

## CREST

### Electronic Share Trading

#### Rules, Procedures, Practices, Guidelines and Interpretations

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# 1 Introduction

CREST is the name of an electronic system which settles transfers of shares that are dealt with on certain exchanges/markets.

The Companies Act, 1990 (Uncertificated Securities) Regulations, 1996 (S.I. No. 68 of 1996) gave Irish companies the option of allowing their shareholders:

1. to evidence their title to shares otherwise than by a share certificate, and
2. to transfer their shares electronically i.e. without a stock transfer form.

The Regulations provide that electronic transfers must be effected through an electronic system the operator of which has been approved by the Minister for Business, Enterprise and Innovation (or by a body designated by the Minister) or by the appropriate authority in another Member State of the European Union. CRESTCo Ltd which is now known as Euroclear UK & International Limited was approved to operate a system (called CREST) through which shares can be transferred electronically.

Under the CREST system, an instrument is not produced – the shares are transferred electronically, i.e. CREST is a paperless system of transferring shares. Legislation was introduced under the 1996 Finance Act, which provided for the payment of stamp duty on electronic messages, which effect the transfer of shares. The transfer of Irish shares through the CREST system commenced in October 1996.

The Stamp Duties Consolidation Act, 1999, as amended, supersedes the legislation enacted in the 1996 Finance Act. Sections 67 to 78 deal with electronic transfer of shares.

## 1.1 Finance Act 2007

On 1 October 2007, a new stamp duty relief became available to a recognised intermediary in accordance with Section 75 of the Stamp Duties Consolidation Act 1999 (inserted by Section 109(1)(d) of the Finance Act 2007).

Legislation is in place to cater for exemptions on certain transfers in a settlement chain involving a Central Counterparty.

The following sections explain how stamp duty and the CREST system interact. For the sake of simplicity, the term share is used but all types of security (e.g. shares, stock, debentures, debenture stock) can be transferred through the system and the charge to stamp duty covers transfers of all such types.

## 2 General Information

### 2.1 What is CREST?

CREST is a computer-based system which enables shares to be transferred without a written document, i.e. without a stock transfer form. CREST is owned and operated by a UK company, Euroclear UK & International Limited and was inaugurated on 15 July 1996. CREST replaced the previous settlement system, which was called TALISMAN. TALISMAN ceased operating after a transitional period, at the end of April 1997.

### 2.2 Is stamp duty charged on shares transferred electronically?

Yes. Provision was made in the Finance Act, 1996 (Part IV, Chapter I) to charge stamp duty on shares transferred electronically. This was replaced by Part 6 of the Stamp Duties Consolidation Act, 1999.

### 2.3 What is the basis for the charge?

Prior to the making of the Companies Act, 1990 (Uncertificated Securities) Regulations, 1996 (S.I. No. 68 of 1996) the Registrar of a company could not register a transfer of shares unless s/he had received a duly stamped stock transfer form.

Following the making of these Regulations, the Registrar may register a transfer if s/he has received a properly authenticated electronic message from Euroclear UK & International Limited. The charge to stamp duty is based on treating that electronic message as if it were a “physical” stock transfer form.

### 2.4 What rate of duty applies?

The rate of duty on shares transferred electronically is a flat 1% of the consideration for the sale. Where the calculation results in an amount, which is not a multiple of a cent, the amount so calculated is rounded to the nearest cent, any 0.5c being rounded up to the next whole cent.

### 2.5 Are gifts of shares liable to duty?

Yes. Gifts of shares, which are transferred electronically, are liable to duty. Duty is chargeable at the rate of 1% on the market value of the shares being transferred and the accountable person is the transferee.

### 2.6 Do all the provisions of the stamp duty code apply to shares transferred electronically?

No. As the stamp duty code requires that a document be “impressed” with a stamp, certain parts of the code cannot apply. However, where appropriate, the code has been adjusted. For example, provision has been made:

- to assess the amount of duty due on an electronic message;
- to apply the appeal procedures to such assessments; and
- to allow reliefs from stamp duty to be availed of, notwithstanding the fact that it is not possible to adjudicate an electronic message.

## 2.7 If someone wants to claim a relief, how do they get an electronic message adjudicated?

Certain reliefs from stamp duty cannot be granted unless the document is adjudicated. In CREST, the reliefs for shares transferred in connection with company reconstructions or amalgamations and for share transfers between associated companies are a case in point.

Provision was made in the Finance Act, 1996 to enable the reliefs to apply, notwithstanding the fact that there is no document to adjudicate, provided all the other conditions for granting the relief have been satisfied. However, the reliefs mentioned above are not automatically available and must be claimed by way of a written submission to Revenue **before** the transfers take place. On receipt of clearance from Revenue, relief may be claimed automatically if the trade meets the criteria for Intermediary Relief or by inputting a “Q” flag.

