# Self Managed Super Funds

**Take control of your future**

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# SMSFs: take control of your future

## Today, the lifestyles of Australian retirees are more diverse than ever.

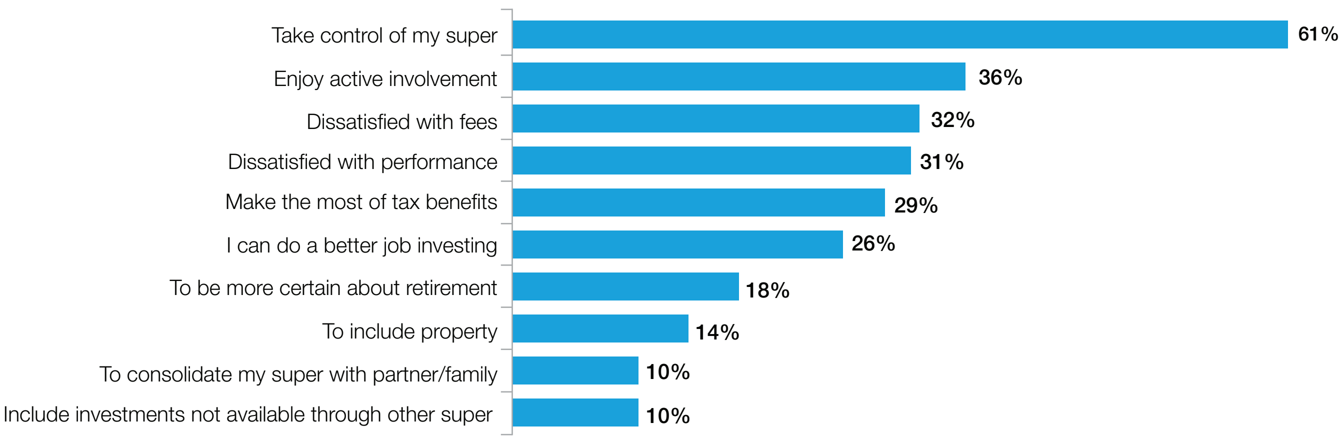
The retirement stereotypes of days spent on the golf course or walking along golden beaches, while still true for some, are no longer the norm. Travelling around Australia or overseas, taking care of grandchildren, undertaking further education, doing volunteer work, and even starting a new business or working part time are all common in modern retirement.

Whatever your retirement plans are, you want to be comfortable and worry-free. Your superannuation is one of the most important, not to mention tax efficient, ways to save for this rewarding stage of your life. Unfortunately, almost half of Australians aged between 45 and 64 do not feel confident they have adequate funds to do what they want in retirement[1].

Having the right plans in place to manage and grow your super can make a significant difference to your retirement goals. For some, this includes managing their own super independently through a self managed superannuation fund (SMSF).

An SMSF is your own personal super fund that gives you control to make the important decisions around how your super is invested. Managing your own super through an SMSF can be extremely rewarding, but they aren't for everyone because they require your close attention and dedication.

### Why do people choose an SMSF?[2]




1 ANZ commissioned research by News poll "New Retirement survey" June 2010. http://media.corporate-ir.net/media_files/irol/24/248677/mediareleases/2010/MediaRelease-20100712.pdf

2 Opinions of Macquarie CMA clients who have a SMSF, September 2012.

# About SMSFs

## Common SMSF terminology

The world of SMSFs is rich with jargon. Here are some of the most common terms that you are likely to come across as you consider your options.

