



Australian Government  
Australian Taxation Office

# SMSF auditors and Auditor Independence after 1 July 2021

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# APES 110 Code of Ethics for Professional Accountants

Most significant restructure of the Code in two decades:

- New user guide, updated glossary and interactive PDF features.
- Requirements **now separate** to guidance material – easier to implement and increases **enforceability**.
- Enhanced conceptual framework – not all threats can be addressed by safeguards.
- Identified threats **not** at an **Acceptable Level** must be addressed in one of three ways:
  - **eliminate** circumstances creating threats
  - **apply** safeguards
  - **decline** or **end** specific professional activity/service.



# Independence Guide – Fifth Edition May 2020

Substantial rewrite incorporates changes to the restructured Code in collaboration between APESB, CA ANZ, CPA Australia and the IPA including:

- **50** practical examples and scenarios to guide auditors in understanding independence obligations under the Code.
- Independence for audits and reviews covering fees, interests, relationships, actions and non-assurance services (**Chapter 7**) many of which are also relevant to SMSF auditors.
- Examples for other assurance engagements under Part 4B of the Code (**Section 7.19**).
- SMSF specific scenarios (**Chapter 8**).

Accounting Professional & Ethical Standards Board Limited,  
Chartered Accountants Australia and New Zealand,  
CPA Australia & The Institute of Public Accountants

## Independence guide

Fifth edition, May 2020

# ATO SMSF Auditor Independence Guidance

The Guidance, published on 16 March, sets out:

- general independence requirements
- non-assurance services and the rules relating to in-house audits
- the provision of tax and financial planning services
- application of management responsibility and routine or mechanical requirements in SMSF context
- what the ATO expects to see on the auditor's file to demonstrate compliance with the standards
- ATO's concerns in relation to certain restructuring arrangements including
  - reciprocal auditing arrangements
  - outsourcing to specialist firms
  - audit pooling arrangements
  - our compliance approach for the 2021 & 2022 FY.

Access the guide at:

**[ato.gov.au/auditorindependence](https://ato.gov.au/auditorindependence)**



# Where the auditor is prohibited from auditing the SMSF

An auditor cannot audit the fund under circumstances where:

- auditor is a trustee or director of a corporate trustee, and/or member of the fund
- an immediate family member (spouse or equivalent, or dependant) of the auditor is a trustee or director of a corporate trustee, and/or member of the fund
- auditor's firm (or network firm) has assumed management responsibility for the fund
- auditor, their staff, or their firm (or network firm) has prepared financial statements for the SMSF, unless it is a routine or mechanical service and appropriate safeguards are applied
- a partner of the auditor's firm (or network firm) is a trustee or director of a corporate trustee, and/or member of the fund
- auditor has close business relationship with a trustee or director of a corporate trustee, and/or member of the fund, unless any financial interest is immaterial, and business relationship is insignificant
- auditor involved in reciprocal auditing arrangement where two auditors audit each other's SMSF.



# Where the auditor must evaluate independence threats

Independence threats arise in situations where an auditor:

- has a close family member (parent, child or sibling who is not an immediate family member) who is a trustee or director of a corporate trustee, and/or member of the fund
- where the auditor has a close personal relationship with a trustee or director of a corporate trustee, and/or member of the fund
- relies on one or two referral sources for all or large proportion of their SMSF audits and fees
- provides advice (financial or investment advice, or taxation advice that goes beyond just preparation of the fund's tax return) to the trustee(s) of the fund being audited
- audits an SMSF client in circumstances where either they, their staff or their firm (including network firm) provide other non-assurance services to the fund
- enters into a reciprocal auditing arrangement where two auditors (who are also accountants) prepare financial statements for a number of SMSFs and agree to audit each other's clients.



**The auditor will need to evaluate whether any threats are at an acceptable level and address those threats by taking appropriate action.**



# Providing non-assurance services

- **Independence rules** apply to **all approved SMSF auditors**, including **auditing firms** and **network firms** who provide non-assurance services to SMSF audit clients.
- Before a firm accepts an engagement to provide non-assurance services to an audit client, the firm or network firm **must** determine if providing the service may create a threat to independence.
- **Non-assurance services include:**
  - accounting and bookkeeping services
  - administrative services
  - valuation services
  - tax and financial planning services
  - internal audit services, information technology systems services
  - litigation support services/ legal services
  - recruiting services
  - corporate finance services.



# In-house audits – important requirements

## Management responsibilities

Management responsibilities:

- involve controlling, leading and directing an entity (para 600.7A1)
- depends on the circumstances and requires exercise of professional judgment.

