

# SMSF UPGRADE ORDER FORM

<b>Name of Existing Superannuation Fund</b>	_____	
<b>State Fund is to be established</b>	_____	
<b>Date of Trust Deed of Fund</b>	_____	
<b>If Company is a Trustee: Name</b>	_____	
<b>If Company is a Trustee: ACN</b>	_____	
<b>Main contact details for this fund:</b>		
Surname:	Given Name(s)	
Telephone:	Mobile:	Fax:
Street:		
Suburb:	State:	Postcode
Email		
Signed: _____	Date: _____	
By signing I agree that as Trustee all information supplied in relation to the creation of this fund is true and correct.		

<b>Special Instructions</b>	
Have there been any prior amendments to the existing fund	Yes <input type="checkbox"/> No <input type="checkbox"/>
Have there been any prior appointments to the existing fund	Yes <input type="checkbox"/> No <input type="checkbox"/>
I yes,	Date of _____ Amendment <input type="checkbox"/> Appointment <input type="checkbox"/>
	Date of _____ Amendment <input type="checkbox"/> Appointment <input type="checkbox"/>
	Date of _____ Amendment <input type="checkbox"/> Appointment <input type="checkbox"/>
	Date of _____ Amendment <input type="checkbox"/> Appointment <input type="checkbox"/>
Are you a disqualified person under the <i>Superannuation Industry (Supervision) Act 1993 (SISA)</i>	Yes No

<b>What to do next</b>
Complete all Details of Members and Trustees
Forward a copy of this order form together with:
1. A copy of the original trust deed
2. A copy of any subsequent deed of amendment
3. A copy of any subsequent trustee appointments
4. A copy of any subsequent change of fund name
Send all documentation via post to
<b>Tangible Assets Pty Ltd</b>
<b>PO Box 287</b>
<b>Castle Hill NSW 1765</b>

## SMSF UPGRADE ORDER FORM

<b>Details of Individual Member/Trustee-1</b>								
<b>Fund Member</b> <input type="checkbox"/>	<b>Trustee</b> <input type="checkbox"/>	(tick one)		Mr.	Mrs.	Miss	Ms	
Surname:		Given Name(s)						
Street:								
Suburb:				State:				
Postcode		Place of Birth:		DOB		/	/	
Are you a disqualified person under the <i>Superannuation Industry (Supervision) Act 1993 (SISA)</i>							Yes	No

<b>Details of Individual Member/Trustee-2</b>								
<b>Fund Member</b> <input type="checkbox"/>	<b>Trustee</b> <input type="checkbox"/>	(tick one)		Mr.	Mrs.	Miss	Ms	
Surname:		Given Name(s)						
Street:								
Suburb:				State:				
Postcode		Place of Birth:		DOB		/	/	
Are you a disqualified person under the <i>Superannuation Industry (Supervision) Act 1993 (SISA)</i>							Yes	No

<b>Details of Individual Member/Trustee-3</b>								
<b>Fund Member</b> <input type="checkbox"/>	<b>Trustee</b> <input type="checkbox"/>	(tick one)		Mr.	Mrs.	Miss	Ms	
Surname:		Given Name(s)						
Street:								
Suburb:				State:				
Postcode		Place of Birth:		DOB		/	/	
Are you a disqualified person under the <i>Superannuation Industry (Supervision) Act 1993 (SISA)</i>							Yes	No

<b>Details of Individual Member/Trustee-4</b>								
<b>Fund Member</b> <input type="checkbox"/>	<b>Trustee</b> <input type="checkbox"/>	(tick one)		Mr.	Mrs.	Miss	Ms	
Surname:		Given Name(s)						
Street:								
Suburb:				State:				
Postcode		Place of Birth:		DOB		/	/	
Are you a disqualified person under the <i>Superannuation Industry (Supervision) Act 1993 (SISA)</i>							Yes	No



## GUIDE TO COMPLETING THE SMSF ORDER FORM

### WHAT IS AN SMSF

With the exception of single member funds, an SMSF is defined as follows:

#### The SMSF Definition

- Has less than 5 members;
- Each individual trustee of the fund is a fund member;
- Each member of the fund is a trustee;
- No member of the fund is an employee of another member of the fund, unless those members are related; and
- No trustee of the fund receives remuneration for his or her services as a trustee.

An SMSF can also have a company as a trustee (known as a corporate trustee) if:

- Each director of the company is a member of the fund;
- Each member of the fund is a director of the company; and
- The fund has less than 5 members; no member is an employee of another member (unless related) and the trustee does not receive remuneration for their services as a trustee.

The requirement that all members be trustees ensures that each member is fully involved and has the opportunity to participate in the decision-making processes of the fund. This promotes true self-management.

All superannuation funds are required to appoint trustees. Trustees are responsible for ensuring the fund is properly managed and that it complies with the SISA rules and other legal obligations.

To be an SMSF, all fund members must also be appointed as trustees of the fund (except single member funds). A SMSF requires no less than 2 trustees and no more than 4. All trustees must be related. A trustee is not required to contribute to a fund.

#### Single Member Funds

It is possible to have an SMSF with only one member.

If the single member fund has a corporate trustee, the member must:

- Be the sole director of the trustee company; or
- Be related to the other director of the trustee company and there are only two directors of that company; or
- Not be an employee of the other director of the trustee company and there are only two directors of that company.

If the single member fund does not have a corporate trustee, the fund must have two individuals as trustees. The member **must** be the trustee with:

- Another person who is a relative of the member; or
- Any other person provided the member is not an employee of that person.

## WHO CAN BE A TRUSTEE

The decision to become a trustee of an SMSF should not be taken lightly. Trustees are responsible for ensuring that their fund complies with SISA as well as many other legislative and administrative requirements. Penalties may apply if trustees contravene any of these requirements. It is recommended that trustees familiarize themselves with the requirements of running a fund before committing to this option

Essentially anyone over the age of 18 can be a trustee of a superannuation fund except if they are a disqualified person. An individual is a disqualified person:

- At any time, the person has been convicted of an offence involving dishonesty, or
- At any time, the person has been subject to a civil penalty order under SISA, or
- The person is an insolvent under administration (e.g. an undischarged bankrupt).
- A company would not be permitted to act as trustee if:
  - A responsible officer of that company is a disqualified person (a responsible person includes a director, secretary or executive officer); or
  - A receiver, official manager, or provisional liquidator has been appointed to the company; or
  - Action has commenced to wind up the company.

A trustee of a SMSF must act in accordance with:

- The clauses of the superannuation fund trust deed (governing rules);
- The provisions of the SISA; and
- Other general rules, for example those imposed under tax law and trust law.

## THE SISA COVENANT RULES

The SISA contains covenants that impose minimum requirements on trustees and are deemed to be included in the trust deed of every regulated fund. These covenants reflect the duties imposed on a trustee under trust law in general.

The **SISA covenants** bind trustees to:

- act honestly in all matters;
- exercise the same degree of care, skill and diligence as an ordinary prudent person;
- act in the best interest of the fund members;
- keep the assets of the fund separate from other assets (e.g. the trustees personal assets);
- retain control over the fund;
- develop and implement an investment strategy;
- allow members access to certain information.

SHOULD YOU HAVE ANY FURTHER QUESTIONS ON THE ABOVE INFORMATION, PLEASE CONTACT THE ATO INFORMATION LINE ON 131020.