In addition, the CREST member (e.g. the broker which enters the details in respect of the transfer of shares into the CREST system) or the transferee if the transferee is a CREST sponsored member is obliged to retain evidence to support the declaration that the transfer is relieved from duty and this evidence will be available for examination by Revenue for **a period of six years**. Penalties will apply if a relief not properly due has been claimed and if the appropriate evidence has not been retained.

## 2.8 Is a person liable to duty if they withdraw shares from the CREST system?

Shares held in electronic form may be converted into paper form – a process called rematerialisation. When shares are being rematerialised, there is no charge to duty unless the beneficial ownership changes. If the beneficial ownership does change, the transfer will be liable to ad valorem duty and the stock withdrawal instruction input into CREST must include an instruction to debit Stamp Duty (input of “1” flag).

### 3 Reliefs

Intermediary Relief and Central Counterparty Relief were introduced on 1 October 2007. Broker/Dealer Relief and Closings Relief ceased to have effect from that date.

#### 3.1 What is Intermediary Relief?

On 1 October 2007 a new stamp duty relief was made available to a recognised intermediary in accordance with Section 75 of the Stamp Duties Consolidation Act, 1999 (inserted by Section 109(1)(d) of the Finance Act, 2007).

This relief replaced exemption for market makers (Section 74 of the Stamp Duties Consolidation Act, 1999) and relief for member firms (known as “broker/dealer relief” - old Section 75 of the Stamp Duties Consolidation Act, 1999). Closings relief (Section 73(1)(b) of the Stamp Duties Consolidation Act, 1999) ceased to have effect from 1 October 2007.

An “intermediary” means a person who carries on a bona fide business of dealing in securities. Any firms wishing to claim Intermediary Relief are required to forward an application to the CREST Unit.

The core provision of Section 75 is in subsection (3). This subsection grants an exemption from stamp duty on the transfer of securities to a person or a person’s nominee, where—

- the person is a member firm of an exchange or market, and
- the person is an intermediary and is approved by the Revenue Commissioners as a recognised intermediary in accordance with arrangements made by the Revenue Commissioners with the exchange or market, and
- the transfer of securities is effected **either** -
  - on the exchange or market in respect of which the intermediary is a recognised intermediary, **or**
  - on any exchange or market operated by the Irish Stock Exchange Limited (e.g. the ISE Main Market and IEX) or the London Stock Exchange plc (e.g. the LSE Main Market and AIM), **or**
  - on any other exchange or market designated by Revenue for this purpose in regulations (A list of Designated Exchanges/Markets can be found on the Revenue website please see [Section 9.2 - Links](#)), and
- the transfer is not effected in connection with excluded business.

### 3.2 What is Excluded Business?

For an exemption from stamp duty to be available to a recognised intermediary on any transfer to it of Irish securities, as a rule, it is necessary that the transfer to it must be in connection with the intermediary's business of dealing in securities and not in connection with various business activities termed "excluded business" carried on by the intermediary.

Excluded business means any business which consists in -

- the making or managing of investments
- providing services for connected persons
- insurance business, or assurance business
- administering, managing or acting as trustee in relation to pension business
- operating or acting as trustee in relation to collective funds.

A separate CREST Participant ID is required for any trades effected on a transfer in connection with an excluded business also carried on by the Intermediary.

### 3.3 What is the procedure for approval as a "recognised intermediary"?

The member firm must satisfy itself, by reference to the legislation and explanatory notes (see [Section 9.2 – Links](#), Stamp Duty on Transfers of Irish Securities - New Reliefs For Certain Market Participants), that it falls within the statutory definition of an intermediary and, on having done so, complete the application form (see [Appendix 4](#)) and forward it to:

CREST Unit,  
Collector-General's Division,  
Revenue Commissioners,  
Government Offices,  
St. Conlon's Road,  
Nenagh,  
Co. Tipperary,  
E45 T611  
Ireland.

Telephone +353 (0)67 63470 or +353 (0)67 63201

Email: [crest@revenue.ie](mailto:crest@revenue.ie)



Where a member firm is not certain that it is entitled to apply for approval as a “recognised intermediary”, it should seek clarification from the CREST Unit.

Revenue will advise the applicant, in writing, of the outcome of the application and will also notify Euroclear UK & International of the position.

Updated CREST Software operated by Euroclear UK & International Ltd. to automatically claim Intermediary Relief became effective on 28 January 2008.

Where a member firm of a designated exchange/market e.g. ISE, is an intermediary and is approved by Revenue as a recognised intermediary for that exchange, that member may, where appropriate, claim an exemption from stamp duty on a transfer of Irish securities to it, even if that is effected on any other exchange/market designated by Revenue. This means that, once approved, there is no requirement to apply in respect of other designated exchanges/markets of which they are members.