Examples include (para 600.7 A3):

- setting policies and strategic direction
- authorising transactions
- controlling or managing bank accounts or investments
- deciding which recommendations of the firm or network firm to implement
- taking responsibility for the preparation and fair presentation of the financial statements.

A firm or network firm **shall not** assume a management responsibility for an audit client (para R600.7)

MANAGEMENT  
RESPONSIBILITIES




# In-house audits – important requirements

## Management responsibilities cont'd

Other examples of management responsibilities in the SMSF context include:

- **setting up the fund** (for example, decisions around structuring the fund, preparing and organising execution of the fund's trust deed, and developing and maintaining the fund's investment strategy)
- **making and managing fund investments** (for example, decisions around structuring investments to comply with the investment restrictions, sole purpose test and non-arm's length income rules)
- **preparing the fund's accounts and financial statements** (for example, decisions made when setting up and maintaining data feeds to capture income from investments), and
- **accepting contributions and paying benefits** (for example, decisions around maximising the contributions caps, when to commence a pension, and how best to structure the payment of benefits).

 Many SMSF trustees rely on tax professionals to assist them manage their fund. If the firm engages in these activities they cannot provide audit services to the fund.

MANAGEMENT  
RESPONSIBILITIES

# In-house audits – important requirements

## Trustees exercising management responsibilities

This includes ensuring that the trustee's management (para R600.8):

- a) possess suitable skill, knowledge and experience to be responsible at all times for the trustee's decisions and to oversee the services. Such an individual would understand
  - i. the objectives, nature and results of the services
  - ii. the respective trustee and firm (or network firm) responsibilities
- b) provides oversight of the services and evaluate the adequacy of the results of the service performed for the trustee's purpose
- c) accepts responsibility for the action, if any, to be taken arising from the results of those services.

To avoid assuming a management responsibility the firm must be satisfied that the SMSF trustee(s) make all judgements and decisions that are the proper responsibility of management (para R600.8)

TRUSTEES EXERCISING  
MANAGEMENT RESPONSIBILITIES

# In-house audits – important requirements

## Routine or mechanical rule for preparing financials

A Firm or network firm **shall not** provide to an audit client that is not a Public Interest Entity accounting and bookkeeping services including preparing Financial Statements on which the firm will express an opinion (para R601.5).

This is unless:

- the services are of a **routine or mechanical nature**, and
- the firm addresses any threats that are not at an acceptable level (para R601.5).

**Routine or mechanical services** require little or no professional judgment.

Examples include (para 601.4 A1):

- posting transactions coded by the client (trustee) to the general ledger
- posting client (trustee) approved entries to the trial balance
- preparing financial statements based on information in the client (trustee) approved trial balance and preparing related notes based on client approved records.

**ROUTINE OR MECHANICAL  
RULE FOR PREPARING FINANCIALS**

# In-house audits – important requirements

## Routine or mechanical rule for preparing financials cont'd

Even where the preparation of the financial statements is routine or mechanical, the Commissioner and ASIC require the auditor to use safeguards to reduce the threats to an acceptable level.

Examples include:

- using professionals who are not audit team members to perform the accounting service
- using an appropriate reviewer not involved in preparing the accounts to review the audit or the accounting service.



This test only becomes relevant where the firm has not assumed management responsibility for the SMSF and the trustee takes full responsibility for the financial statements.

ROUTINE OR MECHANICAL  
RULE FOR PREPARING FINANCIALS

# In-house audits – evidence required on the auditors file

We expect to see the following on the auditor's file:

- evidence that the auditor was satisfied the firm did not assume any management responsibilities for the SMSF
- evidence that the trustee had the relevant skills, experience and knowledge to take responsibility for the preparation of the financial statements such as
  - copies of trustee coded transactions which the firm used to post to the general ledger, and/or
  - client approved entries to the trial balance.

The ATO may independently verify the evidence with the firm and/or trustee(s).

Signed financial statements and trustee representation letters are insufficient evidence.



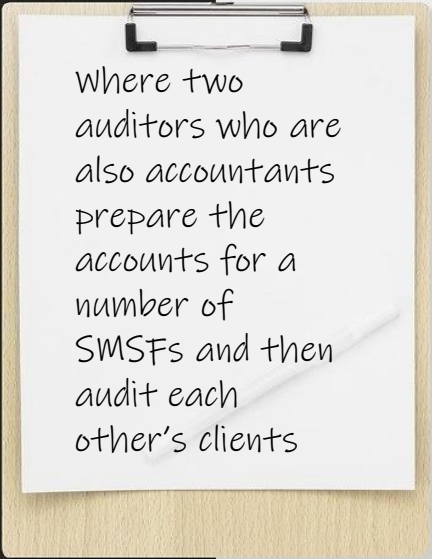
# Restructuring concerns – reciprocal arrangements

## What are they?

Where two auditors who are also accountants prepare the accounts for a number of SMSFs and then audit each other's clients.

