



R Accountants

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## Superannuation Fund Instruction Sheet

PLEASE COMPLETE ALL DETAILS IN LEGIBLE HANDWRITING AND PROVIDE FULL LEGAL NAMES.

SUPERANNUATION FUND for self-managed fund ("SMSF") with 4 or fewer members.

### SECTION A: FUND DETAILS

Name of Fund .....

Governing State .....

### SECTION B: TRUSTEE DETAILS

If the Trustees are individuals then complete section B(i) only. If the Trustee is a Company then complete section B(ii) only.

#### Nature of Trusteeship

##### (i) Individuals

(1) Trustee name: .....

Address: ..... State: ..... Postcode: .....

(2) Trustee name: .....

Address: ..... State: ..... Postcode: .....

(3) Trustee name: .....

Address: ..... State: ..... Postcode: .....

(4) Trustee name: .....

Address: ..... State: ..... Postcode: .....

##### (ii) Corporate

Trustee Company name .....

ACN: .....- .....- ..... Date of Incorporation: ...../ ...../ .....

Address (Registered Office): .....

State: ..... Postcode: .....

Directors Names

(1) ..... (2) .....

(3) ..... (4) .....

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## Superannuation Fund Instruction Sheet (cont.)

### SECTION C: DETAILS OF EACH MEMBER

Member Name: .....

TFN:

Address: .....

Date of Birth: ...../...../.....

State: ..... Postcode: .....

Member Name: .....

TFN:

Address: .....

Date of Birth: ...../...../.....

State: ..... Postcode: .....

Member Name: .....

TFN:

Address: .....

Date of Birth: ...../...../.....

State: ..... Postcode: .....

Member Name: .....

TFN:

Address: .....

Date of Birth: ...../...../.....

State: ..... Postcode: .....

### SECTION D: SPECIAL INSTRUCTIONS

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<b>HOW TO COMPLETE THE ORDER FORM FOR THE ESTABLISHMENT OF A PERSONAL SELF MANAGED SUPERANNUATION FUND</b>
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*This document must be read in conjunction with the enclosed Order Form.*

## **SECTION A - FUND DETAILS**

### **Self Managed Superannuation Funds (SMSFs)**

The current superannuation and taxation legislation recognises two types of small superannuation funds with less than five members:

- SMSFs
- small Australian Prudential Regulation Authority (APRA) funds

While the major taxation concessions available in relation to fund income and benefit payments are available to both types of fund (when complying), only SMSFs offer the ability for members to maintain control of their fund and superannuation savings. Small APRA funds are now required to have a trustee which holds a registrable superannuation entity licence from APRA.

Further, only funds which have trustees which have completed and lodged with the Australian Taxation Office (ATO) the approved election form binding the fund to comply with legislation governing the administration and operation of superannuation funds (and have become regulated superannuation funds) are eligible to become complying funds and qualify for taxation concessions.

All funds established by NTAA Corporate are structured as SMSFs and enable the fund to become a regulated complying superannuation fund. The trust deed and documents are designed to assist the trustee to comply with the regulatory requirements.

### **Type of Fund**

We provide trust deeds for Personal SMSFs which are regulated, complying superannuation funds according to your needs.

Members of a personal fund may be self-employed, directors of companies carrying on a member's business and other persons wishing to establish a fund which is independent of any particular employer. Contributions can be accepted from any employer of a member, whether formally admitted or not.

The trustee is empowered to carry out all of the functions under the deed without the need for consent of an employer.

Benefit payments are triggered by the retirement of the member from the workforce or attainment of age 65, and death, total and permanent disablement (TPD) and total and temporary disablement (TTD) benefits are also available.

### **Form of Benefits**

The trust deeds for our Personal Funds contains provisions that allow the payment of benefits in all forms permitted under the superannuation legislation such as:

- (a) one or more lump sums in cash
  - (b) assets or one or more in specie payments
  - (c) one or more pensions as either:
    - (i) an allocated pension;
    - (ii) a market-linked or a term allocated pension; or
    - (iii) the purchase of a defined benefit pension from an external source such as a Life Office.
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### **Investment Strategy and Choice**

The trust deeds are prepared on the basis that fund members may exercise investment choice.

Under the trust deed, the trustee retains full responsibility for formulating and implementing an investment strategy. Members are not permitted to give directions to the trustee in relation to the acquisition and disposal of individual investments, but can request the trustee to develop an investment strategy for the fund which gives effect to members' needs and wishes.

The investment strategies developed for the fund by the trustee will be influenced by the number of members, the type of members in the fund, their ages and the degree to which the members have interests in common.

