



# ***Australian Taxation Office Superannuation Circular 2001/1 - Responsibilities of the Approved Auditor***

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**AUSTRALIAN TAXATION OFFICE  
SUPERANNUATION CIRCULAR**

**NO. 1 / 2001**

**RESPONSIBILITIES OF THE APPROVED  
AUDITOR**

**SELF MANAGED SUPERANNUATION FUNDS**





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ATTACHMENT B – Summary of the provisions of the Superannuation Industry

(Supervision) Act 1993 relevant to a compliance audit of a non-reporting entity that is a Self Managed Superannuation Fund.

### Objectives

1. The Superannuation Industry (Supervision) Act 1993 (SIS) makes trustees solely responsible for the prudent management of superannuation entities. In addition, SIS mandates that an important monitoring role be undertaken by an approved auditor.





2. Amendments made to SIS in 1999 have changed the definition of superannuation funds with fewer than 5 members. Prior to the amendments, these funds were known as excluded funds and were regulated by the Australian Prudential Regulation Authority (APRA). However, from 8 October 1999, these funds, providing they meet the requirements of the new definition, are known as Self Managed Superannuation Funds (SMSFs) and are regulated by the Australian Taxation Office (ATO).

3. The purpose of this Circular is to outline the auditing requirements in relation to SMSFs for the 2000/2001 year of income, as prescribed in the audit report approved by the ATO pursuant to section 113 of SIS. This Circular also provides additional information about the expectations of the ATO with respect to audits of SMSFs.

## Approved auditor - definition

(SIS Regulation 1.04)

4. Regulation 1.04 defines an 'approved auditor'. For a SMSF, an approved auditor is either:

- a registered company auditor;
- a member of the Australian Society of Certified Practising Accountants;
- a member of The Institute of Chartered Accountants in Australia;
- a member of the National Institute of Accountants;
- a member or fellow of the Association of Taxation and Management Accountants;
- a fellow of the National Tax and Accountants Association Ltd; or
- the Auditor-General of the Commonwealth, a State or a Territory.

## SIS Responsibilities

(SIS Section 36, Section 113)

## Annual Audit

5. Sub-section 113(2) of SIS requires the trustee(s) of a superannuation entity to make such arrangements as are necessary to enable an approved auditor to give the trustee(s), within the prescribed period after the end of the year of income, a





report in the approved form. A failure on the part of the trustee(s) to do so gives rise to a potential penalty under section 113(2) of SIS.

6. In respect of the 2000/2001 year of income, the legislation requires the auditor's report to be given to the trustee(s) within the reporting period after the end of the year of income.

7. Where an auditor intentionally or recklessly fails to provide the report to the trustee within the prescribed period, an offence is committed under sub-section 113(5) of SIS.

8. The trustee(s) of a SMSF is not required to include a copy of the audit report with the Form F annual return to the ATO. However, the Form F requires the trustee(s) of a SMSF to provide a brief explanation of any audit qualification and/or other contraventions of the relevant SIS requirements that occurred during the income year. The Form F covers lodgement requirements for both the Income Tax Assessment Act 1936 (ITAA36), SIS and makes provision for the lodgment of surcharge information by self-assessing superannuation providers. The audit questions on the Form F, however, only relate to SIS matters.

## Other Requirements

(SIS Sections 129, 130)

9. Sections 129 and 130 of SIS impose obligations on approved auditors when, in the course of performing the functions of an approved auditor under SIS (ie. the carrying out of the audit of the fund's financial statements and a compliance audit), he/she forms an opinion that:

(a) it is likely that a contravention of SIS may have occurred, may be occurring, or may occur in relation to the superannuation entity; or

(b) the financial position of the entity may be, or may be about to become, unsatisfactory.

10. In such circumstances, the auditor is required to notify the trustee(s) about the matter in writing. In addition, unless the approved auditor also advises the ATO (which is optional until this point), he/she must request a report from the trustee(s) on proposed action to deal with the matter. If the trustee(s) fail to respond or the action proposed is not considered satisfactory by the approved auditor, he/she must inform the ATO in writing.





