



SMSF Audit

To audit a self-managed superannuation fund (SMSF) you must be registered as an 'approved SMSF auditor'. ASIC has responsibility for registering approved SMSF auditors. The requirements for registration are imposed by the Superannuation Industry (Supervision) Act 1993 (SIS Act) and Superannuation Industry (Supervision) Regulations 1994 (SIS Regulations). The Australian Taxation Office (ATO) has responsibility for monitoring the conduct of SMSF auditors and may refer an auditor to ASIC to consider taking further action, such as cancelling or suspending registration or imposing registration conditions.

To be registered as an approved SMSF auditor with ASIC, you must meet the following components:

- Be an Australian resident,
- Do not have certain disqualifications or suspensions in force,
- Be a fit and proper person to be registered as an approved SMSF auditor and capable of performing the duties of an approved SMSF auditor,
- Have adequate and appropriate PI insurance,
- Pass a competency examination. Examination addressing competencies is prescribed in ASIC Class Order [CO12/1687],
- Have the required level of practical SMSF auditing experience, and
- Have the prescribed qualifications.

Ongoing SMSF auditor registration requirements include completion of 120 hours of continuing professional development over each three-year period, which must include 30 hours of development on superannuation and at least 8 hours of development on auditing SMSF's.

Further information explaining how to apply for registration as an approved SMSF auditor and the requirements for registration is found in the published ASIC Regulatory Guide 243 *Registration of self-managed superannuation fund auditors*.

Trust Records

Members of Professional Accounting Bodies in Public Practice – Client Monies

APES 310 *Client Monies* (APES 310) specify a Member in Public Practice's (Member) professional and ethical obligations a) when the Member deals with client monies (holding, receiving or disbursing in a trust account or in a client bank account); or b) when the member acts as an auditor of client monies.

The Member who deals with client monies must appoint another Member who holds a certificate of public practice of Institute of Public Accountants, Chartered Accountants Australia and New Zealand or CPA Australia (Auditor of Client Monies) to undertake a reasonable assurance engagement of the Member's compliance with the requirements of APES 310 within 3 months of the applicable year-end date.

Where the Member who is dealing with client monies does not have to maintain a trust account and can only co-authorise transactions in a client bank account in conjunction with the client, then the Member can engage an Auditor of Client Monies to perform a limited assurance engagement.

An Auditor of Client Monies shall perform an assurance engagement in accordance with Auditing and Assurance Standards (ASAE 3100 *Compliance Engagements*).

Examination of a law practice's trust records (New South Wales)

Under the *Legal Profession Uniform Law (NSW)* and the *Legal Profession Uniform General Rules 2015* (Uniform Rules), a law practice must have its trust records externally examined by 31 May each year if it has received or held trust money, excluding transit money. The law practices are required to notify the Law Society of the person appointed (or removed) as their External Examiner.

A person is qualified to be an External Examiner under Section 65 of the Uniform Rules, where they have successfully completed an approved course and are one of the following classes:

- Members of CPA Australia, Chartered Accountants Australia and New Zealand or the Institute of Public Accountants Australia, holding a Certificate of Public Practice, or
- Registered as auditors under Part 9.2 of the Corporations Act, or
- Employees or agents of the local regulatory authority (law society).

The Law Society of New South Wales provides an approved external examiner course.

An external examination covers a law practice's trust records from the beginning of April to the end of March in the following year. A report on the examination must be lodged with the Law Society of NSW by 31 May each year.

If you meet the eligibility requirements and are interested in attending a future education course to become an external examiner, or if you have any other enquiries, email the Trust Accounts Department at tad@lawsociety.com.au.

Real Estate Agent Trust Account NSW

A real estate agent must have its trust accounts audited each year within three months after 30 June.

This includes:

- A licensee (corporation or individual),
- A former licensee (corporation or individual), or
- A personal representative of a licensee.

All real estate and conveyancer trust account audit results must be lodged with NSW Fair Trading (fairtrading.nsw.gov.au/trades-and-businesses/business-essentials/trust-account-auditors).

An audit of a real estate agents trust account can be conducted by a qualified auditor. That is, defined in s115(1) of the *Property Stock and Business Agents Act 2002* as a registered company auditor or another person appointed by the Director-General.

