VAULT

Your trusted adviser

YOUR GUIDE TO ESTABLISHING A SELF-MANAGED SUPERANNUATION FUND

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We hope that some part of what you read in this e-book is beneficial and of service to you.

As accountants and financial advisers with years of experience, we help people make educated financial decisions throughout various stages of life.

Ring us today on **1300 1 VAULT** to make an appointment or book a meeting directly via our website at **www.vaultgroup.com.au**.

Introductory meetings are free and carry no obligation.

Kind regards,

Brad A Gunn

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I. INTRODUCTION

It's no coincidence that interest in self-managed superannuation has skyrocketed since the global financial crisis (GFC). The loss of investor confidence in superannuation fund managers combined with the lure of controlling your own financial destiny has seen an explosion in the number of self-managed super funds (SMSF) in this country.

Total Superannuation assets ending the June 30th. 2020 totalled $ 2.864 B of which SMSF assets totalled $ 733.1 B this represents 25% of total Superannuation assets in Australia.

The total number of SMSFs at March 2020 was 596,180 with total number of members 1.119 m the asset allocations of SMSFs at March 2020 is as follows:

Listed Trust	$ 32,531 M
Unlisted Trust	$ 79,292 M
Insurance Policy	$ 100 M
Other Managed Investments	$ 39,009 M
Cash & Term Deposits	$ 149,886 M
Debt Securities	$ 10,802 M
Loans	$ 5,280 M
Listed Shares	$ 16,7163 M
Unlisted Shares	$ 8,444 M
LRBA	$ 47,274 M
Non-Residential Property	$ 68,719 M
Residential Property	$ 37,367 M
Collectables and Personal Assets	$ 377 M
Other Assets	$ 19,053 M
Overseas Shares	$ 6708 M
Overseas Non -Residential Property	$ 112 M
Overseas Residential Property	$ 266 M
Overseas Managed Investments	$ 914 M
Other Overseas Assets	$ 2270 M

Over the five years to 30 June 2020, growth in the number of SMSFs averaged almost 3.55% annually. 53% of SMSFs have been established for more than 10 years, and 16% have been established for three years or less. For the 2019–20 income year, the average assets of SMSFs were just over $ 1.271 M, a growth of 21% over five years and from 2015. Average assets per member grew by 26% over the five-year period to $678,621 in 2019. This was the highest value over the period. Average assets per SMSF in their year of establishment increased by 20% from $325,000 for funds established in 2012 to $390,000 for funds established in 2016. 49% of SMSFs had assets between $200,001 and $1 million, accounting for 23% of all SMSF assets.

There was a significant drop of $22,245 million (66%) in the level of member contributions from $33,867 million in 2016–17 to $11,622 million in 2017–18. Benefit payments made by SMSFs also decreased by 15% to $37,686 million in 2017–18, after peaking at $44,290 million in 2016–17. We attribute this decline to a normalisation of flows after a spike in the 2016–17 year. Some SMSFs restructured in recent years to prepare for the superannuation measures that came into effect 1 July 2017, the introduction of the $1.6 million total super balance and transfer balance cap.

With the performance of some superannuation funds over the last few years, many Australians are looking for new ways to invest and take greater control of their retirement outcomes. Self-managed super funds are a viable and attractive option for some; however, we must consider your personal circumstances to see if it is right for you.

This eBook is designed to give some preliminary information and tips about where to start, and we encourage you to consult with us so we can help you navigate the options when considering whether a self-managed super fund is right for you.

II. WHAT IS AN SMSF?

A self-managed superannuation fund is a do-it-yourself (DIY) superannuation fund of one to four members where each member acts as a trustee of the fund; so all members must be the trustees, and all trustees must be the members. Single member funds require two individuals as trustees or a single company as a corporate trustee. This is in contrast to the vast majority of people who put their superannuation savings into an industry or retail superannuation fund where it's pooled with other members' super and professionally managed by the trustees of the fund. However, if you establish an SMSF, you are the boss. The major advantages of operating your own SMSF are:

- control over how funds are invested
- asset protection advantages
- better management and flexibility of contribution levels and methods
- reduced tax rates
- control over the types and level of insurances held within the fund
- large flexibility of investment types
- personal responsibility and accountability for investment performance
- significant control over retirement and death benefits
- estate planning strategies and control.

While there are many positives to managing your own super, it is also a big responsibility. There are strict rules that govern what you can do with your SMSF, how you can invest the fund's money and when you can access it. By establishing an SMSF, you are also responsible for maintaining records and reporting regularly to the Australian Taxation Office (ATO).

