

## Technical update - Recent rulings on trusts

Two recent rulings are relevant to trustees with reporting obligations in France.

1 France's Constitutional Court published its decision on 21 October 2016 that the public register of trusts is unconstitutional and therefore illegal. The register lists the name of the trust, the trustees, beneficiaries and the date of settlement of the trust and was made publicly available online for the short period 5 - 22 July 2016 before being suspended pending this decision.

The register can now be consulted by the following authorities only:

- The Financial Intelligence Unit (Tracfin);
- Judicial authorities;
- Customs officials;
- Authorised officials of the public financial administration charged with tax monitoring and recovery;
- The French Prudential Control Authority and the Financial Markets Authority;
- Persons subject to anti-money laundering and terrorist financing obligations in carrying out due diligence (this may include financial establishments, the *Banque de France*, Chartered Accountants, auditors, lawyers, notaries and bailiffs).

2 The *loi de finances rectificative pour 2016* has decreed that for *Trust 2* annual declarations due after 31 December 2016, the penalty for non-submission is fixed at € 20,000 and can no longer be proportional to the value of trust assets. Previously trustees were subject to a fine of the greater of € 20,000 or 12.5% of the value of the trust's assets.

Jennifer Hooper

January 2017