### 3.4 CREST Unit checks on applications for approval as a recognised intermediary

On Receipt - check that the application form is fully completed:

- Name and address of applicant completed
- Confirms member firm of an exchange(s)
- Includes CREST Participant ID(s)
- Contact address in relation to accounting for stamp duty
- Telephone number
- Email address
- Signed
- Capacity of signatory

If information is missing, contact the applicant by email/telephone and request that missing information be submitted by email.

If the form is not signed, contact the applicant by telephone/email to advise that you are returning for a signature and it cannot be registered until re-submitted and signed.

#### **Checks to be carried out prior to input on the database**

- The applicant is a member of the stock exchange indicated - Membership to be verified by the CREST Unit.

### The CREST participant ID is valid and relates to the name and address of the applicant

- The details to be checked with Euroclear

The name of applicant may not be the same as the name on the CREST Participant ID details (e.g. settlement agents, nominees, sponsored members etc.). In the event of a query on this, the CREST participant details should be confirmed with the applicant.

### 3.5 What is the procedure for approval as a Designated Exchange/Market?

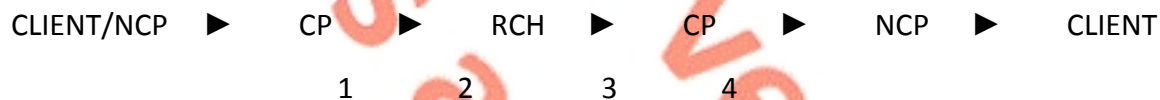
Any exchange/market that wishes to apply to become a designated exchange/market should contact the CREST Unit directly. See [Appendix 5](#) for the application form.

The application should be accompanied by a copy of approval given by the relevant Competent Authority to operate as an exchange/market, i.e. IFSRA, FSA etc. together with any other relevant documentary evidence.

### 3.6 What is Central Counterparty Relief (CCP)?

On 1 October 2007, a new Section 75A of the Stamp Duties Consolidation Act, 1999 inserted by Section 109(1)(d) of the Finance Act, 2007 became operative. The interposition of a Central Counterparty (CCP), or a clearing member of a CCP, in the settlement chain gives rise to stamp duty charges unless appropriate relief is available.

Section 75A provides for a stamp duty exemption for each transferee in Legs 1, 2, 3 and 4 (in the settlement chain shown below) so long as that transferee is required, on receipt, to transfer the securities concerned to another person under a matching contract.



NCP = a non-clearing participant; CP = a clearing participant; RCH = a recognised clearing house

Provision has also been made for a stamp duty exemption in respect of transfers from the NCP directly to the RCH and from the RCH directly to the NCP where the transferee is required, on receipt, to transfer the securities concerned to another person under a matching contract.

An additional feature is where the CP fails to deliver securities to the RCH in Leg 2 and the RCH purchases the securities from another person. In that case, the RCH is exempt from stamp duty on that purchase and, while required to transfer the securities to the next person in the settlement chain, need not do so under a matching contract.

Further information can be found in Stamp Duty on Transfers of Irish Securities - New Reliefs For Certain Market Participants Note (see [Section 9.2 - Links](#)).

A list of Recognised Clearing Houses can be found on the Revenue website, please see [Section 9.2 - Links](#).

### 3.7 What is the procedure for approval as a Recognised Clearing House?

Any clearing house that wishes to apply to become a Recognised Clearing House should contact the CREST Unit directly.

See [Appendix 6](#) for the application form.

The application should be accompanied by a copy of approval given by the relevant competent authority to operate as a clearing house, i.e. IFSRA, FSA etc. together with any other relevant documentary evidence.

A more recent version of this manual is available.

## 4 Other exemptions from Stamp Duty

The following transfers are exempt:

### 4.1 Dematerialisation

Before shares can be transferred electronically, they must first be converted from paper (certificate) form to electronic form. The process of conversion is called dematerialisation. When shares are being dematerialised and there is no change in beneficial ownership but there is a change in legal ownership, the stock transfer form and the stock deposit into CREST are exempt from Stamp Duty and the “Y” flag should be used to exempt the transaction in CREST. If the beneficial ownership does change, however, the transaction is chargeable to ad valorem duty and the instructions into CREST must provide for a Stamp Duty debit (use of “1” flag);

### 4.2 No Change in Beneficial Ownership (NCBO)

This involves transfers of shares within the system when the beneficial ownership does not change. Electronic instructions, where the legal ownership changes but the beneficial ownership remains unchanged, are not liable to Stamp Duty and the “Y” flag should be used to exempt the transaction.

