

# KnowHow

## Coronavirus guidance for SMSF trustees

8 April 2020

COVID-19 is affecting many self-managed super fund (SMSF) trustees. The following information has been collated to help you navigate these uncertain times.

Issue	Guidance
<p><b>Access to super – compassionate ground – coronavirus</b></p>	<p>Temporary early release (access) is available to members who are adversely (economically) affected and satisfy the eligibility criteria (refer to <a href="#">ATO website</a>).</p> <p>The maximum amount a member can access is up to \$10,000 in 2019/20 and an additional \$10,000 in 2020/21 (applied for no later than 24 September 2020).</p> <p>Applications are via MyGov and can be made from 20 April 2020. If eligible for early release of super, the ATO will issue a determination to the person and the trustee of the SMSF including the amount to be paid. Only then is the trustee authorised to make a payment.</p> <p>Before making the payment, care should be taken to ensure:</p> <ul style="list-style-type: none"> <li>▪ you are eligible to apply for the payment</li> <li>▪ the trust deed of the SMSF allows for withdrawals (as some trust deeds may prescribe conditions of release and need updating to allow payment under this new provision)</li> <li>▪ the fund has sufficient liquidity to allow for the withdrawal and continued normal operation of the SMSF (as the legislation requires trustees to pay the amount to the member as soon as practicable), and</li> <li>▪ the fund’s investments continue to be consistent with the documented investment strategy which, in some cases, may need updating<sup>1</sup>.</li> </ul>
<p><b>Pension payments</b></p>	<p>Every year trustees must ensure the minimum pension payment is met. Minimum pension payments for the current (2019/20) and next (2020/21) financial years have been halved to address concerns with the current market volatility.</p> <p>As the minimum has been halved for 2019/20, it is possible to reduce pension payments for the remainder of the financial year. If a member has already met the reduced minimum, no further payments are necessary for the remainder of this financial year. However, it is important to follow the rules of the fund to ensure a request is received by the member in the correct format.</p> <p>The new minimum pension payments for next financial year will be calculated on the member’s 1 July 2020 account balance.</p> <p>Care should be taken to ensure the:</p> <ul style="list-style-type: none"> <li>▪ trust deed allows for a reduced minimum pension to be applied (noting that deeds which have prescribed pension minimums will need to be amended to apply this measure)</li> <li>▪ pension commencement documentation allows reduced minimum payments, and</li> <li>▪ reduced minimum payments continue to meet the member’s ongoing cashflow requirements.</li> </ul>

<sup>1</sup> This may also be promoted due to the recent market movements.

<p><b>Investment strategy</b></p>	<p>The investment strategy of the fund must be reviewed regularly. Where the fund's investments do not align with the investment strategy (for example, due to market downturn), action should be taken to either rebalance the asset allocation, or to amend the investment strategy where appropriate. Similar action may need to be taken in the event of market recovery. Consideration should be given to any impact to the investment strategy from withdrawals made by members.</p>
<p><b>Rental income from SMSF properties</b></p>	<p>The ATO have confirmed that SMSFs can provide temporary relief to rental arrangements with tenants including those who are:</p> <ul style="list-style-type: none"> <li>▪ a related party or related trust, or</li> <li>▪ where a member, a relative of a member or related party/trust has an underlying economic interest in the tenant.</li> </ul> <p>This type of arrangement would ordinarily trigger a range of compliance breaches, however, the ATO has indicated it will not take compliance action for the 2019/20 or the 2020/21 financial years.</p> <p>Care should be taken to ensure:</p> <ul style="list-style-type: none"> <li>▪ concessions provided are documented along with supporting evidence</li> <li>▪ concessions are conducted on an 'arms-length' basis and are in the best interest of the fund and its members, and</li> <li>▪ the fund has the ongoing ability to meet its obligations, including liabilities.</li> </ul>
<p><b>In-house assets</b></p>	<p>In-house assets cannot exceed 5% of the fund's total assets. Where in-house assets exceed this threshold at the end of a financial year, the trustees of the fund must write and execute a plan to correct the position by the end of the following financial year.</p> <p>Where the in-house asset limit is breached on 30 June 2020 and the written plan to correct the position has not been successfully executed by 30 June 2021, the ATO will not take compliance action if the plan has not been executed because:</p> <ul style="list-style-type: none"> <li>▪ markets had not recovered, or</li> <li>▪ action was unnecessary due to market recovery rectifying the position.</li> </ul>
<p><b>Estate planning / succession planning</b></p>	<p>In times of uncertainty and heightened risk of illness, it is more important than ever to develop or review the fund's succession plan and the members' estate planning wishes. This includes making sure enduring Powers of Attorney are in place and understanding the rules of the fund in the event of a trustee's death.</p> <p>Broadly speaking, succession planning aims to ensure the right people:</p> <ul style="list-style-type: none"> <li>▪ gain control of the SMSF so that superannuation benefits are paid as intended, and</li> <li>▪ receive those benefits.</li> </ul> <p>Due to the complexity of these matters, trustees/members should seek legal advice to ensure their wishes can be accomplished via succession planning and supporting documentation. This includes superannuation death benefit nominations (if appropriate) as well as a Will.</p>

<b>Regulatory reporting &amp; SMSF annual returns</b>	<p>The ATO has allowed accountants and auditors some leniency on lodgements of the SMSF annual return should COVID-19 affect their ability to lodge before the due date. An extension (for up to six weeks) should be requested prior to the due date. Where an extension is granted, this will also extend to Transfer Balance Account Reporting obligations where the fund reports transfer balance account events annually. Further information regarding this extension can be found on the <a href="#"><u>ATO website</u></a>.</p>
<b>Residency Requirements</b>	<p>If the individual trustees or its directors of a corporate trustee are stranded overseas due to COVID-19, the ATO will not apply compliance resources to determine whether the SMSF meets the relevant residency conditions that would ordinarily apply. Further information regarding this issue can be found on the <a href="#"><u>ATO website</u></a>.</p>
<b>Additional information</b>	<p>The ATO has provided a series of <a href="#"><u>questions and answers</u></a> for SMSF trustees.</p>

## Next steps

To find out more about these are any other issues or concerns you may have, we recommend you contact your financial adviser.

## Important information

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