

What must happen if contributions made by an employer?

64. In the event that any part of a Member's benefit (other than death or disability benefits) accrue directly or indirectly from contributions made by an Employer to the Fund in accordance with a prescribed agreement or award, or as a consequence of a payment made to comply with any requirement of the Superannuation Guarantee (Charge) Act 1992, or any mandated payment, or if there is no award but the Employer so intends or the Law so requires, the benefits applicable thereto shall vest in the Member on the date on which the benefits accrue being the date on or after the date of the agreement, award or requirement.

ACTUARIAL APPOINTMENT AND INVESTIGATIONS

Can the Trustee appoint an Actuary?

65. The Trustee may from time to time appoint and remove (on such conditions as the Trustee may think fit) an Actuary to the Fund for the purpose of providing assistance to the Trustee on any matter concerning the operation of the Fund. The Actuary must be a Fellow of the Institute of Actuaries in Australia or a firm of Actuaries of which each Member is such a Fellow or such other person who may be from time to time permitted to act as an Actuary by the Superannuation Law.

What can an Actuary do?

66. If an Actuary has been appointed then the Trustee may from time to time ask the Actuary to make an actuarial investigation of the Fund and to report in writing to the Trustee as to the results of the investigation and on the state and sufficiency of the Fund, having regard to the then present and future liabilities of the Fund and to further make any recommendation which the Actuary shall consider appropriate concerning the Fund. Such actuarial investigations must take place in accordance with prudent actuarial practice and the provisions of the Superannuation Law.

Must the Trustee give information to Actuary?

67. The Trustee must give the Actuary any information which the Actuary may reasonably request for the purposes of the investigation.

Preparation of Solvency Plan

68. If the Actuary requires prepare a solvency plan to ensure the continued solvency of the fund; and

Action if Solvency in Doubt

69. if the Trustee becomes aware or is notified by the Auditor or the Actuary that the Fund is or may become insolvent the Trustee must meet with the Actuary or Auditor to determine a solvency plan to ensure the Funds continued solvency including but not limited to reducing any Member's accounts or benefits and notify all Member's of any action required under the solvency plan and take such action as is required under the solvency plan prior to the lodgment of the Funds next regulatory return.

TRANSFER OF BENEFITS

Can benefits be transferred?

70. If upon ceasing to be gainfully employed a Member becomes eligible for Membership in another Superannuation Fund or becomes eligible to make a deposit or deposits into an Approved Deposit Fund maintained in accordance with the Superannuation Law or wishes to purchase or acquire a Deferred Annuity or an Immediate Annuity as defined in the Superannuation Law, the Trustee may upon the written request of the Member and provided the rules of such other fund and the Superannuation Law permit:-
- 70.1 transfer to any one or more of the Trustees of any such Superannuation Fund or Approved Deposit fund assets (and such terms shall include Cash Funds) representing the whole or any part of the value of the interest of the Fund attributable to such Member; or
 - 70.2 apply the whole or any part of the value of the interest in the Fund attributable to such Member to the purchase of a Deferred Annuity or an Immediate Annuity.

Can the Trustee accept a transfer of assets?

71. The Trustee may at the request of a Member accept a transfer of assets from:-
- 71.1 the Trustee of any Superannuation Fund of which such Member was or is a Member;
 - 71.2 any person by whom such Member was or is employed;
 - 71.3 the Trustee of any Approved Deposit Fund in which such Member was or is a depositor;
 - 71.4 any person from whom such Member has purchased a Deferred Annuity or an Immediate Annuity;
 - 71.5 a Member provided such transfer is in accordance with the Superannuation Law on the condition that ;—
 - 71.5.1 the Trustee and such Member agree as to benefits payable to the Member in the given circumstances referred to in these Rules as a consequence of such transfer of assets;
 - 71.5.2 the assets so transferred are to form part of the Fund to pay benefits to any person as provided for in these Rules;
 - 71.5.3 the Trustee is provided with such information as the Trustee may reasonably request as to:
 - the age;
 - the sex;
 - the period or periods of Membership of the Member with any previous Fund;

the period or periods of service of the Member with any Employer in respect of which the assets so transferred represent benefits accrued to the Member including an allocation of those benefits between the respective period or periods and the extent to which the assets so transferred represent the Member's Personal contributions and dates or periods (as specified by the Trustee) upon or during which such contributions were made; and

the extent to which the assets so transferred represent non preserved assets (which non preserved assets so far as the Superannuation Law permits may continue to be held as non preserved assets);

- 71.5.4 any reasonable information is supplied to the Trustee about any other matter which in the opinion of the Trustee is incidental to or consequent upon a transfer or admitting a Member to Membership of the Fund or allowing a Member to remain a Member of the Fund.

Can the Trustee accept a Transfer of an Insurance Policy?

72. The Trustee may, if the Trustee thinks fit, accept a transfer of any Life Insurance policy existing on the life of a Member.

Can Benefits from an Insurance policy be paid to a Member?

73. In the event that assets or Life Insurance Policies are transferred to the Fund for the benefit of a Member, then except in the event of the Member's death or permanent disability or in accordance with the Superannuation Law such benefits shall not be paid on to the Member or any other person, prior to the Member attaining the permitted age.

Can the Trustee accept or transfer a Tax Benefit?

74. When accepting a transfer or making a Transfer the Trustee must transfer to the new Fund or accept from the old Fund the benefit of any taxation concession on the benefits being transferred, including the benefit of any capital gain or other tax relief.

FORFEITURE OF BENEFITS

What are the Conditions of Forfeiture?

