The worlds most secretive structure
I see nothing !
Made in the UK

Most secretive trust in the world. No UBO/tax registration/licensed trustee/local agent. No paper/electronic trail. Physically impossible to trace.

Mark Morris
CRS and CARF expert. No, truly.

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The non-UK express co-ownership trust

UK has the word's best privacy structure, relatively unknown as HMRC only started giving guidance in 2020 (eg. can hold farm machinery)

Not subject to CRS because trustee and beneficiaries are the same people

Read my article on this type of trust explained by HMRC

Unknown because this trust was highlighted for first time in The Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020

- HMRC never described this trust before 2020 after the AML regulations 2020.
- HMRC defines a co-ownership trust as one where jointly held assets are placed into a trust where the trustees and beneficiaries are the same persons.
- UK Money Laundering and Terrorist Financing Regulations 2020 defines a co-ownership trust is not registered on the PSC register. See Schedule 3A(9)

1. The client downloads the trust deed
2. The client and his partner are both the settlor, **trustee**, and beneficiary
3. Can place financial assets and ownership of chattels (*item of property other than freehold land, invariably non-bankable assets*) into the trust
4. Trust is not registered with TRS as it is a non-UK trust
5. Trust is not registered with HMRC as it is fiscally transparent and a non-resident trust
6. No UK person involved with establishing or maintaining the trust (solicitor, notary, representative agent, licensed trustee, witnesses, etc.)
7. No paper or electronic trail of the trust so impossible to be physically traced (Ambramovich Cyprus trusts whistleblown)
8. The name of the trust can be changed regularly
9. Settlor can choose the UK as the governing law of the trust, despite no nexus with the UK.
10. If trust is an investment entity, no AEoI as the trustee is is in same jurisdiction as beneficiaries / settlor

When should non-UK trust register with HMRC

A. UK non-resident trust must register with HM Revenue and Customs (HMRC) if it becomes liable for any of the following taxes:

- capital gains tax
- income tax
- inheritance tax
- stamp duty reserve tax
- stamp duty land tax or land and buildings transaction tax (in Scotland)
- land transaction tax (in Wales)

Bare trusts are not taxable

- Assets in a bare trust are held in the name of a trustee. However, the beneficiary has the right to all of the capital and income of the trust at any time.
- This means the assets donated by the settlor will always go directly to the intended beneficiary. Trustees of a bare trust are often referred to as 'nominees', especially if the assets held by the nominee are shares in a limited company.
- Bare trusts are **not required to register** for **taxable purposes**, because any UK tax liability is incurred by the beneficiaries rather than the trustees.

Are co-ownership express trusts taxable?

- An '**express**' trust is a trust that has been created 'expressly'. This means that it was done so willingly by the settlor and did not get created as a result of a judge's ruling in court or because of new legislation. A co-ownership trust is where trustees and beneficiaries are the same people.
- Co-ownership express trusts are often **bare** trusts and if so are not required to register for taxable purposes, because any UK tax liability is incurred by the beneficiaries rather than the trustees.

UK non-resident trusts

UK non-resident trusts generally do not register for taxable purposes. However, the UK non-resident trust must register for taxable purposes if the trust becomes liable for tax on UK income or tax on UK assets.

A UK non-resident trust is a trust where:

1. none of the trustees are resident in the UK for tax purposes, or
2. only some of the trustees are resident in the UK and the settlor of the trust was one of the following:-

- not resident or not normally resident when the trust was set up or funds were added
- not domiciled or deemed domicile in the UK when the trust was set up or funds were added

Registering the UK non-resident express trust on the TRS (UBO register) if it is taxable

Which UK non-resident trusts must register on TRS

5AMLD Part II Paragraph 7:

(iii) any **UK non-resident** trust which is an express trust, and is not excluded in Schedule 3A of The Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020**and** whose trustees (eg. trust value less than GBP 100)

a) acquire an interest in land in the United Kingdom; or

b) enter into a business or commercial or personal relationship with a **UK relevant person**, where at least one of those trustees is resident in the United Kingdom and the trust is not an EEA-registered trust

will need to register on the TRS.

