

WINDING UP AN SMSF



an initiative of **spring** FINANCIAL GROUP



Before you get started

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Information in this eBook is no substitute for professional financial advice.

We encourage you to seek professional financial advice before making any investment or financial decisions. We would obviously love the opportunity to have that conversation with you, and at the rear of this eBook you will find information about us and our services and how to go about booking an appointment.

If ultimately you decide not to meet with us we still encourage you to consult with another suitably licensed and qualified financial adviser.

In any circumstance, before investing in any financial product you should obtain and read a Product Disclosure Statement and consider whether it is appropriate for your objectives, situation and needs.

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Letter from Wealth Adviser

Dear *Reader*

WELCOME TO SPRING

Welcome to Spring Financial Group and to a *fresh approach* to financial services in Australia. Welcome also to our Wealth Adviser library of educational eBooks.

For readers who do not know us well, we are an ASX-listed financial advice business with state capital offices in Sydney, Melbourne, Brisbane and Canberra – as well as an ever expanding regional branch network.

We offer financial planning and investment advice; wealth management; retirement and estate planning; insurance and superannuation; finance; and tax & accounting services. We also specialise in self-managed superannuation funds (SMSFs); and direct and SMSF residential real estate investment.

KNOWLEDGE GIVES YOU A HUGE ADVANTAGE

We believe that knowledge gives you a huge advantage in creating and effectively managing wealth; in planning to reach your goals; and in being prepared for whatever unexpected twists and turns life may present.

That's why our team of experts has created this series of eBooks that seek to inform you of not only the benefits but also the potential risks and pitfalls of various strategies and investments.

We trust you enjoy this eBook and find it informative and professionally presented. Of course your feedback is always welcome as we strive to continually offer content in a format that is relevant to you.

TAKE THE NEXT STEP

We invite you to meet with us on a no-obligation basis to discuss what it was you were hoping to achieve when you downloaded this eBook and to establish if we may be able to help you achieve your goals and objectives.

Through our *fresh approach* our experts have helped literally thousands of people of all ages and all walks of life to build, protect and manage their wealth and financial affairs.

So, whether you want to pay down your mortgage faster; you're just starting out with building your wealth; or starting to plan for retirement; or already retired; or just wanting a second opinion and the peace-of-mind that comes from expert advice and planning based on your goals and your needs, our experts have the knowledge and resources to help.

At the rear of this book you will find some information about our *fresh approach* and what sets us apart. You also find the details of how to book an appointment with one of our experts.

We look forward to meeting you soon.

Wealth Adviser

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Reasons for winding up an SMSF

SMSFs could be wound up for a number of reasons, including:

- Costs associated with SMSF not viable - Due to the fixed costs associated with running an SMSF, it is generally advisable to have a minimum level of assets to be viable. Sometimes a more cost-effective option would be to consider a public offer or small fund regulated by the Australian Prudential Regulatory Authority (APRA).
- Trustee(s) moving overseas - One or more trustees may be intending to move overseas and it may be difficult for the SMSF to meet the definition of an 'Australian super fund', and will cease to be a complying fund and would incur penalty tax rates. To avoid this situation, one option is to wind up the fund and rollover the member's benefits to a non-SMSF.
- Ceasing membership - A member may cease to be a member of an SMSF for reasons such as death, divorce or family or business relationship disagreements.
- SMSF no longer desirable – Trustees may decide they no longer wish to undertake the administrative tasks and responsibility required to maintain the SMSF.
- Age/ declining capacity of trustees– As trustees age, their capacity to fulfil their duties and make decisions may become a challenge.
- Trustee/director of a corporate trustee becomes a disqualified person- Where a trustee becomes disqualified, they are prohibited from acting as a trustee of the fund or director of a corporate trustee, and hence cannot be a member of the fund.

The decision to wind an SMSF up is likely to involve more than one consideration listed above. For instance, the cost of the fund should be considered in conjunction with the benefits of having the fund and considering the reasons why it was set up in the first place.

WARNING

Once an SMSF is wound up, it cannot be restarted, unless the wind up was in error.

Legal and accounting assistance

The task of winding up an SMSF will need to involve the fund's legal advisers and financial and tax accountant.

Legal advisers will assist with interpreting the fund's trust deed to ensure the winding up complies with this and the income and capital of the fund are distributed correctly.

The role of the accountant is to ensure that the income and liabilities of the fund are identified correctly, benefits are paid or transferred correctly, and sufficient money is kept in the fund to pay any remaining expenses, including taxes.