### **Vested Benefits on Retirement, Death or TPD**

In all deeds established since 12 May 2004, early retirement benefits, retirement benefits, death or disability are now expressed as fully vested in all cases. Superannuation law now over-rides provisions in deeds established before 12 May 2004 which permitted certain benefits to be treated as non-vested.

With fully vested benefits to all members in the event of retirement, death or TPD, all fund members (or their dependants) will receive the full amount standing to the credit of the accumulation account of the member.

### **Fund Name**

Please insert the preferred name. There is no law governing choice of name, and names including words such as Retirement Fund/Pension Fund/Superannuation Fund/Provident Fund are within current conventions.

### **Law Governing Fund**

The fund will be governed by the law of a particular state or territory. Please select the most appropriate one.

## **SECTION B - TRUSTEE STRUCTURE**

The superannuation legislation recognises that the trusteeship of the fund may be undertaken by individuals or by a corporate entity.

### **Rules for SMSFs**

- *Single Member Funds*

Where there is a corporate trustee for the fund, either the member must be the sole director, or the member must be one of two directors and the other director is either a relative of the member or is any other person where the member is not an employee of the other person (see the employment test in section 4 above).

For individual trustees, there must be two individual trustees one of which is the member and the other is either a relative of the member or is any other person where the member is not an employee of the other person (see the employment test in section 4 above).

- *Multiple Member Funds (Two to Four Members)*

Where there is a corporate trustee for the fund, all members must be directors of the corporate trustee and there must be no other trustees or directors. No member may be an employee of any other member (see section 4 above), unless the member is a relative of the employer.

For individual trustees, each individual trustee must be a member of the fund, and each member must be a trustee.

- *Minors and Persons under Other Disabilities*

Special rules apply in these circumstances. We will presume and you acknowledge that you are aware of all these rules when completing the Order Form. If you are in any doubt, call us and we will see if we can help.

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### **Regulatory Structures**

Where the fund is to be operated by individual trustees, superannuation law requires the trust deed to provide for the payment of benefits as pensions on retirement. However, the trust deed may also provide for pensions to be commuted to a lump sum where a retirement benefit becomes payable. All relevant fund documentation will indicate that where a pension is payable from the fund, this will be subject to a commutation option to a lump sum.

If a corporate entity is nominated to act as trustee, benefits can be paid in lump sum form. All relevant fund documentation, including appropriate notices to new members, will indicate that lump sum benefits are payable from the fund, unless advice to the contrary is provided. These lump sums may be converted to pension benefits if the member wishes.

Flexibility is built into the trust deed to enable the trusteeship of the fund to change from individual trustees to a corporate trustee and vice versa during the life of the fund.

## **SECTION C - MEMBERSHIP**

### **Number and Status of Members**

The rules for SMSFs require that the fund may not have more than four members at any time. Members include active contributing members, pensioners and those with deferred benefits.

The rules also require that no person who is a disqualified person under the SIS Act may be a member of a SMSF. Disqualification applies to persons:

- who have prior convictions involving dishonest conduct, wherever or whenever such conviction may have occurred
- who are an insolvent under administration (for example a bankrupt)
  - in relation to whom a civil penalty order has been made under the SIS Act
  - disqualified by either the ATO or APRA under section 120A(3) of the SIS Act as not a fit and proper person.

### **Relationships between Members**

The rules for SMSFs require that where members are employees of other members, they must also be relatives. For this purpose, the rules provide that the term “employee” has its ordinary meaning and the extended meaning provided under section 15A of the SIS Act to include persons working under a contract for their labour.

In a fund which accepts contributions from the employer of a member, a member who is an employee of the employer will also be an employee of another member (other member) where the employer is:

- a relative of the other member
- either of the following:
  - a body corporate of which the other person, or a relative of the other person, is a director
  - a body corporate related to that body corporate
- the trustee of a trust of which the other person, or a relative of the other person, is a beneficiary
- a partnership, where:
  - the other person, or a relative of the other person, is a partner in the partnership
  - the other person, or a relative of the other person, is a director of a body corporate that is a partner in the partnership
  - the other person, or a relative of the other person, is a beneficiary of a trust, if the trustee of the trust is a partner in the partnership.

### **Class of Members**

The trust deed has provision for only one class of membership, with fully vested benefits.

## **NOTE: PARTICIPATING EMPLOYERS**

Employers of members may make contributions to the fund without seeking to be formally admitted as a participating employer or playing any role in the administration of the fund or the vesting of employer financed benefit.

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