Reciprocal arrangements can give rise to:

- **self-interest threats** – if the auditor is reliant or dependent on **one referral source for all or a large proportion of their fees** as this may inappropriately influence their judgment or behaviour – they may be concerned about losing the client
- **intimidation threats** – if the auditor is deterred from acting objectively because of actual or perceived pressures from the referral source
- **familiarity threats** – due to the close relationship between the auditors where each auditor may be sympathetic to the other's interests or too accepting of each other's work.



Where two auditors who are also accountants prepare the accounts for a number of SMSFs and then audit each other's clients

# Referral sources and proportion of fees

- When the total fees in respect of multiple Audit Clients referred from **one source represent a large proportion of the total fees of the Firm** expressing the audit opinions, the Firm shall evaluate the significance of the threat and apply safeguards to eliminate or reduce it to Acceptable Level (AUST R410.3.1).
- Significance of threat affected by:
  - operating structure of firm
  - whether the firm is well established or new (e.g. < 2 years)
  - the significance of the client qualitatively and/or quantitatively to the firm.
- Large proportion not defined in the Code but ATO considers **20%** to be a useful guide.
- Safeguards – increase client base or use appropriate reviewer to review audit work.



# Referral sources and proportion of fees

- APESB released the following requirement in the Fees Exposure draft for the Code on 31 May 2021:
  - **R410.14.1** When the total fees in respect of multiple Audit Clients referred from one source **represent more than 20% of the total fees of the Engagement Partner, an Office of the Firm or the Firm** expressing the audit opinions, the Firm shall evaluate the significance of the threat and apply safeguards when necessary to eliminate the threat or reduce it to an Acceptable Level.
- Public consultation on the Fees Exposure draft closes 31 August 2021.
- Post consultation if rule is approved then the start date will be 1 January 2023.





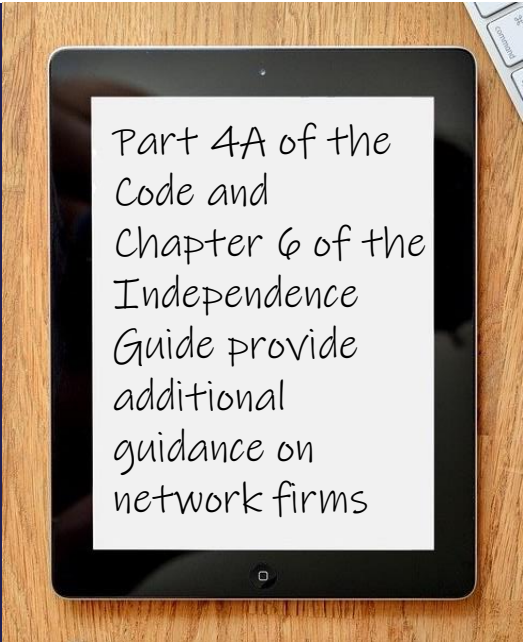
# Appropriate reviewer requirements

- Appropriate reviewer is defined in the Code as a professional with the necessary knowledge, skills, experience and authority to review the audit in an objective manner.
- The audit file should contain documented notes by the appropriate reviewer explaining:
  - the steps taken to complete the review; and
  - the outcome of the review including whether the auditor's report was appropriate.
- A sampling approach might be used where independence threats arise from the one referral source:
  - the sample should be representative of all SMSF audits and contain a significant proportion of the more complex funds.



# Restructuring concerns – audit pooling arrangements

- **Audit pooling arrangements** can have risks such as:
  - fee dependency issues if reciprocal auditing involved
  - potential for networks to be formed amongst participating firms.
- **Network firm** is aimed at cooperation that shares a common business strategy. This could occur, for example, in either or both of the following situations:
  - where the firms in the pool have an entity overseeing the arrangement, and allocate audits amongst participants
  - there are agreements in place, the terms of which provide that the firms agree to exclusively audit each other's clients on an ongoing basis.
- Part 4A of the Code and Chapter 6 of the Independence Guide provide additional guidance on network firms, including when a network firm is created by a larger structure of firms.

A black tablet with a white screen is placed on a wooden surface. The screen displays handwritten text in black ink. The text reads: 'Part 4A of the Code and Chapter 6 of the Independence Guide provide additional guidance on network firms'.