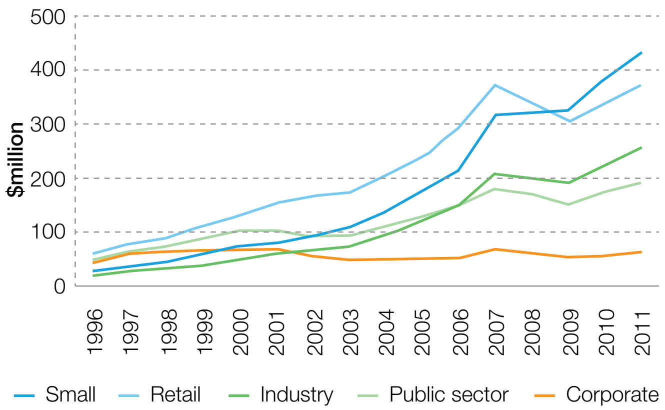
| TERM | DEFINITION |
|---|---|
| **ATO** | Australian Taxation Office. |
| **Corporate super fund** | A super fund established for the benefit of employees of a particular company or group of companies. |
| **Financial statements** | The fund's statement of financial position and operating statement. |
| **Industry super fund** | A super fund typically operated for the benefit of members of employer associations and unions. |
| **Public sector super fund** | A super fund (often referred to as a 'scheme') which provides benefits for Government employees. |
| **Retail super fund** | A super fund established by a bank, life office, financial planning dealer group, or fund management group. Retail super funds are usually open to the public. |
| **Traditional Super** | Retail, industry, corporate and public sector super funds. |
| **Superannuation contribution cap** | The limit on the amount each member can contribute annually to the fund. |
| **Superannuation law** | Includes the Superannuation Industry (Supervision) Act 1993, Superannuation Industry (Supervision) Regulations 1994 and other relevant superannuation and taxation laws. |
| **Trust deed** | The document that sets out the rules for establishing and operating the fund. |
| **Trustee** | As a trust structure, an SMSF must appoint trustees who are ultimately responsible for all the fund's affairs. |
| **Trustee Declaration** | A declaration that all new SMSF trustees must sign to confirm they fully understand their responsibilities. |

## SMSF versus traditional super

In recent years Australians have become more aware of the importance of super and the choices available to them. Highlighted by an ageing population, Australia has an increasing proportion of people who are living longer and retiring earlier. As such, there is greater weight being placed on planning for your future financial needs, largely through super.

While the majority of working Australians invest their super through traditional super funds, as a nation we are increasingly opting for a more tailored, personal approach to our super through SMSFs.

### Superannuation assets by find type




Source: APRA super statistics and ATO SMSF statistics

By the end of 2011 there were more than 400,000 Australian SMSFs in operation. During 2011 more than 33,000 new SMSFs were established – an increase of more than five per cent compared with the previous year – with total SMSF assets exceeding $400 billion .

Although most traditional super funds allow you to choose how your money is invested, choice is generally limited to managed funds, direct shares and cash/fixed interest. SMSFs, on the other hand, allow you (within certain guidelines) almost as much variety of investment choice as a direct investor.

The most popular reasons for wishing to set up a self managed super fund are **control** over the decision-making and access to a broader **choice** of investments.

SMSFs offer absolute control over where and how your money is invested, but that control comes with added responsibility and a heavier administrative burden.

This table outlines some of the key differences between SMSFs and traditional super.

| | SMSF | TRADITIONAL SUPER |
|---|---|---|
| **Regulated by** | ATO | Australian Prudential Regulation Authority |
| **Administration** | • The fund's members are all trustees or directors of a corporate trustee.<br>• Each trustee is responsible for ensuring required administrative tasks are undertaken. | • The fund appoints a trustee who acts on behalf of all members.<br>• Members have no involvement in the running of the fund. |
| **Investments** | Wide investment choice, including direct property and other assets not available to other forms of super fund. | Limited investment choice. |
| **Costs** | Generally, SMSFs with a high account balance are most cost-efficient when compared to traditional super accounts of the same value. | Generally, traditional super accounts with a high account balance are more expensive when compared to SMSFs of the same value. |
| **Wind up** | • May need to be wound up early if members leave the fund.<br>• Trustees are responsible for arranging finalisation of financial statements, tax returns and other tax and compliance obligations.<br>• May need to arrange the sale of fund assets to pay benefits to departing members. | • Members instruct the fund to pay benefits as a pension or as a lump sum.<br>• The fund looks after all administration and deducts costs from member benefits. |

# Compliance Considerations

## Think carefully about your decision

SMSFs are not for everyone, and you must be sure you understand your responsibilities before you go ahead and set one up. Although the rewards can be great, the administrative burden alone is significant – not to mention the complex compliance requirements. As a trustee, you are legally responsible for the compliant operation of your fund.

Remember that the sole purpose of any superannuation fund is to provide its members with one or more of the following:

- **retirement benefits** – paid to members after they retire from gainful employment
- **age-specified benefits** – paid to members after they reach a prescribed age (currently 65)
- **pre-retirement death benefits** – paying benefits upon a member's death. This generally means the benefits are passed on to a member's dependant/s or legal representative.

Although they may realise other ancillary benefits from their fund, SMSF trustees must always be aware that the fund is maintained with the above core purposes in mind. This will guide much of your decision-making.