### 4.3 How does the stock borrowing exemption apply?

If quoted stock is transferred to an intermediary for the sole purpose of enabling them to complete a contract for the sale of stock of that type, then that transfer (“stock borrowing”) is exempt from stamp duty whether it is effected electronically or via a stock transfer form. Equivalent stock must be returned to the lender (“stock return”) within 12 months of the date on which the stock was acquired from the lender.

If equivalent stock is not returned within that 12-month period, then the intermediary will become liable to pay ad valorem duty on the stock transferred to him by the lender. If the Stamp Duty is not paid to the CREST Unit, Collector-General's Division within 14 days of the end of that 12 month period, interest and penalties are due as follows:

- where the unpaid duty exceeds €30, interest on such duty calculated at the following rates:
  - 0.0219% of the stamp duty per day (from 01/07/2009)
  - 0.0273% (from 01/04/2005 to 30/06/2009)
  - 0.0322% (from 01/09/2002 to 31/03/2005)
  - 1% per month or part thereof before 01/09/2002,

**and**

- a penalty of 1% of the duty for each day the duty remains unpaid.

The stock borrower must maintain separate records of each stock borrowing and any stock return made in respect of that stock borrowing. Such records must include:

1. evidence that the stock borrower was obliged to supply stock to complete a trade;
2. the name and address of the lender;
3. the type, nominal value, description and amount of stock borrowed from the lender;
4. the date on which the stock was transferred from the lender to the broker/dealer, market maker or his nominee;
5. the date on which equivalent stock should be returned to the lender;
6. the type, nominal value, description and amount of the stock returned to the lender and the date of the stock return; and
7. full details where the stock has been paid, converted, subdivided, consolidated, redeemed, made the subject of a takeover, call on partly paid stock, capitalisation issue, rights issue, distribution or other similar event.

The transfer of stock to the lender as security (“collateral stock”) for the undertaking given by the stock borrower to return equivalent stock to the lender within 12 months is also exempt from duty.

## 5 Payment of Duty

### 5.1 Who is accountable for payment of the duty?

The accountable person is the transferee.

### 5.2 When is the duty due?

The duty is due and payable on the date the electronic message advising the Registrar of a company to register a transfer of shares is generated.

### 5.3 How is the duty paid?

Where a CREST member or CREST sponsored member wishes to pay Stamp Duty on an electronic transfer of shares through CREST, they must select the “1” flag – 1% ad valorem, so that the appropriate Stamp Duty is deducted by Euroclear UK & International Limited. It is essential that the stampable consideration is input by the participant selecting the flag. The correct agent indicator must also be used showing whether the participant is acting in a Principal or Agent capacity.

### 5.4 How does a Recognised Intermediary carrying out Excluded Business pay duty?

A Recognised Intermediary must use a separate CREST Participant ID for any trades effected on a transfer in connection with an excluded business also carried on by the Intermediary.

### 5.5 How does Revenue receive the Stamp Duty via the CREST System?

The Stamp Duty deducted by Euroclear UK & International Limited is remitted to Revenue by way of Electronic Funds Transfer on a weekly basis.

### 5.6 How do I pay Stamp Duty by Electronic Funds Transfer?

Irish Stamp Duty can be paid by Electronic Funds Transfer (EFT) – please contact the CREST Unit directly for Bank Account details.

Please note that when payment is made by EFT:

- (a) Reference **CREST** must be quoted in the “**Message for Beneficiary**” field of the payment instruction.
- (b) You must include in the payment the relevant bank charges.
- (c) You must advise CREST Unit by email to [crest@revenue.ie](mailto:crest@revenue.ie) of the payment, on the day the payment is instructed.

- (d) A list of CREST Transaction IDs and corresponding amounts of Stamp Duty must be included with your email.
- (e) CREST Participant ID should be quoted.

### 5.7 What happens if the duty is not paid on time?

The interest and surcharge that apply to late payment of stamp duty on documents also apply to late payment of stamp duty chargeable on shares transferred electronically i.e.

- where the unpaid duty exceeds €30, interest on such duty calculated at the following rates per day or part of a day from the date the electronic message was generated to the date of payment of the unpaid duty:
  - 0.0219% of the stamp duty (from 01/07/2009)
  - 0.0273% of the stamp duty (from 01/04/2005 to 30/06/2009)
  - 0.0322% (from 01/09/2002 to 31/03/2005)

[The rate was 1% per month or part thereof before 01/09/2002.]

and

- A surcharge equivalent to:
  - 5% of the unpaid duty, subject to a maximum surcharge of €12,695 where the duty is paid not later than 2 months after the date the electronic message was generated, or
  - 10% of the unpaid duty, subject to a maximum surcharge of €63,485 where the duty is paid more than 2 months after the date on which the electronic message was generated.

When duty is paid late, the late payment, including the appropriate penalties, should be paid by EFT direct to Revenue, AIB Capital Taxes Account.

