



Circular No: 08 - 2019
From: LEADER Policy and Operations Unit
To: All LAGs and Implementing Partners
Date Issued: 31st May 2019
Subject: Change in Promoter Name/Status/Details

This circular addresses requests for amendment of the LEADER CRM IT System project promoter detail record. It also highlights potential legal implications of amending or adding to existing LAG contracts to enable transfer of project assets and liabilities to a separate legal entity. Ideally, given the administrative burden for projects associated with the transfer of assets, such transfers should not occur until the project is complete and final payment has issued to the promoter. However, conditions outlined below apply where such transfers are required.

Correction of Promoter Name Record

Reasons for incorrect project promoter details on the LEADER CRM IT System include, inter alia, incomplete promoter names, a trade name rather than a personal name, or partnership names other than the promoter's correct legal name format.

An email issued to LAGs in this regard on 16th March 2017 (see Appendix E) advising of the importance of ensuring that the CRM promoter detail fields accurately reflect the correct legal name of the promoter. LAGs are advised to check the accuracy of the CRM promoter name record to avoid unnecessary future delays in completing Article 48 Administrative checks or claim processing. See Appendix D to this circular for guidance on how to prevent such incidences.

There are two main scenarios where a request or need for amendment may arise.

1. Typographical

This occurs where typographical errors or incomplete details are input on the LEADER CRM IT System e.g. Anthony Smith should read as Anthony Smith Ltd. This error type usually comes to light when bank statements, CRO certificates or Revenue documents are later compared to the CRM record.



Amendments in such cases, and/or for other details such as TCAN/VAT/CRO, may be done by first uploading supporting documentation to the CRM repository and then sending a completed Appendix A (Change of Promoter Name/Details on LEADER CRM System) to the Pobal LEADER Administrator directly at leadersystem@pobal.ie

2. Change in Legal Status of the Promoter

These cases arise where a LEADER application and supporting documents are submitted in either a sole trader/individual or partnership name but the promoter subsequently decides to transfer the project or business to a limited liability company.

Example

A project promoter who is an individual applies for and is awarded LEADER funding and is issued with a LEADER contract. The project promoter later notifies the LAG, or the LAG becomes aware that the project promoter has formed a limited liability company post-contract signoff and this limited liability company has taken over control of the LEADER funded project. As the company is a separate and distinct legal entity from the promoter, it will have different bank accounts, Tax Registration Number and legal standing from those of the individual. The two entities are not legally one and the same and the pre-existing contract in the original project promoter's name pertains solely to that project promoter, and not the new company. Depending on when the change of status occurs, this may only come to light at claim stage, when the Article 48 Administrative Check question requesting confirmation of current bank details with those originally provided is asked. The initially supplied bank details of the individual will not match those of the company, consequently causing undue delays for claims at a crucial stage for the promoter. The Article 48 Administrative Check and claim processing will not be able to be completed until the issue is resolved. A similar scenario will apply in the case of an initially unincorporated community group or a partnership that subsequently becomes incorporated.

Associated Issues

For both file consistency and contractual reasons, it is important that the LEADER CRM IT System record at all times reflects the correct name and legal form of the particular



promoter. **It is recommended that LAGs make promoters aware, prior to completing an application for funding, of the consequences of a later change of legal status.**

In circumstances where the project promoter status changes, consideration must also be given to the implications for deadweight, displacement, financial resources and viability of the new company as compared to the original project promoter applicant. In such instances, one of the following procedures must be followed.

A. Change of Legal Status Prior to Project Approval and Contract Issue

If a project promoter changes their legal status during the application process up to the time where the contract is issued to the project promoter, the project promoter **must** repeat the application process, i.e. they must reapply for LEADER funding as the tax number, bank details, finance sources etc. will have changed and will therefore require re-evaluation by the Independent Evaluation Committee and approval by the LAG of the project. Deadweight, Displacement and the ability of the project promoter to deliver the project must also be reassessed by the Independent Evaluation Committee and the LAG. This will allow for input of a new project record on the CRM IT System.

The CRM repository records for both parties must be updated with all related information for audit trail purposes. There will be no change of the promoter name on the original project record CRM IT System as a new project number will be assigned to the new party/project. CRM notes for both projects must reflect the case history and the original project then closed on the CRM system.

B. Change of Legal Status Post Contract Issue and Prior to Final Payment to Promoter

If a project promoter decides to change their legal status at any point (e.g. taken over by or incorporated as a limited company) after signing of the LAG contract and prior to final payment to the promoter, the LAG must obtain advance Departmental approval as follows.

- The LAG must first upload all particulars relating to the case to the CRM repository. This will include confirmation that the LAG has assessed the new entity for eligibility to receive LEADER funding, financial viability, deadweight, displacement and all and any other relevant criteria affecting qualification for LEADER funding, and has



approved the transfer ownership request in principle, subject to Departmental approval.