UK relevant persons (updated in 2023*:

- Financial Institutions, Credit institutions, Auditors, Insolvency Practitioners, External Accountants, Tax Advisers, Legal Professionals, Trust or Company Service Providers, Estate Agents, High Value Dealers, Casinos, Art Market Participators*, Cryptoasset Exchange Providers*, Custodian Wallet Providers*.

Enter in addition to information on the trust itself:-

- The country of administration of the trust
- Details of liability to Income Tax and Capital Gains Tax
- settlor
- trustees
- beneficiaries
- any individual who has control over the trust, such as protectors.
- information on the assets held by the trust:-
- money
- property / real estate (description and estimated current value of the property)
- shares (company name, number of shares, class, approximate value)
- businesses, partnerships, and companies (name, description, address, value)
- other assets (cars, jewelry, art - description, approximate value)
- If a trust has ownership or a controlling interest in a company based outside the EU / EEA - the country whose laws govern the company, the date when the trust took controlling interest

Why Confidentiality guaranteed

- Confidentiality 100% guaranteed as client keeps all the paperwork, and no electronic record. No sicko employee to whistleblow.
- This clown show Cyprus CSP leak or whistleblown structure is physically impossible with this trust.

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British lawyer, based in Zurich has inane opinion on (i) UK non-resident trust with no nexus to the UK does not exist, and (ii) UK co-ownership trusts are invalid as it does not fall within the Hague Convention on trusts

- Before tackling this laughable school of thought, watch this respected English Barrister, Harriet Brown, from Old Square Tax Chambers, London, present a 2023 video pod, now on YouTube, on the usefulness of non-UK trusts with no nexus to the UK, e.g., for non-doms.
- I implore you to dedicate half an hour to watch this video if you are involved or interested in non-UK trusts, professionally or personally. From 11:00 she explains the three main uses of non-UK trusts with no nexus (a) asset protection, (b) succession planning, and (c) tax mitigation.
- Only nutjobs would use other international trusts after this.

UK Barrister on non-UK trusts with no UK nexus vs FILTZ lawyer's opposing opinion... mmmmmhhh, who to listen to? 😍

I. FILTZ asserts if there is no UK nexus, then the settlor cannot choose the UK as the governing law of a trust

- A UK lawyer, based in Zurich, egregiously challenges my assertion that a UK non-resident settlor of a non-UK trust (AKA non-UK trusts) without any UK nexus, i.e. no UK settlor, no UK beneficiary, no UK protector, no UK assets, and no UK income can elect England/Wales as the jurisdiction law that governs a trust.
- The UK lawyer emotionally states "There are no cases in the English Chancery Division relating to non-UK assets and non-UK parties that have purported **English Tenancy in Common or bare trusts** and there's a good reason for that, there is zero nexus.

- FILTZ opines the UK need not recognize the trust as being subject to UK governing law just because the settlor chose the UK as the trust's proper law.
- He cites Article 13 Hague Convention on Trusts that the chosen location of the trust´s Governing law need not recognize the trust if the place of administration/habitual residence of the trustee is closer connected with the States that do not have a trust institution.

Article 13 of the Hague Trust Convention:

> No State shall be bound to recognize a trust the significant elements of which, except for the choice of the applicable law, the place of administration, and the habitual residence of the trustee, are more closely connected with States which do not have the institution of the trust or the category of trust involved.

Article 14 of the Hague Trust Convention:

> The Convention shall not prevent the application of rules of law more favourable to the recognition of trusts.

Retort

Article 6 of the Hague Convention states:

> A trust shall be governed by the law chosen by the settlor. The choice must be expressed or implied in the terms of the instrument creating or the writing evidencing the trust, interpreted, if necessary, in the light of the circumstances of the case

- If you establish a UK trust with say Norway-resident trustees, China-resident settlor, and China-resident Beneficiaries, then the Norwegian trust does not register the trust in Norway if no nexus with Norway.
- Norway as a Civil law State does not recognize trusts at all and Norwegian trustees of foreign trusts do not register the trust in Norway if (i) No nexus i.e. (i) no Norwegian property owned, or (ii) No relationship with Norwegian Financial Institution, such as a bank.

> This general difficulty of local laws failure to support trusts is addressed in Article 13, which considers the situation of those who wish to create a trust but can only do so by invoking laws entirely outside their own state.