Factors to consider prior to winding up an SMSF

Before the decision is made to wind up your SMSF, you should consider a range of issues to ensure there are no unexpected implications in winding up the fund and nothing to prevent or stall this.

TIP

The process of winding up an SMSF may take up to 14 months to complete, dependent on when the fund is able to sell its assets (e.g. a direct property may take months to sell), when the trustee(s) request the fund to be wound up, and the Australian Taxation Office (ATO) lodgment requirements.

- Capital gains - Typically, the winding up of an SMSF results in the fund's assets being sold or transferred in-specie, which will trigger a CGT event. If the disposal results in a capital gain this will mean a capital gains tax liability and will impact on the members' benefits. If a capital loss results from the disposal, these losses remain with the SMSF and will be offset against any capital gains within the fund.
- Allocation of reserves - Where an SMSF holds reserves, this money or assets will need to be allocated to members' accounts prior to the member's benefits being transferred out. An SMSF reserve is money or assets set aside in the fund that have not yet been allocated to any particular member's account.
- Claiming tax deductions for personal contributions - Members who have made a personal contribution need to ensure they lodge their notice of intent to claim this deduction. This is required prior to their benefits being rolled over to another fund or paid out.
- Life insurance – Options for personal life insurance owned by the SMSF include implementing insurance in an alternative fund or transferring the policy into the individual's name. The existing policy should not be cancelled prior to the new insurance commencing.
- Outstanding returns - Any outstanding returns to the ATO will need to be finalised prior to the ATO finalising the wind up of the fund.
- SMSF owns a frozen asset – Where a frozen asset exists in the fund it will generally not be able to dispose of those assets. This may prevent you from being able to wind up the fund.
- Current income streams being paid from the SMSF - for those members in receipt of an existing income stream from the fund consideration will need to be given to the merits of transferring the pension to another fund or receiving a lump sum, assuming the member is eligible to do so. The type of income stream being received, if the member is receiving social security and the taxation components of the member's interest in the fund, will all impact on the appropriate course of action.

Steps in winding up an SMSF

The steps involved in winding up an SMSF are:

Check the trust deed

The provisions of the fund's trust deed should be reviewed to determine what is required in the event of winding up. Each trust deed will be unique and legal assistance may be required for this step.

Wind up rules in a fund's deed could deal with:

- in what circumstances the fund may be wound up
- what trustee resolutions are required
- communication with members or employer sponsors
- the process of distributing unallocated money to members
- the valuation of the fund's assets
- maintaining an amount in the bank account for the payment of final expenses and tax
- record keeping after the wind up has occurred and who the fund contact will be.

Trustees/ members to document written agreement

Trustees should hold a trustee meeting and resolve to wind up the fund. It is important that the decision to wind up the SMSF should be included in a resolution signed by the trustees to ensure all parties are properly informed and avoid unnecessary complications.

In the case of a corporate trustee, the directors must decide whether the company should remain running or be wound up.

Review and dispose of fund assets

Trustees will need to value the fund's assets and ascertain whether members wish to receive their benefits in cash or in-specie (if permitted by the trust deed).

Those assets that are not being transferred in-specie will need to be sold in order for the benefit either to be paid to the member or transferred to another fund in cash. Those assets being transferred in-specie will need to be valued at market value.

Those assets that are earmarked to be sold should be actioned with proceeds credited to the fund's bank account.

WARNING

A frozen asset may hinder the fund actually being wound up. A frozen asset is one that there is a restriction on accessing or redeeming the investment.

WARNING

There may be capital gains tax implications on the disposal of assets in order to pay benefits to another fund or transfer in-specie.

Preparation of draft financial statements

An interim set of financial accounts should be completed so the members' interests can be valued and the calculation of their benefits can be made.

As part of preparing the set of financial accounts, trustees should ensure any fund reserves are allocated back to members. Also, provision should be made for any wind up costs, such as:

- administration, accounting and audit fees
- legal costs
- final tax liability
- SMSF Supervisory Levy.

Pay out/rollover members' benefits

Once any assets to be paid as in-specie transfer have been valued at market value and other assets sold in order to pay other benefits, these can be paid out as per the member's instructions.

TIP

Trustees should obtain precise instructions in writing from the members to avoid any misunderstanding.

WARNING

The trustee should be sure the member has met a condition of release in order to access their super as a cash benefit, instead of rolling over to another super fund.

Prepare final annual return

Trustees should have draft financial statements prepared, which will determine the value of each member's benefit within the fund. These should factor in the impending benefit payments/ rollovers and factor in the anticipated final wind up costs and tax liabilities.