75. Any Member, former Member, or, after his or her death any of the dependants or the Personal Representatives of a Member or former Member or the relative of a Member or former Member who cannot (subject to reasonable enquiry having been made) be located and whose dependants cannot be located by the Trustee during a period of two years after a payment was last made to him or her by an employer, particulars of which employer have been given in writing to the Trustee or by the Trustee or if the Member was immediately before ceasing to have contact with the Trustee, self employed, then from the date the Member was last in contact with the Trustee, shall forfeit entitlement to all his or her benefits and in the event that he or she shall not have prior to that date given notice of his or her retirement from the Fund shall on that date cease to be a Member of the Fund. Any benefits that have accrued to a Member, former Member and beneficiary that is forfeited under this Rule must be paid to the Regulator or

the appropriate receiver of unclaimed monies in accordance with any requirement of the Superannuation Law.

How is a Member's account residue dealt with?

76. Any Member or former Member or other Beneficiary who has been paid all benefits which the Trustee considers should be paid to him or her in accordance with these Rules and who still has a residual amount standing to his or her credit shall, subject to these rules and the Superannuation Law, upon the day that the Trustee declares that all benefits due to the Member have been paid to the Member, forfeit such amount and such amount shall be dealt with as a forfeited benefit.

How are forfeited benefits to be dealt with?

77. The Trustee must hold upon trust and pay or apply any benefits which have been forfeited which represent Members' vested contributions or preserved payment benefits to or for the benefit of the Member or his or her dependants or any one of them in such portions between them and on such terms as the Trustee may from time to time in the Trustee's absolute discretion determine provided that no benefit may be paid to or in respect of a Member whilst the Member remains in full time gainful employment (except in the case of a transition to retirement income stream) and any balance not so applied by the Trustee must be dealt with as if it were a forfeited benefit as provided in rule 75

What is to happen to unapplied forfeited benefits?

78. Moneys released in respect of any benefits forfeited and not subsequently paid or applied in accordance with these Rules and the Superannuation Law shall remain in the Fund for the general purposes of the Fund.

How are remaining forfeited benefits dealt with?

79. Subject to any overriding requirement of the Superannuation Law, the Trustee may, exercising an absolute discretion, pay or apply any benefits which have been forfeited:-
- 79.1 to or for the benefit of the Members or former Members of the Fund or any of their respective dependants or any one or more of them in such proportions between them and on such terms as the Trustee may from time to time exercising an absolute discretion, deem fit;
 - 79.2 to or for the benefit of Members or former Members of the Fund who have rights to receive benefits from the Fund or for any of their respective dependants on a basis that the Trustee considers reasonable having regard to all the circumstances in which contributions may be paid in lieu of contributions which were otherwise payable by an Employer or a Member to the Fund;
 - 79.3 to repay to an Employer or a contributor contributions made to the Fund in respect of a Member whose rights to receive benefits under the Fund have ceased; or
 - 79.4 for any other purpose permitted from time to time by the Superannuation Law; or
 - 79.5 as required by the Superannuation Law.

79.6

PRESERVATION OF BENEFITS

What benefits must be preserved?

80. The amount of any benefits vested in a Member in accordance with these Rules or the Superannuation Law must be preserved and in relation to each Member of the Fund and any amounts that may be transferred to the Fund for the benefit of a Member in accordance with these Rules or under the Superannuation Law shall be preserved in the manner and to the extent required by the Superannuation Law.

AUDITOR

Must the Fund have an Auditor?

81. The Fund must (subject to the Superannuation Law) have an Auditor to audit the Fund and such Auditor must:-
- 81.1 be an independent registered company auditor; or
 - 81.2 be an auditor – general of the Commonwealth, a State or Territory
 - 81.3 if the Superannuation Law permits be a person who:-
 - 81.3.1 is a Member of the Institute of Chartered Accountants or CPA Australia Ltd, or the Institute of Practising Accountants, or the National Institute of Accountants or is a Fellow or Member of the Association of Taxation and Management Accountants or is a Fellow of the National Tax and Accountants Association Ltd or is a specialist auditor of the SMSF Professionals Association of Australia Ltd or such other person as may be permitted by the Superannuation Law; and
 - 81.3.2 is not a Trustee or Member of or contributor to the Fund, Member of the Management Board, Committee or other body exercising actual control over the policies, assets or property of the Fund, or a partner, employee or officer of such Trustee, Member or contributor; and
 - 81.3.3 does not have actual control over the investments or administration of the Fund and is not a partner, employee or officer of any person having such control.
 - 81.3 take office immediately upon being appointed by the Trustee and shall remain in office until:-
 - 81.3.1 death; or
 - 81.3.2 he or she becomes mentally ill or his or her affairs come under the protective jurisdiction; or
 - 81.3.3 he or she has such illness as incapacitates him or her from carrying out the duties of Auditor; or
 - 81.3.4 resignation; or

81.3.5 ceasing to satisfy any of the requirements for acting as Auditor as provided in these Rules or the Superannuation Law; or

81.3.6 removal from office by the Trustee.

TRUSTEE

Must the Fund have a Trustee?

82. The Fund must at all times have a Trustee.

What rules apply to the Office of Trustee?

83. The Fund must be managed by a Trustee who must:-

83.1 unless the primary purpose of the Fund is to pay benefits in the form of a pension, be a Constitutional Corporation; and

83.2 once appointed, continue to hold office until removed or ceasing to hold the qualifications for office; and

83.3 be appointed and hold office in accordance with these Rules and the Superannuation Law; and

83.4 in the case of the first Trustee be the persons or Corporation named in the Schedule; and

83.5 comply with the requirements of the definition of Self Management Superannuation Fund in the Interpretations part of these rules and the Superannuation Law; and

83.6 in the case that the Trustee is a committee of individuals each Trustee consent in writing to being appointed or in the case that the Trustee is a Constitutional Corporation each director consent in writing to being appointed

83.6 in the case that the Fund has fewer than 5 Members but is not a Self Managed Superannuation Fund, be a Trustee who is an independent Trustee approved to act as a Trustee by the Regulator.