- A completed **Appendix B - Application for Amendment of Promoter Name (Change of Legal Status plus other CRM record details)**, must be emailed by the LAG to OR1420@drcd.gov.ie.
- Upon receipt of approval and completion of Appendix B by DRCD, the LAG must ensure that an addendum, containing a Transfer of Undertakings, is attached to the original contract. The addendum must identify both the original and new parties and contain signed confirmation from the incoming directors or owner(s) that they will take absolute responsibility for all obligations under the original letter of offer and contract to the project promoter, in respect of the LEADER Programme 2014 -2020. This will also include an undertaking by the promoter to satisfy the five year durability of investment and repayment of funding requirement as set out in Article 71 of Regulation EU1303/2013 and Section 14.5 of the LEADER 2014 – 2020 Operating Rules.

The signed addendum documents must be retained on the project file, copied to the CRM repository and recorded in the CRM project notes. Please see **Appendix C Letter of Offer of Grant Aid – Addendum & Transfer of Undertakings** for a sample document in this regard. The document may be modified to suit individual cases but must maintain all key elements such as the correct legal names of the parties.

- Upon completion of the above, the LAG must email a PDF copy of the complete Appendix B to the Pobal LEADER Administrator directly at leadersystem@pobal.ie. The Pobal LEADER Administrator will amend the appropriate project records and upload the document to the CRM repository.

The Department will review procedure B after six months and, subject to satisfactory implementation in the interim, may delegate responsibility for the entire approval process to the LAGs. An update will issue from the Department on same in due course.

C. Change of Legal Status Post Final Payment

Where a change of a promoter's legal status occurs post final payment of grant aid, the LAG must consider all relevant facts that may affect any requirement to repay previous



grant aid under the five-year durability condition attaching to Section 14.5 of the LEADER 2014 – 2020 Operating Rules and Article 71 of Regulation 1303/2013. The LAG must follow the process set out in Section 14.5 of the LEADER 2014 – 2020 Operating Rules (Durability of Investment and Repayment of Funding). The Department will perform ex-post checks to verify adherence with these requirements.

LEADER Policy and Operations Unit



Appendix A - Change of Promoter Name/Details on LEADER CRM System

Application for Amendment of Promoter Name/Details (For typographical errors, omission, and/or other items <u>not</u> involving change of legal status) Completed form must be emailed to leadersystem@pobal.ie		
LAG Name		
Project CRM Reference		
LAG/IP Contact Details	Name	
	email address	
	phone number	
Current CRM Promoter Name		
Amended Promoter Name Requested		
Reason for change of Promoter Name e.g. omission, typographical		
Supporting documentation for the amendment e.g. CRO information, promoter email/letter		
Other Promoter Details Requiring addition or Amendment		
Tax Registration Number (TRN) Change	New TRN:	
Tax Clearance Access Number (TCAN)	New TCAN:	
VAT Registration Number		
CRO Number		
Other (please specify)		

Supporting material has been uploaded to folder named **Promoter Details Change** in the LEADER CRM repository.

Signed by: _____ Project Development Officer/RDP Manager

Print Name: _____ Date: ____/____/____



Appendix B

Part 1 Application for Amendment of Promoter Name Record (Change of Legal Status, plus other CRM record changes) When complete, please e-mail to OR1420@drcd.gov.ie		
LAG Name		
LAG/IP Contact Details	Name	
	Email address	
	Phone number	
Project CRM Reference		
Existing Promoter Name on CRM		
Revised Promoter Name		
Reason for change of Promoter Name		
Supporting documentation for the amendment e.g. CRO information, promoter's email/letter*		
Other Promoter Details Requiring addition or Amendment		
Tax Registration Number (TRN Change)	New TRN:	
Tax Clearance Access Number (TCAN)	New TCAN:	
VAT Registration Number		
CRO Number		
Other (please specify)		

Supporting material* has been uploaded to folder named **Promoter Legal Status Change** in the LEADER CRM repository.

Signed on behalf of the LAG: _____ Chief Officer/Authorised Officer/CEO

Print Name: _____

Date: ____/____/____



Part 2 DRCD LEADER Review of Request for change of Promoter Name
(For completion by the Department)

To the LAG: _____

I wish to confirm that the request for change of promoter name for the above project has been approved/not approved by the Department. If approved, please complete the Process Completion Declaration section below, which must be emailed along with this approval, to the Pobal LEADER Administrator at leadersystem@pobal.ie

Signed by: _____

Print Name and Position: _____

LEADER Policy and Operations Unit

Date: ____/____/____

For Official Use by LAG – Process Completion Declaration

To Pobal LEADER Administrator (leadersystem@pobal.ie)

The change of promoter name request has been approved by the Department and the LAG, and recorded in the LAG minutes dated ____/____/____

The following items have been uploaded to the LEADER CRM Repository.

