

7 June 2024



Improving the effectiveness of the Money Laundering Regulations

Response from ICAS



About ICAS

1. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants. We represent over 23,000 members working across the UK and internationally. Our members work in the public and not for profit sectors, business and private practice. Approximately 11,000 of our members are based in Scotland and 10,000 in England.
2. The following submission has been prepared by the ICAS Tax Board. The Tax Board, with its five technical Committees, is responsible for putting forward the views of the ICAS tax community; it does this with the active input and support of over 60 committee members.
3. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members into the many complex issues and decisions involved in tax and regulatory system design, and to point out operational practicalities.

General comments

4. We welcome the opportunity to respond to the HM Treasury consultation: [Improving the effectiveness of the Money Laundering Regulations](#). Our response only comments on the questions in Chapter 4 about the Trust Registration Service (TRS). We welcomed the opportunity to discuss this section of the consultation at a stakeholder meeting with HMRC.

Specific questions – Chapter 4

Reforming registration requirements for the Trust Registration Service

Registration of non-UK express trusts with no UK trustees, that own UK land

Q49 Does the proposal to make these trusts that acquired UK land before 6 October 2020 register on TRS cause any unintended consequences? If so, please describe these, and suggest an alternative approach and reasons for it.

5. We have no comments on this question.

Q50 Does the proposal to change the TRS data sharing rules to include these trusts cause any unintended consequences? If so, please describe these, and suggest an alternative approach and reasons for it.

6. We have no comments on this question.

Trusts required to register following a death

Q51 Do the proposals to exclude these trusts for two years from the date of death cause any unintended consequences? If so, please describe these, and suggest an alternative approach and reasons for it.

7. We agree that a common registration deadline of two years from the date of death would be sensible and make compliance easier.

Q52 Does the proposal to exclude Scottish survivorship destination trusts cause any unintended consequences? If so, please describe these, and suggest an alternative approach and reasons for it.

8. We agree that it would be sensible to exclude Scottish survivorship trusts from TRS registration. As noted in the consultation, under English and Welsh law, a registrable trust

would not arise in these circumstances – the Scottish approach to achieving the same outcome should be treated in the same way and excluded from registering on TRS.

De minimis exemption for registration

Q53 Does the proposal to create a de minimis level for registration cause any unintended consequences? If so, please describe these, and suggest an alternative approach and reasons for it.

9. The introduction of a de minimis level for registration makes sense, to exclude bodies like small unincorporated members' clubs from the need to register. We understand there is probably widespread lack of awareness of TRS amongst these bodies and hence extensive inadvertent non-compliance.
10. Given the proposed de minimis criteria, it appears that the risk of money laundering from these small organisations is considered to be fairly low. Apart from the lack of awareness amongst small bodies largely staffed by volunteers, it is undesirable to impose disproportionate administrative burdens on this kind of organisation, where there is a low risk of money laundering. We have some concerns that three of the de minimis criteria will exclude many small members' clubs from falling within the exclusion from registration.

Q54 Do you have any views on the proposed de minimis criteria?

11. The proposed de minimis amounts of £5,000 (assets) and £2,000 (expenses) seem very low and likely to prevent many unincorporated organisations, such as members' clubs, from qualifying for the exemption.
12. Feedback indicates that some of these organisations are unlikely to prepare full accounts under UK GAAP – if they only prepare receipts and payment accounts, they may not report asset values, so could struggle to assess the value of their assets against the proposed £5,000 threshold (particularly where some assets, like sporting trophies, may be difficult to value).
13. We suggest that, if possible, the de minimis amounts should be increased. This would not help all clubs but might mean that the smallest entities could avoid incurring costs for professional advice, particularly on valuations.
14. If the amounts cannot be increased to exclude more small largely volunteer-run organisations where there is a low risk of money laundering, inadvertent non-compliance will remain an issue and the administrative burdens imposed (and concerns about possible financial penalties) may deter potential volunteers from getting involved or cause existing volunteers to leave.
15. We understand, from a stakeholder discussion about the consultation with HMRC, that the condition that excludes bodies owning or having an interest in land is unlikely to change. This will inevitably mean that some members' clubs, for example, sports clubs, will still be required to register on TRS.
16. Subject to the outcome of the other consultation on transparency of land ownership involving trusts, it is possible that some small clubs could end up needing to register more than once – on TRS and on another land register. Scotland already has a Register of Persons Holding a Controlled Interest in Land (introduced in 2022).
17. If the de minimis criteria remain unchanged, we suggest that HMRC and HM Treasury should consider how awareness of TRS registration requirements can be raised amongst

small unincorporated bodies run largely by volunteers, and how a requirement to register in more than one place can be avoided.

18. Depending on their structure, some Community Amateur Sports Clubs (CASCs) will be required to register on TRS. CASCs must meet strict eligibility criteria and are already required to register with HMRC. Only limited information is published on GOV.UK about CASCs but HMRC holds far more details, including information on an 'authorised official' and at least 2 'responsible persons', bank details etc.
19. Where a body is already required to register as a CASC with HMRC, any additional requirement to register on TRS or another land register should be avoided. If necessary HMRC should expand the information it collects via the CASC registration form (and review the information it publishes) to avoid CASCs having to register in more than one place.

Q55 Do you have any proposals regarding what controls could be put in place to ensure that there is no opportunity to use the de minimis exemption to evade registration on TRS?


20. We have no comments on this question.



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