When does the Office of a Corporate Trustee become vacant?

84. The office of Trustee shall become vacant if being a Corporation:-

84.1 it is placed in receivership or goes into liquidation or in some other manner ceases to hold the qualification required for it to be a Trustee; or

84.2 if the Members (or in the case of a single member the Member decides) agree to remove the Trustee and in the event that there shall be a disagreement between the Members on the question of the removal of the Trustee if the Auditor upon the request of any Member shall direct upon reasonable grounds that the Trustee be removed;

85. A person acting as a Director of a Trustee Corporation shall cease to hold office if:-

85.1 he or she dies or resigns by notice in writing; or

85.2 he or she is disqualified from acting as a Director pursuant to the Corporations Law; or

- 85.3 he or she is disqualified from acting as a Director pursuant to any of the provisions of the Superannuation Law; or
- 85.4 he or she becomes mentally ill or his or her affairs come under the protective jurisdiction; or
- 85.5 he or she becomes bankrupt or makes an assignment to or composition with his or her creditors; or
- 85.6 he or she ceases to be a Member.

Appointment of Trustee

- 86. The Trustee shall be appointed:-
 - 86.1 in the case that the Trustee is a committee of individuals then all of the Members, automatically; or
 - 86.2 in the case that the Trustee is a committee of two individuals one of whom is the member automatically and the other by the Member; or
 - 86.3 in the case that the Trustee is a Constitutional Corporation by the Member or Members as the case may be; or
 - 86.4 in the case that the member is under 18 years of age the legal personal representative automatically, and in the case that the member and does not have a legal personal representative the parent or guardian of the member automatically;and in the case of a casual vacancy on the board of a Corporation the vacancy must be filled within 90 days
 - 86.5 in the case that a member dies or is or becomes subject to some other disability which does not absolutely disqualify the member from being a Trustee the legal personal representative automatically;and in the case of a casual vacancy on the board of a Corporation the vacancy must be filled within 90 days

When does the office of a natural person Trustee become vacant

- 87. The office of Trustee shall become vacant if being a natural person:-
 - 87.1 he or she dies or resigns by notice in writing; or
 - 87.2 he or she is disqualified from acting as a Trustee pursuant to any of the provisions of the Superannuation Law; or
 - 87.3 he or she becomes mentally ill or his or her affairs come under the protective jurisdiction; or
 - 87.4 he or she becomes bankrupt or makes an assignment to or composition with his or her creditors; or
 - 87.5 is guilty of gross misconduct in the management of the affairs of the Fund or;
 - 87.6 he or she ceases to be a Member

Is the Trustee personally liable?

- 88. A Trustee or the directors of a Corporate Trustee shall not be under any personal liability in respect of any loss or breach of trust relating to the Fund

unless the same shall have been due to its or his or her dishonesty or gross neglect.

Is the Trustee entitled to be indemnified?

89. A Trustee shall be indemnified by the Fund against all liabilities and damages incurred by the Trustee in the execution or attempted execution or in respect of the non execution of the trust, authorities, power and discretions contained in these Rules provided the Trustee shall have acted reasonably, and the Trustee shall have a lien on and may use any monies for the repayment of all proper legal and other costs and charges, and expenses of administering or winding up the Fund, and otherwise of performing the Trustee's duties under these Rules. The indemnity provided shall extend and apply to any payment made on the death of a Member to any person whom the Trustee bona fide believed to be entitled thereto.

Does a Member have to indemnify a Trustee?

90. A Trustee is not entitled to indemnity, reimbursement or payment of expenses from the Members or any of them or any other person entitled to benefit from the Fund and the Members likewise shall not be personally liable for the debts of the Fund.

Must the Trustee file Annual Return?

91. The Trustee must in each year of the Fund's existence as soon as practicable after the end of a year of income and not later than the date which may be prescribed for that purpose in respect of that year by the Regulator as being the last date for filing of a return as required by the Superannuation Law, give or cause to be given to the Regulator in relation to the year of income:-
- 91.1 a return (Regulatory Statement) in a form approved by the Regulator for the purposes of providing such information relating to the Fund and the Fund's compliance with the Superannuation and Taxation Law during the year of income as is required by the Superannuation and Taxation Law; and
 - 91.2 a certificate by the Trustee of the Fund as to the matters required by the Superannuation Law in the form prescribed; and
 - 91.3 a certificate by the Fund's Auditor as to the matters required by the Superannuation Law in the form prescribed; and
 - 91.4 the prescribed fee and any other information that may be required by the Regulator or the Superannuation Law.

Must the Trustee ensure that the Fund is properly administered?

92. The Trustee, whether original or substituted, must see to the proper administration of the Fund and use the Trustee's best endeavors to ensure that in the administration of the Fund there is no breach of the Superannuation Law.

Must the Trustee provide annual statement to Members?

93. As soon as practicable after the end of the year of income of the Fund first occurring after the date hereof and of each succeeding year of income (and in no case later than 6 months after the end of each year) the Trustee must provide to each and every Member a written statement setting out:-

- 93.1 the amount of benefits vested in the Member at the commencement of the first day of the year of income to which the statement relates; and
- 93.2 the amount of benefits vested in the Member at the expiration of the last day of that year of income; and
- 93.3 the method of determining the amount of the benefits payable to the Member;
- 93.4 the amount or proportion of the benefits that is required by the Superannuation Law to be preserved in relation to the Member in the event of the Member's withdrawal from the Fund; and
- 93.5 the amount of contributions made by the Member or on behalf of the Member during that year of income; and
- 93.6 the amount of net earnings allotted to the Member during that year of income and the rate at which those earnings were allotted; and
- 93.7 the amount of any current death benefit of the Member; and
where the amount of benefits that are vested in a Member of the Fund is calculated on the basis of the benefits purchased by the Trustee under an endowment or whole of life policy, the amount of:-
- 93.8 the sum assured; and
- 93.9 any bonuses that have accrued to the Member on or before the end of the year of income to which the statement relates; and
- 93.10 contributions made by that Member during that year of income; and
- 93.11 any other information required to be given pursuant to the Superannuation Law.

