Acis SMSF Deed

Summary of changes

The governing rules of our SMSF trust deed have been updated to take into account recent changes. Any reference to the 'Act' is in reference to Superannuation Industry (Supervision) Act 1993. In summary:

1. Redrafted relevant provisions to clarify that a Trustee may not receive remuneration from the Fund for duties or services performed in relation to the Fund excepted as permitted under section 17B of the Act (i.e. if the Trustee is performing those duties or services in a professional capacity).

2. It has been made clear that a Fund does not fail to satisfy the conditions outlined in section 17A of the Act due to not having the required minimum number of Trustees where less than six months have passed since Fund did not have the minimum number of Trustees in office (e.g. if one of two individual Trustees pass away, the Fund will not breach section 17A while the Fund has one individual Trustee until six months has passed).

3. Confirmed that if the Trustee gets a request to reject a contribution in respect of a Member, the Trustee is to hold the contribution upon a separate trust and may return all or part of the contribution to the person who made it—after covering any related expenses or tax liabilities.

4. Further enhancements have been made to the Death Benefit nomination provisions in each set of governing rules in that Members can now specify particular assets that are to be paid to their nominated beneficiaries. This may be useful where there is a particular property in the Fund that is intended to be passed to a specific beneficiary of their Death Benefit.

5. Refined the provisions in relation to Commuting Defined Benefit Pensions to make it clear that a Member that is in receipt of a Defined Benefit Pension may request that the Trustee commute that Defined Benefit Pension in accordance with the provisions of the *Treasury Laws Amendment (Legacy Retirement Product Commutations and Reserves) Regulations 2024* .

6. Clarified that the Members may appoint an individual Trustee of the Fund or authorise the appointment of a Director to a Corporate Trustee of the Fund. In addition, while also being able to remove an individual Trustee, the Members also may compel a Director of a Corporate Trustee of the Fund to resign from that office unless that removal would be contrary to the Relevant Law.

P 1800 773 477
acis@acis.net.au
acis.net.au

7. Confirmed that where a Director of a Corporate Trustee of the Fund has been appointed, when signing the Deed that appoints them, they agree to be bound by the terms of the Governing Rules of the Fund unless they would be prevented from doing so due to the Corporate Trustee's constitution or the Corporations Act.

8. Inserted a provision to confirm that where the Trustee of the Fund has acquired an asset because of reasons directly connected with the breakdown of a relation between a Member and their Spouse or former Spouse, this will not be deemed an acquisition which would breach the in-house asset rules.

9. The rules had previously provided that a Trustee may transfer to, or accept from, property in specie, in lieu of money, at the direction of the person ("first person") to, or from, whom payment is required to be made or received from. This has been expanded to allow the Trustee to accept a transfer from, or make a transfer to, another person or entity at the first persons direction.

If you would like further information or have any questions, please contact us on 1800 773 477 or email acis@acis.net.au.