

Guide to the Trust Register

1. Introduction

- 1.1. As of 1 April 2023 each Trustee is required to maintain a Trust Register of certain information about each Trust of which they are a Trustee.
- 1.2. Unfortunately, the laws which gave rise to this new burden on Trustees are unclear in certain respects and introduce concepts which are foreign to the South African law of Trusts.
- 1.3. We have, however, prepared this Trust Register as a guide for all Trustees to capture and maintain the information required by these laws. The Register may be updated as we obtain clarity from government and other parties on the exact nature of the information they require. As such this Register must be considered only as an aid to Trustees to assist them to comply with these new obligations placed on them and subject to change from time to time

2. Completing the Trust Register

2.1. The Trust Register consist of three sections:

- 2.1.1. Details of the Trust;
- 2.1.2. Details of the Beneficial Owners of the Trust
- 2.1.3. Details of the Accountable Institutions with dealings with the Trust.

2.2. Trust Details

2.2.1. In this section please include:

- 2.2.1.1. The name of the Trust (as it appears on the Trust Deed which established the Trust ("the Deed") and the Letters of Authority authorising the Trustees to act as Trustees of the Trust ("LOA"). If the name of the Trust has changed include the current name of the Trust with the previous name(s) in brackets afterwards.
- 2.2.1.2. The Registration date of the Trust (the date of issue of the first LOA of the Trust).
- 2.2.1.3. The Trust's Physical and Postal Addresses (in South African Trust law a Trust itself doesn't have an address so we would suggest including the address of the Founder, the main Trustee or the person or Company providing administration or accounting services to the Trust).

2.3. Beneficial Owners

- 2.3.1. The term "Beneficial Owners" is a new concept to South African Trust law. The new laws have given some guidance to what is required in this regard though and the laws requires details of the Founder(s), Trustees and Beneficiaries named in the Trust Deed. For the sake of completeness and to comply with South

African Trust law we would suggest including the name of any Beneficiaries who have received a benefit from the Trust.

- 2.3.2. In some circumstances a Founder, Trustee or Beneficiary may be a Company or Trust. The new laws require that the persons who control or benefit from any such Company or Trust must also be identified. We have included a separate sheet for the details of any such Company or Trust to be included.
 - 2.3.3. The Founder is usually identified in the Deed as the person establishing the Trust. Other terms that are commonly used for the Founder in a Deed include "Donor" and "Settlor".
 - 2.3.4. Please complete the information requested for the Founder(s). We have made provision for more than one Founder such as where a mother and father have established the Trust.
 - 2.3.5. The "Date of the Original Deed" is required as that is the day the Founder contractually assumed their position as Founder. If the Trust is a Testamentary Trust established in terms of a Will the date of death would technically be the date of the original Deed to be included in this column.
 - 2.3.6. Similarly, the relevant details must be captured on the Register of each Trustee and each Beneficiary named in the Deed. In terms of South African law, a Beneficiary includes any person who has received a benefit from the Trust and we would suggest the details be included of each such Beneficiary.
 - 2.3.7. Trustees are also required to keep certified copies of the identity documents of all Beneficial Owners. We would suggest that the Trustees also keep on record a copy of their Death Certificate if they are deceased.
 - 2.3.8. Where a Founder, Trustee or Beneficiary is a Company or Trust the relevant details of that Company or Trust must be separately captured on the Register and we have included a separate section for this purpose. The law also requires that each of those that have "effective control" over the Company or the Trust be identified. While this, in many cases, will be difficult to ascertain on a simple level it would include the Directors of any Company and Trustees of any Trust. Where an individual is representing the Company or Trust, their details must also be captured in this section. For example, if Legacy is appointed as a Trustee of the Trust one of its Directors is usually nominated to represent Legacy on the Trust. This will be apparent from the LOA where the Legacy, represented by the Director, will be recorded as the Trustee.
- #### 2.4. Accountable Institutions
- 2.4.1. The Register is to include the details of each "Accountable Institution" that has dealings with the Trust. The definition of "Accountable Institution" comes from the Financial Intelligence Centre Act and is simply a list of institutions which includes attorneys, accountants, Trust companies, banks, investment advisors and other financial institutions and financial services providers.

