PRODUCT DISCLOSURE STATEMENT FOR A SELF-MANAGED SUPERANNUATION FUND

This Product Disclosure Statement ('PDS') provides you with details of the risks and benefits of a Self-Managed Superannuation Fund ('SMSF') and the different types of SMSF's.

1. Introduction- Why a SMSF?

SMSF are a popular retirement choice for many Australians, as it allows users to be in control of their investments. This is achieved by requiring Members of the SMSF to act as trustees of the Fund or if the Fund has a company acting as a trustee, then each Member must act as a director of the Trustee company. As key decision makers, the Trustee can decide on what the SMSF should invest in, including shares, property and even whether to borrow to acquire property in the Fund. More than 1.2M Australians have chosen to be a part of a SMSF either by themselves, with their spouse or more members of the family. At this current point in time, only six members can be members of a SMSF and it is generally best if they are from the same family.

2. Are there Associated Risks with a SMSF?

SMSFs need to be continually managed and reviewed. Users that can not commit to the periodical management of a SMSF are best advised to use a retail or industry based super fund. SMSF are tedious (however rewarding) and users must take full responsibility for their funds.

There are risks in running a SMSF:

a) **Users are the Trustee of the Fund** – this means users take responsibility for all the Fund's activities and compliance requirements. Users may choose to engage an accountant or financial adviser to assist with such duties and requirements however, it is the user who is legally responsible for the fund in the eyes of the law. As such it is important for users and any other Trustee to ensure that you are aware and competent in understanding of the laws and guidelines that surround and apply to SMSFs. Abbott & Mourly suggest that once you have read this guide (PDS), go to the ATO website and study the video on *"Thinking about a self-managed super."* As the ATO video reiterates -

users are the people solely in control of thei funds and if mistakes are made, there are serious penalties. It is advised users do not rush into a decision of commencing a SMSF without the advice and guidance of an accountant, SMSF specialist or financial planner.

b) **Time Involved:** SMSF’s require periodical long term investments and review, therefore a decision to commence a fund must not be taken lightly. It is strongly advised users gain the help and guidance of an accountant, SMSF specialist or financial planner before commencing. It is advised that if a user can not commit time and resources to maintain a SMSF, they are best suited to keep their Superannuation in an industry or trail super fund.

c) **Costs:** A SMSF costs money, however the amount may vary dependant on the method of commencement. Abbott & Mourly strongly advice the commencement of a SMSF to be under the guidance of an accountant, SMSF specialist or financial planner to prevent mistakes and ensure compliance, irrespective of the initial costs. A compliant and reliable fund is much more valuable than a non-complying fund which may attract legal and financial penalties.

d) **Investments:** Users cannot use investments in the fund for personal use – the only exception being property used in a users own business. A SMSF can not be tampered or used as a ‘holding pen’ for assets, many people have been imprisoned for engaging in such activities. Therefore it is advised that when users invest they should adhere to property, shares, cash, fixed interest and other investments that don’t need to be accessed to make their retirement more comfortable.

e) **The Mentally Incapacitated Trustee:** Once one of the Trustees has been impaired, for example endures dementia or becomes permanently mentally incapacitated, they have to bow out of the running of the fund and the person with their Enduring Power of Attorney may take their place as trustee of the fund, even though they may not be a member of the fund. Many users don’t have an Enduring Power of Attorney, which can create management problems in the Future. Abbott & Mourly strongly advice users seek advice and arrange to get enduring powers of attorney for all SMSF trustees.

f) **Constant Legal Changes:** Because SMSFs are the largest sector of the Superannuation industry and have the largest balances, SMSF members get the most out of any taxation benefits. After all, a member in a $3M SMSF who is living on tax free retirement income, is in a pretty good tax position in comparison to someone with $100,000 in a retail super fund, or a person not in super with sizable wealth and income.

3. How much do you need to Set Up a SMSF?

Costs are usually dependant on how much a user’s accountant charges, which is often dependent upon the amount and types of assets that go into a fund. Abbott & Mourly strongly advise users to take time to revise and calculate the costs of starting a SMSF, having regard to the ASIC Information, before commencement. In December 2022 ASIC stated that superannuation balance, whether high or low, while important, is only one factor when considering whether an SMSF is suitable for a client.

“Other important factors include the risks and costs associated with setting up and/or switching to an SMSF, investment strategies, diversification, liquidity, asset choice, trustee responsibility and time-commitment and the potential benefits of professional advice when deciding to set up and/or switch to an SMSF,” it stated.

4. The Ten Benefits of a SMSF

Benefit One: A SMSF Lets You Look After Your Family

For the majority of people, their family is the most important thing in their lives. The SMSF provides members with an opportunity to invest and provide a retirement income stream for their immediate family and possibly generations to come. Currently six family members can become members of a SMSF.