III. DECIDING TO SET UP AN SMSF

Setting up and operating an SMSF is a major financial decision. After all, the responsibility for running the fund and complying with the law rests solely with the trustees. While SMSFs are great for some people, they don't suit everyone. Managing your own super takes time, knowledge, skill and money, so before deciding to set up an SMSF, it's important to understand the following:

- What's involved in managing your own fund
- What it means to be a trustee.

You need to:

- consider whether you have
  - the time, knowledge and skill to manage your own super
  - the assets and money to make the fund viable
- compare the costs and benefits of running an SMSF with those of other retirement saving options
- make sure you're setting up the fund solely to pay retirement benefits to members.

An SMSF is just one way to manage your super and save for your retirement. You should also consider other options before you make a final decision.

IV. PREPARING TO SET UP YOUR FUND

Once you've decided to set up an SMSF you need to:

- decide on the type of trustee for your fund (a company or up to four individuals)
- make sure you (and the other members) are eligible to be a trustee
- check the residency requirements your fund needs to meet to be a complying fund and receive tax concessions.

Once you understand how you can structure your fund, you need to decide on the type of trustee you'll use. You can choose either one of the following:

- a corporate trustee
- up to four individual trustees.

A corporate trustee is a company incorporated under the law that acts as a trustee for the fund. Generally, to be an SMSF, all directors of the company need to be members and all members need to be directors of the company. If you already have a company, you may choose to use it as trustee. Your choice of trustee will make a difference to the way you administer your fund and the types of benefits it can pay, so you need to make sure it suits your circumstances.

A company can't be a trustee if one of the following applies:

- the responsible officer of the company (such as a director, secretary or executive officer) is a disqualified person
- they are a receiver, or if an official manager or provisional liquidator has been appointed to the company
- action has started to wind up the company.

In most cases, all members of the fund need to be trustees, so it's important to make sure all members are eligible to be trustees. Generally, anyone 18 years or over and not under a legal disability (such as if they are a bankrupt, a minor or person with a mental impairment) can be a trustee of a super fund unless they're a disqualified person. A person is disqualified if one of the following applies:

- they have ever been convicted of an offence involving dishonesty
- they have ever been subject to a civil penalty order under the super laws
- they are considered insolvent under administration
- they are an undischarged bankrupt
- they have been disqualified by a regulator (for example, APRA).

You'll need to declare that you and the other trustees or directors aren't disqualified when you register your fund with the ATO. In certain circumstances (such as minor dishonesty offences) a disqualified person can apply to the ATO in writing for a waiver.

Minors

Generally, members under 18 years of age can't be trustees of a super fund. A parent or guardian can be a trustee for a member who's less than 18 years of age and does not have a legal personal representative.

V. GETTING YOUR FUND STARTED

1. Obtaining a Trust Deed

All SMSFs require a legal document called a Trust Deed to be drawn up by a qualified solicitor or accountant. The Trust Deed maps out the rules for setting up and operating the fund. These details in addition with the superannuation laws, form the governing rules of the SMSF. Generally, the Trust Deed will include details such as:

- members of the fund (known as the trustees)
- the responsibilities of the trustees
- the fund's goals
- how benefits will be managed and paid out to the trustees
- how professional advisors should be selected and employed by the fund.

When having a Trust Deed drawn up, it is important that you ensure it is correctly tailored to the needs and objectives of your fund and its members, and drafted to meet legal requirements. Ensure that your Trust Deed is regularly reviewed to keep it up to date.

2. Appointment of trustees

The next step is the formal appointment of the fund's trustees; new funds usually appoint trustees under the funds Trust Deed. Typically trustees can either be yourself as a sole trustee, up to four individual members, or a corporate trustee where a company is set up to act as trustee of the fund.

In the case of a corporate trustee, all members of the fund must also be directors of the company. All trustees (or directors for corporate trustees) need to consent in writing to being appointed and these records need to be kept for a minimum of 10 years.

Pros and Cons of Corporate Trustee vs Individual Trustee

Benefits of having individual trustees

If individuals act as trustees of your SMSF, then you minimise the administrative hassles of establishing a company to act as trustee. Other benefits are:

- no ASIC forms to complete to establish the SMSF
- the costs of a corporate trustee, particularly in the establishment phase, are higher than those for individual trustees

- no ongoing ASIC reporting obligations to comply with
- fewer procedural issues to deal with, as there are more flexible requirements for holding trustee meetings and no need to comply with a company constitution.