## Staying compliant

SMSFs are one of the more heavily regulated investment structures in Australia. The ATO treats breaches very seriously. The regulator can suspend or remove trustees, freeze the assets of the fund and declare the fund to be non-compliant, thereby removing the fund's tax concessions. As a non-compliant trustee, you could face up to five years imprisonment and/or civil action by other members or the regulator.

Many SMSF trustees use the expert services of accountants, super fund administrators, auditors and solicitors to help them stay on top of the complex compliance requirements. This may increase the relative cost of running an SMSF when compared to a retail fund.

Even with the support of expert advisers, you remain ultimately responsible for your fund's compliance.

## Your obligations

Your obligations as trustee include:

- **Legal obligations** – you must operate the fund in accordance with the trust deed, the provisions of the Superannuation Industry (Supervision) Act (SISA) and within tax, corporations, family and trust legislation
- **SISA covenants** – these covenants are deemed to be part of the trust deed of every fund. Among other things, they require trustees to:
  - act honestly in all matters affecting the fund
  - act in the best interests of all members
  - ensure fund assets are separated from your personal and business assets
  - develop, implement and regularly review an investment strategy
  - keep members informed and allow access to information.
- **Housekeeping** – you must keep minutes of trustee meetings and financial records of the funds activities and cash flow, prepare and lodge annual returns with the Australian Tax Office (ATO) and have the fund's accounts audited every year.

## Investments: freedom within boundaries

Although an SMSF offers more flexibility than other superannuation funds in regard to investments, the ATO has implemented a number of restrictions to help safeguard the retirement benefits of SMSF members.

Broadly, SMSF trustees must:

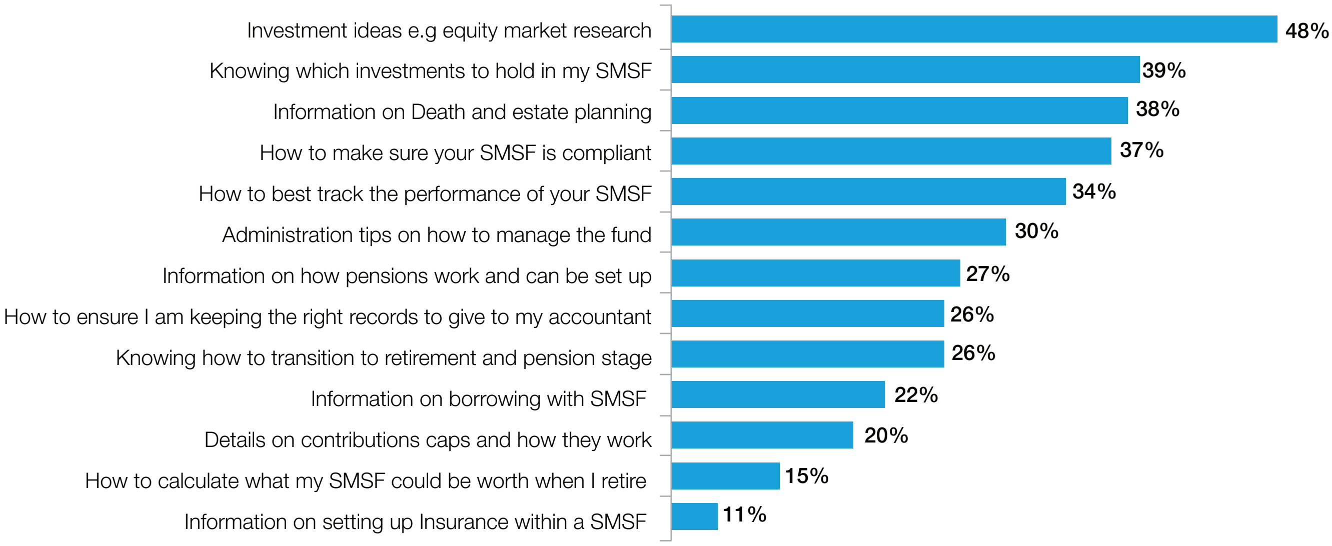
- ensure the fund has, and regularly reviews, an appropriate investment strategy
- not lend money from the fund or provide financial assistance to members or their relatives using assets of the fund
- not give a charge over assets of the fund
- not invest heavily in certain assets.

# Is an SMSF right for you?

As a SMSF trustee you must be confident that you have the knowledge, or access to the information, which will enable you to correctly manage your fund.