Benefit Two: Providing a Secure Income In Retirement

The major reason for establishing a SMSF is to ensure that, when an individual stops earning income, they will have a stable, secure alternative to sustain their current lifestyle. A SMSF has a range of income options that can be tailored to a Member and their family’s lifestyle in retirement. This includes a pension which can be created for a member that automatically passes to the member’s spouse on death – which is a great estate planning tool that is not impacted by the member’s Will. However, there is a Transfer Balance Limit when commencing the pension or pensions in the SMSF of a maximum of $1.7M, meaning only that amount can be transferred for pension purposes. Any amount above this limit can remain in the Fund in the Member’s accumulation or lump sum account where income is taxed at a rate of 15% compared to tax exempt pension income.

Benefit Three: Offering a Financial Helping Hand if Your Health Deteriorates

Health is invaluable. So, if a member's health declines, they need to have access to a safe, secure income that takes the financial worry out of becoming seriously ill or even incapacitated. A SMSF allows members access to a range of benefit options, in times of sickness and ill-health. This is the case even though the sickness is of a temporary nature. Permanent disability is a time of great change and Superannuation benefits are able to be accessed during these times of trouble.

Benefit Four: Investment Choice

The large majority of people or families who find their way into SMSFs want to have some say as to how they invest their money — including their Superannuation. As Trustee of a SMSF, the power of choosing investments for the fund resides with the Trustee. However, great care needs to be taken to ensure that the Trustee meets the relevant Superannuation Laws in terms of investment choice. These laws include the need to draft and successfully implement an investment strategy as well as ensure that, within confined limits, no asset of the fund is used by a member of the fund, their relatives or any entity related or closely associated with them or their family. But things are pretty wide open – the Trustee can't invest in art related party investments, except for business property, but shares, residential property, commercial property options, overseas investments, start-ups, early stage investment companies, syndicates are all legal investment options.

Benefit Five: Low Taxation Fully Sanctioned by The Government

Taxation in Australia is significant, but the government has chosen to save on future welfare payments by providing tax incentives for Australians to become self-funded retirees. From 1 July 2022 10.5% of an employee's salary directed to Superannuation – self funded retirement is a good chance for most long term employees. This is called the Superannuation Guarantee Scheme and is to increase to 12% by 1 July 2027. One of the biggest tax concessions is the tax free nature of pension and lump sum payments for a Member of a Superannuation fund post the age of 60.

Benefit Six: Looking After Your Family When You Die

The SMSF is a great vehicle to provide lump sums or income streams to a Member's spouse, children or grandchildren when the Member dies (subject to dependency and ages when it comes to pensions) — it lets the Trustee of the SMSF control the process with limited fear of legal challenge compared to a Will. Importantly where a Member puts in place a strategic SMSF estate planning strategy, in these governing rules – called a SMSF Will, it resides outside the Member's Will. This is not known to many SMSF Members and Trustees who forget to put in place their personal SMSF estate plan, thus missing out on highly valued taxation concessions and also opening the deceased Member's benefits to the lawyers and in some case the Public Trustee.

Benefit Seven: Access to the Age Pension

The aged pension is available for persons over age pension age – currently being the age of 65. However, it is subject to an Income and Assets test. A Member's benefits in a SMSF once a Member reaches age pension age is included for assets test purposes as is income withdrawn from the fund. Under the assets test a couple with a family home and less than $935,000 in super and other assets, may be entitled to a part age pension. The lower the assets, the greater the pension with a full pension available where a home owning couple has $419,000 in assets including Superannuation. Until age 65, superannuation is not included for asset test purposes.

The Commonwealth Seniors Health Care Card, which provides discount pharmaceuticals is available for couples who each have income that is less than $145,000 per annum.

Make sure you check with your adviser to see if you are eligible for the aged pension and/or the health care card – it can make a big difference.

Benefit Eight: Protection From Creditors

Where a person gets into serious financial difficulty, the government has provided rules in the bankruptcy laws that broadly protect a Member's benefits in the fund from creditors with the exception of any pension income. This can be a relief when unfortunate financial events occur.

Benefit Nine: Transition to Retirement Income ('TRIS')

Members of a SMSF born before 1 July 1964 – once they reach preservation age, have the unique ability to access their Superannuation benefits as an income stream whilst working. If under age 60, the pension will form part of the member's assessable income – however, it will attract a 15% tax offset. From age 60 any TRIS income will be tax free. So, while working, a post age 58 employee, small business owner, professional or other person with a SMSF may access TRIS income - much like salary - that is extremely tax effective.

