SMSF AUDITOR INDEPENDENCE: Non-assurance Services

Frequently Asked Questions

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CPA AUSTRALIA

Q1: My firm is engaged to prepare the accounts and conduct the audit for a SMSF. The assets in this SMSF include listed shares and fixed interest securities. Will preparing accounts for this basic fund for which asset values are publicly available be considered 'routine or mechanical' so that my firm may also conduct the audit?

A1: Not necessarily, the asset mix has no bearing on whether a firm may conduct the account preparation and audit of a SMSF. The prohibition on provision of accounting or book-keeping services to audit clients, which includes preparing financial statements on which the firm will express an opinion, does have a limited exemption for 'routine or mechanical' accounting or book-keeping services. However, to qualify for the exemption, the firm must not assume management responsibility for the SMSF, through services such as authorising transactions, controlling or managing bank accounts or investments, deciding which recommendations to carry out, or advice to act on, and taking responsibility for the preparation and fair presentation of the financial statements. If the firm overcomes that hurdle, they can provide accounting or book-keeping services (subject to suitable safeguards) if those services require little or no professional judgement and so are considered 'routine or mechanical in nature'. Judgement is usually necessary when preparing journal entries, determining how to code the general ledger, managing compliance obligations and maintaining records for the fund. Many trustees of SMSFs would not be in a position to take full management responsibility and make professional judgements in order for the exemption to apply.

ATO SMSF News and Alerts

Code of Ethics paragraphs:

- R600.7
- 600.7.A1-A4
- R600.8
- 601.4 A1
- R601.5
- 601.5 A1

Q2: The software I use for SMSF clients is fully automated and picks up investment balances and income from data feeds directly from bank accounts, share brokers, WRAP accounts or term deposit providers into the SMSF's general ledger. Is this 'routine or mechanical' accounting or book-keeping services as I don't need to make any decisions?

A2: While technology is increasingly used to automate the mechanical accounting elements of many entities, automation does not indicate that the accounting for the fund is 'routine or mechanical'. Many decisions may need to be made by the practitioner for the fund to set up those automated transactions and data feeds, such as selection of software and coding of the general ledger, ensuring the fund is SIS compliant and changes in the fund are properly reflected, such as moving from accumulation to pension phase, which involve professional judgement. If the firm offers audit services to a client who they also assist with such decisions, this would likely involve assuming management responsibility for an audit client which is prohibited for auditors under the Code of Ethics. There are no safeguards available to mitigate threats to independence from the assumption of management responsibility, and the exemption of 'routine or mechanical' accounting is not available.

Code of Ethics paragraph R600.7

Q3: It is likely that I will need to restructure my firm's services to SMSFs. How long do I have to comply with these requirements?

A3: It is likely that many firms will need to restructure their SMSF services if they provide audit as well as accounting, compliance or tax advisory services to SMSFs, by disengaging from either the audit or the advisory services for most, if not all, of their SMSF client base. The Australian Taxation Office (ATO) are taking an educative approach to compliance with the independence requirements by allowing firms until 1 July 2021 to restructure, but will expect all audits signed off after that date to meet the independence requirements, and will take any necessary compliance action after that time, including referrals to ASIC if needed.

CPA Podcast

ATO SMSF News and Alerts

Q4: Should I experience delays with restructuring my firm's services to SMSFs, what should I do?

A4: The ATO expects all firms to have restructured their SMSF services by 1 July 2021. If the ATO undertakes a review on a firm who has not completed restructuring by 1 July 2021, the firm will need to show they made genuine attempts to restructure and provide reasons as to why they were not able to complete the restructuring process in time. These reasons will then be taken into account as part of the review including considering whether it is appropriate for the ATO to grant an extension of time to the firm to complete this transition. The ATO is unlikely to grant an extension of time unless the firm can demonstrate there were exceptional circumstances that prevented them from restructuring. Firms should consult with the ATO prior to 1 July 2021 if they find that events beyond their control will prevent them from restructuring their services by this date.

ATO SMSF News and Alerts

Q5: Disengaging from either the advisory or audit services offered to SMSF clients will have a substantial impact on my firm. How is my firm expected to overcome that?

A5: The ATO and CPA Australia understand that this is a significant change for many practices which may affect revenue streams initially, but also creates new opportunities. These requirements apply to all firms equally regardless of size, therefore other firms that are impacted will also need to restructure their services and disengage from either the advisory or audit engagement. The ATO have provided transition arrangements to assist with the process, but members are encouraged to begin the process of addressing any independence threats early.

Independence Guide Chapter 8, Scenarios 8 and 9

Q6: Are we able to enter into arrangements with other firms to take on our accounting or audit work?

A6: We caution members to consider carefully these arrangements as creating reciprocal or pooling arrangements with one or a small number of other firms may create self-interest (such as fee dependency), familiarity or intimidation threats to independence. Appropriate safeguards may include avoiding any agreements with another firm to make or accept referrals, engaging with the trustees directly and accepting referrals from a number of different firms. In addition, depending on how such arrangements are structured and the nature of the relationship between the firms, they may create a network under the Code of Ethics giving rise to further independence issues. Firms considering referral arrangements must also consider their compliance with the Competition and Consumer Law requirements.

ATO SMSF News and Alerts

Q7: Can the SMSF Trustee sign a declaration acknowledging that the independence requirements are not fully met and provide approval for me to continue both the audit and accounting/compliance advice?

A7: No, clients cannot waive a professional accountant's responsibility to comply with the requirements of the Code of Ethics. The obligation to comply with the Code of Ethics is enshrined in the accountant's professional membership and, in addition, compliance with the auditor independence requirements in the Code of Ethics are specifically required by the Superannuation Industry (Supervision) Act 1993 (SISA) and Superannuation Industry (Supervision) Regulations 1994 (SISR). Compliance with the Code of Ethics also forms part of SMSF auditor registration requirements. As such, all SMSF auditors are obliged to comply with Code of Ethics regardless of their professional membership status.

