

Approved auditors and self-managed super funds

Your role and responsibilities as an approved auditor



We recommend that you read this guide and make sure you are familiar with your professional obligations and those under the super law including the relevant compliance provisions for self-managed super funds.



For more information visit www.ato.gov.au



OUR COMMITMENT TO YOU

We are committed to providing you with guidance you can rely on, so we make every effort to ensure that our publications are correct.

If you follow our guidance in this publication and it turns out to be incorrect or misleading, and you fail to comply with the law as a result, we must still apply the law correctly. However, we will take the fact that you followed our guidance into account when deciding what action, if any, we should take.

If you make an honest mistake in trying to follow our guidance in this publication and you fail to comply with the law as a result, we will take the reason for the mistake into account in deciding what action to take.

If you feel that this publication does not fully cover your circumstances, or you are unsure how it applies to you, you can seek further assistance from us.

We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at www.ato.gov.au or contact us.

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COMMISSIONER'S FOREWORD

Regulating self-managed superannuation funds (SMSFs) is an important responsibility entrusted to us. In discharging this responsibility, we seek to provide services and assistance to improve the knowledge and skills of approved auditors.

Approved auditors, through the annual audit of each SMSF, perform a critical role in maintaining the health and integrity of the SMSF system which is the fastest growing segment of the super industry. In this role, approved auditors identify and report relevant matters associated with an SMSF and accordingly provide a strong positive influence on trustees. It is recognised that many auditors adopt best practice and also provide guidance to their clients on how to get things right.

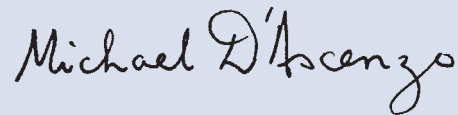
As a professional you are required to follow a range of codes of practice, standards and requirements. We work closely with the professional accounting bodies in relation to the requirements and standards relevant to SMSF audits and in providing guidance for approved auditors. Together we are committed to maintaining and improving the performance of approved auditors.

In addition to helping and supporting approved auditors, we identify those auditors who fail to 'adequately and properly' perform their duties and work with the professional associations to improve their performance.

This publication provides you with information about:

- your responsibilities under the super laws
- the expectations we have when you conduct an SMSF audit
- further support to assist you in satisfying these obligations.

As an approved auditor, we expect you to understand your obligations under the super law and hope this publication will assist you in this.



Michael D'Ascenzo
Commissioner of Taxation



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As an approved auditor, you play a crucial role in the compliance framework of the self-managed superannuation fund system.

The super law requires that the accounts, statements and compliance of an SMSF be audited each year by an approved auditor within the provisions of the:

- *Superannuation Industry (Supervision) Act 1993* (SIS Act)
- Superannuation Industry (Supervision) Regulations 1994 (SIS Regulations).

A failure to have satisfactory audits performed may lead to significant financial impacts for trustees and members of these funds.


It is your role to carry out a financial and compliance audit of an SMSF's operation. The trustee of an SMSF will appoint you to audit the fund and must provide all relevant documents you need to do the audit.

Your professional audit provides an opinion on the status of the fund including your assessment of the fund's compliance. You need to report your findings (in writing) to the trustees, highlighting any financial and compliance issues with the fund as well as reporting relevant contraventions to us, as the regulator.

WHO CAN BE AN APPROVED AUDITOR?

The SIS Regulations define an 'approved auditor' of an SMSF as any of the following:

- a member of CPA Australia Ltd
- 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
- an SMSF specialist auditor of the SMSF Professionals' Association of Australia Ltd
- a registered company auditor
- an auditor-general of the Commonwealth, a state or a territory.

 Under super law, it is an offence to present yourself as an approved auditor when you are not eligible. Penalties of up to \$5,500 apply.

A person who is disqualified as an approved auditor under section 131 of the SIS Act also cannot act in this role. A person who knowingly acts as an approved auditor while being disqualified may be imprisoned for up to two years.

FINANCIAL AND COMPLIANCE AUDITS

As an approved auditor, you must examine and form an opinion on both the financial and compliance aspects of the SMSF.

Before commencing an audit you should consider whether you can accept or retain the audit engagement, bearing in mind the ethical and professional requirements, including any threats to audit independence that may impact, or be seen to impact, on your final report.

 A financial and compliance audit **must** be completed **before** trustees lodge the *Self-managed superannuation fund annual return* (NAT 71226) for the audited year.

FINANCIAL AUDIT

You are required to conduct a financial audit in accordance with the Australian Auditing Standards (ASAs) and to express an opinion on the financial report, based on the audit you conduct. When completing the financial audit you should:

- prepare and document the audit plan with a view to determining the risks and the audit approach to be undertaken
- identify the nature, timing and extent of audit procedures necessary to gather sufficient appropriate evidence in support of the statements
- gather evidence as planned in support of the financial statement assertions for material account balances and transactions
- conduct testing of the assertions made in the financial reports as to the
 - existence of assets, liabilities and entitlements
 - occurrence of transactions
 - completeness of all transactions, events and assets being recorded
 - ownership, rights and obligations the SMSF has in relation to assets, entitlements and liabilities
 - accuracy and valuation of data amounts recorded
 - classification of relevant events to correct accounts
- based on evidence gathered and the results of the checks performed, form an opinion regarding the fair presentation of the financial report for the reporting period
- document and retain audit working papers to enable an assurance practitioner who has no previous involvement with the audit to gain an understanding of the work performed and the opinion reached

Trustees are required to produce a statement of financial position and an operating statement, as a minimum. Defined benefit funds require a statement of net assets and statement of changes in net assets. The audit report opinion should be based on financial statements signed by trustees in accordance with S35B of the SIS Act.

⚠ Under S35C(2) of the SIS Act, a trustee must give an appointed auditor any documents requested in writing by the auditor within 14 days.

⚠ If you are not familiar with the relevant super laws and their application to SMSFs, you should not accept an SMSF compliance engagement.

➤ The Australian Auditing Standards which are more frequently referred to in an SMSF financial audit include ASA 210, ASA 220, ASA230, ASA 240, ASA260, ASA300, ASA315, ASA320, ASA330, ASA500, ASA505, ASA520, ASA530, ASA545, ASA550, ASA580 and ASA600. The standards are available on the website of the Auditing and Assurance Standards Board (AUASB) at www.auasb.gov.au

➤ The Standards on Assurance Engagements which are relevant to SMSF compliance audits are ASAE 3000 and ASAE 3100. These standards are available on the AUASB's website www.auasb.gov.au

COMPLIANCE AUDIT

You are required to conduct a compliance audit in accordance with the standards on assurance engagements (ASAEs) and to express an opinion as to whether the SMSF has complied with the SIS Act and the SIS Regulations.

As an approved auditor, you must possess the required capabilities and competencies to conduct a compliance audit of an SMSF, including full knowledge of the relevant legislation, the application of it and compliance with it by SMSFs.