A Macquarie bank study[4] found that existing SMSF trustees rank investment knowledge and ideas as the primary information requirements for trustees, followed by information on death and estate planning, and SMSF compliance.

## Primary knowledge needs




The ATO recommends you take the following six steps to work out whether an SMSF is right for you[5]:

1. Consider your options and seek professional advice.
2. Ensure you have sufficient assets, time and skills to manage your own fund.
3. Follow the super and tax laws and understand the risks.
4. Tailor your trust deed and investment strategy to suit the members of your fund.
5. Be sure you can meet your record keeping and reporting obligations.
6. Make sure you understand your annual auditing obligations.

## Trustee discussion points

Before making the decision to set up a SMSF, we recommend that you discuss the following considerations with the other potential members of your fund:

- Becoming trustee of your own fund imposes important legal duties on you
- Your fund's investment strategy must ensure the fund is likely to meet the retirement needs of each member, therefore you need to have the necessary investment knowledge to research and decide on suitable investments
- You must keep comprehensive records, arrange an annual audit by a qualified auditor and lodge an annual tax return for your fund
- You are responsible for ensuring that your fund adheres to the complex regulatory requirements for SMSFs
- Depending on the total value of your fund's assets, the cost of running the fund may outweigh the benefits.

If you are sure you have the skill, knowledge and time to manage your SMSF properly, and that an SMSF is the best superannuation option to meet your personal circumstances and retirement goals, it's now time to look at SMSFs in more detail.

4 Opinions of Macquarie CMA clients who have a SMSF, September 2012.

5 http://www.ato.gov.au/superfunds/content.aspx?doc=/content/00182491.htm

# SMSF Legal Structure

## Key requirements for an SMSF

Under Australian superannuation law, each SMSF must meet the following fundamental conditions:

- an SMSF must have less than five members
- each individual trustee/director  is also a member (special rules apply to single member funds)
- each member is also a trustee/director
- no member is an employee of another member, unless those members are related
- no member of the fund receives remuneration for his or her services as a trustee.

## Structures: Individual versus corporate trustee

SMSFs are structured as trusts, meaning that the fund's trustees are responsible for all the fund's affairs. The trust can be set up in one of two ways.

## Individual trustee structure

Generally all trustees must be members of the fund and all members must be trustees. This gives all members input into and control of the fund's administration and investment decisions.

## Corporate trustee structure

Under this structure a company is the trustee of the SMSF. Generally all directors of the company must be members of the fund and all members must be directors of the company. This upholds the principle that all members have an interest in the fund's administration and decision-making.

### Special rules for single-member funds

Special rules apply to the trustee structure of a single-member SMSF because a single member cannot be a sole trustee and beneficiary of a trust – as this requires no relationship of 'trust'. The member can either:

- implement a corporate trustee structure, whereby the single member is either the sole director or one of only two directors of a company which is the trustee of the fund. Broadly, the non-member director can be anyone who is not disqualified or legally disabled. However, the member director cannot be an employee of the non-member director unless the directors are relatives
- share trusteeship with one 'non-member trustee', who can be anyone who is not disqualified or legally disabled. The member trustee cannot be an employee of the non-member trustee unless they are relatives.

## Corporate and trustee structure: key differences

| | CORPORATE TRUSTEE | INDIVIDUAL TRUSTEE |
|---|---|---|
| **Trustee requirements** | The trustee can operate as a sole director company or add new directors/members. | • Must maintain a minimum of two trustees.<br>• If a member dies or leaves the fund for reason of divorce, the fund must appoint a replacement trustee. |
| **Administration** | Less administrative impact if a member/trustee leaves the fund as investment records remain unchanged. | More administrative impact if a member/trustee leaves the fund as you must change all investment records to reflect the new trustee composition. |
| **Cost** | • Costs are involved in establishing a company for the corporate trustee.<br>• Annual fee payable to the Australian Securities and Investments Commission. | No additional cost. |

# From Set-Up to Wind Up

## Steps to establish an SMSF

There are a number of legal and legislative requirements involved in establishing an SMSF. The four major steps are:

1. Establish the Trust → 2. Elect to be a regulated fund → 3. Prepare the SMSF's investment strategy → 4. Open a bank account in the SMSF's name

1. You establish the Trust (as either an individual or corporate trustee structure) through a Trust Deed, which includes all the requirements relevant to your fund. The Trust Deed states what activities your fund allows, such as binding death benefit nominations, certain investments or borrowing.
2. Elect to be regulated by the ATO by obtaining a tax file number and Australian business number for the fund and (if applicable) register for GST.
3. Your investment strategy outlines your fund's investment objectives and your plan to achieve them. This is the framework trustees will use when making investment decisions designed to increase member benefits.
4. Your fund's bank account is a means to keep your SMSF assets separate from your personal assets. Through your fund's bank account you manage all contributions, investments, earnings and expenses.

