Acis SMSF Deed

Summary of changes

Acis.

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. **AML/CTF Obligations:** To ensure the Fund can meet the increasingly strict identity verification standards required by regulators (ATO/AUSTRAC) and reporting institutions (such as banks, investment platforms or other financial institutions), new provisions have been included in Rule 3 that require the Trustee to comply with Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) laws and KYC identification procedures. Members and beneficiaries are required to provide any documentation the Trustee needs to satisfy legal, banking, or regulatory obligations.

2. **Division 296:**

   i. Rule 5.2(o): Confirmation that, subject to receiving a Release Authority (which has now been defined to include all applicable Release Authorities for clarity) from the Regulator, the Trustee is authorised to release funds to a Member to pay any liability that arises from the application of Division 296, or any other Release Authority.

   ii. Rule 5.12: The Trustee is to value all defined benefit interests using the specific actuarial methods and parameters dictated by the Relevant Law which includes the Division 296 Regulations.

3. **General Changes:**

   i. Rule 5.1(a): This rule has been altered to clarify that unless the Member notifies the Trustee otherwise, the Trustee must commence an Account Based Pension where the Trustee becomes aware of that Member having Unrestricted Non-preserved Benefits in the Fund which are not in Retirement Phase and that Member has met a condition of release.

   ii. Rule 5.6(c): If a Member and/or their spouse commence legal proceedings under the Family Law Act to end the spousal relationship, Rule 5.6(c) outlines that any nomination naming the spouse as the death benefit nomination is deemed to have lapsed. If other individuals were specified as recipients of the death benefit in addition to the spouse, the nomination remains valid for those individuals and the spouse is simply excluded. However, if the spouse was the only person specified as the recipient of the death benefit, the entire nomination lapses.

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iii. Rule 8.1(i): This has been inserted to explicitly allow for the appointment of a Legal Personal Representative of a Member (as a Trustee or director of the Trustee company) in circumstances other than when the Member is under a legal disability or has passed away. An example of this would be to retain the residency status of the SMSF while a Member is overseas and the Member appoints their Legal Personal Representative to act on their behalf in their absence.

iv. Rule 10.1(a): Allows for a meeting of Trustees and/or Directors of a Corporate Trustee to be convened without notice, by agreement.

v. Rule 10.4(c): Confirms that where there is more than one Legal Personal Representative acting in respect of a Member, to the extent that they are acting as representatives of that Member, they shall collectively only have one vote in any decisions.

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