Based on your audit, you must be satisfied that the trustees of the fund have met the requirements set out in the super laws. When doing the compliance audit, you should:

- consider materiality and risk when planning and performing the compliance engagement
- obtain sufficient and appropriate evidence on which to base your conclusion
- where a contravention has been identified, test this contravention against the compliance criteria
- consider the effect of events up to the date of the compliance report
- prepare documentation that would provide another assurance practitioner with an understanding of the work performed and the basis for the opinion reached
- express your professional opinion about the subject matter information in the approved form – that is, the *Self-managed superannuation fund independent auditors report* (NAT 11466). You must use this form.

➤ eSAT, an electronic superannuation audit tool, is available free of charge from the Tax Office. This application can assist you in conducting an SMSF compliance audit by stepping you through relevant questions that should be asked during the audit. The application covers provisions relevant to reporting the regulator requires. However, it does not include all the provisions a compliance audit should cover. More detail on eSAT, including how to access the software, is available in this booklet and at www.ato.gov.au/eSAT

➤ For more information on completing a financial and compliance audit for an SMSF, refer to the AUASB's *Guidance Statement GS 009 Auditing Self Managed Superannuation Funds* on their website www.auasb.gov.au

➤ Part B of the *Self-managed superannuation fund independent auditor's report* (NAT 11466) outlines all relevant provisions that a compliance audit of an SMSF should cover. This form is available on our website at www.ato.gov.au/SMSFauditors

GENERAL LEGISLATIVE OBLIGATIONS

Under the SIS Act, you need to carry out and perform, adequately and properly, the duties and functions of an auditor under super law as well as any other law of the Commonwealth, a state or a territory. You are also required to be a 'fit and proper' person to be an approved auditor.

You are considered to have carried out or performed your duties and functions adequately and properly when:

- the audit on the operation of an SMSF has been performed independently and competently
- you have conducted the audit of the SMSF in accordance with the Australian Auditing Standards and the Standards on Assurance Engagements
- you have adhered to your profession's ethical standards or code of conduct
- you have reported as required under the super law.

A person is 'fit and proper' where they have:

- performed their duties and functions as described above
- a good character, repute and appropriate professional abilities (which include competency, diligence, knowledge and soundness of judgment)
- not been subject to sanctions under any relevant laws (these would generally include laws dealing with responsibilities relating to the person's profession, honesty and business transactions).

REPORTING UNDER SUPER LAW

As the approved auditor of an SMSF, you are required under the law to give the trustees the *Self-managed superannuation fund independent auditor's report* (NAT 11466) on the SMSF's operations for the financial year, including an opinion on whether:

- the financial report represents fairly the financial position of the fund and its operational results
- the fund has complied with the relevant provisions of the super law during the financial year.

You must report in writing to the trustees where you have formed an opinion in the course of, or in connection with the performance of, the audit of the SMSF that it is likely:

- a contravention of the super law may have occurred, may be occurring or may occur in relation to the SMSF
- the financial position of the SMSF may be, or may be about to become, unsatisfactory.

Where the financial position of the fund becomes unsatisfactory or where the nature of the contravention meets prescribed tests, you must also report this to us, as the regulator. These matters should be reported immediately after you form the relevant opinion.

To address any issues of concern, you should notify the trustees as soon as you detect the contravention, so they can respond to the issue and, where possible, rectify or have a plan in place to rectify the issue before you finalise the audit.

HOW TO REPORT TO US

You need to report contraventions to us using the *Auditor/actuary contravention report* (ACR) (NAT 11239). The ACR is an approved form. This means there is a legislative requirement to report using the ACR where the reporting criteria in the instructions guide are met.

There are currently three options for lodging an ACR:

- 1 use the electronic Superannuation Audit Tool (eSAT)
- 2 use the tax agent and business portals
- 3 submit the paper version of the form (photocopies of this form **cannot** be used).

eSAT has been specifically designed to help you fulfil your obligations, carry out the annual compliance audit and lodge an ACR where required.

With eSAT you can:

- identify and accurately specify contraventions
- prepare and save the ACRs and lodge online
- refer to relevant case studies, topics and current legislation
- maintain notes and compliance audit history
- review the compliance audit outcome.

You can also notify us that you have completed an audit for a fund when there are no reportable contraventions by lodging an 'Audit complete advice' via eSAT.

➤ For more information about eSAT, visit our website www.ato.gov.au/eSAT

➤ To get a copy of the *Auditor/actuary contravention report* (NAT 11239):

- visit www.ato.gov.au/onlineordering
- phone our publication ordering service on **1300 720 092**.

⚠ As data is optically recognised and captured on NAT 11239, you must use the original paper form provided if lodging via paper. Photocopies of the form will not be processed.

WHAT CONTRAVENTIONS YOU SHOULD REPORT TO US

The rules for reporting the types and the criteria of fund contraventions are included in *Completing the Auditor/actuary contravention report* (NAT 11299). You must report contraventions which meet the criteria regardless of the financial year the breach occurred in.

You must apply the reporting criteria to work out the reportable sections and regulations and the nature or materiality of the contravention to include in your report.

If you discover a matter that does not have to be reported but you consider the information will help us with our regulatory role, you can provide this information in the 'other regulatory information' section of the ACR.

➤ In our publication *Auditing a self-managed super fund* (NAT 16308) is a checklist of questions that should be asked as part of a compliance audit to assist you in determining whether a contravention has occurred. The checklist covers those provisions where reporting to us may be required. A copy of this information is contained in appendix A of this booklet.

➤ Appendix B of this booklet contains relevant criteria and tests for determining whether something is a contravention that must be reported to us. More detail and examples of the types and criteria of contraventions that must be reported to us are included in *Completing the Auditor/actuary contravention report* (NAT 11299).

PROVIDING THE AUDIT REPORT TO THE TRUSTEES

At the conclusion of the audit, you must give the SMSF trustees an audit report using the *Self-managed superannuation fund independent auditor's report* (NAT 11466). The audit report outlines:

- the trustees' and your responsibilities
- the auditing standards that the audit was conducted in accordance with
- your opinion on whether the financial statements of the fund present fairly
- whether the trustees of the fund have complied with the SIS Act and SIS Regulations.

The audit report we have developed provides consistency with current auditing standards and formats.

If a trustee is responsible for more than one fund, you must perform appropriate testing and provide a separate audit report for each entity. It is not acceptable to complete one audit report for multiple entities.

➤ To obtain a copy of the *Self-managed superannuation fund independent auditors report* (NAT 11466), visit our website at www.ato.gov.au/SMSFAuditors

USING THE AUDIT REPORT

You can insert additional material in the financial and compliance sections of the audit report where you have been engaged by the trustee to express an opinion on additional aspects.

Any inserts must not limit or detract from the scope or opinion prescribed in the approved form.

The audit report is an approved form. This means you cannot change the content of the form, except for inserting the necessary information in order to adequately express opinions and complete the report.

The AUASB have issued standards which you are required to follow. You are responsible for conducting your:

- financial audit according to Australian Auditing Standards
- compliance audit according to applicable Standards on Assurance Engagements.

