

## **Procedures to adopt your Investment Strategy**

Carefully examine the attached documents and ensure that the Investment Strategy is in line with the Fund Trustee's requirements.

If the Trustee is satisfied the Investment Strategy is in line with their investment requirements, arrange for the Trustee to sign and date the Investment Strategy and Trustee Minutes enclosed, and retain the executed copies in the Super Fund register.

# INVESTMENT STRATEGY FOR THE MARSHALL SUPERANNUATION FUND (‘the Fund’)

## FOR THE 2019 / 2020 FINANCIAL YEAR

### 1. *Purpose of the Fund*

To provide retirement benefits to the members of the Fund and/or their dependants and legal personal representative/s.

### 2. *Circumstances of the Fund*

The Fund is a Complying Self Managed Superannuation Fund.

The current trustee of the Fund is MARSHALL WEALTH Pty Ltd (ACN 634 361 630) (**Trustee**).

### 3. *Purpose of this Investment Strategy.*

- 1) To ensure the Fund remains compliant with the regulatory body and maintains its concessional taxation status.
- 2) To set out the general and specific investment objectives for the Fund, and to detail the investment methods the Trustee will adopt to achieve these investment objectives.
- 3) To comply with section 52B(2)(f) of the *Superannuation (Supervision) Act 1993 (SISA)* and regulation 4.09 of the *Superannuation Industry (Supervision) Regulations 1994* which require trustees of SMSFs to formulate, review regularly and give effect to an investment strategy that has regard to the whole of the circumstances of the Fund including, but not limited to, the following:
  - a) The risk involved in making, holding and realising, and the likely return from, the Fund’s investments, having regard to its objectives and expected cash flow requirements;
  - b) The composition of the Fund’s investments as a whole, including the extent to which they are diverse or involve exposure of the entity to risks from inadequate diversification;
  - c) The liquidity of the Fund’s investments, having regard to its expected cash flow requirements;
  - d) The ability of the Fund to discharge its existing and prospective liabilities; and
  - e) Whether the trustees of the Fund should hold a contract of insurance that provides insurance cover for one or more members of the Fund.

### 4. *Investment Objectives of the Fund – General Objectives:*

- 1) To maximise the rate of return of the member’s assets in the Fund, taking into account the risks associated with the holding of different types of investments;

- 2) To provide appropriate diversification in assets and classes of investment assets of the Fund;
- 3) To ensure the Fund has sufficient liquidity to meet current cash liabilities including tax liabilities, expenses related to the operation of the Fund, the payment by the Fund of any liabilities other than tax, and the payment of any member benefits that may become due.

The Trustee, when determining the current and future liquidity of the Fund, has taken into consideration the following factors:

- a) The number and age of the members of the Fund;
  - b) The retirement plans of each member, and the means by which each member will seek to access their superannuation benefits upon retirement;
  - c) The current cash liabilities of the Fund including tax liabilities, the expenses related to the running of the Fund, the payment of any liabilities other than tax, and the payment of members' benefits;
  - d) Anticipated future contributions by the members of the Fund;
  - e) The current investment asset spread of the Fund;
  - f) The life insurance needs of the members of the Fund; and
  - g) The actual and potential cash liabilities of the fund over the next rolling 10 year period.
- 4) To shield the Fund from undue risk;
  - 5) To only participate in investments that meet the sole purpose test outlined in SISA;
  - 6) To only participate in investments which are sanctioned by the Fund's Trust Deed.

#### *5. Investment Objectives of the Fund – Specific Investments*

The Trustee has nominated the following as the specific investment objective of the fund:

To achieve an overall investment return of between 0% and 100% per annum over a rolling ten year period.

#### *6. Investment Spread of the Fund*

In order to achieve the specific investment objective of the Fund, and having taken into consideration the risks associated with each type of investment, the Trustee has determined to implement the following investment asset spread for the time being;

<b>Asset Type</b>	<b>% Investment Spread of the Asset</b>
Cash	0% - 100%
Australian Fixed Interest	0% - 100%
International Fixed Interest	0% - 100%
Australian Equities	0% - 0%
International Equities	0% - 0%
Residential Property, Commercial Property, Retail Property, either direct, listed or unlisted	0% - 0%
Precious Metals	0% - 100%
Foreign Currency Trading	0% - 100%

The Fund is not intending to hold a contract of insurance for any of the members of the Fund.