Audits of trust accounts are performed in accordance with Australian Standards on Assurance Engagements, ASAE 3000 *Assurance Engagements* and ASAE 3100 *Compliance Engagements*. Audit results of trust account audits are lodged via the Auditors Report Online portal via NSW Fair Trading.

NSW Fair Trading published an *Auditor's Guide 2022* which provides all the information required to perform and lodge a trust fund audit under the Property and Stock Agents 2002 and Conveyancers Licensing Act 2003.

Incorporated Association – NSW

Incorporated associations that are also registered with the Australian Charities and Not-for-profits Commissions (ACNC) will benefit from an exemption which allows them to report only to the ACNC provided they satisfy the following conditions:

- the association must comply with the obligations under Division 60 the ACNC Act,
- the association must provide to the ACNC all of the information that it would have been required to provide to Fair Trading under Division 1 or Division 2 of Part 5 of the Associations Incorporation Act 2009
- if information is not included on or is removed from the ACNC Register under section 40-10 of the ACNC Act or ACNC Regulation, then the association must lodge relevant financial reports with Fair Trading, and
- the association must not report to the ACNC as part of a reporting group under subdivision 60-G of the ACNC Act.

Where an incorporated association does not benefit from the exemption to report to the ACNC, the following will apply. For information on the audit of those associations benefiting from the exemption, refer to the section below **Charities regulated by the ACNC**.

The *Associations Incorporation Act 2009* (the Act) divides associations into two tiers for reporting purpose, Tier 1 (large) and Tier 2 (small) association:

- Tier 1 associations are those whose gross receipts are more than \$250,000 or current assets* are more than \$500,000,
- Tier 2 associations are those whose gross receipts are less than \$250,000 or current assets* are less than \$500,000.

*Current assets refers to assets (other than real property or assets that are capable of depreciation) held by the association as at the end of the association's last financial year. It includes amounts held in financial institutions, stocks and debentures.

Tier 1 associations

The financial statements must be prepared in accordance with Australian Accounting Standards and audited in time for submission to the association's AGM. The AGM must be held within 6 months of the end of the financial year.

A Tier 1 association is not required to fully comply with Australian Accounting Standards where total revenue reported in the income and expenditure statement for a financial year is less than \$2,000,000. However, the association must meet a minimum range of requirements in preparing the financial statements as contained in class order 11/01 Financial reporting requirements.

Associations must lodge the Annual summary of financial affairs – Tier 1 in the approved form with NSW Fair Trading within 1 month after the AGM.

An audit of a Tier 1 association can be carried out by:

- a registered company auditor (or authorised audit company), or
- a member, who holds a current public practice certificate (CPP holder), of the Institute of Public Accountants, Chartered Accountants Australia and New Zealand or CPA Australia.

Tier 2 associations

The financial statements must include an income and expenditure statement and a balance sheet and details of any mortgages, charges and other securities affecting any property owned by the association. The AGM must be held within 6 months of the end of the financial year.

NSW Fair Trading does not require Tier 2 association's financial statements to be audited.

Proprietary Company

A large proprietary company is required to have its financial report audited (by a Registered Company Auditor), unless ASIC grants relief.

From financial years commencing on or after 1 July 2019, a proprietary company is defined as large for a financial year if it satisfies at least two of the below criteria:

- the consolidated revenue for the financial year of the company and any entities it controls is \$50 million or more
- the value of the consolidated gross assets at the end of the financial year of the company and any entities it controls is \$25 million or more, and
- the company and any entities it controls have 100 or more employees at the end of the financial year.

Large proprietary companies must prepare and lodge a financial report and a director's report for each financial year. The accounts must be audited unless ASIC grants relief.

Otherwise, the company is classified as a small proprietary company and is not required to prepare a financial and consequently, an audit is not required. However, if the small company is foreign controlled company (and an exemption is not obtained) or if ASIC or shareholders representing at least 5% of the voting shares deem it necessary, the company must follow the requirement to prepare a financial report and have it audited.

Companies Limited by Guarantee

Companies that are limited by guarantee that are a registered charity with the Australian Charities and Not-for-profits Commissions (ACNC), must meet the requirements of the *ACNC Act 2012* and comply with the governance standards in the *ACNC Regulation 2013*. Therefore, a number of provisions of the Corporations Act that would otherwise apply to companies limited by guarantee, do not apply to registered charities.

A three-tier differential reporting framework for companies limited by guarantee has been established.