These standards require that you:

- comply with relevant ethical requirements relating to audit and assurance engagements
- plan and perform your audits to obtain reasonable assurance that the financial report is free from material misstatement and that the fund has complied, in all material respects, with the requirements of the super laws.

PROFESSIONAL REQUIREMENTS OF AN APPROVED AUDITOR


We expect that approved auditors who are members or fellows of prescribed professional accounting associations will comply with the professional principles outlined by their association.

Each relevant accounting professional association has a code of conduct or professional code of ethics to which their members must adhere. The ethical principles governing your professional responsibilities as an auditor include the following:

- integrity
- objectivity
- professional competence and due care
- confidentiality
- professional behaviour.

Additionally, these associations have outlined mandatory competency requirements for members who audit SMSFs. These competency requirements are in key audit areas and mandate that a member who undertakes SMSF audits must:

- hold a practice certificate issued by the professional accounting body they are a member of
- have appropriate indemnity cover
- undertake specified minimum continuing professional development in the relevant areas
- ensure that those who undertake work on the member's behalf have appropriate knowledge and experience and are properly supervised in the conduct of the audit.

 You should ensure that you are up to date and compliant with any applicable competency requirements mandated by your professional association before accepting and conducting an SMSF audit engagement.

INDEPENDENCE AND ETHICAL REQUIREMENTS

The concept of independence is vitally important. You are responsible for evaluating any independence threats and putting in place adequate safeguards. As an auditor, you must be independent and also be seen to be free from bias, personal interest and association.

You are responsible for demonstrating that you meet the prescribed standards for independence set out by your professional association. Overall independence requires both:

- independence of mind – the state of mind that permits the expression of a conclusion without being affected by influences that compromise professional judgment
- independence in appearance – the avoidance of facts and circumstances that are so significant that a reasonable and informed third party, knowing all relevant information including safeguards applied, would reasonably conclude a firm or a member of the engagement team's integrity, objectivity or professional scepticism had been compromised.

Threats to independence in an SMSF audit engagement may include:

- **Self-interest threat** – where you could benefit from a financial interest in, or other conflict with, an audit client. For example, this could arise if you, a member of your audit team or an immediate family member is a trustee or member of the SMSF or the SMSF principals are the sole or the significant client of the firm.
- **Self-review threat** – occurs when any product, such as a set of financial accounts, or a judgment of a previous engagement needs to be re-evaluated in reaching conclusions on the audit engagement, so that you are reviewing your own work – for example, where you as the auditor have also prepared the SMSF's financial report or accounting records or provided complex financial advice to the fund or fund members.
- **Advocacy threat** – occurs when your firm or a member of the audit team promotes, or may be perceived to promote, an audit client's position to the point that objectivity may be, or be perceived to be, compromised – for example, where an auditor acts as an advocate for the SMSF in litigation or a dispute.
- **Familiarity threat** – when, by virtue of a close relationship with the audit client, its directors, officers or employees, the firm or a member of the audit team becomes too sympathetic to the client's interest – for example, when a close family member is a trustee or member of the SMSF or an employee of the SMSF's administrator, or where you have a long association with a trustee.
- **Intimidation threat** – when you as the auditor are deterred from acting objectively by actual or perceived threats from the trustees of an SMSF, or the directors, employees, or officers of a related entity of a trustee – for example, where a threat of replacement is made over a disagreement about the application of an accounting principle.

If you identify potential threats to your independence, you may be able to maintain the required level of independence as required by your professional association by implementing appropriate safeguards.

! Some threats to independence can only be safeguarded by you not accepting or removing yourself from the audit engagement. These include where you are engaged to audit the fund and:

- you are a trustee or director of a corporate trustee or a member of the fund
- you are a relative or close associate of a trustee or director of a corporate trustee and a member of the fund
- you personally have prepared the accounts and the statements for the fund being audited.

Where auditors have accepted an audit engagement in these situations, the Tax Office will consider this a significant breach of professional requirements and will respond appropriately.

AUDIT DOCUMENTATION

Audit and assurance standards require an auditor to document the audit in order to support the audit conclusion. Audits must be documented according to these standards.

Your working papers must include copies of all relevant documents and papers, and provide sufficient and appropriate evidence to support your findings and opinions about both the financial and the compliance audit of the SMSF. Your working papers should include:

Letter of audit engagement (see ASA 210 and ASAE 3100)

A terms of audit engagement letter is in the best interests of both you and the trustees. It confirms the appointment and the scope of the audit to be conducted.

The letter of engagement avoids any misunderstanding between the trustees and auditor about the nature and extent of the audit. It should confirm your acceptance of the appointment and clearly document the scope of the financial audit and compliance review with the super laws.

Representation letter (see ASA 580 and ASAE 3100)

This is a statement by the trustees that, to the best of their knowledge, they have approved and acknowledge responsibility for the fair presentation of the financial statements and that the fund complies with the requirements of the super laws specified in the letter of engagement.

Working papers (see ASA 230 and ASAE 3100)

Your working papers should record the planning, nature, timing and extent of the audit procedures performed, the results, the audit evidence obtained and the conclusions drawn from this evidence.

You should prepare working papers that are sufficiently complete and detailed such that another auditor, having no previous connection with that audit, could understand what had transpired in the audit. They should include your reasoning on all significant matters that require the exercise of judgement, together with your conclusions and recommendations.

The working papers should also:

- identify who performed the work and the date the work was completed
- where applicable, identify who reviewed the work and the date of any review
- include documented discussions on significant matters with the trustees.

Your audit working papers should also assist in confirming that the audit was performed according to Australian Auditing Standards and Standards on Assurance Engagements.

Management letter or audit finalisation report

In addition to providing the audit report, where there are matters of governance interest arising from the audit, you should provide the trustees with a management letter or audit finalisation report.

A copy of the final, signed financial report of the SMSF

Your working papers should contain a final, signed copy of the fund's financial report and relevant accounting records supporting those statements for the income year under review.

A copy of the audit report in the approved form

You should keep a copy of the signed audit report in the approved form, including your opinion and any qualifications.

A copy of written advice to us

You should also retain a copy of any written advice you provide to us.

! You should retain audit files separately from other files you may hold for the client. Usually, audit working papers should be retained for seven years.

OUR COMPLIANCE MODEL

Our compliance activities are guided by the Tax Office's compliance model.

This model emphasises the need for us to understand taxpayers' circumstances, behaviours and risk profiles. Not everyone is the same, and we will treat cases according to people's circumstances.

Our compliance approach for approved auditors is the provision of support products and guidance which help you to comply with necessary requirements and the super laws. This recognises that most approved auditors are doing a satisfactory job and we need to make sure you are aware of the requirements under the super law.

We do however have some concern about the competency and behaviour of some auditors within different risk categories, particularly those who are unwilling or have decided not to comply. To this end, we have increased our compliance activity and responses, particularly for auditors who we assess as being a high risk.