## Administration

Many administration tasks may be managed by an SMSF administrator, accountant or the members themselves. It is important that you have the time and knowledge to complete the required administration tasks, or be willing to engage a professional to look after all or some of them for you.

You will also be required to appoint an approved auditor to ensure you maintain the legal compliance of your SMSF. Your auditor will identify and report (to the ATO) relevant matters associated with the compliant running of your SMSF.

As a member of an SMSF, there are a number of essential tasks that you may become involved in (depending on the extent to which you rely on a professional to help you run your fund). Whether you engage a professional, or undertake the task yourself, you as trustee will remain ultimately responsible – so the choice of a competent professional is critical.

Some of the administrative tasks required to run an SMSF include:

- **lodging a combined fund income tax and regulatory return with the ATO each year**. To complete the annual return, the SMSF member, accountant or another other party will prepare an operating statement and statement of financial position and your auditor will conduct a financial audit of the fund
- **valuing your fund's assets at market value**, as required by law. This will help you calculate investment performance and make key decisions about investing, and will also be included in your fund's annual statement of financial position
- **ensuring the SMSF is able to accept particular contributions from its members**. The ATO may impose a heavy penalty if the superannuation contribution cap is exceeded and it is the members' responsibility to adhere to these rules. It is also the trustee's responsibility to make sure single contributions do not breach fund caps on contributions
- **notifying the ATO of any change in fund details** within 28 days of the change
- **maintaining proper and accurate tax and super records** (certain records must be kept for a minimum of 10 years).

# Investing

Your SMSF's investment strategy must outline the investment objectives of the SMSF and the investment approach the fund will take to achieve them. The investment strategy needs to be regularly reviewed and the following issues need to be considered:

- the **personal circumstances of all your fund members**: age, risk tolerance and attitudes to investment risk
- the **risk and likely return from investments**, considering the fund's objectives and expected cashflow requirements
- **asset diversification**: investing across a number of asset classes to reduce risk
- **liquidity**: the fund's ability to pay benefits and other costs as they become due.

The investment strategy will govern the decisions you make around the assets you invest in and how much money you allocate to each. You are required to review your investment strategy regularly to ensure it remains appropriate.

As a trustee, you must ensure all investment decisions are consistent with the investment strategy and should seek investment advice or appoint an investment manager if you do not have the time or knowledge to develop a strategy. If you do appoint an investment manager, you remain ultimately responsible for all investment decisions.

All investment management decisions and any external advice should be recorded in writing. The ATO suggests you document the investment strategy to provide legal protection if an investment decision that was in accordance with the fund's strategy goes wrong.

It is a legal requirement for SMSF trustees to implement and regularly review your investment strategy. You cannot underestimate the importance of this – your retirement comfort and lifestyle is at stake.

# Your investment objectives

Although the members of each SMSF tend to be a closely-knitted group, such as business partners or families, the investment needs of each member may vary. An investment strategy designed for older members may not deliver the long-term capital growth needed by members who are years from retirement. Clearly defined investment objectives of your fund will help to ensure all members' needs are met.

# Who's in charge?

Once you have established the fund's investment objectives you need to decide who will manage the money. Many SMSF members reveal their desire for control and independence by taking on this role.

If you decide to take on this role you need to make sure you have the time, training and investment tools (e.g. cash flow management, investment and accounting systems and broker relationships).

If you don't, you may need to get professional help or advice on selecting investments that require less intensive day-to-day management. It's important to consider the extra costs involved in hiring expert help and the fees involved with each investment type. The strain placed on members due to factors including the time, effort and expense involved in managing the investments must also be considered.

# Asset allocation and security selection

The asset allocation and security selection shape an investment portfolio. You need to ensure that your fund's asset allocation – how your fund's money is invested among the main asset classes such as shares, property, cash, bonds and others – meets your fund's investment objectives.

If the fund invests too much money in one type of investment it may limit potential returns or expose members to excess risk. Once your asset allocation is determined you need to select specific investments within those asset classes. The quality of these decisions naturally affects the returns of the fund.

