the name of the trust, e.g. The Joe Bloggs Settlement, and the date when the trust was created.

The Settlor - their full name, date of birth, date of death (if applicable), country of nationality, and country of residence.

The Trustees - if the trustees are individuals, then their full name, date of birth, country of nationality, country of residence and if they are the lead trustee their national insurance number, their postal address, their email address, and telephone number.

Named Beneficiaries - for bare trusts, the beneficiaries full name, date of birth, country of nationality and country of residence will be required.

Class of Beneficiaries - for discretionary trusts, a description of the class of beneficiaries taken from the trust deed e.g., children of the settlor. Also, the name of any persons specifically named in a discretionary trust.

Mental capacity of individuals - The mental capacity of an individual, whether settlor, trustees, or beneficiaries, is assumed to exist unless there is proof to the contrary. HMRC need to know about an individual's capacity as they cannot disclose information about those who lack mental capacity to third parties.

Taxable trusts will also need to provide additional information e.g., country of general administration of the trust (which will be the UK if all the trustees are UK resident), details of liability to income tax, the investment bond value at the time the trust is being registered and the national insurance number of every beneficial owner under the trust.

One of the trustees lives overseas and does not have a national insurance number. What do they need to provide?

A national insurance number is only required when the trust is registering for tax reasons. In this situation, foreign trustees will need to provide details of their nationality and country of residence along with passport details or ID card and their address.

Do the trustees have to update the TRS if they have a change of trustee, or if a trustee dies?

All changes need to be updated within 90 days of the change. This includes changes to trustees or beneficiaries.

What if any funds are distributed from the trust?

If funds are distributed from a discretionary trust to a member of a class of beneficiaries, the trustees will need to provide details of the individual who has received the distribution. This can be done by logging into the TRS and opening up the Beneficiaries section of the registered trust.

Do all the trustees have to provide ID/VA to HMRC, or to get a Gateway reference number?

The trustees must provide their full name, date of birth, country of nationality, country of residence. If they are the lead trustee, they must also provide their national insurance number, their postal address, their email address, and telephone number.

What happens after a trust has been registered?

The trust will be allocated a Unique Reference Number (URN). This is different to a Unique Tax Reference (UTR) used for filling self-assessment returns.

If the trust is not liable to pay tax, the URN can be obtained by logging back into the service following submission of the registration. This information may be required by the relevant life company.

If the trust is being registered because it is liable to tax, the lead trustee will be sent a UTR, usually within 15 working days.

TRS impact on HSBC – new Trusts

The legislation requires that Trusts set up after 1st September 2022 must register within 90 days of the date of creation. The following section provides information on how this requirement affects HSBC Life new business processes.

For new business, currently, the trust deed, bond application form and additional information form must be sent to HSBC Life before a bond can be issued in the names of the trustees. Will a TRS certificate also be required?

Yes. For Deeds signed on or after 1st September, if a TRS certificate is not sent in with the bond application form, trust deed and additional information form, we will not accept the application and will be unable to process it.

In this event the application and any premium will be returned pending availability of the TRS certificate.

Why do I need to provide my Financial Adviser and HSBC Life with a copy of my trust's registration?

Under the new legislation, financial advisers and product providers are treated as obliged entities. As an obliged entity they are required to receive a copy of the trust's registration and compare the details against the trust deed to ensure that they match all new trusts from 1st September 2022.

What happens if the information on the certificate does not match the Trust Deed?

If HSBC Life identify any inconsistencies, we will contact the adviser and trustees. The lead trustee or trustees will have to cross reference the information from the trust deed and the registration service to check for errors. Any errors will have to be rectified before the application can be processed.

Placing an Existing Bond into Trust

From 1st September 2022, if an existing HSBC Life Bond is to be held as a trust investment, the trust must be registered on the TRS and evidence of the registration will be required by the obliged entities. The preferred option is that the TRS certificate accompanies the Trust Deed and additional information Form that are required to constitute the trust. If a certificate is not provided, a letter will be sent to the adviser and trustees requesting the document and advising that they have 90 days from the date of the trust to comply with the TRS regulations. Failure to do so could result in a fine for the trustees from HMRC.

Does HSBC Life need an original certificate?

We need to see either the original certificate in pdf or a copy (which does not need to be certified).

TRS impact on HSBC – existing Trusts

Do any Deeds for new or retiring Trustees need to be accompanied with an updated TRS certificate and what happens if this isn't received?

If a trustee retires, is appointed, or dies, a new TRS certificate will need to be sent to HSBC Life. The TRS details must be updated.

Can a surrender request be processed if a certificate has not been received?

Proof of registration is not required to process a surrender request. Does HSBC Life require a copy of the TRS certificate of all existing Trusts?

For Trusts registered before 1st September 2022, HSBC Life does not require evidence of this registration.

From the 1st September 2022, trusts must be registered with the Trust Registration Service (TRS) managed by HMRC. The TRS record for this trust must be updated to reflect the appointment of the trustee(s). If you require further information about TRS, please visit our website: <https://www.life.hsbc.co.uk/customers/trs>

This document is based on HSBC's understanding as at 1st August 2022 of the provisions of the Money Laundering and Terrorist Financing (Amendment) Regulations 2022 and the HMRC Trust Registration Service Manual, as they apply to the registration of trusts. It does not constitute legal or tax advice. HSBC takes no responsibility for reliance on this document and recommends that professional advice is obtained where necessary in relation to your specific circumstances.

Do HSBC Life report to HMRC non receipt of the TRS certificate?

For Trusts registered on or after the 1st September 2022, if the TRS certificate is not received, then HSBC Life is required to report to HMRC that there is a discrepancy.

Further assistance

If you need help with the registration process then please refer to the HSBC Life practical guide to registering a trust, which can be found on the HSBC Life website www.life.hsbc.co.uk/advisers/investment-advisers/trs

Or please use the following link that will take you to the HMRC website - www.gov.uk/guidance/register-a-trust-as-a-trustee

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