OUR COMPLIANCE PROGRAM

We regularly update and publish our compliance program booklet, which includes information on compliance issues associated with approved auditors and our activities to mitigate these issues.

➤ For more information, refer to *Compliance program* (NAT 7769) on www.ato.gov.au

COMPLIANCE CASEWORK: WHAT YOU CAN EXPECT

As part of our regulatory role, we carry out reviews of the work performed by approved auditors to:

- ensure there are no significant deficiencies in your audit coverage and processes
- improve the quality of audits and level of compliance of SMSFs by identifying areas where you and the trustees may need help
- provide information about what we expect from an audit of an SMSF.

Our compliance reviews can be undertaken in your office or completed as a Tax Office desk examination of your audit files and working papers or other documents. If you are selected for review, we will ask for copies of your audit working papers and any other documents or evidence relevant to your assessment of the fund's compliance with super laws.

For some large audit practices, we will review and test their internal controls to give us assurance that the large numbers of SMSF audits they engage in are being undertaken satisfactorily.

In nearly all cases, our initial approach will be an informal and cooperative one. We will advise you:

- you have been selected for a review
- of the purpose and scope of review
- of what action you need to take
- of your rights.

Where the review is to be conducted in your office, we will contact you to arrange a mutually agreeable time for an initial meeting.

If required, a more formal approach will be made. If we formally ask you, through a written notice, to provide relevant audit documentation, you are required to comply. Penalties may be applicable where there is deliberate or reckless refusal to comply with a requirement of the regulator.

Many of our reviews are expected to result in some level of education or provision of support to the auditor. In some cases, we may accept a written undertaking from you as a way of addressing significant risks. This type of undertaking may include the completion of specified relevant professional development, the ongoing use of checklists and support tools such as eSAT, or possibly a commitment that you voluntarily cease to undertake SMSF audits.

PENALTIES AND SANCTIONS

If you do not meet your obligations under the super law, we may impose penalties and other sanctions. For example, you are guilty of an offence if you have presented yourself as an approved auditor when you are not, and a penalty of up to \$5,500 may be imposed.

If we find you have failed to perform adequately and properly your duties as an auditor under the super law or are otherwise not 'fit and proper' to be an approved auditor, we will look at the circumstances of the case and work out appropriate action. This may include:

- disqualifying you from being an approved auditor for the purposes of the super law, and/or
- referring matters to your professional association.

Disqualifying and referring an approved auditor

We may disqualify you from being an approved auditor if:

- you fail to adequately and properly carry out or perform your duties or functions as an auditor under the super law
- you are otherwise not a fit and proper person to be an approved auditor.

If we disqualify you from being an approved auditor, we will also refer the matter to your professional association.

If you act as an approved auditor while you are disqualified, a penalty can be imposed, including a \$6,600 fine or imprisonment for two years.

Failure to notify a contravention or unsatisfactory financial position of the fund

When carrying out your role, you must immediately notify the trustees and us in writing if you form the opinion that:

- an SMSF's financial position is, or is about to become, unsatisfactory
- a contravention of the super law may have occurred, may be occurring or may occur.

If any of the matters should be reported to us according to the criteria in the *Completing the Auditor/actuary contravention report* (NAT 11299), you must report the matter to us via the *Auditor/actuary contravention report* (NAT 11239).

If you fail to notify the trustees in writing or report to us as required, a penalty of \$5,500 (for each offence) can be imposed.

A penalty, including imprisonment for 12 months, can also be applied if you (as the first auditor) tell another auditor (a second auditor) that you have told us and a trustee about a matter that is required to be reported but you have not told us and the trustee about the matter.

Lists of relevant forms, publications and support tools are provided in the tables below.

SMSF AUDITOR FORMS AND GUIDES

NAT no.	Title and description	Approved form
NAT 11239	<i>Auditor/actuary contravention report</i> This is used by an auditor or actuary to provide written details of contraventions by trustees of SMSFs. Alternatively, this may be lodged via eSAT or the Portal if a digital certificate is held.	Yes
NAT 11299	<i>Completing the Auditor/actuary contravention report</i> This provides information about what to report at each question on the Auditor/actuary contravention report (above) and gives examples.	an attachment to an approved form
NAT 11466	<i>Self-managed superannuation fund independent auditor's report</i> This is used by approved auditors for reporting to SMSF trustees	Yes
NAT 16308	<i>Auditing a self-managed super fund</i> This provides questions and statements to consider when auditing the compliance requirements of an SMSF.	No

➤ For more information about the forms and guides, refer to our website at www.ato.gov.au/SMSFauditors

➤ For more information about the *Guidance Statement GS 009 Auditing Self Managed Superannuation Funds*, refer to the AUASB's website www.auasb.gov.au

SOFTWARE AND ONLINE TOOLS

Title and description

eSAT

The electronic Superannuation Audit Tool (eSAT) is used by approved auditors to assist in the compliance audit of an SMSF and to lodge the *Auditor/actuary contravention report*. Visit our website www.ato.gov.au/eSAT for more information.

Tax Agent Portal

Approved auditors who are also tax agents can lodge their ACRs electronically through the Tax Agent Portal. Information on how to access the Tax Agent Portal is available on the Tax Professionals page at www.ato.gov.au

Business Portal

Approved auditors who are not tax agents can lodge their ACRs through the Business Portal. If you want to lodge an ACR online but don't currently have access to the Business Portal, you need to register for a free ATO digital certificate.

GENERAL SMSF PUBLICATIONS

NAT no. Title and description

NAT 71454	<i>How your self-managed super fund is regulated</i> This explains how we work with trustees and other organisations to regulate SMSFs.
NAT 72579	<i>Thinking about self-managed super</i> Developed jointly with the Australian Securities and Investments Commission, this publication provides information about factors to consider before setting up an SMSF.
NAT 71923	<i>Setting up a self-managed super fund</i> This provides information about how to set up an SMSF and basic information about operating the fund.
NAT 11032	<i>Running a self-managed super fund</i> This provides information on the role and responsibilities of trustees of an SMSF, such as their compliance and lodgment obligations.
NAT 8107	<i>Winding up a self-managed super fund</i> This provides information on how to wind up an SMSF, including trustee requirements and reporting obligations.

USEFUL SERVICES

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- visit our website at www.ato.gov.au
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The information below is copied from *Auditing a self-managed super fund* (NAT 16308), and contains questions and statements to consider when auditing an SMSF.

Note that these questions assist you to satisfy your reporting

obligations to the regulator. The questions do not cover all compliance provisions which you should cover in your compliance audit. The *Self-managed superannuation fund independent auditor's report* (NAT 11466) outlines all the areas that should be covered in a compliance audit.


DOES THE FUND MEET THE DEFINITION OF AN SMSF?

