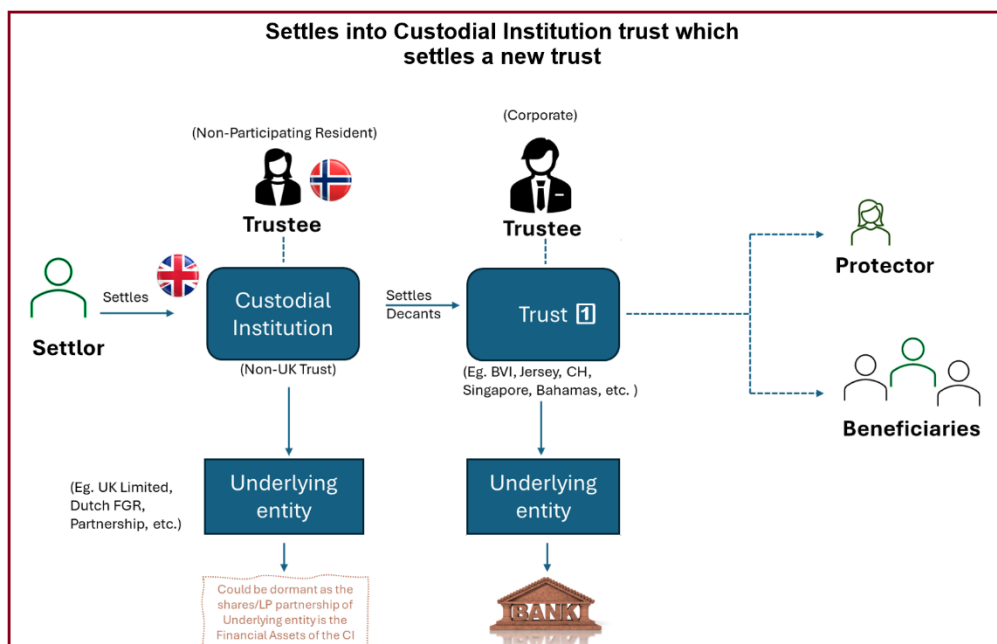


For CRS purposes, who is the settlor of a decanted/resettled trust that is a SPV Custodial Institution



- Assume for CRS an individual settlor settles a SPV Custodial Institution trust.
- The SPV Custodial Institution subsequently decants/resettles into a new reporting trust, with new corporate trustee.

Question: For CRS purposes, who is considered the settlor of the new trust?



Settlor for income tax purposes

- The original economic settlor who provided the funds to the SPV Custodial institution trust is treated as the settlor for income tax purposes.

Settlor for CRS purposes

- CRS concerns automatic exchange of information.
- The settlor of the new trust is the entity that settled the assets.
- For AEOL purposes if the entity is a reportable person, then the new trust will report on the Controlling Persons of the entity. If the entity

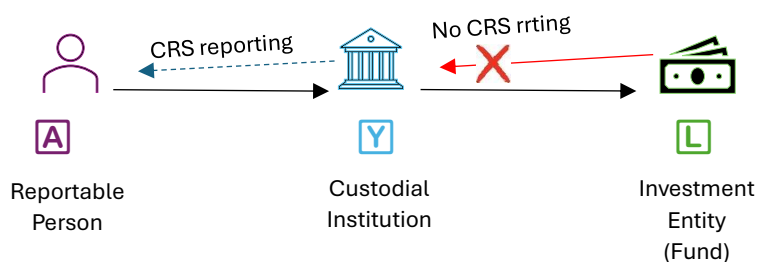
Here is the OECD CRS-Related FAQ on entities as settlors

7. Reporting Controlling Persons of settlors that are Entities
<p>The Standard provides that where the settlor of a trust is an Entity, Reporting Financial Institutions must also identify the Controlling Person(s) of the settlor and report them as Controlling Person(s). Are the Controlling Persons to be identified and reported only in the year of settlement, or also in subsequent years?</p> <p>The identification and reporting of Controlling Persons of the settlor is required not only in the year of settlement but also in all subsequent years.</p>

69. The definition of the term “Equity Interest” specifically addresses interests in partnerships and trusts. In the case of a trust that is a Financial Institution, an “Equity Interest” is considered to be held by any person treated as a settlor or beneficiary of all or a portion of the trust, or any other natural person exercising ultimate effective control over the trust.
70. Where Equity Interests are held through a **Custodial Institution**, the Custodial Institution is **responsible for reporting, not the Investment Entity**.

The following example illustrates how such reporting must be done:

- Reportable Person **A** holds shares in investment fund **L**.
- **A** holds the shares in custody with custodian **Y**.
- Investment fund **L** is an Investment Entity and, from its perspective, its shares are Financial Accounts (i.e. Equity Interests in an Investment Entity).
- **L** must treat custodian **Y** as its Account Holder.
- As **Y** is a Financial Institution (i.e. a Custodial Institution) **and Financial Institutions are not Reportable Persons**, such shares are **not object of reporting by investment fund L**.
- For custodian **Y**, the shares held for **A** are Financial Assets held in a Custodial Account.
- As a Custodial Institution, **Y** is responsible for reporting the shares it is holding on behalf of **A**.



What will the new trust report

Trust is a Financial Institution		
<u>Account Holder</u>	<u>Account Balance or Value</u>	<u>Gross payments</u>
Settlor	Total value of all trust property	Value of payments made to the settlor in reporting period (if any)
Beneficiary mandatory	Total value of all trust property	Value of distributions made to the beneficiary in reporting period
Beneficiary discretionary (in a year in which a distribution is received)	Nil	Value of distributions made to the beneficiary in reporting period
Any other person exercising ultimate effective control	Total value of all trust property	Value of distributions made to such person in reporting period (if any)
Debt interest holder	Principal amount of the debt	Value of payments made in reporting period
Any of the above, if account was closed	--- The fact of closure --- (No values reported)	

Will not report on Settlor as it's a Custodial Institution

Conclusion

- The Settlor of a new trust that was decanted from a old trust is the entity that decanted the trust.
- If that entity is a Custodial Institution, the new trust does not report on the settlor
- It is up to the custodial Institution to report on the original economic settlor
- If the Custodial Institution is located in a non-participating jurisdiction, there will be no CRS reporting on the settlor.