## What can your SMSF invest in?

One of the advantages of choosing an SMSF over traditional super is the range of investment choice that may be available, dependent on your members' objectives and strategy. Your SMSF may invest in the following common investments:

- shares
- listed or unlisted property trusts
- fixed interest securities
- Government and/or corporate bonds
- managed funds
- commercial or residential investment property
- cash.

Other, less common, investments include:

- art and other collectibles
- precious metals (for example gold and silver)
- derivatives
- forex and/or commodities trading.

The investments above are subject to some specific rules that you will need to be aware of as an SMSF trustee. These specialist rules deal with such things as:

- restrictions on the SMSF purchasing assets from members of the fund
- the valuation and insurance of certain assets
- the asset providing only retirement benefits to members (i.e. no current personal use or enjoyment).

Your SMSF can also borrow to invest, provided the arrangement satisfies specific borrowing requirements contained in the superannuation legislation.

This wide range of options may seem intimidating to some, but be assured that the ATO has put restrictions in place as a safety net to protect members from undue risk and to ensure investments are for the primary purpose of generating retirement benefits. These restrictions do not cover every eventuality however, so you should consult with a professional adviser to ensure your risk is managed effectively.

## Winding up an SMSF

For whatever reason, the time may come when you need to close your SMSF. This process requires careful management by all parties involved - if it is not wound up correctly it could remain legally open and you may need to pay for additional financial statements, audit and lodgement of annual returns.

Your SMSF trust deed may cover the requirements for winding up your fund, but generally the following steps will apply.

| Step | |
|---|---|
| **1. Agreement to close the fund** | • Each member should confirm their agreement to close the fund.<br>• Each member should confirm how their benefits are to be paid.<br>• Consider conditions applicable to any lump-sum payments. |
| **2. Administration** | • Finalise all prior year financial statements, tax returns and other tax and compliance obligations.<br>• Statements should include all income and expenses to date and factor in actual and estimated expenses.<br>• Outline income expected to be received after draft financial statements are complete and before the wind up of the fund. |
| **3. Sale/transfer of assets** | • Sell assets to facilitate the transfer of benefits from the SMSF.<br>• Arrange in specie transfer of assets to members or other funds as appropriate and organise the relevant change of ownership documentation.<br>• Consider capital gains tax implications of transferring assets.<br>• The member receiving the benefit should consider potential stamp duty implications. |
| **4. Inform the ATO of the wind up** | • Once the SMSF is wound up, you must notify the ATO in writing within 28 days.<br>• Once you have met all compliance and tax obligations the ATO will write to the former trustees confirming cancellation of the SMSF's ABN. The ATO will also amend its records to show that the fund has been closed. |

# The SMSF Experts

There are a number of sources of professional help and advice on managing your SMSF.

| EXPERT | WHAT THEY CAN HELP WITH |
|---|---|
| **Financial planners** | Licensed financial planners can help with establishing an investment strategy, setting appropriate asset allocation, controlling cash flows and selecting and managing investments. They are often also providers of advice on tax and estate planning. |
| **Accountants** | Accountants can offer advice on tax and estate planning and assist with tax returns and other tax obligations. They can also offer advice on asset allocation at a broad level, however, unless licensed to do so, specific investment product recommendations will not be offered. The services offered will depend on the accountant's specific knowledge and area of specialisation. |
| **Auditors** | Each year a qualified accountant must audit the fund. An auditor must also ensure that the fund meets the legal and compliance obligations. The auditor must be independent. An accountant cannot be both auditor and adviser or administrator to the fund. |
| **Administrators** | Fund administrators offer crucial assistance in managing the many compliance and administrative tasks associated with SMSFs. These include recording all fund and member transactions, lodging all necessary returns, providing annual accounts for the auditor and generating member statements. |
| **Solicitors** | Solicitors may be required when it comes to drafting trust deeds and other fund documentation, as well as when seeking estate planning advice. |
| **Stockbrokers** | Stockbrokers can buy, sell and manage any stocks which form part of the SMSF's investment strategy. They may also offer advice on stocks. |

This document offers a basic overview of SMSFs. For a more detailed information please visit macquarie.com/au/advisers/expertise/smsf.

If you are considering taking control of your super by setting up an SMSF, you should consider all the rules and regulations and the costs involved. Your financial adviser can provide further information and guidance.



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