Reference	Question, statement or additional information	Response	Comments	Folio number
SISA Section 17A	1 Does the fund meet the definition of an SMSF in accordance with the requirements of section 17A of the SISA?	No <input type="checkbox"/> Yes <input type="checkbox"/> go to question 3		
	2 Have you determined whether the trustees wish to: (a) become or remain an SMSF? If so, have appropriate: ■ election documents been completed, and ■ amendments made to the fund's: – trust deed – membership, or – corporate trustee directorships? (b) become or remain a small Australian Prudential Regulation Authority (APRA) regulated fund? If so, have: ■ you confirmed that the trustees have made an election to be regulated in accordance with SISA ■ the trustees appointed a registerable super entity (RSE) licensee as trustee, and ■ you, as the auditor, completed the fund's audit and issued an audit report in accordance with the APRA guidelines?	No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/>		
SISA Section 121 (This section was repealed in May 2008 and replaced by SISA Section 126K.)	Disqualified Trustees 3 Have the trustees provided you with a declaration or statement (usually contained within the trustee representation letter) that there is no reason that would prohibit them from acting as a trustee? An individual is a disqualified person if they: ■ have been convicted of an offence involving dishonesty ■ have ever been subject to a civil penalty order under the SISA ■ are an undischarged bankrupt, or ■ have been disqualified by a Regulator.	No <input type="checkbox"/> Yes <input type="checkbox"/>		
SISA Section 62	4 Was the fund maintained for the 'sole purpose' of providing benefits to: ■ fund members upon their retirement ■ fund members reaching the age prescribed, or ■ dependants of fund members in the case of the member's death before retirement?	No <input type="checkbox"/> Yes <input type="checkbox"/>		

Reference	Question, statement or additional information	Response	Comments	Folio number
SISA Section 62	<p>5 Have you tested whether the SMSF has contravened the sole purpose test by examining the:</p> <ul style="list-style-type: none"> ■ trust deed to ensure that the fund has been established and maintained solely for providing retirement benefits to members or to their dependants in the case of a member's death before retirement, and ■ character and purpose of the fund's investments, to ensure that the: <ul style="list-style-type: none"> – investment arrangements do not provide prohibited financial assistance to another party – trustees, or their family or friends, are not given access to fund assets for private use? <div style="border: 1px solid orange; padding: 5px; margin-top: 10px;"> <p>⚠ Note that if the fund is running an active business as part of its investment strategy this is an indicator the sole purpose test may have been contravened.</p> </div>	No <input type="checkbox"/> Yes <input type="checkbox"/>		
SISA Section 65	<p>Lending and providing financial assistance</p> <p>6 Did the trustees loan monies or provide financial assistance to any member or relative of a member at any time during the financial year under review?</p> <p>The trustees of a regulated super fund must not:</p> <ul style="list-style-type: none"> ■ lend money of the fund, or ■ give any other financial assistance using the resources of the fund to a member or a relative of a member of the fund. 	No <input type="checkbox"/> Yes <input type="checkbox"/>		
SISA Section 66	<p>Acquisition of assets from a related party</p> <p>7 Did the trustees acquire any assets not listed as an exception under section 66 from any member or from a related party of the fund?</p> <p>Trustees of regulated super funds must not intentionally acquire assets from related parties of the fund, subject to exceptions including:</p> <ul style="list-style-type: none"> ■ listed securities ■ direct acquisition of business real property, or indirect acquisition through a related trust that meets the requirements of the regulations, and ■ in-house assets up to the 5% limit. <p>All must be acquired at market value.</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		

Reference	Question, statement or additional information	Response	Comments	Folio number
SISA Section 67	<p>Borrowing</p> <p>8 Did the trustees of the fund borrow any money or maintain an existing borrowing, other than as allowed by the specific borrowing exceptions under the legislation?</p> <p>Borrowing exceptions include:</p> <ul style="list-style-type: none"> ■ to pay a beneficiary, limited to 10% of the value of the assets of the fund and not exceeding 90 days ■ to cover super surcharge debts, limited to 10% of the value of the assets of the fund and not exceeding 90 days, and ■ to meet the settlement of securities transactions, limited to 10% of the value of the assets of the fund and not exceeding seven days ■ instalment warrant type arrangements that meet the borrowing conditions that became effective on 24 September 2007 (s67(4A)). <p>A borrowing involves receiving of a payment from someone in the context of a lender/borrower relationship on the basis that it will be repaid, and include:</p> <ul style="list-style-type: none"> ■ a loan, whether secured or unsecured ■ a bank overdraft, or ■ a transaction where the borrower and lender are the same legal entity. <p>You should examine the fund's creditors and accounting records to satisfy yourself that the trustees did not borrow or maintain any borrowings at any time during the financial year except for the purposes and under the conditions permitted.</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		
SISA Sections 82, 83, 84, 85	<p>In-house assets</p> <p>9 Have you examined loans, investments and leases of the fund?</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		

Reference	Question, statement or additional information	Response	Comments	Folio number
SISA Sections 82, 83, 84, 85	<p>10 Did the trustees comply with the in-house asset rules?</p> <p>An in-house asset is an asset of the fund that is:</p> <ul style="list-style-type: none"> ■ a loan to, or an investment in, a related party of the fund ■ an investment in a related trust of the fund, or ■ an asset of the fund subject to a lease or lease arrangement between the trustee of the fund and a related party of the fund. <p>The trustees of a regulated super fund:</p> <p>(a) must limit the total of in-house assets to a maximum of 5% of the market value of the fund's total assets at year end, and</p> <p>(b) are prohibited from making or acquiring an in-house asset that would cause the total of in-house assets to exceed the 5% in-house asset ratio limit.</p> <p>There are some limited exceptions to the in-house asset rules. Make sure you are familiar with the Part 8 in-house asset provisions.</p>	<p>No <input type="checkbox"/> go to question 11</p> <p>Yes <input type="checkbox"/> go to question 14</p>		
	<p>11 Did the total of in-house assets exceed 5% of the market value of the fund's total assets at year end?</p>	<p>No <input type="checkbox"/> Yes <input type="checkbox"/></p>		
	<p>12 Did the trustees acquire an in-house asset that caused the total of in-house assets at the time of acquisition to exceed the 5% in-house asset ratio limit?</p>	<p>No <input type="checkbox"/> Yes <input type="checkbox"/></p>		
SISA Section 85	<p>13 In your opinion, did the trustees intentionally enter into or carry out a scheme that had the effect of artificially reducing the market value ratio of the fund's in-house assets?</p>	<p>No <input type="checkbox"/> Yes <input type="checkbox"/></p>		