## 6 Refunds

Updated CREST Software operated by Euroclear UK & International Ltd., to automatically claim Intermediary Relief became effective on 28 January 2008 and, consequently, reclaims for Stamp Duty paid should not normally arise. The majority of reclaims in respect of transactions carried out since 1 October 2007 only arise as a result of errors made in operating the CREST System.

General Information on Refunds –

Refund claims are made in respect of errors made in operating the CREST System:

- Intermediary Relief
- No Change of Beneficial Ownership (NCBO)
- Others

### 6.1 General Information on Claiming Refunds

All refund claims must be accompanied by a letter, on headed paper, and include the following:

1. request a reclaim of Irish Stamp Duty and stating the legislative basis
2. quote participant ID of the claimant
3. state the amount and currency of the reclaim
4. include the relevant CREST Transaction IDs
5. state the reason for the reclaim (in detail)
6. sign and quote a contact name and phone number
7. quote a reference number on each claim for ease of reference
8. Sterling and Euro claims must be made separately
9. spreadsheet ([Appendix 1](#)- Irish Stamp Duty Reclaim) reclaims for more than 20 transactions must be provided on a Microsoft excel spreadsheet via email to [crest@revenue.ie](mailto:crest@revenue.ie)

Failure to include any of the above information may result in rejection of the reclaim.

It is important that the basis for each reclaim is clearly outlined and that the appropriate schedule and declarations are submitted, together with any supporting evidence.



The claimant should submit the required details in list format. Reclaims for more than 20 transactions should be provided on a Microsoft Excel Spreadsheet via secure email.

In certain circumstances, Revenue may require further documentation to prove entitlement to a refund. All refund claims must be made within 4 years of the original payment. Where the claimant is not resident in the State and has no branch or agency in the State, Revenue may require the claimant, as a condition for obtaining a repayment, to appoint and maintain a tax representative in the State who shall be personally liable to Revenue for any loss of duty arising out of an incorrect claim.

[See Appendix 1 for Irish Stamp Duty Reclaim Forms Spreadsheet](#)

## 6.2 Intermediary Relief

On 1 October 2007, a new stamp duty relief became available to a recognised intermediary in accordance with Section 75 of the Stamp Duties Consolidation Act 1999 (inserted by Section 109(1)(d) of the Finance Act 2007).

## 6.3 Reclaim Procedures

To reclaim Intermediary Relief, it is necessary to certify that at the date of each transfer:

- The transferee was approved by Revenue as a recognised intermediary *and*
- the transfer of securities was effected **either**—
  - on the exchange or market in respect of which the intermediary is a recognised intermediary, or
  - on any exchange or market designated by Revenue for this purpose in regulations
- the transfer was not effected in connection with excluded business.

Where reclaims are as a result of a failure to properly indicate the following:

- trades as a principal purchase

or

- an approved trade system of origin [TSO]

then these details must be included in the reclaim covering letter.

A Microsoft Excel spreadsheet with the list of the transaction(s) must be included.

[See Appendix 2 for Intermediary Relief Reclaim Forms and Spreadsheet](#)

## 6.4 No change of Beneficial Ownership (NCBO)

Where there are transfers in CREST, and where there is no change in the beneficial ownership of the Securities, a stamp duty charge does not apply. A reclaim can arise where a transaction involved no change of beneficial ownership but had not been correctly flagged using “Y” - Irish exempt, reason NCBO.

## 6.5 Reclaim Procedures

Where legal title only is being transferred electronically and there is no change in beneficial ownership involved, the transfer is exempt from stamp duty.

All NCBO reclaims must be accompanied by:

- a declaration confirming that there has been no change in beneficial ownership in the transaction to which the reclaim relates

and

- If the movement was an NCBO to facilitate a purchase or sale, then the CREST transaction ID of the relevant purchase or sale transaction will be required in support of the reclaim,
- If the movement of stock is on foot of a purchase, the CREST transaction ID of the purchase is required.

[See Appendix 3 for NCBO Reclaim Forms and Spreadsheet](#)

## 6.6 Other Reclaims

There may be many other reasons why a reclaim of Stamp Duty may be made.

Some of the more common types are outlined below:

### 6.6.1 Incorrect/Cancelled Trade

In cases where Stamp Duty has been deducted on a trade that was incorrect or cancelled. If the trade was not rebooked, Revenue will require an explanation for the error and any relevant supporting evidence when the reclaim is being made. If the trade was rebooked, Revenue will require the CREST transaction ID of the rebooked trade together with the transaction ID of the reversing transaction.

### 6.6.2 Duplicate Payment of Stamp Duty

Where Stamp Duty has been charged on a transaction and Stamp Duty was also charged on an earlier or subsequent leg and there was only one change of beneficial ownership. The evidence required is the CREST transaction ID of the other leg where Stamp Duty was also paid.