## Auditing standards

11. Australian Auditing Standards are prepared by the Auditing Standards Board of the Australian Accounting Research Foundation (AARF) and are issued by AARF on behalf of the Australian Society of Certified Practising Accountants and The Institute of Chartered Accountants in Australia. Members of these associations, and members of the other associations mentioned above, are required by relevant association rules to comply with Australian Auditing Standards when performing all audit services.

12. In addition, the audit report issued by the ATO for the purposes of section 113 of SIS requires that audits undertaken for the purposes of SIS must be conducted in accordance with Australian Auditing Standards.

13. Australian Auditing Standards state that an unqualified audit report may only be issued if the auditor is satisfied that the financial report of the entity has been presented fairly and in accordance with applicable Accounting Standards and relevant statutory and other requirements.

14. Whilst the ATO does not monitor compliance with Australian Auditing Standards or Australian Accounting Standards, it may, as the result of its review of a SMSF, form the view that significant deficiencies are apparent in the work of an approved auditor. In these cases, if the ATO considers that such deficiencies bring into question the person's fitness and propriety to be an approved auditor, it may, pursuant to section 131A of SIS, refer the matter to the person's professional association for possible disciplinary action. The ATO may also consider disqualifying the person from being an approved auditor pursuant to section 131 of SIS.

## Approved form of audit report

SIS Subsection 113(3)

15. The SIS approved form audit report for SMSFs was developed with a view to ensuring consistency with current auditing standards and formats. In preparing the form, the ATO consulted with APRA and representatives of the audit profession.

16. Section 113 of SIS requires that each superannuation entity be audited and that the auditor must provide a report to the trustee(s). In situations where a trustee is responsible for more than one fund, the auditor is required to perform appropriate testing and provide a separate audit report in respect of each





superannuation entity. It is not acceptable to provide one audit report relating to multiple entities.

## Financial Statements

17. The approved form audit report on the financial statements of a SMSF for the 2000/2001 year of income is based on the audit report for a superannuation entity which is not a reporting entity, issued by APRA in Superannuation Circular No. IV.A.4. The audit report is in relation to special purpose financial statements to be completed in respect of a fund, which is not a reporting entity (as defined by Accounting Standards).

## Compliance

18. The matters for which an auditor is required to undertake testing with respect to a superannuation entity's compliance with SIS are set out within the audit scope of part B of the audit report. Auditors are not required to test for compliance with all SIS requirements. A summary of these SIS requirements in the 2000/2001 approved form is set out in Attachment B.

19. Both the financial and compliance sections of the audit report provide scope for additional material to be inserted where the auditor has been engaged by the trustee to express an opinion on additional aspects. Such insertions must not limit or detract from the scope/opinion prescribed in the approved form. Any other variations to the content of the audit report would not be "in the approved form".

Note: SIS requires the report to be given 'in the approved form'. Auditors must not vary the wording of the report, except where there is explicit provision for this to occur.

## Materiality

20. The wording of the compliance audit report incorporates the concept of materiality in the opinion paragraphs.

21. An auditor will be required to qualify the audit report for contraventions of the specified provisions which in his/her professional opinion are material. In forming an opinion as to whether a contravention is material, the auditor should refer to relevant professional guidelines issued by the professional bodies. The guidance on the meaning and application of the concept of materiality contained in those professional guidelines should be adapted as appropriate to the task of judging compliance with the relevant legislative provisions.







22. All instances of non-compliance must be reported to the trustee(s) (or the ATO as relevant) in accordance with section 129 of SIS. It is stressed that the concept of materiality does not apply to section 129 of SIS. Under section 129 of SIS, if the trustee(s) do not rectify the non-compliance, or satisfactorily address the cause of non-compliance, the auditor is required to refer the matter to the ATO.

23. It is possible that some instances of non-compliance which have since been rectified by the trustee(s) will nevertheless be material and accordingly will require qualification of the audit report. The ATO would also consider it unlikely that a contravention would be deemed immaterial if the trustee(s) failed to respond or provided an inadequate response to concerns raised by the auditor under section 129 of SIS.