Must the Trustee give statement to new Members and exiting Members?

- 94. The Trustee must give the following written statements as soon as practicable after the relevant event:-
 - 94.1 when a person becomes a Member a statement containing details of the kinds of benefits available to Members; and the conditions relating to those benefits; and such other information as shall from time to time be required by the Superannuation Law.
 - 94.2 when a person ceases to be a Member a statement containing:-
 - 94.2.1 the amount of the benefit entitlement of the Member, identifying any amounts that are required to be preserved;
 - 94.2.2 the method of determining that entitlement; and
 - 94.2.3 such other information, statements and material required by the Superannuation Law.

Must the Trustee know these Rules?

- 95. The Trustee and the directors of a Corporate Trustee must, as soon as practicable after appointment become familiar with the provisions of these Rules and the requirements of the Superannuation Law and apply them fairly between the Members and beneficiaries of the Fund.

Must the Trustee deal with conflict?

96. The Trustee must deal appropriately with any conflict between the interests of the Members and or those in receipt of payments or benefits and the interests of the Employer (if there be an Employer) and the Trustee and if a conflict of interest arises disclose it to the Members or, if the case requires, the persons in receipt of benefits and:-
- 96.1 Because it is desirable that if there is a dispute it be resolved without the need to resort to litigation if there shall be any dispute touching upon the management of the Trust, the parties in dispute must attempt to resolve the dispute by mediation and the following rules shall apply:-
- 96.1.1 either party may start mediation by serving a Mediation Notice on the other;
- 96.1.1 the Notice must state that a dispute has arisen and identify the dispute;
- 96.1.2 the parties must jointly appoint a Mediator;
- 96.1.3 if the parties fail to agree on the appointment within fourteen days of service of the Notice a Mediator will be appointed by the President for the time being of the Law Institute or Law Society (as the case requires) of the Place of Proper Law upon the application of either party;
- 96.1.4 the parties must observe the instructions of the Mediator about the conduct of the mediation execute any written agreement that the Mediator may reasonably ask them to execute and make a genuine and determined effort to resolve the dispute;
- 96.1.5 if the dispute is not resolved within twenty days after the Mediator is appointed or any other time that the parties are agreed to in writing the mediation ceases;
- 96.1.6 no proceeding may be commenced until such time as the parties have attended a mediation meeting;
- 96.1.7 each party must pay an equal share of the cost of the mediation to the Mediator and pay their own costs of the mediation;
- 96.1.8 if the dispute is resolved each party must sign the Terms of the Agreement and the terms are binding on the parties;
- 96.1.9 the mediation procedure is confidential and written statements prepared for the Mediator or for a party and any discussions between the parties and between the parties and the Mediator before or during the mediation procedure cannot be used in any legal proceedings. The Mediator must destroy any notes made during the mediation at the end of the mediation.

96.1.10

What other obligations does the Trustee have?

97. In addition to the duties and obligations of a Trustee otherwise provided in these Rules, the Trustee must:-
- 97.1 take all reasonable steps to ensure that there are at all times in force arrangements under which Members and beneficiaries have the right to make enquiries into, or complaints about, the operation or management of the Fund in relation to the Member or beneficiary making the enquiry or complaint, and
 - 97.2 ensure that enquiries or complaints so made are properly considered and dealt with within 90 days after they are made.
 - 97.3 if the Trustee enters into an agreement with an Investment Manager under which money of the Fund will be placed under the control of the Investment Manager ensure that the agreement contains adequate provision to enable the Trustee to require the Investment Manager from time to time -
 - to ensure the provision of appropriate information as to the making of, and return on, the investment;
 - to ensure the provision of such information as is necessary to enable the Trustee to assess the capability of the Investment Manager to manage the investments of the Fund and;
 - to ensure that wherever it is necessary or desirable to do so, the Investment Manager provides the information.
 - 97.4 keep and retain for at least 10 years minutes of all meetings of Trustees or Directors of a Trustee Corporation as the case requires; and
 - 97.5 keep and retain for at least 10 years up to date records of all changes of Trustees and changes of Directors of any Corporate Trustee and of all consents given under Section 118 of the Superannuation Industry (Supervision) Act 1993; and
 - 97.6 keep and retain for as long as they are relevant and in any event for at least 10 years copies of all reports that are given from time to time to all Members of the Fund or to all Members included in a particular class and to make those copies available for inspection by the Regulator if required so to do; and
 - 97.7 notify the Regulator in writing not later than the third business day after becoming aware of the event of the occurrence of any event having a significant adverse effect on the financial position of the Fund; and
 - 97.8 keep such accounting records as correctly record and explain the transactions and financial position of the Fund, so keeping the accounting records as to enable the accounts and statements of the Fund as required by the Superannuation Law and the returns referred to in the Superannuation Law to be prepared, keeping the accounting records, statements and returns so that the same may be conveniently and promptly audited, retaining the records for at least 5 years after the end of the year of income to which the transaction

relates, causing the records to be kept in Australia and keeping the records in writing in the English language or in a form in which they are readily accessible and readily convertible into writing in the English language;

97.9 satisfy all of the requirements concerning the proper and efficient conduct of and management of the Fund as are contained in the Superannuation Law;

97.10 satisfy all of the requirements of the Superannuation Law for the preservation of small balances in Members' accounts.

Does a Director have a casting vote?

