

## TRUST CHECKLIST - FOREIGN COMPLIANCE

<b>1.</b>	<b>Know your Client - identify all people who control / benefit from or who have contributed towards the trust assets</b> (N.B. look through all structures to identify the ultimate individual/s who benefit from or who exercise control or who have introduced assets)					
	<b>Parties (examples)</b>	<b>Nationalities (all)</b>	<b>Tax residence (all)</b>	<b>Date and country of birth</b>	<b>US person (e.g. parent, green card)</b>	<b>Long-term residence intention</b>
	Settlor					
	Trustees					
	Beneficiaries					
	Protector					
	Attorney					
	Bank signatories					
	(a) Is there a continental Europe connection with any party? <span style="float: right;"><input type="checkbox"/></span> (b) If yes, what forced heirship regimes are applicable/ have there been lifetime transfers to consider / how does this jurisdiction treat its residents' interests in a trust/ what reporting obligations are required? <span style="float: right;"><input type="checkbox"/></span> (c) Is any party subject to the law of another jurisdiction, and, if yes, how does that jurisdiction treat its residents'/ citizens'/ non-domiciled residents' interests in a trust/ what reporting obligations are required? <span style="float: right;"><input type="checkbox"/></span> (d) Purpose of the structure/ current compliance with foreign jurisdictions? <span style="float: right;"><input type="checkbox"/></span> (e) Beneficiaries – understand their needs and how an interest in the trust will be treated <span style="float: right;"><input type="checkbox"/></span>					
<b>2.</b>	<b>Succession</b>					
	(a) What are the tax and reporting consequences for parties affected by a foreign jurisdiction? <span style="float: right;"><input type="checkbox"/></span> (b) Has the NZ will been prepared so that it compliments the foreign treatment? <span style="float: right;"><input type="checkbox"/></span> (c) If there is a continental Europe connection (will maker, assets, beneficiary) : <span style="float: right;"><input type="checkbox"/></span> i) One law will apply for worldwide estate <span style="float: right;"><input type="checkbox"/></span> ii) Particular care if a life interest is being created or if a settlement is being made on a trust in the will <span style="float: right;"><input type="checkbox"/></span>					
<b>3.</b>	<b>Cross Border transparency</b>					
	(a) Standard for Automatic Exchange of Financial Account Information/ The Common Reporting Standard (“CRS”) (b) AML/ CFT concepts/ not limited to information for the tax position/ AML/ CFT compliance shortly for lawyers & accountants. (c) Examples of systems implemented in New Zealand i. New Zealand property conveyance <ul style="list-style-type: none"> <li>• residential land withholding tax (“RLWT”) (New Zealand citizen/ presence in NZ within the past 3 years/ visa/ presence in NZ within past 12 months)</li> <li>• Intent/ two year bright-line test</li> <li>• Responsibility with conveyancer – identify offshore RLWT person</li> <li>• Worldwide Tax Information Numbers to be provided</li> </ul> ii. Foreign directors – change to Companies Office procedures (d) Which adopting country will information be forwarded to in respect of the trust/ what is their treatment of interests held by their residents? <span style="float: right;"><input type="checkbox"/></span>					
<b>4.</b>	<b>Tax obligations</b>					
	(a) Review New Zealand tax residence: <ul style="list-style-type: none"> <li>i. Availability of a permanent place of abode in NZ (structure doesn't matter) <span style="float: right;"><input type="checkbox"/></span></li> <li>ii. Consider overall circumstances, memberships, items in storage, rented home, NZ bank account <span style="float: right;"><input type="checkbox"/></span></li> <li>iii. Time spent in various countries <span style="float: right;"><input type="checkbox"/></span></li> <li>iv. New Zealand settlor moving overseas – foreign trust obligations in NZ <span style="float: right;"><input type="checkbox"/></span></li> <li>v. UK national settlor leaving New Zealand – reacquire UK domicile/ inheritance tax liability <span style="float: right;"><input type="checkbox"/></span></li> </ul> (b) Review foreign connections for all parties regularly to ensure compliance with foreign obligations - not always obvious <span style="float: right;"><input type="checkbox"/></span> (c) Tax avoidance/ evasion – intent for the structure/ are tax benefits purely incidental to the primary reason? <span style="float: right;"><input type="checkbox"/></span>					
<b>5.</b>	<b>Administration</b>					
	(a) Importance of administration with integrity <span style="float: right;"><input type="checkbox"/></span> (b) Fiduciary obligations – understanding obligations to beneficiaries and enforceability against trustees via the courts <span style="float: right;"><input type="checkbox"/></span> (c) Transparent view / compliance before planning <span style="float: right;"><input type="checkbox"/></span> (d) Knowledgeable legal and tax partners <span style="float: right;"><input type="checkbox"/></span>					