

Checklist for Trustees when taking over Administration of a Trust or Corporate Structure

Rooks Rider has put together a list of issues that trustees should consider reviewing when taking over the administration of a trust. This list is not exhaustive but, hopefully, it will provide you with some helpful points to consider when carrying out your initial review of the entity that you are about to take on.

Trust Deeds and/or Company Documents

- Are you being provided with the original Trust Deed and supporting relevant documents, if not, who has possession of them and where are they being stored?
- If you are taking over the registered office of a company, then have you been provided with the necessary company documents, such as Memorandum and Articles of Association, Certificate of Incorporation and Share Certificates for your records? Does the company have a seal?
- Have you been provided with confirmation that the company's latest annual return has been filed and have the details of the registered office been updated at the relevant authority?
- Have you been provided with a letter of wishes, if so, is it up to date or does it need renewal?
- Are you satisfied that the minute books have been kept up to date? These should be reviewed to ensure that there are no missing documents.
- Where necessary, has a Deed of Retirement and Appointment of Indemnity been executed? A chain of indemnities may be required depending on the terms of the trust deed.

KYC

- Do you have the relevant KYC on all of the beneficiaries required to satisfy your AML duties?
- Has there been any KYC trigger event whereby the KYC of individuals should have been collected but has been missed?
- Is the KYC that you hold still relevant, or should you consider obtaining more up to date information (i.e. beneficiary recently married?)

Tax

- Are you satisfied that all of the necessary income tax and capital gains tax returns have been filed?
- Are you aware of which territories you must file tax returns in? Are you required to supply EUSD forms for life tenants?
- Has there been a ten year IHT anniversary, if so, were there any filing requirements required and have you diarised the necessary anniversaries going forward?
- If you are holding a UK property, through the structure, have you elected to enter the non resident landlord scheme and, where the property is commercial, are you satisfied with the VAT position?

Insurance

- Check your insurance policy is up to date and when it requires renewal.
- Ensure your policy is adequate for value purposes and the purposes of your trust.

Investments

- You should review the appropriateness of any investment portfolio in relation to the trust requirements and its beneficiaries.
- Do you have investment management agreements in place and relevant copies on your files?
- Where you have invested in property, do you have an appropriate managing agent?
- Notify any tenants about the change of landlord's address and revised bank details where necessary.
- Send a revised authorised signatory list to the bank and investment agents as required.

Fees

- Have all outstanding fees been paid up to date?

Risk Management

- Have you been made aware of any complaints raised by beneficiaries?
- Are there any pending actions against the company or its agents that you should be aware of (i.e. breach of contract, breach of fiduciary duties?)

Beneficiaries

Finally, and most importantly, have you made contact with the beneficiaries to update them on the change to the administration of their trust?

How Rooks Rider Solicitors LLP can help

We have a multi-disciplinary team of tax and trust specialists. We are experienced in dealing with HMRC on contentious and non-contentious matters.

We are well known in the Offshore Trusts and Tax world.

For further information or to discuss any of the issues raised in this briefing note, please contact a member of the Rooks Rider Solicitors' team:



Karen Methold
Partner
Head of Wealth Planning
+44 (0)20 7689 7112
kmethold@rooks rider.co.uk



Robert Drysdale
Associate
Wealth Planning
+44 (0)20 7689 7168
rdrysdale@rooks rider.co.uk



Jeremy Duffy
Solicitor
Wealth Planning
+44 (0)20 7689 7185
jduffy@rooks rider.co.uk



Rooks Rider Solicitors LLP
Challoner House
19 Clerkenwell Close ■ London ■ EC1R 0RR

Disclaimer:

Please note that the information on the law contained in this bulletin is provided free of charge for information purposes only. Every reasonable effort is made to make sure the information is accurate and up to date, but no responsibility for its accuracy and correctness, or for any consequences of relying on it, is assumed by the author or the firm. The information does not, and is not intended to, amount to legal advice to any person.