



KPMG Island Group Tax Webinar Series

Mistakes, mistake claims and disclosures

Thursday 26 January

01

Introduction

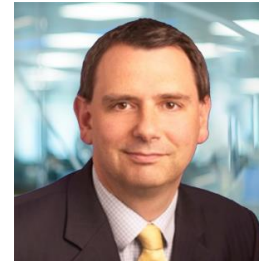
With you today



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Agenda

- 01** Introduction
- 02** Trust reviews, Obstacles and Processes
- 03** Making a disclosure to HMRC
- 04** Remedies for Trustees
- 05** Questions?

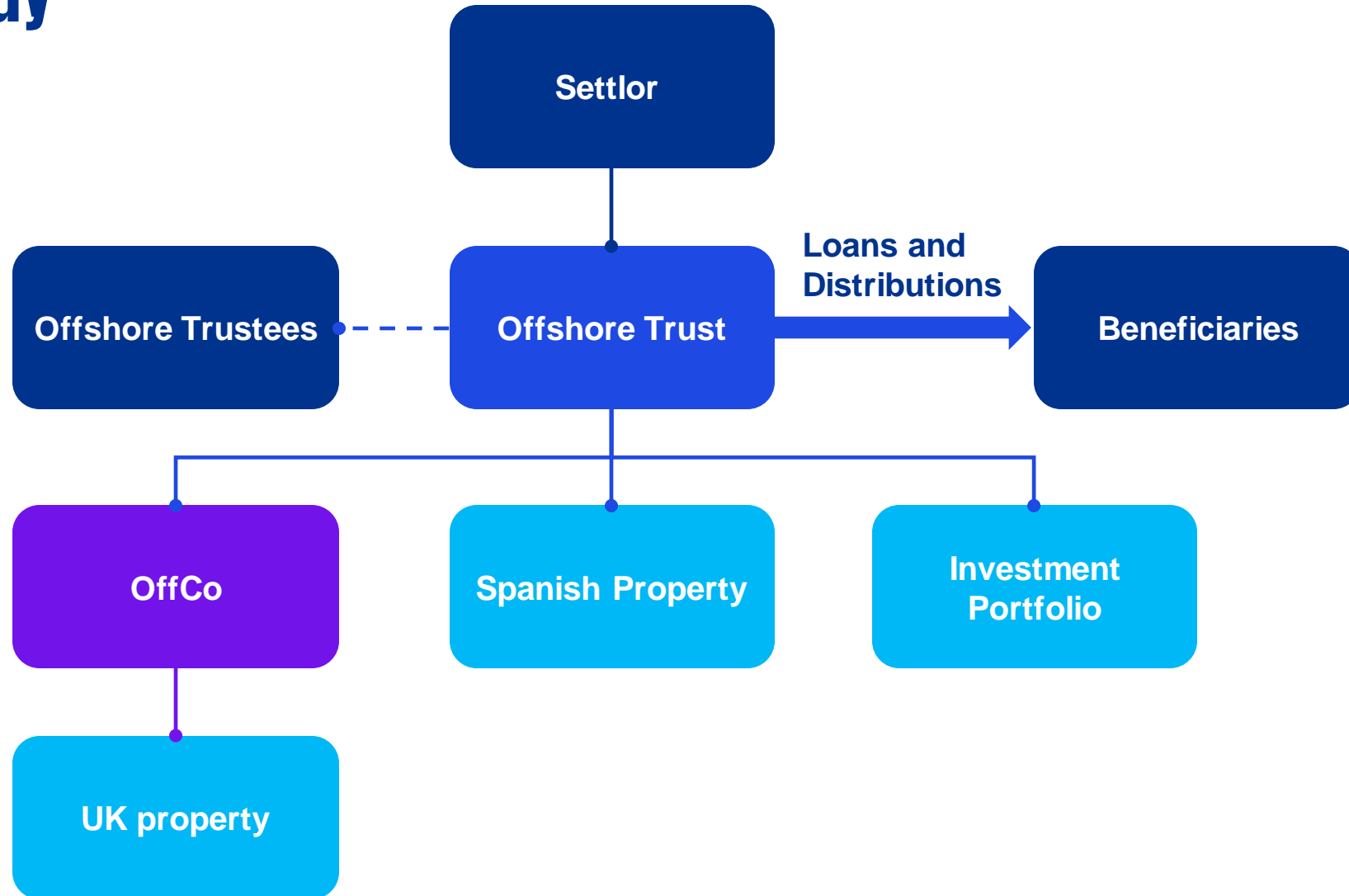
02

Trust reviews, Obstacles and Processes

Thinking it through...