> As an application of comity, *(comity noun an association of nations for their mutual benefit)* no forum state is bound to recognise a trust the significant elements of which, except for the choice of the applicable law, the place of administration and the habitual residence of the trustee, are more closely connected with States which do not have the institution of the trust or the category of trust involved.

Articles 14 & 15 to the rescue

> But, because this could be interpreted as an invitation not to validate otherwise perfectly appropriate financial arrangements for deserving beneficiaries, Article 14 provides that the Convention shall not prevent the application of rules of law more favourable to the recognition of trusts.

> This reflects the positive rules of public policy which require that the validity of a transaction (whether commercial or not) be upheld if at all possible where this will give effect to the reasonable expectations of the parties.

> The only exceptions shall be where this will produce consequences offending against the mandatory policies of the forum court in which case Article 18 empowers the court to deny the Applicable Law, even if it has been expressly selected by the settlor.

> But Article 15(2) nevertheless requires the forum court to consider adopting an approach that will preserve the overall validity of the trust insofar as that generality does not offend against the mandatory policy

Note, that people all over the world have been using trusts of countries especially when trusts are not recognized in their country. There is invariably no nexus with the country whose law governs the trust. So to FILTZ who opines UK trust with no UK nexus is invalid, I say this... (and so would the Barrister at the beginning of this article, I may add 😁)

Here#s to Article 13

II. FILTZ inanely opines UK co-ownership trusts are invalid according to the Hague Convention Article 2

This viewpoint is particularly egregious by the blockhead lawyer.

- FILTZ opines the Hague Convention on the Law Applicable to Trusts and on their Recognition 📜 does **not** apply to UK co-ownership trusts because they do not fall within "trust" as defined in the Hague Convention's **Article 2 regarding the term "trust"**.
- The lawyer retorts that as far as English law is concerned, UK **co-ownership trusts** do not fall within subsection (**C**) of Article 2.
- The lawyer adds to his argument that **Tenancies in Common** and **co-ownership trusts** usually won't fall within subsection (**A**) either because the parties (trustees and beneficiaries) are the same.

Article 2 Hague Trust Convention:

> For the purposes of this Convention, the term "trust" refers to the legal relationships created - *inter vivos* or on death - by a person, the settlor, when assets have been placed under the control of a trustee for the benefit of a beneficiary or for a specified purpose. A trust has the following characteristics A) the assets constitute a separate fund and are not a part of the trustee's own estate; B) title to the trust assets stands in the name of the trustee or in the name of another person on behalf of the trustee; C) the trustee has the power and the duty, in respect of which he is accountable, to manage, employ or dispose of the assets in accordance with the terms of the trust and the special duties imposed upon him by law. The reservation by the settlor of certain rights and powers, and the fact that the trustee may himself have rights as a beneficiary, are not necessarily inconsistent with the existence of a trust.

Retort

- The final sentence in Article 2 of the Hague Convention on trusts "The reservation by the settlor of certain rights and powers, and the fact that **the trustee may himself have rights as a beneficiary, are not necessarily inconsistent with the existence of a trust**" *(😲 Rolls eyes at the FILZ)*
- Co-ownership trusts are officially defined in The Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020
- Part II Paragraph 11 Section 3 lists the 24 types of trusts that do not need to register with the Trust Register Service (TRS), which is the UK UBO/ Person of Significant Control Register for trusts.
- Section 3(a) Excluded Trusts **9. Co-ownership** "A trust of jointly held property where the trustees and the beneficiaries are the same persons."
- HMRC then steps into the breach and refers to the relevant introduction of co-ownership trusts mentioned in The Money Laundering and Terrorist Financing (Amendment) provides several examples of what property means in a co-ownership trust for it to qualify as an Excluded Trust. Other types of property such as farm equipment that do not qualify as an excluded trust confirm a co-ownership trust can hold property that is not land and buildings.
- As this unusual type of trust was only introduced in 2020, it's not surprising that FILZ is unaware of its existence. 😍 yet he still shoots from the hip that such trusts are invalid according to the Hague Convention on Trusts.

Which nut job would use, say, Caribbean offshore trusts instead of UK "international" aka non-UK trusts?

- You must be a loon to use other international trusts, with their pirate-associated sky-high costs that can rip you off for up to 100x the cost of UK trusts.

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Mark Morris
CRS and CARF expert. No, truly.

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