Benefits of having a corporate trustee

A corporate trustee can offer you the following long-term benefits that individual trustees cannot provide:

- Liability issues – companies have the benefit of limited liability. Therefore, if a corporate trustee suffers any liability, the individual directors will not suffer personal liability (other than in exceptional circumstances).
- Simpler succession and control of a trust on death of an individual – a company continues to function even after the death of one of its directors, therefore, the control of an SMSF or other trust can continue even after the death of an individual SMSF member/director.
- Assets are kept separate – it is easier for a corporate trustee to ensure that trust assets are kept separate from the personal assets of SMSF members.
- Administrative efficiency for SMSFs – if a new member is introduced to an SMSF, then they generally must become a trustee of the fund. If the relevant SMSF has:
  - a corporate trustee, then a new director needs to be appointed to the company and notified to ASIC or
  - an individual trustee, a Deed of Appointment needs to be executed and, in most cases, all trust assets need to be transferred into the new trustee's name (or jointly with other trustees). This can cause major administrative hassles if the trust assets consist of real estate and shares. The hassles do not apply to a corporate trustee as the SMSF assets are usually held in the company name, and the company remains as trustee.
- Lender requirements for limited recourse borrowing arrangements – bank lenders generally insist upon (or at least prefer) that the SMSF has a corporate trustee.

3. Holding fund assets

To be legally established, your SMSF needs to hold assets. The trustees of the fund hold the fund's assets in trust for the benefit of the fund's members. Usually an SMSF is established by making a contribution to the fund when the Trust Deed is executed. A contribution can be the transfer of certain assets (e.g.

listed shares) or cash. Assets should be recorded in a way that they are distinguished as separate to personal or business assets and are clearly identified as being owned by the fund. Assets owned by the fund (other than money) need to be held in the name of the individual trustees (or the corporate trustee) as trustees for the fund.

4. Signing a trustee declaration

If you're a new trustee (or director of a corporate trustee) you'll need to sign a declaration within 21 days of being appointed a trustee (or director). By signing the Trustee Declaration, you're declaring that you understand your responsibilities as a trustee (or director) of the SMSF.

5. Registration with the ATO

Once the fund is legally established and all the trustees have signed the Trustee Declaration, the fund needs to be registered with the ATO.

- Electing for your fund to be regulated

  For the fund to be a complying fund and receive tax concessions, you need to elect for it to be regulated and to comply with the super laws. This election needs to be completed within 60 days of the establishment of the SMSF. (Generally the fund is taken to be established when the Trust Deed has been signed and the first contribution to the fund is made.)

- Obtaining a TFN and ABN

  A Tax File Number (TFN) and Australian Business Number (ABN) are allocated by the ATO to all funds that are registered with the ATO.