- 2.4.2. The new laws again make a distinction between "Accountable Institution" which are legal persons (companies or Trusts) and those which are natural persons (individuals). The registration number of legal persons and identity number of natural persons who are Accountable Institutions must be included in the register.
- 2.4.3. The laws also require that the nature of the services provided by the Accountable Institution to the Trust must be included and have separated the services into "Trustees' functions" and other services but has not provided clarity on what is meant by this distinction. We would suggest that "Trustees' functions" relate to the internal activities of the Trust and include administration and accounting while the other services include the external activities of the Trust such as banking, investment and legal services.
- 2.4.4. The date of commencement of the services must also be included either as a single date for a once off service or a commencement date for an ongoing service.

3. Conclusion

- 3.1. Unfortunately, given the speed at which the new laws were pushed through, very little though or guidance appears to have been given by government on their practical implementation. In the circumstances, this Register must be viewed as a guide only and all Trustees are advised to obtain their own legal advice on how best they are to comply with the new burden that has been placed on them.
- 3.2. Should the spaces provided in the register prove to be insufficient for any of the information required, please provide the details on a separate sheet of paper.
- 3.3. Please contact us at Legacy should you require any assistance with the Trust Register or the new laws.

Trust Register

1. Trust Details

Name of Trust:

Master's Office where Trust is registered	Trust Registration date	Trust Registration number	Income tax number	Trust Physical Address (Address of Main Trustee or Trust Company or Other)					Trust Postal Address (Address of Main Trustee or Trust Company or Other)					
				Address line 1	Address Line 2	City/Town	Region	Postcode	Address line 1	Address Line 2	City/Town	Region	Postcode	

Directors: ****Showkat Alle Mukadam** BComm (Hons) Taxation (UCT) CA (SA) FPSA® ****Chris Murphy** BProc FPSA® TEP ****Charles Evison** BA LLB FPSA® ****Alfred Bester** FPSA® TEP ***Wanda Visser** BJuris FPSA®
 **Director of Legacy Fiduciary Services and Estate Planners SA and Legacy Fiduciary Services Private Trust (Pty) Ltd *Director of Legacy Fiduciary Services Private Trust (Pty) Ltd Only

T +27 21 671 1438 E receptioncpt@legacyfs.co.za

Legacy House, Block Y, Greenford Office Estate, Punters Way, Kenilworth, 7708

www.legacyfiduciaryservices.co.za

P.O Box 36218, Glosderry, 7702

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2. Beneficial Owners

Founder

Name of Founder	Is the Founder a Company or Individual (if Company complete page 7)	Is Founder Alive / Deceased	Identity number / Passport number	Country of Issue of Identity Document / Passport	Certified Copy Identity Document / Passport provided	Date of Birth	Date of Original Trust Deed	Nationality	Is the Founder also a Trustee	Is the Founder also a Beneficiary	Income tax number
1.					Y/N	YYYY-MM-DD	YYYY-MM-DD		Y/N	Y/N	
2.					Y/N	YYYY-MM-DD	YYYY-MM-DD		Y/N	Y/N	

Name of Founder	Founder Physical Address					Founder Postal Address					Cellphone Number	Email Address
	Address line 1	Address Line 2	City/Town	Region	Postcode	Address line 1	Address Line 2	City/Town	Region	Postcode		
1.												
2.												