TIP

The fund bank account should be left open with sufficient funds to pay the outstanding liabilities.

Arrange a final audit

A final audit is required by an approved SMSF auditor prior to lodging the fund's final SMSF annual return.

Lodge final annual return with the Australian Taxation Office and pay outstanding tax liabilities

Once the audit has been finalised the annual return can be lodged. As part of winding up an SMSF, the trustees are required to comply with certain reporting obligations under the super and taxation regulations. This includes ensuring all lodgements and tax returns are up to date for previous years, as well as the current year.

Confirmation from the Australian Taxation Office

Once an SMSF has met all of its tax reporting and wind up responsibilities, the ATO will send the trustees a letter advising cancellation of the SMSF's ABN and the closing of the SMSF's record in its systems.

Pay final liabilities and close bank account

Once the final liabilities have been paid and any anticipated receivables received the bank account can be closed. Liabilities may include accounting and audit fees, income tax, bank charges, etc. If sufficient funds have not been set aside in the fund's bank account, the (former) trustees may need to pay those liabilities personally

If the fund receives a tax refund, such as from the ATO or from share distributions from when the fund was a shareholder, these amounts should be apportioned between the members and distributed to the members in the same way as the distribution of the members' benefits (i.e. paid as member benefits or rolled over to another fund, as appropriate).

Inform the Australian Taxation Office

The trustees must notify the ATO within 28 days of the date of winding up the SMSF by providing the following information:

- the name of the SMSF
- the fund's ABN
- details of a contact person for the fund (e.g. one of the trustees)
- the date the fund has been wound up.

IMPORTANT POINT

If the directors of the corporate trustee of an SMSF decide to wind up the company as well, they will also need to advise Australian Securities and Investments Commission (ASIC) of the decision to wind up the company as well as the resignation of the directors within 28 days.

Record keeping after an SMSF has been wound up

Even after an SMSF has been wound-up, records will need to be retained for the specified time period, which will assist in resolving any disputes or issues that arise after the closure.

The ATO requires trustees keep accurate records for prescribed periods and must make them available to the fund's auditor or the ATO on request.

The following records must be kept for a minimum of five years:

- accounting records that detail the transactions and financial position of the SMSF
- annual returns lodged with the ATO
- copies of any other returns or statements provided to the ATO or other super funds (e.g. Rollover Benefits Statement).

These records must be kept for a minimum of ten years:

- minutes of trustee meetings e.g. details of investment decisions, decisions to pay benefits and decisions on where to store collectables or personal use assets
- trustee declarations
- the written consent of members to act as trustees
- copies of all statement or reports given to members
- records of changes of trustees.

TIP

Keep all copies of the SMSF's trust deeds and any amendments.

Take the next step

We trust you enjoyed this eBook and found it informative and professionally presented. Of course your feedback is always welcome as we strive to continually offer content in a format that is relevant to you.

We now invite you to take the next step and to meet with us on a no-obligation basis to discuss what it was you were hoping to achieve when you downloaded this eBook and to establish if we may be able to help you achieve your goals and objectives.

Through our *fresh approach* our experts have helped literally thousands of people of all ages and all walks of life to build, protect and manage their wealth and financial affairs.

Next you will find some information about our *fresh approach* and what sets us apart. You also find the details of how to book an appointment with one of our experts.

We look forward to meeting you soon.

Spring Financial Group

Our *fresh approach* to Financial Services

Whether you have a very specific need such as looking for a better rate on your home loan or making sure your insurance cover meets your needs; or you're considering how to develop and implement a tailored retirement, wealth creation or wealth management plan, when you deal with Spring Financial Group you can expect a *fresh approach*.

That's because instead of focusing on products we focus on helping you to develop and implement outcomes that are based on your specific goals.

Why do we call it a *fresh approach*?

Financial advice and financial planning in Australia has its origins in the early 1990s with the birth of compulsory superannuation. Prior to this we had stockbrokers, life insurance agents, accountants and bank managers.

As the planning and advice (or "wealth management") industry grew it was eventually controlled by the big banks and insurance companies keen to sell an expanding range of financial products, including of course their own managed superannuation funds.

Fundamentally, that's how it remains today. Banks and other major financial institutions now control not only the majority of product "manufacturing", they also control or directly influence the majority of advisers. Recently we have even seen "industry" superfunds move into financial planning; as well as banks take part or full ownership of larger mortgage brokerage companies and mortgage "aggregators" that smaller brokers rely on to access a range of loan options.