[See Appendix 1 for Irish Stamp Duty Reclaim Spreadsheet](#)

## 6.7 How are reclaims processed?

When the reclaim is received it is examined to see if the following are present:

- A cover letter stating the amount and currency of the reclaim
- A list of the relevant CREST Transaction IDs
- The reason for the reclaim (in detail)
- A signature clearly stating a contact name and phone number
- Sterling and Euro reclaims made separately
- A spreadsheet for reclaims with more than 20 transactions (see [Appendix 1 for Irish Stamp Duty Reclaim Spreadsheet](#)).

Where the above requirements are not met or the information supplied is incorrect, the reclaim is rejected and returned to the sender with a cover note. The following details are recorded prior to returning the claim:

- Date Received
- Company Name
- Contact
- Date Returned
- Transactions
- Amount
- Reason Returned.

The reclaim information is inputted into Revenue's CREST System for matching with information received from Euroclear UK & International. Any unmatched transactions are highlighted and listed for notification to claimant of rejection of the total or part reclaim.

Euro & Sterling repayments are made by EFT only. Revenue requests all participants, for whom bank account details are not held, to provide their details. Participant claims will be withheld pending receipt of bank details.

## 7 CREST Unit EFT Payments

### Electronic Funds Transfer (EFT)

#### 7.1 Euroclear UK & International Weekly Payment Advice (Funds lodged to Central Bank Euro Account)

Euroclear UK & International make EFT payments each week to the Central Bank Stamp Duty Account (weekly Sterling payment and daily Euro payments).

#### 7.2 Other EFT Payments

CREST Participant firms may make payments to Revenue by EFT in respect of Stamp Duty underpaid. This may be due to incorrectly exempting a chargeable transaction at the time of input. EFT payments may be made in either Euros or Sterling but are all lodged to the Revenue Euro account (i.e. Sterling EFT payments are shown in the account at converted Euro value lodged).

1. The firm notifies CREST Unit by email to [crest@revenue.ie](mailto:crest@revenue.ie), that an EFT has been instructed and the amount of the payment. The payment details are recorded in the 'CREST' spreadsheet.
2. CREST Unit checks that transaction IDs have been provided for the payment and if not, this information is requested immediately.

#### 7.3 Cheque Payments

Cheque payments are not accepted.

## 8 Audits

### 8.1 Will Revenue audit transfers effected through the CREST system?

Transfers effected through the CREST system are subject to audit.

CREST members and sponsored members are required to retain evidence in relation to all transfers effected through the system where no duty is paid. In addition, there are penalties for failure to comply or for fraud or negligent input – see Section 76 of the Stamp Duties Consolidation Act, 1999.

### 8.2 What evidence must a CREST member or sponsored member retain?

If a CREST member or sponsored member enters the stamp duty transaction flag “Y” or “Q” and/or leaves the stampable consideration field blank, then evidence must be retained in legible written form, or readily convertible into such form, for a period of 6 years from the date the flag was entered and/or the field left blank in sufficient detail to establish that the related operator-instruction is not chargeable with duty.

The evidence must be made available to Revenue upon request.

### 8.3 What happens if this evidence is not retained?

The CREST member or sponsored member will be liable to pay a fine of €1,265 per instruction, if the appropriate evidence is not retained.

### 8.4 Are there penalties for fraud or negligence?

Yes. If a CREST member or sponsored member fraudulently or negligently enters an incorrect instruction into CREST, then they will be liable to pay the following if that incorrect instruction gives rise to an underpayment of duty:

- a penalty of €1,265, **plus**
- tax geared penalties as set out in the [Code of Practice for Revenue Audit and other Compliance Interventions](#).

## 9 Other Information

### 9.1 Transaction Status Stamps (TSS) Flags

The following are the TSS flags available in the CREST System for Irish Stamp Duty purposes:

<b>Value</b>	<b>Description</b>
<b>1</b>	<b>Irish 1% ad valorem</b>
<b>8</b>	<b>Irish exempt, new issue</b>
<b>J</b>	<b>Irish exempt, CCP clearing related relief claimed</b>
<b>Q</b>	<b>Irish exempt, for any other reason other than, CCP clearing related relief, new issue of shares and NCBO</b>
<b>Y</b>	<b>Irish exempt, no change in beneficial ownership (NCBO)</b>

### 9.2 Links

Stamp Duty on Transfers of Irish Securities - Operational changes in CREST January 2008 - February 2008

[Stamp Duty on Transfers of Irish Securities](#)

Stamp Duty on Transfers of Irish Securities - New Reliefs for Certain Market Participants – August 2007