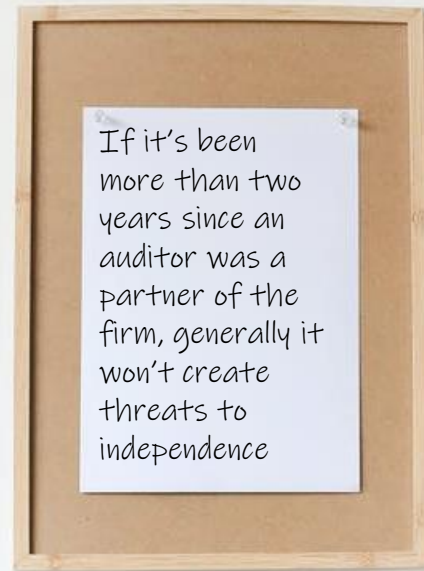
Part 4A of the Code and Chapter 6 of the Independence Guide provide additional guidance on network firms

# Restructuring concerns – outsourcing arrangements

- Be aware of outsourcing the auditing services to a previous partner, employee or consultant of the firm who provided accounting and/or tax advice to the same SMSF clients (2 year rule).
- Self review and familiarity threats may arise.
- Eliminate threats by having another auditor in the new firm undertake the audit of the SMSF client.
- Safe guards include using an appropriate reviewer.

## Note:

- If the time period from when an auditor was a partner of the firm exceeds two years, generally it will not create threats to independence.
- If the auditor is a member of a newly established firm, the new firm also needs to ensure its structure does not cause it to be considered a network firm (for example, because of common ownership or control between the firms).




# Restructuring concerns – use of SMSF specialist firms

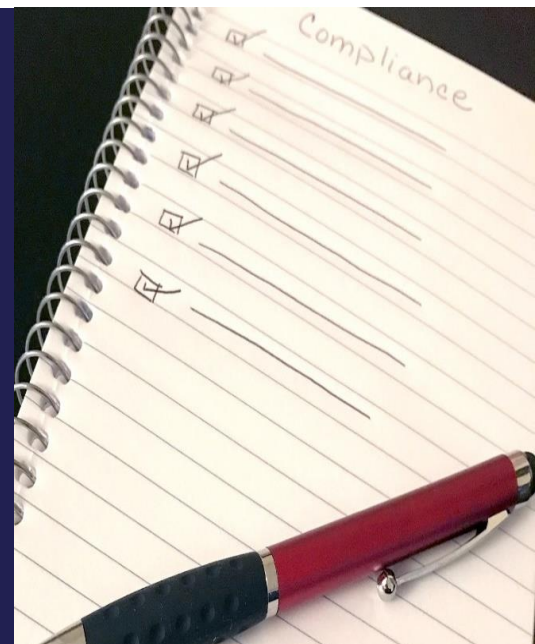
- Accountant may outsource to another entity (within or outside Australia) to prepare fund accounts.
- The entity (specialist firm) may:
  - also conduct the fund's audit
  - be a separate firm to the firm conducting the audit (the audit firm) but form part of a 'network' with the audit firm within the meaning of the Code (for example, because the firms are aimed at cooperation and have a common ownership structure).
- The specialist firm is still considered to be providing services to the SMSF audit client and not the accountant so must comply with the independence requirements
- Compliance depends on the individual service agreements between the trustee(s) and their accountant, and the accountant and the specialist firm, and how these agreements are implemented in practice.



# ATO's compliance approach for 2021–2022 in relation to in-house audits

- During the 2020–21 income year we took a transitional approach to compliance by educating and helping auditors meet their obligations.
- For any audits completed on or after 1 July 2021 (regardless of the income year to which they relate), we expect compliance with the new requirements.
- We will use our data and any intelligence received to identify firms who continue to provide both non-assurance and auditing services. Auditors may be referred to ASIC for further action if we find non-compliance with the new requirements.

 From 1 July 2021 auditors need to use new version of SMSF Independent Auditor's report containing new independence clauses.



# Further information

- Accounting Professional & Ethical Standards Board (APESB)
  - [APES 110 – Code of Ethics for Professional Accountants \(including Independence standards\) \(2018\) – effective 1 January 2020 \(PDF 2.7MB\) \(APES 110\)](#)
  - [APESB Independence Guide – Fifth edition, May 2020 \(PDF 1.56MB\) \(The Guide\)](#)
- Australian Taxation Office (ATO)
  - [www.ato.gov.au/auditorindependence](http://www.ato.gov.au/auditorindependence)
- CPA Australia
  - [www.cpaaustralia.com.au/professional-resources/audit-and-assurance/smsf-auditors?anchor=SMSF#SMSF](http://www.cpaaustralia.com.au/professional-resources/audit-and-assurance/smsf-auditors?anchor=SMSF#SMSF)



# Questions and answers



# Thank you

