



1 April 2020

Dana Fleming
Assistant Commissioner, SMSF Segment
Superannuation and Employer Obligations
Australian Taxation Office
Email: Dana.Fleming@ato.gov.au

Dear Dana,

The SMSF Association congratulates you on your consultative and quick response to the various issues and concerns for the SMSF sector arising from the economic implications of the COVID-19 pandemic health crisis.

As you are aware, the situation continues to change at a rapid pace and issues will need to be continually addressed. As well as reiterating the requests in our last representation dated 23 March 2020, we have the following requests for ATO guidance.

Related party loan relief

As per the guidance released by the ATO on temporary rental relief, we believe the same principles are applicable to related party loans.

Many banks are now offering concessions for their loans including deferral of scheduled loan repayments, waiving fees, and temporary interest-only periods.

We encourage the ATO to provide an update to the safe-harbour rules which reflect the current commercial arrangements in the same manner as the ATO provided guidance on rental relief.

Non geared unit trusts

The SMSF Association also highlights that we encourage ATO guidance to make specific reference to interposed entities and non geared unit trusts (NGUTs) where necessary in temporary relief provided.

With regards to NGUTs relying on the legislation in Div 13.3A of the SIS Regulations, a contravention of one of the criteria can 'taint' the trust forever and the SMSF must dispose of the units. For example, if rent owing by a related party tenant accrues, this will constitute a loan and the trust will cease to comply with the legislation.

Many NGUTs will be in this situation where rental relief is required and so we encourage the ATO to provide further guidance on the relief application to interposed entities.

Practical application of signature relief

Many accounting and advice firms are now operating in a work from home arrangement. Therefore, SMSF professionals are unable to meet clients face to face and many annual SMSF accounts cannot be physically printed and signed by clients during this period.



This may delay the preparation of accounts as signatures are required by S35B of the SIS Act. It is also a specific problem with Trust Deeds.

In Australia, the use of electronic signatures is covered by [Section 10 of the Electronic Transactions Act 1999](#).

We believe ATO guidance which outlines the principles for accepting a digital signature and any other practical application will ease the concern for the SMSF sector. Principles may include:

- A reasonable method is used to identify the person which is reliable and appropriate
- There is confirmation of the person's intention regarding the information
- The method used is acceptable for the person or entity to whom the signature is required to be given
- The method used can be proven (either by itself or with other evidence) to meet these requirements

If you have any questions, please do not hesitate in contacting us.

Yours sincerely,

A handwritten signature in black ink that reads 'John L. Maroney'. The signature is written in a cursive style with a large, looping 'J' and 'M'.

John Maroney
CEO
SMSF Association