98. No Director of a Corporation acting as Trustee shall have a second or casting vote.

GENERAL POWERS OF THE TRUSTEE

What general powers does the Trustee have?

99. In addition to the powers which may by Law be conferred upon or which are provided for by these Rules, the Trustee shall have the following powers:-

99.1 to settle, compromise or submit to mediation or arbitration any claims, matters or things relating to this Deed or to the rights of Members or any other person making any claims upon the Fund; and

99.2 to commence, carry on and defend proceedings relating to the Fund or to the rights of any Members, former Members or any Beneficiaries under the Fund; and

99.3 to insure or re-insure risks, contingencies or liabilities of the Fund with any insurance company, mortgage insurance company, re-insurance company or other superannuation fund; and

99.4 to underwrite or sub-underwrite any risks, contingencies or liabilities under any superannuation arrangement conducted by any participating Employer where there exists the possibility of transfers of employees to the Fund; and

99.5 to retain the services of such professional or other advisers in relation to the management, administration or investment of the Fund and to pay out all expenses properly incurred and incidental to the management and administration and investment of the Fund; and

99.6 to indemnify or to undertake to indemnify any person in respect of any claim matter or thing relating to the Fund or to the rights of any Member, former Member or Beneficiary in respect of the Fund; and

99.7 generally to do all acts, things and matters as the Trustee may consider necessary and expedient for the proper administration, maintenance and preservation of the Fund including the making of an election to be a Regulated Superannuation Fund; and

99.8 to delegate in writing the exercise of all or any of the powers or discretionary authorities conferred by these rules on the Trustee and to execute any powers of Attorney or other instruments necessary to effectuate such purpose; and

- 99.9 generally to exercise or concur in exercising all of the powers and discretions contained in these rules or otherwise by Law conferred on the Trustee notwithstanding that any person being a Trustee or any person being a director or shareholder of a Trustee hereof (being a Corporation) has or may have a direct or personal interest in (whether as a Trustee of any other settlement or in his or her personal capacity or as a shareholder or director or Member or partner of any company or partnership or as a Unit Holder or Beneficiary of any Discretionary Trust or as a Member of this fund or otherwise however) in the mode or result of exercising such power or discretion and notwithstanding that the Trustee for the time being may be the sole Trustee.

ALTERATIONS TO RULES

How can these rules be altered and what rules apply to amendment?

100. These Rules may from time to time whether prospectively or retrospectively be altered, repealed or added to by the Trustee by Deed or resolution and such alterations or additions may in like manner be altered, repealed or added to **PROVIDED HOWEVER** that no amendment may detrimentally effect the benefits which have already been provided in respect of any Member (or Beneficiary) from contributions made by a Member or on behalf of a Member to the date of such amendment unless such amendment is made in conformity with these Rules and either with the consent in writing first had and obtained from all the Members of the Fund or the Regulator. No amendment may be made which has the effect of creating a re-settlement of this Superannuation Trust.
- 100.1 any amendment made shall be binding on each Member of the Fund whether or not such Member has executed a Deed of Adoption before or after such amendment and shall take effect as and from the date of the Deed or resolution or as and from such earlier or later date as may be specified for that purpose in the Deed or resolution and shall be of the same validity as if it had been originally contained in these Rules.
- 100.2 as soon as practicable after such amendment the Trustee must give to each of the Members a written statement explaining the nature and purpose of the alteration and the effect (if any) of the alteration on the entitlements of Members.
- 100.3 in the event that the Trustee becomes aware that any of the provisions of these rules offend against the Superannuation Law, the Trustee must, within 30 days of becoming aware, cause this Deed to be amended so as to remedy that breach.

SERVICE OF NOTICES

How may notices be served?

101. Every notice or other communication whatsoever to be made or given by the Trustee a Member, a Beneficiary or an Employer must be in writing, signed by an officer appointed by the Trustee or Employer or by the Member (and if the notice be given on behalf of a group of Members then by a nominee of

the group) or a Beneficiary and may be sent by post or electronic means to the last advised address of the person to whom the notice is sent. If sent by mail it shall be deemed to be served 2 working days after the day of posting. If sent by electronic means it shall be deemed to be served 4 hours after the time of transmission.

INSPECTION OF RULES

Who may inspect these Rules?

102. A copy of these Rules must be kept by the Trustee at the Trustee's office and shall be open to inspection by any Member at all reasonable times.
103. Every Member upon request to the Trustee must be supplied with a copy of this Deed and Rules of the Fund.

DEDUCTION OF TAXES AND EXPENSES

What expenses can the Trustee deduct?

104. The Trustee may deduct from any benefit or payment including a death benefit made under these Rules:-
 - 104.1 any taxes payable from or in respect of it whether by the person entitled thereto or the Fund and must thereupon pay the taxes deducted to the Commissioner of Taxation or such other person entitled to receive the same.
 - 104.2 the costs or expenses incurred in locating and determining the identity of any person entitled to benefit hereunder and any costs or expenses in determining the amount of any benefit payable hereunder.

What effect do deductions have on benefits?

105. A person entitled to benefit from the Fund shall be entitled to receive only the benefits or payments due after the deduction or deductions have been made.

TERMINATION OF FUND

When must the Fund be wound up?

106. The Fund shall be wound up:-
 - 106.1 if in the opinion of the Trustee there are circumstances affecting the Fund that make it necessary for the Fund to be wound up; or
 - 106.2 if the Superannuation Law requires that it be wound up; or
 - 106.3 if the Regulator requires that it be wound up; or
 - 106.4 if there is no person to whom a benefit is or may be payable; or
 - 106.5 if the liabilities of the Fund at any time exceed the assets of the Fund (other than for a temporary short term)
 - 106.6 if all of the Members agree that it be wound up.

