

## TRUSTEE STRUCTURE

A SMSF is a trust and must have either a corporate trustee or individual trustees.

### **Corporate Trustee**

To set up your SMSF with a Corporate trustee (a company) all of the following must apply:

- ✓ it has four or less members
- ✓ each member of the fund is a director of the company
- ✓ each director of the corporate trustee is a member of the fund (except for a single member fund where you may have one director who is not a member)
- ✓ no member is an employee of another member, unless they're related
- ✓ the corporate trustee is not paid for its services as a trustee
- ✓ no director of the corporate trustee is paid for their duties or services as director in relation to the fund.

Setting up an SMSF with a Corporate Trustee is often more expensive as there is the additional cost of setting up a company. However, it can have advantages when structuring your estate planning. Also, a company does not "die" which means that you would not need to transfer the ownership of the assets of your SMSF when one of the members dies. See our PDF on Basic Investment Rules re ownership of assets.

### **Individual Trustees**

To set up your SMSF with individual trustees, all of the following must apply:

- ✓ it has four or less members
- ✓ each member is a trustee
- ✓ each trustee is a member of the fund (except for a single member fund where you MUST have one other trustee who is not a member)
- ✓ no member is an employee of another member, unless they're related
- ✓ no trustee is paid for their duties or services as a trustee.

### **Eligibility for Trusteeship**

Trustees have to be eligible to hold their position. An individual is not eligible to be a trustee if:

(a) at any time;

(i) the individual was convicted of an offence against or arising out of a law of the Commonwealth, a State, a Territory or a foreign country, being an offence in respect of dishonest conduct; or

(ii) a civil penalty order was made in relation to the person; or

(b) the person is an insolvent under administration; or

(c) the individual has been disqualified by APRA or the Commissioner of Taxation

#### Disclaimer

All representations and information in this document are made in good faith and are of a general rule – they do not purport to be specific investment advice. Information in this document is up to date at the time of production (August 2010). Individual needs or other considerations have not been taken into account, thus information contained herein should not be relied upon as a substitute for detailed advice.