

28 September 2022

Dear trustees,

### FANNING SUPERFUND - MANAGEMENT LETTER FOR THE YEAR ENDED 30 JUNE 2021

I wish to advise that the audit of your superfund for the year ended 30 June 2021 has recently been completed. Auditors are encouraged by the Australian Taxation Office to issue management letters at the completion of the audit as a means of advising the trustee of any matters noted during the course of the audit.

My audit work involves examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report in order to form an opinion as to whether, in all material respects, the financial report is fairly stated in accordance with the accounting policies. Further, my audit work involves examination, again on a test basis, of evidence supporting compliance with certain requirements of the Superannuation Industry (Supervision) Act 1993 (SIS Act) and the Superannuation Industry (Supervision) Regulations 1994.

It should be noted that our audit tests did not cover every provision of the SIS Act nor would they necessarily detect all instances of non-compliance. The matters raised below for your attention are those detected in the course of our audit procedures. This does not mean that there are no further matters that you should be aware of in meeting your responsibilities as trustees, nor does this report absolve you from taking appropriate action to meet these responsibilities.

#### Matters for the Trustees' attention

No.	Event	Relevant SIS legislation	
1	The trustees of the Superfund lent \$33,500 to an individual Ian Williams on 12 Aug 2020. The loan will terminate on 12 Aug 2023 and the interest rate is 17% per annum according to the loan agreement provided. No interest is paid for FY2021 and no documentation is provided to evidence the recoverability of the loan. Given that the trustees did not advise whether the borrower is a related party of the Superfund and no documentation is provided to evidence the market value or the recoverability of the loan, the auditor is unable to confirm or verify the compliance with the in-house asset rules and the existence, ownership and valuation of the investment as at 30 June. Furthermore, the auditor is unable to confirm or verify the loan investment is made at arm's length.	Sole Purpose Test	S62
		Valuation of Assets	R8.02B
		Separation of Assets	R4.09A
		Non-Arm's Length	S109
		Investment Strategy	R4.09
		In-house Assets	S82-84
		Non-arm's Length	S109
2	The CBA Accelerator account of the Superfund was overdrawn by \$10,219.49 on 26/03/2021. The amount has been returned to the Bank on 29/03/2021.	Borrowing by the Superfund	S67

#### Suggested trustees' action

No.	Explanation & Suggested Actions
1	In accordance with the SIS Act and Regulation mentioned above, your Superfund needs to be maintained for the sole purpose of providing retirement benefits to your members and the Superfund's assets should be kept separate from your personal assets. Trustees must formulate, regularly review and give effect to

an investment strategy for the Superfund. Your Superfund must comply with the in-house assets rules. When preparing accounts and statements, an asset must be valued at its market value. All investments need to be maintained on an "arm's length basis".

Please provide the documentation evidencing the market value of the loan investment (e.g. confirmation of the loan amount issued by the borrower as at 30 June and documentation evidencing the recoverability of the loan) to ESUPERFUND.

Please provide supporting documentation (i.e. meeting minutes prepared by the trustees and confirmation letter from the borrower) to ESUPERFUND evidencing whether the borrower is a related party of the Superfund. Please note if you can control or sufficiently influence the company, the company will be a related party of the Superfund and the investment will be an in-house asset of the Superfund.

To the extent that it is an in-house asset, as the investment has exceeded 5% of your Superfund's total assets, the trustees must prepare and carry out a written plan to reduce the market value ratio to 5% or less before the end of the following year of income. Please provide the written plan to ESUPERFUND if applicable.

Please provide documentation (e.g. similar loan terms issued by a bank or other arm's length unrelated financial entities) to ESUPERFUND evidencing the loan term, i.e. interest rate and repayment frequency is at arm's length.

Please refer the following ATO website for more information:

<https://www.ato.gov.au/Super/Self-managed-super-funds/In-detail/SMSF-resources/Valuation-guidelines-for-self-managed-super-funds/>

<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Sole-purpose-test/>

<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Ownership-and-protection-of-assets/>

<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Your-investment-strategy/>

<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/In-house-assets/>

<https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/Related-parties-and-relatives/>

<https://www.ato.gov.au/super/self-managed-super-funds/investing/tax-on-income/non-arm-s-length-income/>

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In accordance with the SIS Act mentioned above, your Superfund can borrow money only in very limited circumstances. These circumstances include:

- borrowing money for a maximum of 90 days to meet benefit payments due to members or to meet an outstanding surcharge liability (the borrowings can't exceed 10% of your fund's total assets)
- borrowing money for a maximum of seven days to cover the settlement of security transactions if the borrowing does not exceed 10% of your fund's total assets (you can only borrow to settle security transactions if, at the time the transaction was entered into, it was likely that the borrowing would not be needed)
- borrowing using instalment warrants or limited recourse borrowing arrangements that meet certain conditions.

Please note a bank overdraft is a borrowing that generally cannot satisfy the above circumstances. Given the amount has been returned to the Bank, no further action is required. Please keep track of your Superfund's bank transactions and avoid any overdraft in future.

Please refer to the following ATO website for more details:

<https://www.ato.gov.au/super/self-managed-super-funds/investing/restrictions-on-investments/borrowing/>

As your auditor, where I am required to lodge a contravention report with the Australian Taxation Office, your action plan to rectify this event and any mitigating circumstances can be included in this report. This will assist the regulator when they assess your Superfund.

Yours sincerely,

Xuan Wu – SMSF Auditor