What happens when the Fund is wound up?

107. In the event of a winding up of the Fund any liability of any Employer or any Member or other person to make contributions shall cease and determine (save and except to the extent of any payment the liability for which has arisen but in respect of which payment has not been made) and the Trustee must distribute amongst the Members or former Members or their dependants the assets of the Fund in accordance with these Rules either as a death benefit or a withdrawal benefit or a permanent disablement benefit or by way of payment to another Fund as appropriate provided that the Trustee shall have the absolute discretion to vary such benefits in such circumstances and on a basis that the Trustee considers reasonable having regard to the circumstances and the provisions of the Superannuation Law.

What happens to money remaining in Fund?

108. If any amount remains in the Fund after all the Members' entitlements have been paid the amount so remaining must be paid to Members in such proportions as the Trustee considers to be appropriate or to such other persons or Corporation as the Superannuation Law may require.

MISCELLANEOUS

What is the purpose of the Fund?

109. This Fund is an indefinitely continuing Fund and must be maintained primarily for either or all of the following purposes:-
- 109.1 the provision of benefits for each Member of the Fund in the event of the retirement of the Member from any business, trade, profession, vocation, calling, occupation or employment; and
 - 109.2 the provision of benefits for dependants of each Member of the Fund in the event of the death of Member; and
 - 109.3 for such ancillary purpose as the Superannuation Law may permit.

Can the Trustee provide different benefits etc?

110. The Trustee may take any action, make any payment or investment, borrow any money, establish any Fund or Sub-Fund, divide the Fund into any number of parts, exercise any discretion, pay any Benefit or Income Stream (Pension) and give effect to any request made by a Member, Member's Dependant or other Beneficiary as may be permitted by the Superannuation Law.

Must the Trustee have regard to Superannuation Law?

111. The Trustee must at all times whilst exercising a discretion, exercise the discretion having regard to the provisions of the Superannuation Law, the Tax Act any other relevant legislation and prudent business and investment practice being mindful at all times that the Superannuation Law and the interests of Members and beneficiaries take precedence over these rules.

Must the Trustee act as a Trustee?

112. Notwithstanding the provisions of any of these Rules or any other Rule of Law, any right acquired or action taken by the Trustee in the terms of these

Rules shall be deemed to be acquired or taken by the Trustee in the capacity of Trustee and any monies payable to the Trustee shall be received and disbursed by the Trustee as such by Trustee as provided by these Rules and shall not form part of the personal or separate assets of the Trustee.

IN WHAT CIRCUMSTANCES IS THIS FUND DEEMED TO BE A PENSION FUND?

113. The Fund shall be deemed to exist primarily (but not only) for the purpose of paying benefits in the form of an Income Stream (Pension) if:-
- 113.1 the Fund is described as being a Pension Fund in the Schedule (either specifically or by default); or
 - 113.2 the Trustee pays benefits to Members or Dependants in the form of an income stream; or
 - 113.3 the Trustee declares in writing that the Fund is or is to be a Pension Fund; or
 - 113.4 the Trustee is a committee of individuals (natural persons); or
 - 113.5 circumstances exist from time to time that require the Fund be a Pension Fund.

COVENANTS AND REQUIREMENTS DEEMED TO BE INCORPORATED IN THESE RULES

To the extent that they are not incorporated in these Rules what standards and rules are to be incorporated in these rules?

114. The covenants set out and the standards prescribed by the Superannuation Law and any additions to or modifications of those requirements, covenants and standards that may be in operation or become operative at any time after the date of this Deed, shall be **DEEMED TO BE INCLUDED IN THESE RULES** and where any inconsistency exists between any matter or thing contained in or referred to in these Rules and the covenants and standards so prescribed and any other regulation and any additions to or modifications of those covenants, standards, requirements and regulations that may become operative at any time after the date of this Deed such covenant, standard, requirement, or regulation, shall take precedence and **SHALL BE DEEMED** to be incorporated in these Rules as and from the date upon which such amendment, addition or modification shall become Law.

What requirements are incorporated in these rules?

115. A requirement that the Fund comply with the rules relating to the appointment of a Trustee, the investment rules and the rules for payment of benefits and pensions, contained in the Superannuation Law **SHALL BE DEEMED** to be incorporated in these Rules.

TRUSTEE NOT IN CONTRAVENTION

When will the inappropriate actions of the Trustee not contravene these Rules?

116. The Trustee shall not be taken to be in contravention of these Rules or to be in breach of trust if the Trustee does anything, or fails to do anything, which

is in contravention of the Superannuation Law or any provision of these Rules if:-

- 116.1 the contravention is permitted by the Superannuation Law; or
- 116.2 the contravention is approved by the Regulator or the person or persons (if any) specified for that purpose, in accordance with the Superannuation Law; or
- 116.3 the contravention is rectified within 28 days, or (where applicable) such other period allowed by the Superannuation Law, from the date the Trustee became aware of the contravention.

MEETINGS OF TRUSTEE

How are the meetings of the Trustee to be conducted?

- 117. The Trustee must have regular meetings of its Members and must meet at least twice each year and:-
 - 117.1 if the Trustee is a Constitutional Corporation the procedure for calling meetings, making decisions whether by resolution or otherwise, and the recording of decisions shall be in accordance with the Corporations Constitution and the Corporations Act 2001;
 - 117.2 if the Trustee is comprised of individuals, the Trustee may meet in person, meet using a telephone or other electronic link, agree by way of circulated resolution, or make a decision using any combination of those means provided that each individual Trustee is given a reasonable opportunity to participate in the decision making process;
 - 117.3 any Trustee may call a meeting upon giving 14 clear days notice in writing to the other Trustee or Trustees stating,
 - 117.3.1 the date of the meeting; and
 - 117.3.2 the time of the meeting; and
 - 117.3.3 the place at which the meeting is to be held; and
 - 117.3.4 the agenda for the meeting.
 - 117.4 if the Trustee is comprised of individuals, the Trustee's decisions shall be made by simple majority, but where there is a deadlock then the vote cast by each individual Trustee shall then be multiplied by the combined balance of all accounts held by each individual Trustee in his or her capacity as a Member unless the Superannuation Law requires otherwise;
 - 117.5 a quorum for meetings of the Trustee shall in the case that the Trustee is a committee of individuals be 66% of the Trustees or in the case that the Trustee is a Corporation be 66% of the directors
 - 117.6 all decisions of the Trustee must be recorded in writing.