This ecosystem of institutional control by financial product manufacturers has led to widespread adoption of practices that can be at odds with clients' interests and objectives.

How our *fresh approach* is different

At Spring Financial Group we have built our organisation to be different. Our *fresh approach* is about you and putting your interests first without any institutional product agenda.

We don't manufacture our own products and we don't answer to an institutional master about recommendations we're able to make. What this means for you is that if a particular loan (for example) is right for you and it's not available from one lender, we're able to source it from another. Same can be said for insurance policies, and different investments options.

And when it comes to investments we recognise there's more to the world than just the sharemarket; and more to it than just managed funds run by the banks and major institutions.

We believe that finding a balance between a variety of asset classes including property, shares, fixed-income and other markets is prudent in the long term.

We also believe it's naïve to think that the future will be any different to the past. All markets rise and fall and those trends can take years to play out. Your financial life will travel over all these different terrains and the structures, investments and vehicles you use need to be compatible to these different climates. In our view, there is little point improving your financial position during a bull market only to watch it dramatically deteriorate during a crash, in particular if a crash comes on the doorstep of, or during, retirement.

A team - rather than an individual

In a financial world of increasing complexity there's too much to know and too many regulatory and legislative issues to consider for one person to master. And your financial well-being is too important to be left to a "jack of all trades, master of none". Similarly, relying on multiple experts working in silos, without the right hand knowing what the left is doing, can lead to costly mistakes, missed opportunities and even having structures working at cross-purposes.

That's why our *fresh approach* is built on the team ethos that none of us is as good as all of us.

It may be that you want to pay down your mortgage faster; or get your insurances, tax or estate planning needs in order; or that you're considering a specific investment. Perhaps you're just starting out; or starting to plan for retirement; or already retired. Regardless, our team of highly-qualified advisers will serve you without the pretence that one adviser alone knows everything.

As and when needed we'll marshal a group of professionals that includes finance, superannuation and insurance experts; property, sharemarket and alternative investment specialists; accountants and tax and legal advisers; and veteran financial advisers. And they are supported by our team of graduates who bring fresh ideas and the latest thinking from their recent tertiary study in finance, economics, business, accounting and law to the table, as well as a highly experienced and dedicated team of administrative personnel.

And rest assured, if we don't think we can add value or help you achieve the outcomes you desire, you'll be the first to know. We'll never try to make a square peg fit in a round hole!

Peace-of-mind

We correctly value psychological outcomes for our clients more than other organisations. A particular product, plan and strategy may be technically brilliant in the mind of a qualified adviser, but if it leaves you unable to sleep at night, then it is the wrong product, plan or strategy for you!

Your peace-of-mind and financial well-being are always at the forefront of our considerations when we work with you.

Let us help you to meet your financial goals and objectives by booking an appointment with one of our experts today.

Call us on:

1300 4 SPRING

Or send an email to:

info@springfg.com

Or use the Appointment Booking Request form on the following page.

Appointment Booking Request form

Please complete the Appointment Booking Request below and scan and email to:

appointments@springFG.com

Appointments are available Monday-to-Friday from 8am and until the normal final starting time of 6pm. After-hours appointments are available by request most weekday evenings and on most Saturdays if preferred. Please nominate your preferred day, date and time to meet with us. One of our client services representatives will call you to confirm your appointment.

Preferred appointment day and time

Day

Date

Time

Am/pm

Your email address

If you would like us to contact you via email to confirm your appointment or to answer any questions you have please provide a valid email address for our records.

Email

Your Details

Title

First name

Last name

Mobile

Your partner/ spouse's name

Many people have lifestyle and financial goals that are shared with their spouse or partner. Please provide the name of your partner/spouse so one of our client services team can discuss with you whether it is appropriate for them to attend our meeting.

Title

First name

Last name

Relationship

If you're ready for a *fresh approach* to financial advice, planning and investing that is founded on Goals; Plans; and Action then we look forward to meeting with you soon.

Sydney

Head Office
Level 11, 95 Pitt St
Sydney NSW 2000
Tel: 02 9248 0422

Melbourne

Ground Floor,
99 King St
Melbourne VIC 3000
Tel: 03 9248 6001

Brisbane

Level 36, Riparian Plaza
71 Eagle St
Brisbane QLD 4000
Tel: 07 3121 3189

Canberra

Level 9, NewActon Nishi
2 Phillip Law St
Canberra ACT 2601
Tel: 02 6243 3628