Reference	Question, statement or additional information	Response	Comments	Folio number
SISA Section 109	<p>Investments on an arm's length basis</p> <p>14 Were all investment transactions made and maintained at arm's length?</p> <p>Investments by an SMSF must be made and maintained on a strict commercial basis:</p> <ul style="list-style-type: none"> ■ the purchase and sale price of assets should reflect a true market value, and ■ income from assets held by the fund should reflect a true market rate of return. <div style="border: 1px solid orange; padding: 5px; margin-top: 10px;"> <p> Note that if transactions are not at arm's length, section 109 is not contravened if the terms and conditions of the transaction are no more favourable to the other party than if they were dealing at arm's length.</p> </div>	No <input type="checkbox"/> Yes <input type="checkbox"/>		
	<p>15 Have you examined the purchase or sale of assets to check that:</p> <ul style="list-style-type: none"> ■ the purchase or selling price was at a fair market value, and ■ money was actually paid? <p>You can do this by sighting valuation reports and bank statements.</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		
	<p>16 Have you examined lease arrangements to check that:</p> <ul style="list-style-type: none"> ■ formal lease agreements were drawn up ■ investments were entered into and maintained on commercial terms ■ lease payments were actually made in accordance with agreements, and ■ appropriate collection action was taken if the terms were breached? <p>You can do this by sighting lease agreements and bank statements, confirming commercial terms with the local property market and industry and checking against industry standards.</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		

Reference	Question, statement or additional information	Response	Comments	Folio number
	<p>17 Have you examined loans to check that:</p> <ul style="list-style-type: none"> ■ there is a formal contract and repayment schedule ■ the loan conditions are on commercial terms, including the period of loan, repayments, security and interest rates, and ■ repayments have been made? <p>You can do this by sighting formal contracts, repayment schedules and bank statements and by checking market rates.</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		
	<p>18 Have you examined investments in entities to check:</p> <ul style="list-style-type: none"> ■ all transactions were carried out at market value ■ commercial rates of return were achieved, and ■ the return on investments was paid or received, for example, trust distributions or dividends? <p>You can do this by sighting bank statements and checking market rates.</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		
SISA Paragraph 52(2)(d)	<p>Separation of assets</p> <p>19 Are the assets of the SMSF separate from any assets held by the trustee personally or by the employer sponsor?</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		
	<p>20 Where state law prevents the asset from being held in the fund's name, is there other documentary evidence that clearly identifies fund ownership of the asset or is a caveat, instrument or declaration of trust in place?</p>	No <input type="checkbox"/> Yes <input type="checkbox"/> N/A <input type="checkbox"/>		
	<p>21 Have you satisfied yourself that all assets are held either in the name of the fund or in the name of the trustees as trustee for the fund?</p> <p>The SMSF trustees are required to keep the money and other assets of the fund separate from their personal assets and the assets held by employers who contribute to the fund.</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		

CONTRIBUTION AND BENEFIT STANDARDS

Reference	Question, statement or additional information	Response	Comments	Folio number
SISR Reg 7.04	<p>Contributions</p> <p>22 Did the fund receive any contributions during the year?</p> <p>The definition of ‘contributions’ for the purposes of regulation 7.04 excludes benefits that have been rolled over or transferred within the super system.</p>	<p>No <input type="checkbox"/> go to question 30</p> <p>Yes <input type="checkbox"/> go to question 23</p>		
	<p>In-specie contributions</p> <p>23 Have you checked the form that contributions were received?</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		
	<p>24 Were any of the contributions received in the form of an asset other than cash?</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		
SISA Section 66	Generally, trustees of regulated super funds are prohibited from intentionally acquiring assets (including in-specie contributions) from related parties, with the exception of listed securities, business real property and investments in widely held unit trusts.			
SISR Reg 7.04	<p>Employer contributions</p> <p>25 Did the employer make a contribution?</p>	<p>No <input type="checkbox"/> go to question 28</p> <p>Yes <input type="checkbox"/> go to question 26</p>		
	<p>26 Were these contributions made in accordance with the conditions set down within Part 7 of the SISR?</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		
	<p>27 Were all employer contributions correctly declared for income tax purposes?</p> <p>The rules on acceptance of contributions depend on whether or not contributions are ‘mandated employer contributions’ that include:</p> <ul style="list-style-type: none"> ■ super guarantee contributions ■ super guarantee charge, and ■ award-related contributions. <p>The trustees of a regulated super fund may accept mandated employer contributions for a person regardless of the age of the person or the number of hours they are working at that time.</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		

Reference	Question, statement or additional information	Response	Comments	Folio number
<p>SISR Reg 7.04</p>	<p>The rules on accepting non-mandated employer contributions vary according to:</p> <ul style="list-style-type: none"> ■ the person’s employment status ■ the person’s age ■ the person’s health, and ■ whether the contributions are eligible spouse contributions. <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>➤ For more information, refer to <i>Role and responsibilities of trustees</i> (NAT 11032).</p> </div>			
<p>SISR Reg 7.04</p>	<p>Member / employee contributions</p> <p>28 Did the fund receive any contributions from members?</p> <p>You should verify that these contributions were in accordance with the applicable rules for the financial year being audited. These relate to the caps, quotation of tax file numbers (TFNs) and age based employment status.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>➤ For more information about this issue, refer to our website at www.ato.gov.au</p> </div> <p>Member contributions are contributions made by or on behalf of a member other than employer contributions made for the member.</p> <p>If the fund accepted member contributions for a member where their TFN has not been quoted (for super purposes) the fund should return the amount to the individual or entity that made the contribution within 30 days of becoming aware that they had received it and not held the member’s TFN.</p>	<p>No <input type="checkbox"/> go to question 30</p> <p>Yes <input type="checkbox"/> go to question 29</p>		
	<p>29 Did the fund receive the member’s TFN (for super purposes) within 30 days of receiving the member contribution?</p> <p>If not, did they return the contribution?</p>	<p>No <input type="checkbox"/> Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/> Yes <input type="checkbox"/></p>		

Reference	Question, statement or additional information	Response	Comments	Folio number
SISR Reg 6.17 Reg 5.08	Benefit payments			
	30 Did the trustees pay any benefits to members during the year under review?	No <input type="checkbox"/> go to question 35 Yes <input type="checkbox"/> go to question 31		
	31 Was the payment made in accordance with Part 6 of the SISR and permitted by the trust deed?	No <input type="checkbox"/> Yes <input type="checkbox"/>		
	32 Did the fund pay a pension during the year?	No <input type="checkbox"/> go to question 35 Yes <input type="checkbox"/> go to question 33		
	33 Did the trust deed permit the payment of a pension and did the trustees meet all administrative requirements for the payment of pensions? The administrative requirements for the payment of pensions may include obtaining an actuarial certificate, registering for pay as you go (PAYG), withholding correct amounts of tax from pension payments and remitting these to us and issuing an end of year payment summary.	No <input type="checkbox"/> Yes <input type="checkbox"/>		
	34 Have minimum pension benefit payment standards been met? A fund trustee is no longer required to cash the benefits of a member simply because they have reached a certain age.	No <input type="checkbox"/> Yes <input type="checkbox"/>		
35 Have members' minimum benefits in the fund (as defined) been maintained in the fund until the benefits are cashed, rolled over or transferred as benefits of the member? Ensure member benefits are correct via a review of the member statement.	No <input type="checkbox"/> Yes <input type="checkbox"/>			