The Trustee has determined that in order to achieve the investment objectives of the Fund, the Trustee may at any time, so long as it documents such a decision, alter the investment spread of the Fund's assets. This will involve a continual review of the investment spread of the Funds assets to ensure the return on investment within the Fund as closely as possible meets the investment objectives of the fund.

*7. Implementation of the Investment Strategy.*

This investment strategy will be implemented at the beginning of the 2019 / 2020 financial year and will continue until it is revoked or replaced.

The power to change, review, or edit this investment strategy remains with the Trustee.

Signed on behalf of the Trustee



**DANIEL MARSHALL**

**DATED** 25 / 06 / 2019

**MARSHALL SUPERANNUATION FUND  
(Fund)**

**MARSHALL WEALTH PTY LTD  
ACN 634 361 630  
(Company)**

**RESOLUTION OF THE SOLE DIRECTOR  
MADE UNDER THE CONSTITUTION OF THE COMPANY**

I, the undersigned:

Daniel Marshall

being the sole director of the Company, acting in its capacity as trustee for the Fund, do hereby resolve as follows:

**INVESTMENT  
STRATEGY:**

It was noted that the Company has prepared an investment strategy for the Fund for the financial year 2019 / 2020 (**Investment Strategy**).

It was further noted that in accordance with the provisions of the Fund's Trust Deed, section 52(2)(f) of the *Superannuation (Supervision) Act 1993* and regulation 4.09 of the *Superannuation Industry (Supervision) Regulations 1994*, the Investment Strategy contains the investing objectives of the Fund, as well as the investment methods by which the objectives are to be met, taking into consideration the circumstances of the Fund, including;

- The current investment spread of the Fund's assets;
- The number and age of the members of the Fund;
- The retirement plans of each member, and the means by which each member will seek to access their superannuation benefits upon retirement;
- The current cash liabilities of the Fund including tax liabilities, expenses related to the running of the Fund, the payment of any liabilities other than tax, and the payment of member's benefits;
- Anticipated future contributions by the members of the Fund;
- The life insurance needs of the members of the Fund; and

- The actual and potential cash liabilities of the fund over the next rolling 10 year period.

ADOPTION OF  
INVESTMENT  
STRATEGY:

**IT WAS RESOLVED** to adopt the Investment Strategy.

**DATED** 25 06 2019



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**DANIEL MARSHALL**

# Notes to the Marshall Superannuation Fund Investment Strategy

## **Introduction**

The following notes outline the responsibilities of the trustees in developing an Investment Strategy that conforms with section 52B(2)(f) the *Superannuation Industry (Supervision) Act 1993 (SISA)* and regulation 4.09 of the *Superannuation Industry (Supervision) Regulations 1994*. The notes also outline the restrictions on the types of assets that the trustees of SMSFs are allowed to invest in.

## **General Obligations of the Trustees**

All trustees of SMSFs are required under SISA to prepare and implement an investment strategy for their SMSF. When preparing an investment strategy, the trustees must determine the investment objectives of the Fund, as well as the investment methods by which the investment objectives will be achieved.

Under SISA, when the trustees are preparing the investment strategy for their Fund, they are obligated to formulate the strategy based on the following principles;

- To maximise the rate of return of the members assets in the Fund, taking into account the risks associated with the holding of different types of investments;
- To consider the benefits of diversifying the investment assets of the Fund;
- To ensure the Fund has sufficient cash liquidity at any given time to pay member benefits as well as any other costs incurred during the operation of the Fund as they become payable.

In addition to these obligations, the trustees under Trust Law have further duties, relating to the types of investments selected as part of the investment strategy and the actions of the trustees overall when investing the Assets of the Fund. The trustees must;

- Act honestly at all times
- Exercise due diligence and skill in the selection of investments;
- Act in the best interests of the members of the fund.

## **Obligations of the Trustees – Determining the Objectives of the Investment Strategy**

When preparing the investment objectives of the Fund, the trustees must take into consideration many factors that will affect the Fund's ability to successfully invest in different types of assets.

Specifically, trustees are required to take the following factors into account when determining the investment objectives of the Fund.

### **The purpose of the Fund**

Is the purpose of the Fund to provide lump sum benefits, an income stream or both to members?

