



The Trustee for **(Name of SMSF)**
Address of SMSF

Our reference: 1234567
Contact officer: Name of Officer
Phone: 12 34 56
Client ID: 1234567890

Date of notice
issued

We are auditing your application for self-managed superannuation fund registration

Dear Trustees,

You recently applied for an Australian business number (ABN) for The Trustee for **(Name of SMSF)**. You may have received a letter confirming the fund's ABN and that it is registered on the Australian Business Register (ABR).

You have chosen to be regulated and as part of our regulatory role, we audit all applications for self-managed superannuation fund (SMSF) registration. This audit involves:

- › checking that the fund is eligible to be regulated by us
- › working out if, and how, the fund should be shown on our external register of super funds, Super Fund Lookup (SFLU), at superfundlookup.gov.au

If we decide that the fund is not eligible to be regulated by us we will also look at whether the fund is eligible to have an ABN. If it isn't, we will cancel the ABN.

Your fund's details are not currently shown on SFLU. They won't be shown until we have worked out:

- › the fund's eligibility
- › what status to show against the fund.

Until a fund's status can be confirmed on SFLU:

- › super funds will not generally allow rollovers or transfers to that fund
- › employers will not generally make super guarantee payments to that fund.

You can find information about how we work out what status to show against an SMSF, under 'Self-Managed Super Fund (SMSF) status' in the frequently asked questions menu at superfundlookup.gov.au.

You must understand your duties and responsibilities as trustee of an SMSF

All trustees are equally responsible and accountable for:

- › managing and running the fund
- › making decisions
- › making sure the fund 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, 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.

NEED HELP?

We want to work with you to fix any problems as early as possible. If you have any questions, you can phone us on **12 34 56** between 8.00am and 5.00pm, Monday to Friday. Ask for **(Name of Officer)** on extension **12345**.

SMSF NEWS

We encourage you to subscribe to *SMSF News* to get information about regulatory and administrative topics, as well as any developments of interest to the industry. To subscribe, go to our website ato.gov.au, search for 'Subscribe to SMSF News', then fill out the *SMSF News subscription* form.

For us to work out whether all trustees have the capacity to operate the fund within super laws, (Name of Trustee 1), (Name of Trustee 2), (Name of Trustee 3) or (Name of Trustee 4) need to phone us on **12 34 56** between 8.00am and 5.00pm, Monday to Friday. Ask for (Name of ATO Officer) on extension **12345**.

(Name of ATO Officer) will interview you about your role as trustee. You will need to show us that you have the knowledge and understanding needed to perform the role of an SMSF trustee or responsible officer of a corporate trustee.

We need to do this phone interview by _____.

You can find more information about your role and responsibilities as a trustee for an SMSF on our website ato.gov.au/smsf

As a trustee of an SMSF, or a responsible officer of a corporate trustee of an SMSF, you need to make sure that all your personal and related entity tax obligations have been met. This includes lodging any overdue returns or statements and dealing with any tax debts.

What you need to do

To help us finish the audit you need to do the things listed below by _____.

- › Phone (Name of ATO Officer) as explained above.
- › Make sure that each person who is a trustee or responsible officer of the corporate trustee of the fund knows that they need to meet all their personal and related entity compliance obligations. You can phone us on **12 34 56** if you need help with lodgment.
- › If you have found breaches and fixed them, or have taken steps to fix them, you need to give us:
 - a statement in writing explaining what you have done so far
 - supporting evidence.
- › Provide us with the documentation listed below:
 - Signed copy of the trust deed of the Fund
 - Minutes of any meetings
 - Evidence, issued by a bank or other financial institution, showing the details of account/s held by the Fund including share trading accounts. The evidence should be in the form of a bank statement or letter issued by the bank or financial institution on a bank letterhead
 - Copy of the investment strategy prepared for the Fund
 - Copies of the acquisition or transfer contract for all assets acquired by the Fund if applicable
 - A copy (including amounts) of the member superannuation benefit statement/s issued by the commercial or industry Fund for each member. The details must be in the form of a member benefit statement and/or letter issued by the trustees of the commercial or industry Fund
 - Copy of the signed Trustee Declaration form (publication number NAT 71089) for each of the trustees
 - Details of and/or a copy of any commissions, fees, or other payments made, or intended to be made, in relation to the setting up of the Fund.