Trustees

Name of Trustee	Is the Trustee a Company or Individual (if Company Complete page 7)	Registration number / Identity number / Passport number	Identity Document / Passport provided	Country of Issue of Identity Document / Passport	Certified Copy Identity Document / Passport provided	Date of Birth	Date of appointment in Letters of Authority	Date of Removal (if applicable)	Nationality	Is this Trustee the Representative Trustee for SARS?
1.			Y/N			YYYY-MM-DD	YYYY-MM-DD	YYYY-MM-DD		Y/N
2.			Y/N			YYYY-MM-DD	YYYY-MM-DD	YYYY-MM-DD		Y/N
3.			Y/N			YYYY-MM-DD	YYYY-MM-DD	YYYY-MM-DD		Y/N
4.			Y/N			YYYY-MM-DD	YYYY-MM-DD	YYYY-MM-DD		Y/N
5.			Y/N			YYYY-MM-DD	YYYY-MM-DD	YYYY-MM-DD		Y/N

Name of Trustee	Is the Trustee also a Beneficiary	Income tax number	Trustee Physical Address					Trustee Postal Address					Cellphone Number	Email Address
			Address line 1	Address Line 2	City/Town	Region	Postcode	Address line 1	Address Line 2	City/Town	Region	Postcode		
1.	Y/N													
2.	Y/N													
3.	Y/N													
4.	Y/N													
5.	Y/N													

Beneficiaries

Name of Beneficiary	Is the Beneficiary a Company, Trust or Individual (if Company or Trust complete page 7)	Identity number / Passport number	Identity Document / Passport provided	Country of Issue of Identity Document / Passport	Certified Copy Identity Document / Passport provided	Date of Birth	Date of Trust Deed if Named or Date First Benefit Received	Date of Removal (if applicable)	Nationality	Income tax number
1.			Y/N		Y/N	YYYY-MM-DD	YYYY-MM-DD	YYYY-MM-DD		
2.			Y/N		Y/N	YYYY-MM-DD	YYYY-MM-DD	YYYY-MM-DD		
3.			Y/N		Y/N	YYYY-MM-DD	YYYY-MM-DD	YYYY-MM-DD		
4.			Y/N		Y/N	YYYY-MM-DD	YYYY-MM-DD	YYYY-MM-DD		
5.			Y/N		Y/N	YYYY-MM-DD	YYYY-MM-DD	YYYY-MM-DD		
6.			Y/N		Y/N	YYYY-MM-DD	YYYY-MM-DD	YYYY-MM-DD		
7.			Y/N		Y/N	YYYY-MM-DD	YYYY-MM-DD	YYYY-MM-DD		
8.			Y/N		Y/N	YYYY-MM-DD	YYYY-MM-DD	YYYY-MM-DD		

Name of Beneficiary	Beneficiary Physical Address					Beneficiary Postal Address					Cellphone Number	Email Address
	Address line 1	Address Line 2	City/Town	Region	Postcode	Address line 1	Address Line 2	City/Town	Region	Postcode		
1.												
2.												
3.												
4.												
5.												
6.												
7.												
8.												

Where a Founder /Trustee/ Beneficiary is a Company or Trust

Name of Company or Trust	Registration number	Country of Registration	In Business or Deregistered	Founder / Trustee / Beneficiary	Date of Appointment	Name of Representative Individual (if any)	Nationality of Representative Individual	Identity number / Passport number of Representative Individual	Country of Issue of Identity Document / Passport of Representative Individual	Cellphone Number of Representative Individual	Email Address of Representative Individual
1.					YYYY-MM-DD						
2.					YYYY-MM-DD						
3.					YYYY-MM-DD						
4.					YYYY-MM-DD						
5.					YYYY-MM-DD						

Individuals in Effective Control of Company or Trust	Company or Trust Income tax number	Company or Trust Physical Address					Company or Trust Postal Address					Cellphone Number	Email Address
		Address line 1	Address Line 2	City/Town	Region	Postcode	Address line 1	Address Line 2	City/Town	Region	Postcode		
1.													
2.													
3.													
4.													
5.													

Accountable Institution

Accountable Institution (each bank, investment manager, accountant, attorney or Trust Company providing services to the Trust):

Name of Accountable Institution ("AI")	If AI is a company	If AI is a natural person			Nature of Trustees' functions provided (eg. administration and accounting)	Nature of services provided by AI, if any (eg. banking, investment, legal etc.)	If Trustees - entered into single transaction with AI, date entered into	If Trustees entered into "business relationship" with AI, date entered into
	Registration Number	Official identification document number	Type of document - ID or passport	Country of issue				
1.								
2.								
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