## Penalty Provisions

SIS Subsections 113(5), 129(7), 130(6) and sections 131, 302, 304, 305

24. It is an offence for an approved auditor to intentionally or recklessly fail to provide an audit report to the trustee(s) within the prescribed time. Under SIS, the maximum penalty that may be imposed is a term of imprisonment not exceeding 6 months: sub-section 113(5) of SIS. Where a person is convicted, the Court, under the provisions of sub-section 4B(2) of the Crimes Act 1914 (Cth), may convert a term of imprisonment to a monetary penalty which may be imposed in place of (or in addition to) the term of imprisonment. Using this formula, the maximum monetary penalty that may be imposed in place of or in addition to a term of imprisonment is a fine not exceeding \$3,300.

25. Where the audit report is not provided within the prescribed period due to a failure on the part of the trustee(s) to make the necessary arrangements to enable an approved auditor to provide the report within that period, the trustee(s) would potentially be subject to the penalty provision of sub-section 113(2) of SIS.

26. In addition, sections 129 and 130 of SIS provide that, should the approved auditor, in carrying out the audit under the Act, become aware of possible contraventions of SIS or form the opinion that a fund's financial position may be, or is about to become, unsatisfactory, the approved auditor is generally required to bring these matters to the notice of the trustee(s). Failure to do so is an offence with a maximum fine of \$5,500.

27. Under section 302 of SIS, it is also an offence for a person to make a false or misleading statement to the ATO unless the person can prove that they did not know, and could not reasonably be expected to have known, that the statement was false or misleading. The penalty for this offence is a fine up to \$4,400.







28. A person who intentionally or recklessly makes a false or misleading statement to the ATO is guilty of an offence which is punishable by imprisonment of up to 12 months: sections 304 and 305 of SIS.

29. Section 131 of SIS provides the ATO with the power to disqualify a person from being an approved auditor if:

(a) the person has failed to carry out or perform adequately and properly the duties of an auditor under SIS or any other law of the Commonwealth, State or Territory or any functions that an auditor is entitled to perform in relation to SIS; or

(b) the person is otherwise not a fit and proper person to be an approved auditor for the purposes of SIS.





## ATTACHMENT A

# AUDIT REPORT APPROVED FORM FOR SUPERANNUATION ENTITY WHICH IS NOT A REPORTING ENTITY (AS DEFINED BY ACCOUNTING STANDARD AAS25##) AND IS A SELF MANAGED SUPERANNUATION FUND

This form must be used to report on ONE superannuation entity # only.

## SUPERANNUATION INDUSTRY (SUPERVISION) ACT 1993

### SECTION 113 - APPROVED FORM

..... [Insert name of the superannuation  
entity]

Independent Report by Approved Auditor to the [Trustee(s)/ Members / [OR]  
Trustee(s) and Members](\*)

### (A) Financial Statements

#### Scope

I have audited the special purpose financial statements  
comprising..... [Insert}

title of statements audited; see section 112, regulations 8.01 and 8.02 of the  
Superannuation Industry (Supervision) Act 1993 and Regulations eg "Statement of  
Financial Position", "Operating Statement", "Statement of Cash Flows", "Statement  
of Net Assets", "Statement of Changes in Net Assets" ]

of ..... [Insert name of the superannuation entity] for the [year  
ended .../.../... [OR] period .../.../... to .../.../...]. (\*)

The superannuation entity's trustee(s) is responsible for the financial statements  
and has determined that the accounting policies used are consistent with the





financial reporting requirements of the superannuation entity's constitution, comply with the requirements of the Superannuation Industry (Supervision) Act 1993 and are appropriate to meet the needs of the members.

I have conducted an independent audit of the financial statements in order to express an opinion on them to the [ Trustee(s)/ Members/ [OR] Trustee(s) and Members](\*) of .....[Insert name of the superannuation entity]. No opinion is expressed as to whether the accounting policies used are appropriate to the needs of the members.

The financial statements have been prepared for distribution to the members for the purpose of fulfilling the trustee's financial reporting requirements under the superannuation entity's constitution.