In the past, one of the applicants for The Trustee for (Name of SMSF) has been involved in another SMSF that hasn't lodged SMSF annual returns. This fund is a related entity, which means all compliance obligations need to be met.

We will keep withholding your fund's details from SFLU if you don't:

- › meet your compliance obligations
- › phone (Name of ATO Officer) and
- › provide us with the information we've asked for.

We have included an important information sheet with this letter. It explains where to send your information, the audit process and your rights and

obligations.

We should finish the audit by _____. However, this will depend on the specific details of your case.

Yours faithfully,

James O'Halloran

Deputy Commissioner of Taxation

We have included with this letter:

- › Important information sheet
- › Return information cover sheet

Important information

Sending your information

Use the attached 'Return information cover sheet' quoting **123456** and send your information to:

- › fax: **1300 123 456**
- › mail: Attention: **(Name of ATO Officer)**
Address of ATO officer

You can send us documents in an electronic format (for example CD, DVD, memory stick) but they will not be returned to you. If all or some of the documents are in electronic format, send them together to:

Attention: **(Name of ATO Officer)**
Address of ATO officer

If you don't send us the records or information that we ask for, there may be a change to the amount of tax you need to pay, you may be charged a penalty or we may have to take other action.

Penalties for income tax issues

A penalty can be charged for any error or omission you make on your SMSF annual tax return and where a statement is incorrect or misleading.

Penalties for superannuation issues

If you have found and fixed any contraventions or breaches, or taken steps to fix them, you need to give us:

- › a statement in writing that includes the details of how and why the contravention occurred
- › a statement in writing showing what you have done so far
- › supporting proof.

If you have contravened or breached superannuation law, each trustee can be individually charged a penalty for each contravention.

What to do if you find you have made a mistake

You should review all your relevant records, tax returns and activity statements. If you find an error or omission, please contact us straight away. If you do, any penalty may be reduced.

Making a voluntary disclosure about income tax issues

We suggest that you review your records. If you find that you have made an error or omission, please send this information in writing to **(Name of ATO Officer)** by _____. You will need to include enough detail for us to work out if there is a shortfall amount. If the error is about an incorrect or misleading statement, you need to tell us what was incorrect and why it is incorrect.

If you make a voluntary disclosure, any penalty applied to the shortfall amount may be reduced by 80% and if there is no shortfall amount the penalties may be reduced to nil.

If you find an error after this date, you should still let us know by making a voluntary disclosure as soon as possible. Your penalty may be reduced by 20% if it saves us significant time and resources.

Making a voluntary disclosure about superannuation issues

We will take into account any information you have given us about contraventions or breaches you've made to superannuation law and what you've done to fix them. You should tell us as soon as possible after receiving this letter. If you give us enough information about the contraventions or breaches any penalties may be reduced if it saves us significant time and resources.

You can find more information about superannuation penalties on our website ato.gov.au/smsfaadminpen

Collecting information for audits or reviews

We try to make sure that everyone pays the correct amount of tax or receives their correct entitlement. We also have to make sure self managed superannuation funds, and their approved auditors, comply with the *Superannuation Industry (Supervision) Act 1993*. For these reasons, we sometimes check the accuracy of the information we've been given and collect information to make sure people are complying.

Usually we get information directly from you. We prefer to work with you to get information rather than having to use our access powers. Sometimes we also contact financial institutions, employers, customers or suppliers to get information.

What we do with the information you give us

If we need to make any changes or take action, we will explain why these actions are necessary. We will also explain why we are charging you any penalties or interest and how this will be calculated.

If you use a registered tax agent or registered BAS agent

If you gave your tax agent or BAS agent all the relevant and accurate information needed to lodge your tax return or activity statement and they made an error, we may not charge you a penalty. You should tell us if this applies to you.

You can find more information about this on our website ato.gov.au by searching for 'safe harbour'.

Your right to representation

If you have a professional adviser you can consult with them before replying to this letter. If you don't already have one, you can involve an adviser at any stage of this process.

You can also choose someone to act on your behalf. If you want a person to represent you, and you want them to have access to personal information about you, you need to give us authorisation.

We cannot share any information about you without the necessary authorisation.

Privacy

Under taxation laws, we are able to collect information, including personal information, about the people associated with this fund. You can find out more information about your privacy on our website, ato.gov.au/privacy.