Benefit Ten: Superannuation Contributions Splitting

Under the laws it is possible for a member of a Superannuation fund to split their benefits with their spouse. Spouse includes a de facto spouse under the Superannuation Laws. The advantages of this, is where both spouse members of the fund are between the ages of 58-60 and using the transition to retirement strategy, then the benefits of the 15% tax rebate is maximised. Further where one member is older than the other and will thus reach the tax-free pension and/or lump sum status before the other, then it makes strategic sense to split any contributions for the younger spouse to the older spouse. However, it is only employer or deductible Superannuation contributions that can be split and then to a maximum of 85%.

5. Introducing the Family Super Fund – the SMSF with Smarts

As at 30 September 2022, there are more than 600,000 SMSFs in Australia controlling more than $865 Billion – so on average each fund holds more than $1.4M. The majority of these funds have been established for one reason only and that is to enable Members of the fund to control the investment of their Superannuation money. Although this is a powerful driver, this single focus often limits that strategic possibilities of the fund and misses the whole point of these powerful vehicles.

What Type of SMSF Do You Have or Want?

There is a wide range of SMSF clients - those that want to do everything themselves (the DIY'ers), the SMSF’ers and those that are happy to build their fund into a strong, family Superannuation fund:

I. The DIY superfund

This is a super fund where there is a strong hands on focus by the Trustees of the fund - *the true ‘Bunnings DIY style’ of fund*. The Trustee generally does the accounts of the fund using an accounting program such as MYOB or Xero. All bank reconciliations, income receipts and expenses are accounted for and the management of the investments are undertaken by the Trustee. Due to the complexity of the Superannuation and taxation laws, the Trustee will need an accountant to compile the tax return and must have an independent audit under the *SIS Act 1993.* As can be imagined, unless the Trustee is only investing in one or two simple property investments, there is a lot of work that must be done by the trustee – for a trustee trading shares it can be a full-time job. This has been identified by ASIC which states it may take up to 500 hours per annum to run a SMSF by yourself.

However not knowing basic or more advanced SMSF strategies may cost the Trustee and the members in the long run. The same can be said with estate planning where it is likely that a distribution by a DIY super fund may result in a family provisions challenge.

II. Self-Managed Super Fund

This is the next level above the DIY Superannuation fund and one that the majority of SMSFs run. Again, the focus is on investments but the Trustees of a SMSF generally have the advantage of tax and Superannuation advice from their accountants and financial planners. SMSF strategy in a SMSF may be around pensions, estate planning, insurance and taxation strategies. The strategic input will depend on the SMSF skills of the advising professional and the willingness of the trustee to learn and enquire what is possible within their fund.

III. The Family SMSF

The Family SMSF is the same tax structure as a DIY super fund and a SMSF but the key focus is on the family. Surprisingly, of all the SMSFs in Australia that have the opportunity of bringing up to currently four members of a family into the fund, only 10% have chosen to do so. Surprisingly 20% of SMSFs have only one member with 70% having only two members. This is a great loss of opportunity – can anyone imagine what it would be like to establish a family trust with only one or two beneficiaries. No accountant in their right mind would recommend this course of action. In addition legislation has been drafted to increase the number of members in a SMSF to six, although it has yet to be enacted.

To see the difference between the Family Super Fund and the DIY or SMSF fund, consider some of the following Family Super Fund strategies:

- An adult child member in the fund has an accident and spends six months off work. The Trustees of the Family Super Fund can begin to pay out salary continuance benefits to the incapacitated Member to ensure that their salary and wages are kept to a level they were, before the accident. It is a requirement under the Superannuation Laws that SMSF trustees consider insurance on all their members including, in this case sickness and accident, total and permanent disability and life insurance.
- Mum is the sole remaining parent member of the fund and has been diagnosed with dementia.The adult child Members are in the fund guiding her Superannuation benefits towards the best in health and psychological care for their mother.
- The retiree pension Members of the fund invest in Australian shares with imputation credits. These credits are used by the Trustee of the fund to reduce any of the fund's tax liabilities including any contributions tax liability of the younger Members of the fund that salary sacrifice.
- Younger adult Members choose to use their Superannuation to acquire a property by way of a limited recourse borrowing arrangement. This can be completed by holding the property solely for the benefit of the child in a separate accumulation account with its own investment strategy. The older Members of the Fund can share assets for pension and accumulation purposes.
- The SMSF has a Leading Member of the Fund who, essentially controls the fund and acts as a protector ensuring benefits only go to Members of the fund and the lineage or bloodline of the Leading Member.

In short, Family SMSFs have a very special place in Australia. If designed and used properly - they allow the aggregation and investment of a family's Superannuation benefits, as well as providing a pool of monies and assets to look after family members including children and grandchildren at the time of an accident, sickness, permanent disability, death, pre-retirement and retirement. To make the most of your SMSF, turn it into a Family SMSF or even a Leading Member Family SMSF.

This is the end of the Product Disclosure Statement for a Self-Managed Superannuation Fund.