ADMINISTRATIVE OBLIGATIONS

Reference	Question, statement or additional information	Response	Comments	Folio number
SISA Section 103	<p>36 Duty to keep minutes and records</p> <p>Did the trustees keep minutes of all meetings and maintain the minutes:</p> <ul style="list-style-type: none"> ■ for a minimum of 10 years, or ■ since the establishment of the fund, if less than 10 years? 	No <input type="checkbox"/> Yes <input type="checkbox"/>		
SISA Section 35A	<p>37 Accounting records</p> <p>Did the trustees keep and maintain accounting records:</p> <ul style="list-style-type: none"> ■ for a minimum of five years, or ■ since the establishment of the fund if less than five years? 	No <input type="checkbox"/> Yes <input type="checkbox"/>		
SISA Section 104A	<p>38 Have those trustees who became a trustee after 1 July 2007, signed and maintained a trustee declaration?</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		
SISA Section 35B	<p>39 Accounts and statements</p> <p>Did the trustees prepare and maintain proper accounting records and prepare a statement of financial position and an operating statement, in accordance with accepted Australian accounting principles and practices?</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		
SISA Section 35C	<p>40 Audit of accounts and statements</p> <p>Did the trustees provide you with the necessary documents to complete the audit in a professional and timely manner?</p>			
SISR Reg 4.09	<p>41 Investment strategy</p> <p>Did the trustees have an investment strategy for the fund?</p>	No <input type="checkbox"/> go to question 44 Yes <input type="checkbox"/> go to question 42		
	<p>42 Did the investment strategy give consideration to:</p> <ul style="list-style-type: none"> ■ risk ■ return ■ liquidity, and ■ diversification? 	No <input type="checkbox"/> Yes <input type="checkbox"/>		
	<p>43 Are the fund's investments in line with the investment strategy?</p>	No <input type="checkbox"/> Yes <input type="checkbox"/>		

Reference	Question, statement or additional information	Response	Comments	Folio number
SISR Paragraph 52 (2)(e)	44 Enter into a contract Did the trustees enter into a contract, or do anything else that would prevent or hinder the trustee from properly performing or exercising the functions or powers of a trustee?	No <input type="checkbox"/> Yes <input type="checkbox"/>		
SISR Reg 13.12	45 Did the trustees recognise, or in any way encourage or sanction, an assignment of a super interest of a member or beneficiary?	No <input type="checkbox"/> Yes <input type="checkbox"/>		
SISR Reg 13.13	46 Did the trustees recognise, or in any way encourage or sanction, a change over or in relation to a member's benefits?	No <input type="checkbox"/> Yes <input type="checkbox"/>		
SISR Reg 13.14	47 Did the trustees give a charge over, or in relation to, an asset of the fund?	No <input type="checkbox"/> Yes <input type="checkbox"/>		

FINALISING YOUR AUDIT

The following documents and papers should be part of your work files:

- copy of trust deed
- appointment of trustees
- election or notice to be a regulated fund
- your current audit engagement letter
- trustee representation letter
- financial report of fund
- working papers including copies of all relevant documents that are important in providing evidence that support your findings and opinion
- management letter or completed audit finalisation report, and
- the completed audit report.

B

APPENDIX B

TABLE 1: List of reportable sections and regulations

Section or regulation	Section or regulation title	Does a statutory time period apply?
S17A	SMSF definition	
S35C(2)	Trustee to provide documents to the auditor	Yes. Trustee/s must ensure that requested relevant documents are given to the auditor within 14 days of the request being made.
S52(2)(d)	Separation of assets	
S62	Sole purpose test	
S65	Lending or providing financial assistance to members or their relatives	
S66	Acquisition of assets from related parties	
S67	Borrowing by the fund	Yes. For borrowing exceptions only. A temporary borrowing to pay beneficiaries or to make a super surcharge payment must not exceed 90 days. A temporary borrowing to cover settlement of securities transactions must not exceed seven days.
S82	In-house assets – exceeding in-house assets ratio	Yes. Market value ratio for the 2000–01 year of income and later years of income. If it exceeds 5%, the trustee must prepare and carry out a written plan to reduce the market value ratio to 5% or less before the end of the next following year of income.
S83	In-house assets – prohibition on further acquisition	
S84	In-house assets – reasonable steps	
S85	In-house assets – avoidance schemes	
S103	Minutes and records	
S104A	Trustee declaration	Yes. A trustee declaration in the approved form must be signed within 21 days of becoming a trustee (or a director of a corporate trustee) of an SMSF.
S109	Investments to be maintained on an arm's length basis	
S126K	Disqualified persons not to be trustees	Yes. Trustee must immediately tell us in writing if a trustee is or becomes a disqualified person.
R4.09	Investment strategy	
R5.08	Minimum benefits	
R6.17	Restriction on payment of benefits	
R7.04	Acceptance of contributions	Yes. Returning contributions to members, for example, where no TFN is quoted.
R13.14	Charges over assets of the fund	

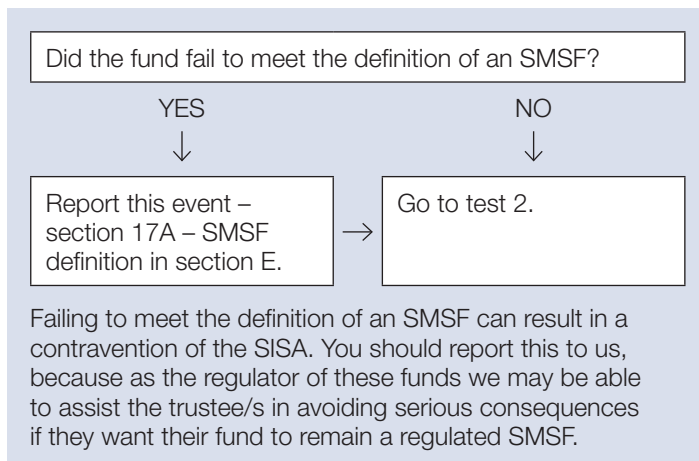
REPORTING CRITERIA

The following tests set out what contraventions you must report to us. In addition, under test 1 you are asked to consider whether the fund meets the definition of an SMSF.

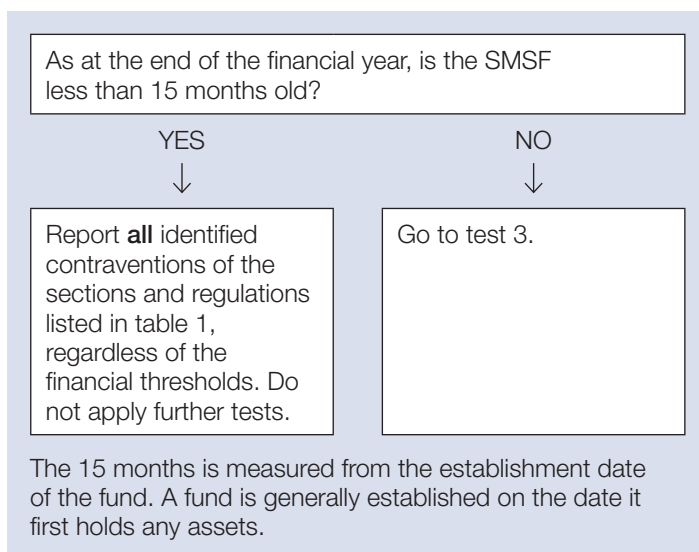
➤ You do not have to change your auditing methods if they meet Australian Auditing and Assurance Standards.