[Guidance Notes - Stamp duty on transfers of Irish securities - Intermediary relief and CCP relief](#)

[List of Designated Exchanges](#)

[List of Recognised Clearing Houses](#)

## Appendix 1 – Irish Stamp Duty Reclaim Forms Spreadsheet

**Euro Reclaims in CREST**

Applicants Name: \_\_\_\_\_ CREST Participant ID: \_\_\_\_\_

Item No	Name of security	Security ISIN	Quantity	Settlement Date	Transaction ID Of Purchase (Stamp duty paid in CREST)	Amount of repayment claimed £

**TOTAL:**

**NB** (1) MS Excel spreadsheet, must be provided for claims in excess of 20 transactions, via secure email  
(2) Sterling and Euro claims must be made separately





## Appendix 2 – Intermediary Relief Reclaim Forms and Spreadsheet

**STAMP DUTY ON THE TRANSFER OF SHARES****EURO RECLAIM DECLARATION****Section 75 of the Stamp Duties Consolidation Act 1999****STAMP DUTY RELIEF FOR RECOGNISED INTERMEDIARIES**

I refer to the attached schedule and wish to claim a refund of stamp duty in the amount of €\_\_\_\_\_ to CREST Participant ID \_\_\_\_\_

I certify that all the details on the attached list are correct and hereby claim exemption from stamp duty by reference to the provisions of Section 75 of the Stamp Duties Consolidation Act 1999 (intermediary relief).

I certify that at the date of each transfer

- The transferee was a member firm of  
the Irish Stock Exchange Limited \_\_\_\_\_  
the London Stock Exchange plc \_\_\_\_\_  
other designated exchange/market \_\_\_\_\_  
Specify \_\_\_\_\_ **and**
- was an intermediary and approved by the Revenue Commissioners as a recognised intermediary **and**
- the transfer of securities was effected **either** -

- on the exchange or market in respect of which the intermediary is a recognised intermediary, **or**
- on any exchange or market operated by the Irish Stock Exchange Limited (e.g. the ISE Main Market and IEX) or the London Stock Exchange plc (e.g. the LSE Main Market and AIM), **or**
- on another exchange or market designated by the Revenue Commissioners for this purpose in regulations.  
Specify \_\_\_\_\_ **and**

- the transfer was not effected in connection with excluded business

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

Capacity: \_\_\_\_\_

Telephone: \_\_\_\_\_ applicants stamp here

Email: \_\_\_\_\_

## STAMP DUTY ON THE TRANSFER OF SHARES

### STERLING RECLAIM DECLARATION

#### Section 75 of the Stamp Duties Consolidation Act 1999

#### STAMP DUTY RELIEF FOR RECOGNISED INTERMEDIARIES

I refer to the attached schedule and wish to claim a refund of stamp duty in the amount of £ \_\_\_\_\_ to CREST Participant ID \_\_\_\_\_

I certify that all the details on the attached list are correct and hereby claim exemption from stamp duty by reference to the provisions of Section 75 of the Stamp Duties Consolidation Act 1999 (intermediary relief).

I certify that at the date of each transfer

- The transferee was a member firm of
  - the Irish Stock Exchange Limited \_\_\_\_\_
  - the London Stock Exchange plc \_\_\_\_\_
  - other designated exchange/market \_\_\_\_\_
 Specify \_\_\_\_\_ **and**
- was an intermediary and approved by the Revenue Commissioners as a recognised intermediary **and**
- the transfer of securities was effected **either** -
  - on the exchange or market in respect of which the intermediary is a recognised intermediary, **or**
  - on any exchange or market operated by the Irish Stock Exchange Limited (e.g. the ISE Main Market and IEX) or the London Stock Exchange plc (e.g. the LSE Main Market and AIM), **or**
  - on another exchange or market designated by the Revenue Commissioners for this purpose in regulations. Specify \_\_\_\_\_ **and**
- the transfer was not effected in connection with excluded business

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

Capacity: \_\_\_\_\_

Telephone: \_\_\_\_\_ applicants stamp here

Email: \_\_\_\_\_

A more recent version of this manual is available.





## Appendix 3 – NCBO Reclaim Forms and Spreadsheet

### STAMP DUTY ON THE TRANSFER OF SHARES

#### NCBO RECLAIMS

#### EXEMPTION FOR NO CHANGE IN BENEFICIAL OWNERSHIP CLAIMED ON IRISH SHARES TRANSFERRED IN CREST

Where legal title only is being transferred electronically and no change in beneficial ownership is involved, the transfer is exempt from stamp duty.