I disclaim any assumption of responsibility for any reliance on this report or on the financial

statements to which it relates to any person other than the members, or for any purpose other than that for which it was prepared.

My audit has been conducted in accordance with Australian Auditing Standards ### applicable to the audit of special purpose financial reports. My procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statements and the evaluation of significant accounting estimates. These procedures have been undertaken to form an opinion whether, in all material respects, the financial statements are presented fairly in accordance with the accounting policies described in the Notes to the financial statements. (These policies do not require the application of all Accounting Standards ### ).

[NB Additional material may be inserted here at the discretion of the auditor eg. in relation to compliance with provisions of the trust's governing rules - so long as this in no way limits or detracts from the scope expressed above.]

The financial statement audit opinion expressed in this report has been formed on the above basis.

Qualification (\*)

[Provide details where qualification/s included]





## Qualified (\*) Audit Opinion

In my opinion [except for the effects on the financial statements of the matter(s) referred to in the qualification paragraph] (\*) the financial statements

(a) present fairly in accordance with the accounting policies described in the Notes to the financial statements the financial position of .....[Insert name of the superannuation entity] as at .../.../... and the results of its operations and its cash flows for the [year ended .../.../... [OR] period .../.../... to .../.../...]. (\*) [OR]

(b) present fairly in accordance with the accounting policies described in the Notes to the financial statements the financial position of .....[Insert name of superannuation entity] as at .../.../... and the results of its operations for the [year ended .../.../... [OR] period .../.../... to .../.../...]. (\*) [OR]

(c) present fairly in accordance with the accounting policies described in the Notes to the financial statements the net assets of .....[Insert name of superannuation entity] as at .../.../... and the changes in net assets for the [year ended .../.../... [OR] period .../.../... to .../.../...]. (\*) [OR]

(d) present fairly in accordance with the accounting policies described in the Notes to the financial statements (and the Trust Deed) the operations of .....[Insert name of superannuation entity] for the [year ended .../.../..., [OR] period .../.../... to .../.../...]. (\*)

[Delete (a), (b), (c) or (d) above, whichever is not applicable]

[NB Additional material may be inserted at the discretion of the auditor eg. in relation to compliance with provisions of the trust's governing rules - so long as this in no way limits or detracts from the opinions expressed above.]

## (B) Compliance

## Scope

I have conducted tests in accordance with Australian Auditing Standards as necessary to provide reasonable assurance whether the trustee(s) of the .....[Insert name of the superannuation entity] has/have complied, in all material respects, with the relevant requirements of the following provisions (to the extent applicable) of the Superannuation Industry (Supervision) Act 1993 and Regulations:





sections 17A, subsections 19(2), 19(3), sections 36A, 65-67, 69-71, 73, 80A-85, 103, 104, 106A, 109, 111, 112, 113, 118, 121, 124, and regulations 5.08, 6.17, 7.04, 13.14

[Additional sections and regulations may be inserted here at the discretion of the auditor.]

for the [year ended .../.../... [OR] period .../.../... to .../.../...]\*.

My procedures included examination, on a test basis, of evidence supporting compliance with those requirements of the Superannuation Industry (Supervision) Act 1993 and Regulations.

These tests have not been performed continuously throughout the period, were not designed to detect all instances of non-compliance, and have not covered any other provisions of the Superannuation Industry (Supervision) Act 1993 and Regulations apart from those specified. The superannuation entity's trustee(s) is responsible for ensuring compliance with the requirements of the Superannuation Industry (Supervision) Act 1993 and Regulations.

The opinion on compliance expressed in this report has been formed on the above basis.

Qualification (\*)

[Provide details where qualification/s included]

Qualified (\*) Audit Opinion

In my opinion [except for the matter(s) referred to in the qualification paragraph](\*) the trustee(s) of ..... [Insert name of the superannuation entity] has/have complied, in all material respects, with the requirements of the Superannuation Industry (Supervision) Act 1993 and Regulations specified above for the [year ended .../.../... [OR] the period .../.../... to .../.../...](\*).

Signature of Auditor ..... Date.....

Name of Auditor ..... Firm .....