INTERPRETATIONS

The purpose of these definitions is to assist the Trustee.

118. The interpretations of these Rules shall be in accordance with the Laws of the State of residence of the Trustee and if more than one the majority of Trustees and the requirements of the Superannuation Law.

In these "Rules" and for the administration of the Fund and for a better understanding of Superannuation Law the following words and expressions shall unless the context otherwise requires have the following meaning and if any meaning given in this Interpretation Rule shall be inconsistent with a meaning given in the "Superannuation Law" then the meaning given in the Superannuation Law shall prevail:-

"Act" means the Superannuation Industry (Supervision) Act 1993, and any Act that shall from time to time be substituted for the Act.

"Actuary" means the Actuary for the time being appointed pursuant to the Rules.

"Assets" means the cash, investments and other property of the Fund held by the Trustee on the trusts established by or under this Deed, including:-

any amount standing to the credit of the Fund on or after the date when this Fund commences,

a contribution made by a Member,

a contribution made by an employer,

contributions allowed by these rules that are lawfully made by another person,

interest, dividends, distributions, profits and other benefits of any kind arising from investments and accumulation of income,

the proceeds of any annuity or insurance policy,

the value of any annuity or insurance policy,

money, investments and other property received by the Trustee as a roll over payment,

shortfall, components and financial assistance received by the Trustee,

any other real or personal property of any kind and wherever situated.

"Beneficiary" means a person immediately and absolutely entitled to a benefit from this Fund. It does not include a Member except where that Member is immediately and absolutely entitled to a benefit from this Fund personally or in respect of another Member.

"Benefit" means any amount paid or payable by the Trustee out of the Fund to or in respect of a Member or Member's Dependant or a beneficiary.

"Binding Death Benefit Notice" means a notice given by a Member or beneficiary to the Trustee in accordance with Superannuation Law.

"Child" includes a step-child, a legally adopted child or a person recognised by the Trustee as a de facto adopted child of a Member or a Dependant or an ex nuptial child of the member or a child of the members spouse or a child of the member within the meaning of the Family Law Act 1975 or a child where a bonafide interdependency relationship exists or a child of or any person who, in the sole discretion of the Trustee, is or was at any relevant date a child in respect of whom a Member is or was standing in Loco Parentis.

"Complying Superannuation Fund" means a complying Superannuation fund as defined in the Superannuation Law.

"Contributions" means payments to the Fund by Members and Employers permitted by the Rules and the Superannuation Law.

"Co-Contribution" means a payment made under the Superannuation (Government Co-Contribution for Low Income Earners) Act 2003.

"Corporation" means a Constitutional Corporation as defined in the Corporations Act 2001.

"Dependant" means the spouse, former spouse and any child of a person and any person who in the opinion of the Trustee is or was at the relevant date wholly or partially dependant on a person and any person with whom the person has an interdependency relationship.

"Doctor" means a registered Medical Practitioner.

"Disability" means physical or mental disablement which the Trustee considers will render the Member unable to perform his or her duties to his or her Employer or engage in gainful employment.

"Employee", "Employer" and "Employed" have their ordinary meaning as modified by Section 15A of the Superannuation Industry (Supervision) Act 1993 and includes the Principal Employer or any Participating Employer and wherever appearing means the Employer by which the Member is for the time being employed. For the purposes of determining whether or not a person is an employee of an employer sponsor of the Fund, the term employee shall also be taken to mean a person who is an employee of another person if the employer-sponsor is:-

a relative of the other person; or

either of the following:

a body corporate of which the other person, or a relative of the other person, is a director; or

a body corporate related to that body corporate; or

the Trustee of a trust of which the other person, or a relative of the other person, is a beneficiary; or

a partnership; where:

the other person, or a relative of the other person, is a partner in the partnership; or

the other person, or a relative of the other person, is a director of a body corporate that is a partner in the partnership; or

the other person, or a relative of the other person, is a beneficiary of a trust, if the Trustee of the trust is a partner in the partnership.

"Full-time in relation to being gainfully employed" means gainfully employed for at least the number of hours provided from time to time in the Regulations.

"Income Stream" has the same meaning as "Pension"

"Legal Personal Representative " of a member means the executor of the Will or administrator of the estate of the member, the trustee or administrator of a member under a legal disability and a person who holds an enduring power of attorney granted by the member

"Member Financed Benefits" means a Member's contributions and investment earnings thereon less any expenses applicable to those amounts but excludes any salary sacrifice contributions.

"Membership" means Membership of this Fund and any previous fund accepted by the Trustee as Membership for the purposes of this Fund.

"Membership Period" in relation to a Member means the latest continuous period of Membership expressed in years and any fraction of a year, in respect of which contributions have been made or are deemed to have been made in relation to a Member and shall include any additional or varied Membership Period granted to a Member by the Trustee.

"Minor" means a person under 18 years of age.

"Normal Retirement Age" means the Member's retirement age as defined in the Superannuation Law.

"Non-binding nomination" means a notice given to a Trustee by a Member that does not meet the requirements of Regulation 6.17A.