- Tier 1 (annual revenue less than \$250,000 and does not have deductible gift recipient status) - has no obligation to prepare a financial report or have its financial report audited, unless required to do so under its constitution or a member of the company or ASIC direction;
- Tier 2 (annual revenue is \$250,000 or more but less than \$1 million or that have deductible gift recipient status) - must prepare a financial report which they could elect to be reviewed rather than audited;
- Tier 3 (annual revenue is more than \$1 million) - must prepare a financial report and have it audited.

Members of the Institute of Public Accountants, Chartered Accountants Australia and New Zealand or CPA Australia, in public practice can undertake the review of Tier 1 (where required) or Tier 2 Company Limited by Guarantee. An audit of Tier 2 or Tier 3 Company Limited by Guarantee entities must be conducted by a registered company auditor.

A company limited by guarantee that is registered as a charity does not have to report annually to ASIC but must submit an Annual Information Statement to the ACNC with a financial report if the charity is medium or large. A medium or large charity must meet all ACNC requirements, (see Audit of Charities requirements below).

Charities regulated by the ACNC

Charities are regulated by the Australian Charities and Not-for-Profit Commission (ACNC). Under the Australian Charities and Not-for-profits Commission Act 2012 (Cth) (*ACNC Act 2012*) charities

reporting requirements are dependent on their classification as either small, medium or large charities. For reporting periods starting from 2022 Annual Information Statement, charity sizes are:

- **Small charities** (annual revenue* is less than \$500,000) - need to submit an Annual Information Statement.
- **Medium charities** (annual revenue* is \$500,000 or more but less than \$3 million) - must submit an Annual Information Statement and a financial report** that is either reviewed or audited. A charity's governing document or grant funding agreements may state whether its financial report needs to be reviewed or audited.
- **Large charities** (annual revenue *is more than \$3 Million) - must submit an Annual Information Statement and a financial report** that is audited.

*Revenue is total income and includes a charity's ordinary activities such as grants from government, foundations, private (or any other sources), donations, fees for provision of services, sale of goods, interest earned on investments, in-kind donations and royalties.

**Financial reports must be either Special purpose financial statement (if not a [x]), or General Purpose Financial Statement – Reduced/Simplified Disclosure Requirements (Tier 2), or General Purpose Financial Statement (Tier 1).

Where a charity receives a one-off donation (for example a large bequest), it may change size for one reporting period. If the charity is likely to return to its original size in the following reporting period, it can apply to keep the original charity size for the reporting period.

Small charities do not need to be audited unless the charity's governing document requires a review or audit. The audit of a medium or large charity must be conducted by a registered company auditor or an authorised audit company. A review of a medium company can be conducted by a member of the Institute of Public Accountants, Chartered Accountants Australia and New Zealand or CPA Australia, in public practice.

Co-operatives – NSW

Co-operatives are regulated by NSW Fair Trading. NSW co-operatives are registered under the *Co-operatives (Adoption of National Law) Act 2012* (the Act), (NSW is set out in Appendix 1 to the Act), the Co-operatives National Regulations (NSW) and Co-operatives (New South Wales) Regulation 2014 (Local Regulations).

Co-operatives financial reporting requirements are dependent on their size as either small co-operatives or large co-operatives:

- Small co-operatives – has not issued shares to more than 20 prospective members or where it has done this, amount raised by issuing those shares does not exceed \$2 million and no securities on issue to non-members and it satisfies at least two of the following criteria:
 - i. consolidated revenue is less than \$8 million for the financial year;
 - ii. consolidated gross assets are less than \$4 million at the end of the financial year;
 - iii. has fewer than 30 employees at the end of the financial year.
- Large co-operatives – a large co-operative must satisfy two of the following criteria in a financial year:
 - i. consolidated revenue of \$8 million or more;
 - ii. consolidated gross assets of \$4 million or more;
 - iii. has 30 or more employees.

A small co-operative does not require a review or audit, unless the co-operative is required to as specified in the co-operative's rules or directed either by its members or the Registrar. Small co-operatives must provide to its members within five months of the end of the co-operative's financial

year, a report including an income and expenditure statement, a balance sheet, a statement of changes in equity and a cash flow statement (only required if consolidated revenue is \$750,000 or more or if consolidated gross assets is \$250,000 or more).

A large co-operative must have an audit and the auditor must be a registered company auditor. Large co-operative's are required to report to members within five months after the end of the financial year.