All NCBO reclaims must be accompanied by:

1. A declaration confirming that there has been No Change of Beneficial Ownership on the transactions to which the reclaim relates. (“I can confirm that the trades on which we are seeking the refund have involved no change of beneficial ownership”)

**And**

2. Details of the prior or subsequent leg where stamp duty was paid:
  - If the movement of stock is to facilitate a sale to the market, the CREST Transaction ID of that sale is required.
  - If the movement of stock is on foot of a purchase, the CREST transaction ID of the purchase is required.

## Appendix 4 – Recognised Intermediary Application Form

### Application for approval by the Revenue Commissioners

#### RECOGNISED INTERMEDIARY

**Under the relevant legislation<sup>1</sup> a recognised intermediary is not charged to stamp duty on a transfer to it of Irish securities where such transfer is not effected in connection with excluded business as defined in the relevant legislation.**

Name & Address of Applicant

(1) We confirm that we are a member firm of:

the Irish Stock Exchange Limited		
the London Stock Exchange plc		
other designated exchange or market		
Specify		

(2) **CREST Participant ID<sup>2</sup>(s)**

(3) We hereby apply for approval as a recognised intermediary within the meaning of the relevant legislation.

In this respect we certify that –

- a. we have considered the relevant legislation and confirm that we are an intermediary as defined in the relevant legislation;
- b. we will not claim relief as a recognised intermediary in respect of any transfer of securities effected in connection with excluded business as defined in the relevant legislation;



and

- c. we hereby consent to have the relevant records of the firm made available to an officer of the Revenue Commissioners, when so required, for the purposes of verifying compliance with the relevant legislation.

- (4) The address at which the Revenue Commissioners can contact the applicant in relation to its accounting for stamp duty is as follows:

Telephone:		Email:	

Signed:


Please print  
name:

Capacity:

--

(Director, Company Secretary etc.)

Date:

--	--	--

dd/mm/yyyy

<sup>1</sup> The relevant legislation means Section 75 of the Stamp Duties Consolidation Act 1999, as substituted by Section 109 (1)(d) of the Finance Act 2007

<sup>2</sup> Specify *each* CREST participant ID for which approval is sought

## Appendix 5 – Designated Exchange/Market Application Form

### Application for designation by an EXCHANGE OR MARKET for the purposes of INTERMEDIARY RELIEF

#### (Section 75 of the Stamp Duties Consolidation Act 1999 inserted by Section 109(d) of the Finance Act 2007)

Section 109(1)(d) of the Finance Act 2007 inserted a new Section 75 into the Stamp Duties Consolidation Act 1999. Section 75, which subject to certain conditions provides a stamp duty relief for members of certain exchanges or markets when acquiring Irish securities, will take effect on a date to be determined by the Minister for Finance. The exchanges or markets concerned are:

- the Irish Stock Exchange Limited,
- the London Stock Exchange plc, and
- any other exchange or market which is designated for the purposes of Section 75 in regulations made by the Revenue Commissioners.

**(Note:** An exchange or market which appears on the list drawn up by an EEA State pursuant to Article 16 of Council Directive 93/22 EEC of 10 May 1993 is entitled to make this application)

Name of Applicant

Address

Home Member State

Name of Competent  
Authority of Home  
Member State

Address

Signed:

Capacity:

Date:

*(Director, Company Secretary etc.)*

***Completed Application form should be forwarded to:***

CREST Unit,  
Collector-General's Division,  
Revenue Commissioners,  
Government Offices,  
St. Conlon's Road,  
Nenagh,  
Co. Tipperary,  
E45 T611  
Ireland.

**Telephone +353 (0)67 63470 or +353 (0)67 63201**

**Email: [crest@revenue.ie](mailto:crest@revenue.ie)**

## Appendix 6 – Recognised Clearing House Application Form

### Application for designation as a RECOGNISED CLEARING HOUSE

(Section 75A of the Stamp Duties Consolidation Act 1999 inserted by Section 109(d) of the Finance Act 2007)

A clearing house is a body or association which provides services related to the clearing and settlement of transactions and payments and the management of risks associated with the resulting contracts and which is regulated or supervised in the provision of those services by a regulatory body, or an agency of government of a Member State of the European Communities.

Name of Applicant

Address

Name of Regulator or  
Supervisor

Address

We hereby apply to the Revenue Commissioners to be designated as a recognised clearing house for the purposes of Section 75A of the Stamp Duties Consolidation Act 1999 inserted by Section 109 of the Finance Act 2007

Signed:

Capacity:

Date:

(Director, Company  
Secretary etc.)

**Completed Application form should be forwarded to:**

CREST Unit,  
Collector-General's Division,  
Revenue Commissioners,  
Government Offices,  
St. Conlon's Road,  
Nenagh,  
Co. Tipperary,  
E45 T611  
Ireland.

**Telephone +353 (0)67 63470 or +353 (0)67 63201**

**Email: [crest@revenue.ie](mailto:crest@revenue.ie)**