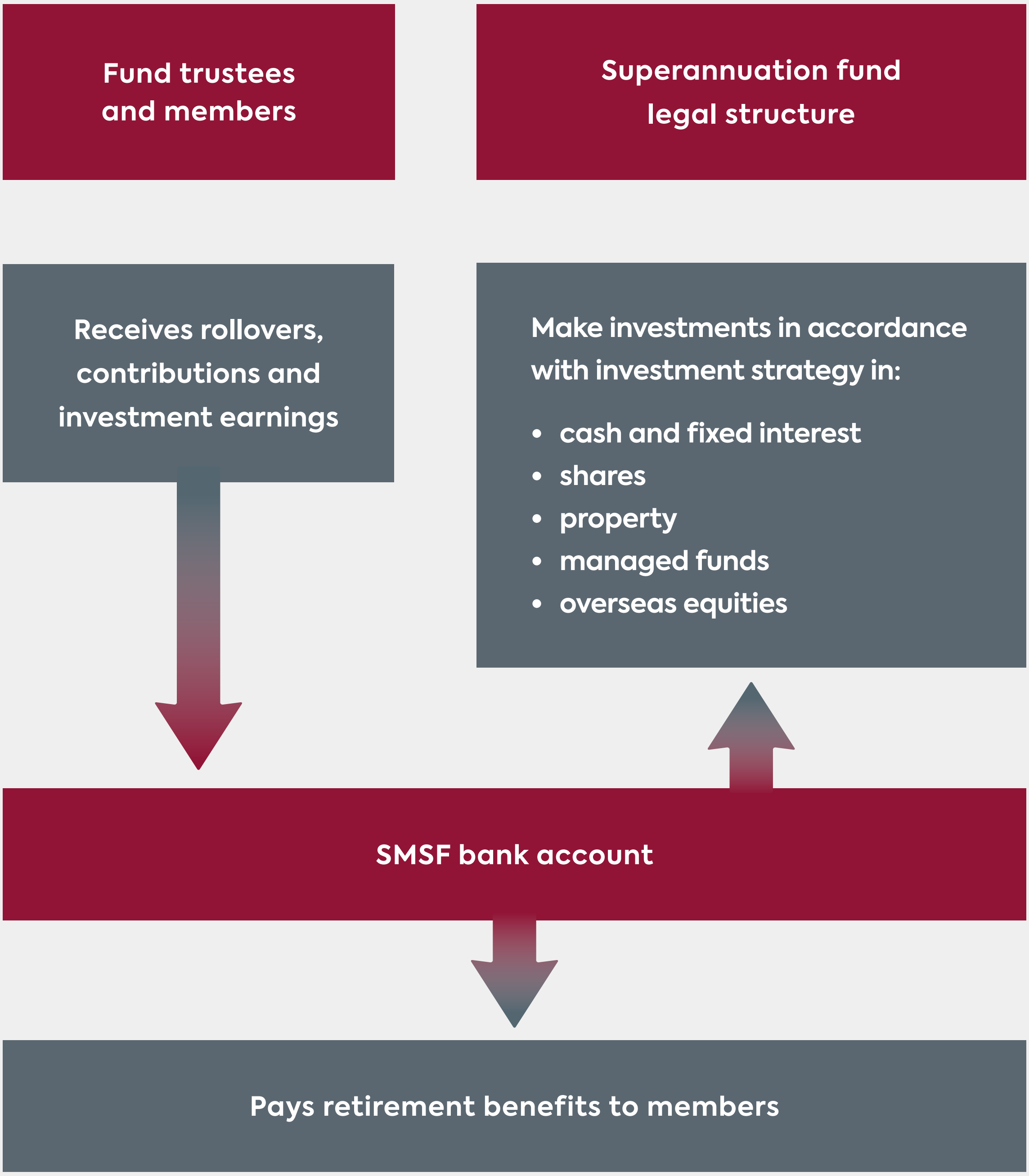
- Registration for GST

  Your SMSF will need to be registered for GST where its annual turnover exceeds $75,000. Annual turnover commonly includes gross income from the lease of equipment or commercial property. Your fund needs to have an ABN to register for GST.

6. Opening a bank account

You need to open a bank account in your fund's name in order to manage the fund's operations and to accept cash contributions and rollovers of super benefits. All contributions and rollovers are deposited into the fund's account. The money is then invested, according to the fund's investment strategy and used to pay the fund's expenses and liabilities. Earnings on fund investments are also credited to the fund's account.

7. Structure of an SMSF



VI. STARTING TO OPERATE YOUR FUND

Once your fund is legally established, there are several steps you should consider as a trustee or director. There are a few things you need to think about and put in place when starting to operate your fund. The following general information will help you get started.

1. Preparing an investment strategy

Before you start making investments, you need to prepare an investment strategy. An investment strategy sets out the fund's investment objectives and how you plan to achieve them. There is no prescribed format for the investment strategy, but it needs to reflect the purpose and circumstances of the fund.

When preparing your investment strategy, you need to consider the following:

- diversification (investing in a range of assets and asset classes)
- the risk and likely return from investments, to maximise member returns
- the liquidity of fund's assets (how easily they can be converted to cash to meet fund expenses)
- the fund's ability to pay benefits when members retire and other costs the fund incurs
- the members' needs and circumstances.

Your investment strategy should be in writing so you can show your investment decisions comply with it and the super laws.

2. Contributions and Rollovers

A contribution is a payment made to your fund or a transfer of an asset other than money (called an in-specie contribution to the fund). Generally, your SMSF can accept:

- employer contributions
- personal contributions
- salary sacrifice contributions
- government super co-contributions
- eligible spouse contributions.

You need to document contributions and rollovers received and allocate them to member accounts.

Allowable Contributions

There are minimum standards for accepting contributions to make sure contributions are only made for retirement purposes. Whether a contribution is allowable will depend on:

- the type of contributions – compulsory superannuation guarantee contributions can be accepted at any time
- the age of the member – generally you can't accept contributions from members aged 75 or over
- if the member has quoted their TFN
- whether the member has exceeded the annual-capped contributions limits.