"Part-time in relation to being gainfully employed" means gainfully employed for at least the time provided from time to time in the Superannuation Law.

"Participating Employer" means any corporation person or firm which has applied to participate (such application being in any way that the Trustee may decide) and which the Trustee may exercising an unfettered discretion permit to participate in the Fund.

"Payment Split" means a payment split under Part VIIIB of the Family Law Act 1975.

"Pension" means a benefit payable by way of an Income Stream at a yearly rate by installments, in a manner that complies with the Regulations.

"Pensioner" means a person receiving a pension/income stream.

"Permanent Incapacity" means an incapacity, disability or invalidity which is either total or partial which in the opinion of the Trustee, after considering a certificate or certificates signed by two registered medical practitioners, renders a Member incapable of engaging in any employment for which he or she is reasonably qualified by education, training or experience or where the benefit payable on permanent incapacity or invalidity is insured, a permanent

incapacity or invalidity as defined in any policy effecting such insurance for the Member.

"Permitted Age" means the age at which the Superannuation Law permits benefits to be paid to a Member.

"Regulated Superannuation Fund" has the meaning given by Section 19 of the Superannuation Industry (Supervision) Act 1993.

"Regulations" mean the Superannuation Industry (Supervision) Regulations.

"Regulation" means a Regulation in the Superannuation Industry (Supervision) Regulations.

"Regulator" means the person or authority for the time being carrying out the duties of ensuring that the provisions of the Superannuation Law are complied with by this Fund.

"Relative" means in relation to an individual a parent, child, grandparent, grandchild, sibling, aunt, uncle, great aunt, great uncle, niece, nephew, first cousin or second cousin of the individual or of his or her spouse or former spouse or some other individual having such a relationship to the individual or his or her spouse or former spouse because of adoption or remarriage or the spouse or former spouse of one of those individuals or by reason of some provision in the Superannuation Law and if permitted by the Superannuation Law a person falling into any of the above categories by reason of the existence of a bon-fide domestic relationship including such a relationship between persons of the same gender.

"Related Party" means a Member, an associate of a Member, an employer-sponsor and an associate of an employer-sponsor.

"Reversionary Beneficiary" means a dependant of a Member nominated by the Member at the commencement of the payment of an income stream

"RSA Regulations" means the Retirement Savings Accounts Regulations.

"Salary" means in relation to a Member his or her salary or remuneration as advised by the Employer or if the Member is self employed the Member from time to time and includes (where the context requires) Final Average Salary.

"Self Managed Superannuation Fund" means, unless otherwise defined in the Superannuation Law, a Superannuation Fund of which there are fewer than 5 Members, where all Members are Trustees or a Corporation is the Trustee and all the Directors of the Trustee are Members of the Fund and all the Members of the Fund are Trustees or Directors of the Trustee Corporation and no Member of the Fund is an employee of another Member of the Fund unless the Members and Trustee concerned are relatives and the Trustee or Trustees (including the Directors of a Trustee company) do not receive remuneration for services as Trustee or Trustees.

In the case of a Fund with only one Member, the Trustee is a Constitutional Corporation of which the Member is the sole director or the Member is one of only two directors of the Corporate Trustee and the Member and the other director are relatives or the Member is one of only two directors of the Corporate Trustee and the Member is not an employee of the other director or if individuals are Trustees, there are only two Trustees and one is a Member and the other is a relative of the Member or the Member is one of only two Trustees and the Member is not an employee of the other Trustee

and no Trustee of the Fund receives any remuneration from the Fund or from any person for any duties or services performed by the Trustee in relation to the Fund.

"Spouse" means the wife or husband of a Member and includes the widow or widower of the Member or any other person accepted by the Trustee as being in a bona fide domestic relationship with a Member or former Member which shall include a same gender relationship and any person with whom the member is in a relationship with, that is registered under a law of a State or Territory.

"Tax Act" means the Income Tax Assessment Act 1936 and the Income Tax Assessment Act 1997 (as amended) and any amendment or re-enactment thereof for the time being in force.

"Superannuation Law" means the law which collectively deals with any aspect of Superannuation or the taxation of Superannuation in Australia.

"Transfer Value" in relation to a Member means the amount (if any) transferred to the Fund from another Fund.

"Trustee" means the Trustee for the time being of this Fund whether original additional or substituted.

"Trust Deed" means the foregoing of which these Rules form part including any amendments.

Words importing the singular or plural number shall (where the context permits) include the plural or singular number respectively and words importing one gender shall include other genders; all references to the Rules shall be deemed to be the Rules of the Fund for the time being in operation and any reference to an individual shall include a Corporation and vice a versa.

EXECUTED as a Deed on the day stated in the Schedule as the date of execution.

THE SCHEDULE

THE TRUSTEE:

Executed by)
RAYA DIY PTY LTD)
ACN 600 323 859)
in the manner provided for in)
Section 127 of the Corporations Act 2001)

.....Director
MEGHANN MARGOTTE BARRIOS SANTOS
RAYA DIY PTY LTD
ACN 600 323 859
70-720 MONA WALK ROAD
New South Wales 2075

.....Director
WESLEY FUGEN SANTOS
MEGHANN MARGOTTE BARRIOS SANTOS
WESLEY FUGEN SANTOS

Type of Trust: Lump Sum or Pension Payment
Date of Vesting: Now

THE SCHEDULE

1. Date of making this deed: 25/06/2014
2. Name of this Fund: **RAYA SUPER FUND**
3. Trustee: **RAYA DIY PTY LTD**
ACN 600 323 859
704/220 MONA VALE ROAD
ST IVES
New South Wales 2075
4. Names of First Members: MEGHANN MARGOTTE BARRIOS SANTOS
WESLEY FUGEN SANTOS
5. Type of Fund: Lump Sum or Pension Payment
6. New or Existing: New