Work through each test and where applicable report the sections and regulations listed in table 1 on page 6.

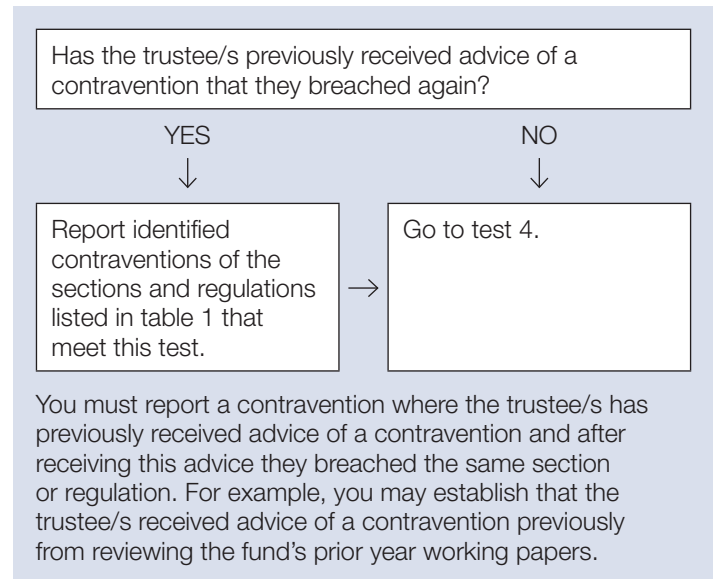
TEST 1: Fund definition test



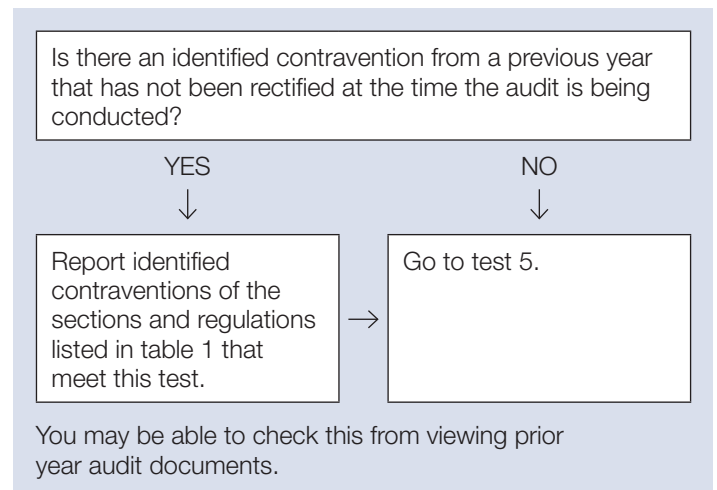
TEST 2: New fund test



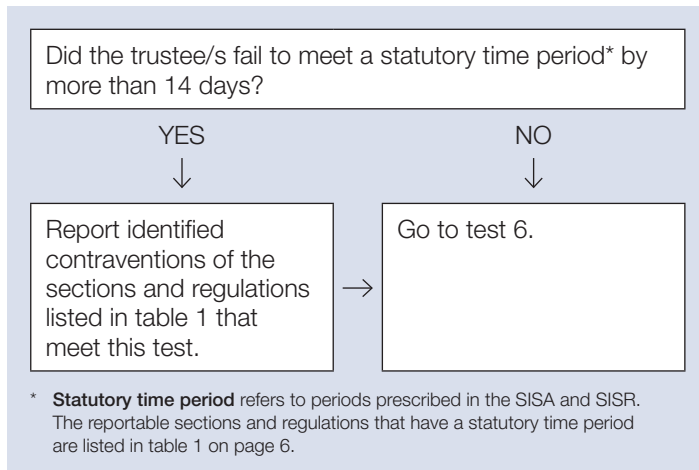
TEST 3: Trustee behaviour test



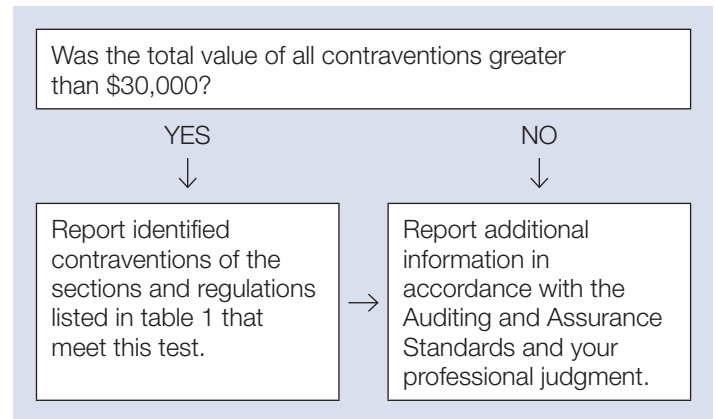
TEST 4: Trustee behaviour test



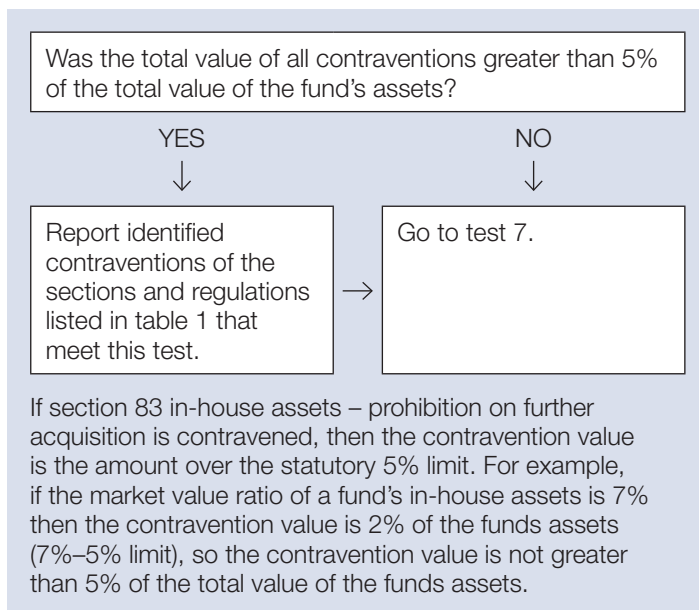
TEST 5: Trustee behaviour test



TEST 7: Financial threshold test



TEST 6: Financial threshold test



PROFESSIONAL JUDGMENT

We encourage you to report contraventions and other information that you consider will help us perform our function as the regulator of SMSFs. To decide whether to report contraventions and other important facts, even if they do not meet any of the tests, you should apply:

- the Auditing and Assurance Standards, and
- your professional judgment.