### **The Circumstances of the Fund**

The circumstances of the Fund include:

- The number and age of the members of the Fund;
- The retirement plans of each member, and the means by which each member will seek to access their superannuation benefits upon retirement;
- The current cash liabilities of the Fund including tax liabilities, expenses related to the running of the Fund, the payment of any liabilities other than tax, and the payment of member's benefits;
- Anticipated future contributions by the members of the Fund;
- The current investment spread of the Fund's assets;
- The life insurance needs of the members of the Fund; and
- The actual and potential cash liabilities of the fund over the period the trustees are proposing to implement the investment strategy.

The trustees should document through trustee minutes or other documentation that they have taken the circumstances of the Fund into consideration when formulating the investment strategy.

### ***Trustee Obligations – Determining the Investment Methods to achieve the Investment Objectives***

SISA places certain restrictions on the type of assets that the trustees of SMSFs can invest in.

The purpose of placing these restrictions is to protect the Fund from exposure to undue risk, and to ensure that the investment decisions made by the trustees are for the sole purpose of generating retirement benefits for the members of the Fund.

Failure to comply with the investing rules outlined in SISA can lead to the trustees being fined, and the Fund potentially losing its complying status, and therefore, its concessional tax status.

It is therefore imperative when drafting an investment strategy, for the trustees to only consider investing in investments that are eligible under SISA.

As well as the restricted investment assets that will be outlined in this section, the trustees must also ensure they only invest in assets that are sanctioned by the current Trust Deed of the Fund.

The following is a list of investment restrictions placed on trustees by SISA:

#### **Investment restrictions**

SISA restricts some investment practices of superannuation funds. The investment restrictions aim to protect superannuation fund members from being overly exposed to undue risk (for example, an associated business failing). Secondly, they aim to ensure that



superannuation funds make investment decisions with the sole purpose of generating retirement benefits for members rather than providing current day support.

Investment rules are one of the most important requirements of SISA and failure to comply with the rules could result in trustees being fined and/or the superannuation fund losing its complying status.

### **Loans or financial assistance to members or a member's relative**

Trustees are prohibited from lending money or providing financial assistance from the superannuation fund to a member or a member's relative. The use of a superannuation fund asset by a member or a member's relative for no cost or as a guarantee to secure a personal loan for example, would be in breach of this investment restriction [SISA s65(1)].

### **Borrowings**

SMSFs are prohibited from borrowing money except in certain limited circumstances.

Trustees are able to borrow for a maximum of 90 days to enable the trustees to make benefit payments, or pay a surcharge liability, if the borrowing does not exceed 10% of the Fund's total assets. In specified circumstances trustees can also borrow for a maximum of 7 days to cover the settlement of security transactions if the borrowing does not exceed 10% of the Superannuation Fund's total assets (SISA s67).

Under section 67A of SISA trustees may also borrow money to fund the acquisition of an asset in certain circumstances.

The acquisition of an asset via a borrowing under the terms of s67A must comply with the following criteria:

- the loan proceeds must be applied for the acquisition of an asset by the Fund;
- the asset acquired must not be an asset that the Fund trustee is prohibited from acquiring normally under the SIS Act or any other law;
- the acquired asset must be held on trust for the Fund by a separate entity, so that the Fund trustee holds the beneficial entitlement to the asset;
- the Fund trustee must have the right to acquire legal ownership of the asset from the separate entity by making one or more payments after obtaining a beneficial entitlement to the asset; and
- the loan to the Fund must be limited recourse in nature, so that the lender's rights to recourse on default of the loan are limited to rights to the asset being acquired.

### **Acquisition of assets from 'related parties'**

Except for certain limited exceptions trustees are prohibited from acquiring assets from a 'related party' of the superannuation fund (SISA s66(1)). The limited exceptions to this rule include assets acquired at market value, if:

- the acquisition is an 'in-house asset' which, after being acquired by the trustees would not result in the level of 'in-house assets' of the Superannuation Fund exceeding more than 5% of the Superannuation Fund's assets;
- the asset is a listed security (for example, shares, units or bonds listed on an approved Stock Exchange);

- the asset is 'business real property' (SISA s66).

'Business real property' of an entity generally relates to land and buildings used wholly and exclusively in a business. Trustees of SMSFs are permitted to acquire up to 100% of the Fund's total assets as 'business real property'.

### **Related party of a fund**

A 'related party' of a superannuation fund covers all members of the Superannuation Fund and their Part 8 associates and all standard employer sponsors of the Superannuation Fund and their Part 8 associates (s70B to 70E SISA).