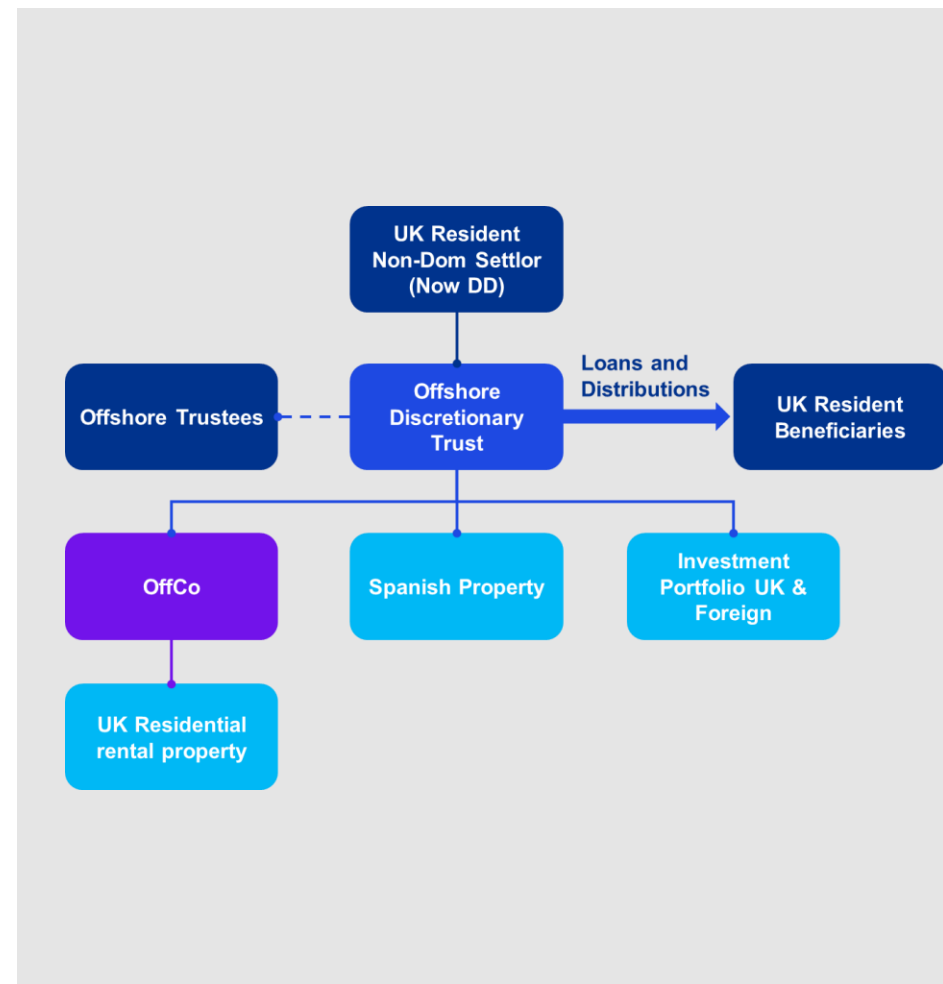


Case Study



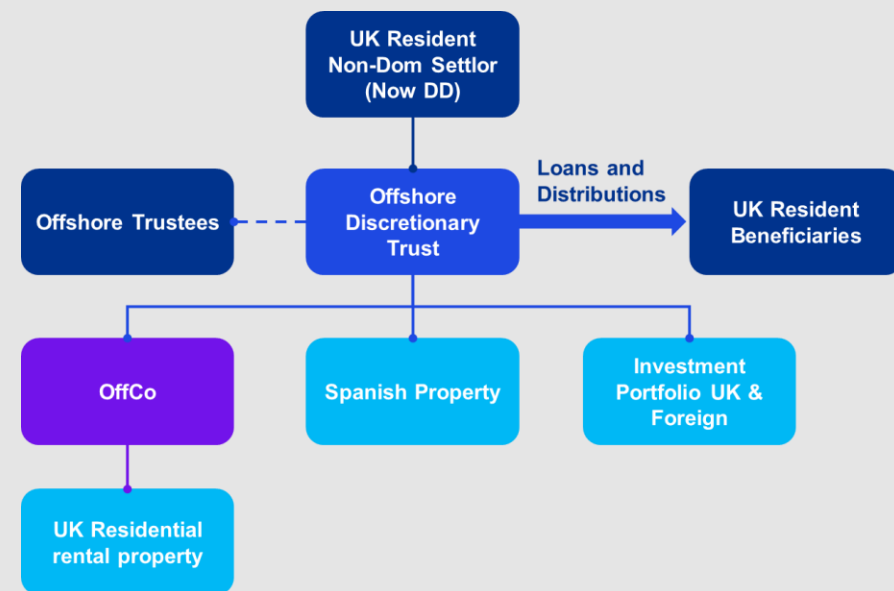
CaseStudy - REVIEW

- Trust Deed - discretionary trust, initial settled fund of £100, date created, settlor not excluded and non-resident on creation
- Accounts show later addition made by settlor of investment portfolio when still non-dom. Doesn't appear to be any other settlors or other additions.
- Further investigation reveals settlor genuine non-dom on creation but moved to the UK to be closer to children and grandchildren and now UK deemed domiciled.
- Settlor not an FDR on creation and trust is therefore a protected trust
- UK assets for IHT purposes – UKRPI held indirectly via Offco, relevant loan to UK beneficiary to acquire UK residential property and other loans to UK resident beneficiaries. IHT reporting obligations.
- UK income in form of UK rental income and UK dividends and interest in investment portfolio. NB OIGs