(\*) Delete as appropriate





# Wherever appearing, means a superannuation entity as defined in section 10 Superannuation

Industry (Supervision) Act 1993

## Australian Accounting Standard AAS 25 "Financial Reporting by Superannuation Plans" as issued in March 1993 by the Australian Accounting Research Foundation on behalf of the Australian Society of Certified Practising Accountants and The Institute of Chartered Accountants in Australia.

### Wherever appearing and as applicable, the Australian Auditing Standards or the Australian Accounting Standards issued by the Australian Accounting Research Foundation on behalf of the Australian Society of Certified Practising Accountants and The Institute of Chartered Accountants in Australia.







## ATTACHMENT B

### 2000/2001 Approved form for audit report – non reporting entities – Self managed superannuation funds

Provisions of the *Superannuation Industry Supervision Act 1993* relevant to a compliance audit for a superannuation entity which is not a reporting entity, as defined by Accounting Standards

Note:

The Accounting Standards define reporting entity as an entity in respect of which it is reasonable to expect the existence of users dependant on general purpose financial reports for information. General purpose financial report is defined as a financial report intended to meet the information needs common to users who are unable to command the preparation of reports tailored to satisfy all of their information needs.

#### SIS ACT

##### Section 17A

Definition of a self managed superannuation fund.

##### Subsections 19(2), 19(3)

The superannuation fund must have a trustee. The trustee must be a constitutional corporation pursuant to a requirement contained in the governing rules, or the governing rules must provide that the sole or primary purpose of the fund is the provision of old age pensions.

##### Section 36A

The trustee of a SMSF must, within the reporting period after each year of income, lodge an annual return to the ATO.

##### Section 65

The trustee or an investment manager of a regulated superannuation fund must not lend money, or give any other financial assistance to a member or relative of a member.





#### Section 66

The trustee or an investment manager of a regulated superannuation fund must not intentionally acquire an asset from a related party except in limited circumstances. A person must not intentionally enter into or carry out a scheme which would have the effect of avoiding the general prohibition to the acquisition of assets from a related party.

#### Section 67

The trustee of a regulated superannuation fund must not borrow or maintain an existing borrowing of money.

#### Sections 69 to 71, 73 to 85

The trustee of a regulated superannuation fund must not make a loan to, invest in, or lease fund assets to a related party of the fund, including a related trust of the fund that causes the total in-house asset ratio to exceed the specified limits. A person must not intentionally enter into or carry out a scheme which would have the effect of artificially reducing the market value ratio of a fund's in house assets.

#### Section 103

The trustee must keep minutes of all meetings for at least 10 years.

#### Section 104

The trustee of a superannuation entity must keep and retain for at least 10 years, records of changes of trustees, changes of directors of any corporate trustee and all written consents to be appointed trustee.

#### Section 106A

Where a superannuation entity changes its status to become/or ceases to be a SMSF, the trustee must give written notice to the ATO.

#### Section 109

The trustee or investment manager must not invest money unless the trustee or





investment manager and the other party are dealing with each other at arm's length.
Section 111 The trustee must keep accounting records, and retain them for at least 5 years.
Section 112 The trustee must prepare the accounts and statements as is specified.
Section 113 The trustee must make such arrangements as are necessary to enable the audit of accounts and statements and compliance with certain provisions of the SIS legislation.
Section 118 Consent to appointment as trustee must be made in writing.
Section 121 The trustee or responsible officer of a corporate trustee must not be a disqualified person.
Section 124 Appointment of investment manager must be in writing.

SIS REGULATIONS
Regulation 5.08 The trustee must ensure that a member's minimum benefits (as defined) in the fund are maintained in the fund until the benefits are cashed, rolled over or transferred as benefits of the member.
Regulation 6.17 Subject to the preservation rules, member's benefits in a fund may only be paid in prescribed circumstances.





In addition, under certain prescribed circumstances benefits must be paid to members.

Regulation 7.04

A trustee may accept contributions only in specified circumstances.

Regulation 13.14

The trustee must not give a charge over, or in relation to, an asset of the fund.

