

Self-managed super funds – key messages for trustees

! Read this fact sheet in conjunction with the *Trustee declaration* (NAT 71089). Keep a copy of this fact sheet with you and refer to it when making important decisions on behalf of your fund.

From 1 July 2007, if you are a new trustee (or director of a corporate trustee) of a self-managed super fund (SMSF), you must complete and sign a *Trustee declaration* (NAT 71089) to show you understand your duties and responsibilities under the super laws.

A legal personal representative who holds an enduring power of attorney granted by a member may be a trustee or a director of the corporate trustee of the SMSF, in place of the member and is also required to complete and sign the declaration.

YOU'RE RESPONSIBLE FOR MANAGING THE FUND

Becoming a trustee of an SMSF is an important decision that carries certain duties and responsibilities, with your primary concern being the management of the fund for the benefit of members for their retirement. You must also ensure the fund's assets are held in trust and invested on behalf of the members.

You are responsible for ensuring your fund is properly managed and complies with all rules (including the fund's trust deed and super laws). These rules apply to you in your capacity as a trustee of the fund. You will also need to make important decisions that may affect the retirement savings of the fund's members.

All trustees are equally responsible for managing the fund and making sure it complies with the law. This is the case even if one trustee is more actively involved in the day-to-day running of the fund than the others, or you use a professional to do certain tasks on your behalf (for example, an accountant, lawyer, investment advisor, super fund administrator or tax agent). All trustees are responsible and accountable for running the fund and making decisions. A trustee who is also a member must always put their trustee obligations first, whenever a conflict occurs between their wishes as a member (such as using an asset of the fund) and the legal requirements as a trustee.

If you use a professional to help you manage your fund, it's important you get one that's right for you and your circumstances. It's essential to make sure any financial,

investment and legal advice you receive comes from a qualified professional, as your decisions will have an impact on the retirement income of the fund's members.

You must manage the fund separate to your own affairs. This means you must keep the fund's assets, including money, separate from your personal and business assets and ensure they are used solely for fund purposes.

You must not allow money to be withdrawn from the fund earlier than is legally permitted, as it is meant for retirement. You must preserve members' benefits in the fund until they retire or reach their preservation age (currently not before 55 years old, and then rising to 60 years old for those born after 30 June 1964). Early access is only allowed in very limited circumstances – for example, in cases of severe financial hardship, on tightly restricted compassionate grounds, on diagnosis of a terminal medical condition or in the event of permanent incapacity.

YOU MUST UNDERSTAND YOUR DUTIES AND RESPONSIBILITIES

Your trustee duties and responsibilities include:

- making sure the purpose of the fund is to pay retirement benefits to members
- organising an investment strategy and making investment decisions
- accepting contributions and paying benefits (pension and lumps sums) in accordance with the super laws and the fund's trust deed
- ensuring an approved auditor is appointed for each income year
- undertaking administrative tasks such as lodging annual returns and record-keeping.

You must also ensure the fund's trust deed and investment strategy are regularly reviewed and updated in accordance with the law and the needs of the members.

! To avoid penalties, make sure you understand and comply with your duties and responsibilities under the super laws.



MORE INFORMATION

For more information about your role and responsibilities as a trustee, refer to *Running a self-managed super fund* (NAT 11032).

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We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at www.ato.gov.au or contact us.

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