- Copy of extract from relevant LAG minutes (must show date of meeting and case particulars. Full copy of minutes is not required)
- Copy of addendum to the original LEADER contract, signed and dated by all relevant parties
- Email correspondence and supporting documents.

Signed on behalf of the LAG: _____ **Chief Officer/Authorised Officer/CEO**

Print Name: _____ **Date:** ____/____/____

Appendix C

Letter of Offer of Grant Aid – Addendum & Transfer of Undertakings

To:

DATE: DD/MM/YYYY

Reference: Project Reference, Promoter Name
(Please quote the above on all correspondence)

Dear XXXXX,

Further to your registration of XXXX Limited with Companies Registration Office as a Private Company Limited by Shares/Company Limited by Guarantee (delete as applicable) on DD/MM/YYYY, it has become necessary to issue an addendum to the letter of offer for grant aid under the LEADER Programme 2014-2020 as the agreement was made with original promoter entity name.

Through this transfer of undertakings is understood that XXXX Limited will take absolute responsibility for all obligations under the letter of offer/contract dated DD/MM/YYYY to original promoter entity name in respect of the LEADER Programme 2014-2020. This will include an undertaking by the company to satisfy the five year durability of investment and repayment of funding requirement as set out in Section 14.5 of the Operating Rules for the LEADER Programme 2014 – 2020 and Article 71 of Regulation EU1303/2013.

Please sign and return the Transfer of Undertakings statement enclosed to: **LAG name and address**, to confirm your acceptance of the transfer of undertakings.

Yours sincerely,

Chief Officer/Authorised Officer/CEO - LAG name

Transfer of Undertakings

Reference: Project Reference, Promoter Name

I, **1st director name**, hereby accept that **XXXX Limited** will take absolute responsibility for all obligations under the letter of offer/contract dated **DD/MM/YYYY** to **original promoter entity name**, in respect of the LEADER Programme 2014 -2020. This will include an undertaking by the company to satisfy the five year durability of investment and repayment of funding requirement as set out in Section 14.5 of the Operating Rules for the LEADER Programme 2014 – 2020 and Article 71 of Regulation EU1303/2013.

Signature

Date: ____/____/____

Print Name: _____

I, **2nd director name**, hereby accept that **XXXX Limited** will take absolute responsibility for all obligations under the letter of offer/contract dated **DD/MM/YYYY** to **original promoter entity name**, in respect of the LEADER Programme 2014 -2020. This will include an undertaking by the company to satisfy the five year durability of investment and repayment of funding requirement as set out in Section 14.5 of the Operating Rules for the LEADER Programme 2014 – 2020 and Article 71 of Regulation EU1303/2013.

Signature

Date: ____/____/____

Print Name: _____



Appendix D – Guidance on CRM Promoter Name Records

Promoter Names

The CRM system contains a number of EOI records with incorrect promoter names. As outlined in Pobal training seminars on EOIs in 2016 and Projects in 2017, only the legally constituted name of a project promoter must be used in promoter detail fields.

Individuals and Partnerships

For legal contract purposes, only the correct legal name of an individual, partnership, company or any other body or association, must be used.

Individuals are known as natural persons, as opposed to entities generated or formed under a legal process e.g. limited liability companies, companies limited by guarantee, associations. Where the promoter is an individual, their legal name will typically be the same as their personal name, comprising a given/first name and a family name. This will be the name used on passports, bank statements, tax clearance records, driver's licence and other official documents.

In the case of partnerships, bank accounts and tax clearance records should be used to confirm exact details of the individuals involved.

Community Promoters

In the case of most if not all associations or community type promoters, these will either be companies limited by guarantee or established under a constitution without having a legal personality of their own. See <http://www.wheel.ie/content/unincorporated-bodies> for further details.

Where such a body is incorporated, its certificate of incorporation will provide the legally constituted name. Please note that trade names e.g. West Wind Hostel, or The Oak Café, are not acceptable as promoter names.

Trade Names

A trade name, trading name, or business name is a pseudonym used by trading entities to perform their business under a name that differs from the registered, legal name of the business.

Businesses with trading names give no obvious indication of the true identity of the entity that is legally responsible for their operation. Business names may be registered via the Business

Names Unit of the Companies Registration Office, but they should not be confused with legally constituted names of individuals or other entities.

Correct recording of promoter names is therefore essential for both contract and claim payment purposes. Please ensure that all EOIs on the CRM show the correct legal name of the promoter, and also reflected on all contracts for award of aid.



Appendix E – Guidance Email 16/03/2017



Thu 16/03/2017 16:34

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Guidance on promoter names on the CRM IT system

The information below is provided as guidance on promoter names on the CRM IT system.

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Names Unit of the Companies Registration Office, but they should not be confused with legally constituted names of individuals or other entities.

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Promoter names may be amended up to and including Stage 15 on the CRM.