Your fund Trust Deed may have additional rules about accepting contributions.

In Specie Contributions

In specie contributions are contributions to your fund in a form other than money. Generally, you can't intentionally acquire any assets from related parties of your fund. Some exceptions to this rule are listed securities, shares in widely held companies and unit trusts, and business real property, acquired at market value.

Rollovers and Transfers

A rollover is when a member transfers some, or all of, their existing super to their SMSF.

3. Appointing SMSF Professionals and Record keeping

As a trustee of your SMSF, you need to:

- appoint an approved auditor to audit your SMSF each year
- lodge your SMSF annual return with the ATO each year by the due date and pay the ATO supervisory levy
- arrange preparation of annual financial statements and other documentation required for compliance with superannuation legislation
- keep comprehensive records for 10 years.

Records to be maintained include:

- the Trust Deed and any amending deeds
- trustee meetings minutes, documenting how and why investment decisions were made
- annual operating statements of the SMSF's financial position
- who the trustees of the SMSF are and their written consent to act as trustees?
- copies of annual returns and information provided to members
- required income tax deduction documentation (including any actuary certificates)
- notifications to the ATO of any change in details for the SMSF (for example, a change in trustee or members)
- investment strategy documents.

Keeping your records in an orderly fashion may help you save money on audit and fund administration and accounting costs and will make managing your fund easier for you and your SMSF advisor. It is good practice to keep the fund's permanent records separate from the records of a specific financial year.

In your permanent file you should keep:

- the fund's Trust Deed
- the fund's investment strategy
- reasons for decisions on the storage of collectables and personal use assets
- minutes of trustee meetings
- all signed trustee declarations
- records of trustees consenting to their appointment as a fund trustee
- records of all changes in fund members and trustees.

If your fund regularly holds trustee meetings, you should establish a separate folder for them, sorting them in date order. Keeping good records is a legal requirement.

As a trustee, you need to know the rules for paying benefits to members, so you know when and how they can be paid. These rules are set out in:

- your fund's Trust Deed
- the super laws (referred to as 'payment standards').

In some cases, SMSFs are set up to pay a super benefit to a member almost immediately, that is, as soon as the member has either:

- rolled over any existing entitlements
- made contributions to the fund.

A member can only access all or part of their super benefits if they satisfy one of the conditions in the super laws. If your fund's governing rules allow it, you can generally pay a super benefit as one of the following:

- a lump sum
- an income stream (pension or annuity)
- a combination of both.

4. Planning for the future

Setting up an SMSF is about more than just organising the paperwork to get started – it's about planning. We recommend you and the fund's members consider things such as death benefit nominations and insurance.

Death benefit nominations

A death benefit is a payment made from a super fund on the death of a member. It's usually paid to either one or more of the member's dependents (such as a spouse or child) or their estate. In some cases, it may be paid to a non-dependent.

A member can nominate to whom they want their death benefit paid, by way of a death benefit nomination. It can be one of the following:

- **binding** – that is, it directs the trustees to pay the member's death benefit to a legal personal representative or dependent
- **non-binding** – that is, it notifies the trustees of the member's preferred beneficiaries, leaving the trustees to make the final decision.

If your fund does not have a valid binding nomination for a member, their death benefit is paid according to the fund's Trust Deed, with the trustees being guided, as appropriate, by any non-binding nomination.

Insurance

When your fund acquires new assets, such as real property and collectibles, we recommend you insure these assets to protect the fund from financial loss. Also consider arranging insurance to protect your fund's members (or their dependents) against death, injury, ill health or income loss. Insurance premiums your fund pays may be tax deductible.

WHO WE ARE?

Vault was established in 2009 by Brad A. Gunn to provide affordable, transparent financial advice with the client's personal and financial objective being the primary objective at all times.

Our Services

Vault can assist you with all your financial and lifestyle goals. Our services include:

- SMSF & Superannuation
- Tax / Accounting & Bookkeeping for Individuals / Company's / Trust / Partnerships / SMSF
- Investment Advice
- Lending & Finance
- Financial Advisers
- Insurance (Life / TPD / Income Protection / Critical Illness
- Wealth Building
- Property Investment
- Legal Services (Estate Planning)

CONTACT US

Please take this opportunity to call and book in with one of our experienced financial advisers or accountants.

You can make an appointment or ask any question directly via our website.

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