- IT reporting obligations for trustees as UK resident beneficiaries and UK income
- Distributions and interest-free loans to UK resident beneficiaries likely to be taxable on them as appears to be untaxed accumulated income and capital gains in structure.
- Likely TRS/ROE Obligations



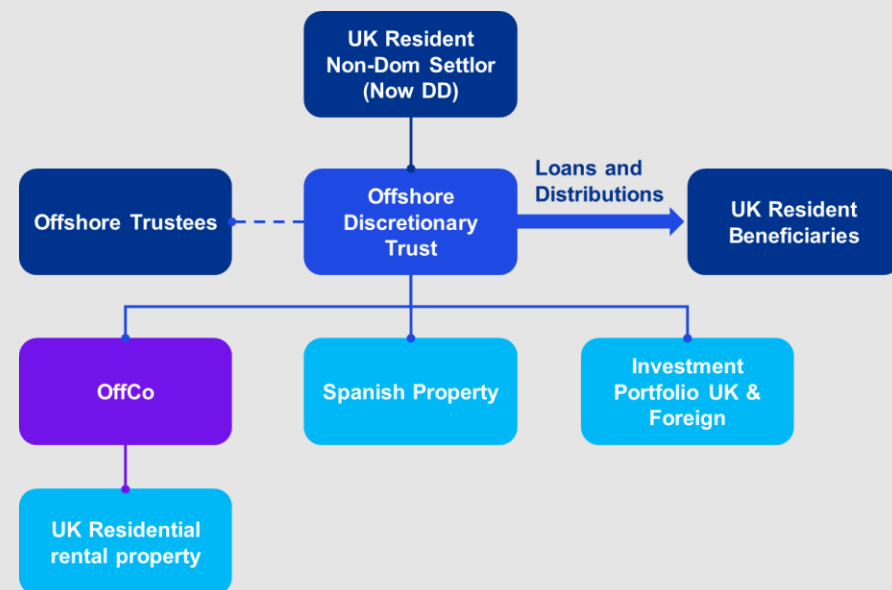
Case Study - POTENTIAL OBSTACLES

- Annual accounts vital to determine RI and SG pools, track additions and distributions - maintenance of these essential
- Rental valuation for Spanish property required to compute occupational benefit on settlor and valuation of Spanish property if considering TYAs pre-2014
- Valuation of UK residential property for IHT purposes
- Investment portfolio – what does it contain, value at TYAs, income and gains, OIGs, property-rich CIVs
- Residence and domicile of beneficiaries and what they have disclosed personally on UK SA returns, is remittance basis relevant?