Part 8 associates of members include their relatives, partners and any companies or trusts that they control (either alone or with their other Part 8 associates).

Part 8 associates of standard employer sponsors includes partners and any companies or trusts that the employer controls (either alone or with their other Part 8 associates) or companies and trusts which control the employer.

### **In-house assets**

'In-house assets' are loans to, investments in, and assets subject to a lease or lease arrangement with a related party of the Superannuation Fund. In general, SMSFs are restricted from lending or leasing more than 5% of the Superannuation Fund's total assets to a related party of the Superannuation Fund and are generally restricted from investing more than 5% of the Superannuation Fund's assets in a related party of the Superannuation Fund [SISA s66 (2A)].

Some exceptions do exist, including allowing an exemption for 'business real property', which is subject to a lease between the Superannuation Fund and a related party of the Superannuation Fund.

In addition SMSFs may invest in a unit trust or a company, without that investment being considered an 'in-house asset', if certain conditions are met [*Superannuation Industry (Supervision) Regulations 1994 (SISR) 13.22C*]. The main conditions being that the trust or company:

- does not borrow;
- has no assets that have a charge over them;
- does not invest in or loan money to individuals or other entities (other than deposits with authorised deposit-taking institutions);
- has not acquired an asset from a related party of the superannuation fund (after 11 August 1999) other than business real property;
- does not acquire an asset (apart from business real property acquired at market value) that had been owned by a related party of the superannuation fund in the previous three years;
- does not directly or indirectly lease assets to related parties, other than business real property;
- does not conduct a business; and

- conducts all transactions on an arm's length basis.

*Ref: SISR Section 13.22C and 13.22D*

### **Arms Length Rule**

Investments by SMSFs must be made and maintained on a strict commercial basis. The purchase and sale price of assets and the income from assets held by the superannuation fund should always reflect a true market rate of return (SISA s109).

### ***The ATO have provided the following guidance in respect of some common issues about investments***

#### **Investment in art**

SISA attaches certain requirements that trustees must consider when developing and implementing an investment strategy but does not prescribe the types of investments.

Fund investments should be made with the fundamental objective of providing for the members' retirement. Trustees should seek expert advice on the potential income, capital growth and liquidity of the asset before acquiring any non-traditional asset including art. Trustees should consider the costs associated with the storage and insurance of the art. Also, where a fund acquires an asset which is utilised by the member at no cost, a breach of the sole purpose test may have occurred. An example would be if the art is housed in the business premises or residence of a member at no cost to the member. These arrangements may breach other requirements of the SISA including the in-house asset provisions and the requirement to deal at arms length.

#### **Loan to an employer-sponsor**

Under s109 of the SISA the investments of a superannuation entity are to be maintained on an arm's length basis. The terms and conditions of the transaction should be no more favourable than if the parties were at arm's length in the same circumstances.

For example, an unsecured loan between the trustees of the Fund and the employer-sponsor, where there is no interest being paid, no reduction on the outstanding loan amount, and no written contract regarding the unsecured loan is a contravention of s109 of the SISA. It is reasonable to expect that parties dealing at arm's length would have a written contract including the term of the loan, the rate of interest, and the loan repayment requirements. Accordingly the parties are not dealing at arm's length because the terms of the loan are more favourable to the employer-sponsor than they would be if the parties were at arms length.

#### **Loan to a member**

Section 65 of the SISA prohibits the trustees from lending money of the Fund to a member or a relative of a member.

#### ***Other considerations***

SISA provides a defence to trustees of SMSFs against actions for loss or damages suffered as a result of an investment decision by the trustees. This defense is only available when the trustees can show that they have complied with all relevant covenants, including that the investment that triggered the action was made in accordance with the current investment strategy of the Fund, as formulated under the investment strategy covenant.

As a consequence of the above, it is imperative for the trustees to document the adoption of an investment strategy, through for example, trustee minutes, so they can show that the investment triggering the action was made in accordance with the current investment strategy of the Fund.

It is also imperative that the trustees continually review the performance of the investment Asset spread of the investment strategy to ensure the investments are performing at the required levels.

The trustees have the power to alter the investment levels of each investment type at any given time, but should ensure that if they do so, they should document the change through either a new investment strategy, or an amended investment strategy, as well as trustee minutes