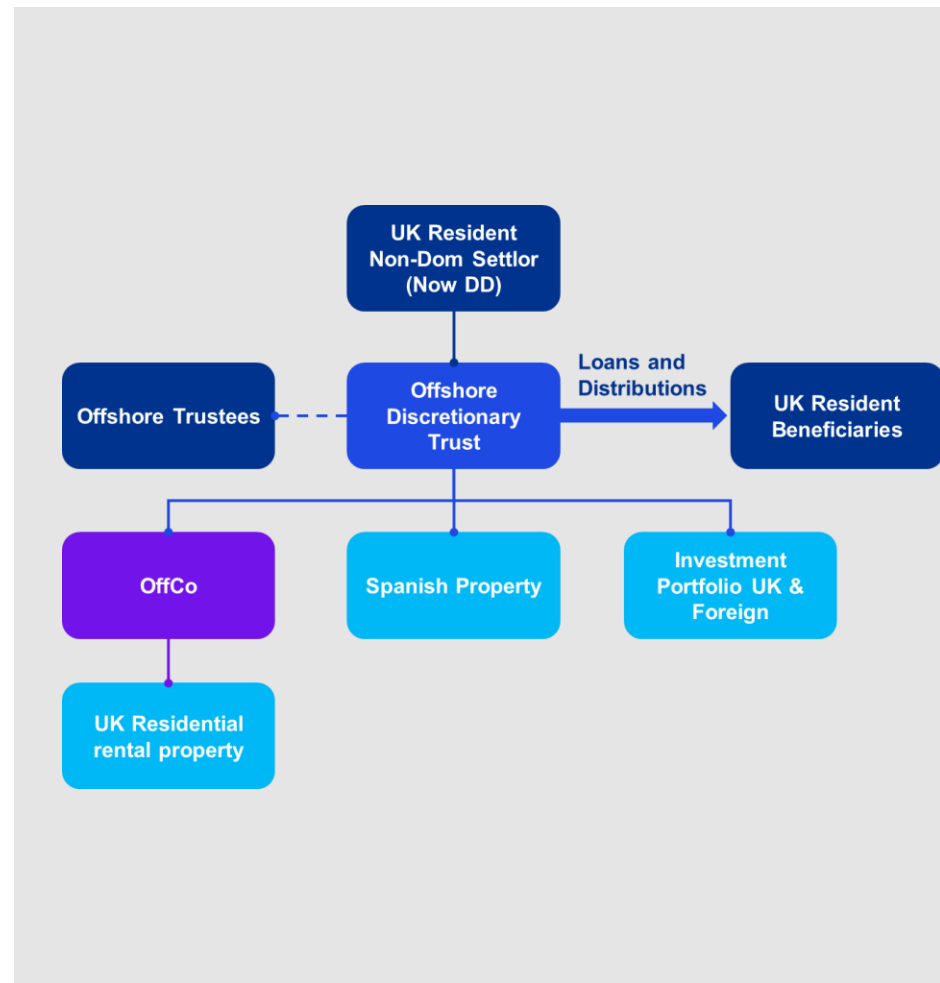
Case Study - DISCLOSURES

- Who needs to disclose? Time limits. Taking a view where incomplete records
- **Settlor's disclosure** – Benefit on use of Spanish property, taxed on all UK income arising in portfolio incl OIGs and if trustees taint - taxed on all income and gains of trust
- **Trustees' disclosure** – UK IHT on value of shares in OffCo as holds UKRPI, loans to UK beneficiaries and UK investments (NB if loan used to acquire UKRPI 2-year tail may apply). IHT reporting obligations even if no IHT. UK income tax as no s811 restriction, UK CGT on sale of property-rich CIVs
- **Beneficiaries** – Taxed on benefit of loan and distributions depending on how matched to RI and SG, need to disclose on personal UK SA returns, supplementary charge may apply
- **OffCo** – ATED, CT on rental income and profit on any sale of UK property
- Voluntary disclosure



CaseStudy - PROCESSES

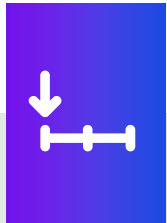
- Domicile statement for IHT form and file note re DD status
- Annual tax review of structure/Updated tax advice
- Regular check-ins with settlor and beneficiaries regarding their reporting obligations, residence and domicile
- Prepare annual accounts for trust and company
- Diarise TYAs
- Update relevant income and stockpiled gains pools
- File note on all distributions/benefits, detailed schedule and tax treatment, notify beneficiaries
- Checklist for administrators
- Professional health checks
- Diarise TRS/ROE and annual declarations
- Reporting UK property sales – 60 days
- Other reporting obligations, eg Trust & Estate SA return, Form 50FS



03

Making a disclosure to HMRC

Making a disclosure



**First steps
when any non
compliance is
suspected or
established**



**When to
disclose**



**What to
disclose**



**Method of
disclosure**



**Common
practical issues
with disclosure
work**

04

Remedies for Trustees

Questions?

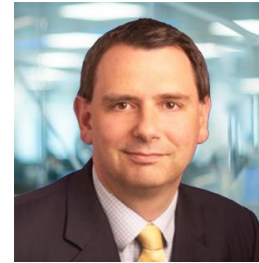
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Thank You



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