SISA S.128F(d)

SISR R.9A.06

ASIC RG 243 *Registration of self-managed superannuation fund auditors*, paragraph RG 243.104

Q8: If I get the SMSF Trustees to acknowledge that they have taken management responsibility by way of a representation letter, can I provide routine or mechanical accounting as well as audit services?

A8: The client would still need to be able to demonstrate that they have taken full management responsibility. This may include decisions required for:

- Setting up the fund, such as structuring the fund, preparing the trust deed and developing the investment strategy
- Making and managing fund investments which are compliant
- Accepting contributions and paying benefits which are compliant
- Preparing the accounts and financial statements, such as setting up and maintaining data feeds, coding transactions, reporting assets at market value, allocating income to member accounts and calculating tax payable.

The ATO have advised that a SMSF trustee merely signing a representation letter would not satisfy the requirements and that the audit firm must document and provide sufficient appropriate evidence on the audit file showing the trustee has the suitable skills, knowledge and experience to remain responsible at all times, for the accounting and compliance decisions of the SMSF. The ATO is likely to contact trustees to confirm their understanding of their fund's transactions and compliance with SISA/SISR in these circumstances.

ATO SMSF News and Alerts

Code of Ethics paragraphs:

- R600.7
- R600.8601.4 A1

Q9: We have always relied on the concept of ethical walls in our firm, with different partners and teams providing each service, why is this safeguard no longer available?

A9: Ethical walls are an available safeguard to address threats to independence but only when the firm is not assuming management responsibility and the accounting work is 'routine or mechanical'. Management responsibility is an absolute prohibition for all audit clients regardless of size, function or ownership and no safeguards are available or capable of being applied. Where it could be reasonably argued that the accounting engagement for a SMSF is routine or mechanical, safeguards must still be applied if threats are not at an acceptable level, such as ethical walls between the preparation of the accounts and the audit. For firms taking on management responsibilities, as defined in the Code of Ethics, ethical walls will not be an available safeguard for those SMSF clients. The Restructured Code of Ethics, which became operative in January 2020, and the revised Independence Guide which was released in May 2020 clearly articulate when such safeguards may be used.

Code of Ethics paragraphs:

- R600.7
- 600.7.A1-A4
- R600.8
- 601.4 A1
- R601.5
- 601.5 A1

Independence Guide Chapter 2 Scenario 2

Q10: Where the auditor provided tax advice or prepared the tax return for the fund, does this create independence threats?

A10: Preparing the tax return for a SMSF audit client does not usually create a self-review threat according to the Code of Ethics, therefore safeguards would not usually be required. However, tax advice, tax planning and other tax advisory services, are likely to create self-review or advocacy threats, which, if not at an acceptable level would need to be addressed, by either eliminating the circumstances, declining or ending the services or putting safeguards in place. Calculations of current and deferred tax liabilities will create a self-review threat and a factor relevant in evaluating the level of that threat is whether the calculations will have a material effect on the financial statements. Safeguards may include using professionals who are not audit team members to provide the tax services, engaging an appropriate reviewer who was not involved in either the audit or the tax services to review that work or obtaining pre-clearance of the tax treatment from the ATO.

Code of Ethics paragraphs:

- 604.4 A1-A3
- 604.5 A1-A3
- 604.7 A1-A4
- R604.8
- 604.9 A1-A5

Q11: My accounting firm prepares SMSF's accounts. Can my brother's accounting firm conduct the audits for those SMSFs?

A11: Regardless of separate ownership structures of the firms, before accepting the audit your brother's firm will need to consider potential self-interest, familiarity and intimidation threats to independence created by the close family relationship between you and your brother as owners of each firm. If you are able to exert significant influence over management decisions relating to the SMSF's financial statements or compliance it is unlikely that these threats to independence could be reduced to an acceptable level in which case audits of these SMSFs should not be accepted by your brother's firm or one of the firms should withdraw from providing services to the same SMSFs.

Code of Ethics paragraph:

- 521.6 A1-A4

Independence Guide Chapter 8 Scenario 7

Q12: If my firm establishes a new entity to conduct the audits which is separate from the accounting firm, will we satisfy the independence requirements?

A12: The answer to this question will depend on who controls the new firm whether through the ownership structure, management or other means. If the ownership structure of the new entity is similar or the same as the ownership structure of the firm engaged for accounting and compliance of SMSFs, then this arrangement will not satisfy the requirements. If an entity is established where the ownership structure is completely different, the arrangement may satisfy the requirements however the influence of the audit partner due to their previous association with the first firm will need to be evaluated. In addition, the arrangements between the firms may involve the creation of a network within the meaning of the Code of Ethics, if it is a structure aimed at co-operation with a common business strategy, which could result in further independence issues

Code of Ethics paragraphs:

- 520.1-.3 A2
- R520.4
- 522.1 – 522.4 A3

Independence Guide Chapter 8, Scenario 5 and 12

Q13: What are the consequences for not complying with the Independence Requirements?

A13: Registration as a SMSF auditor requires compliance with the Code of Ethics, which requires auditors to be independent. Failure to comply with independence requirements of the Code of Ethics is a breach of the SIS legislation and may result in disciplinary action by both ASIC (as a result of a referral of the SMSF auditor from the ATO) and the member's professional accounting organisation (which may result in conditions being imposed, a revocation of the member's SMSF auditor registration and/or professional membership or other measures). The auditor's PI insurance may also be invalid if they fail to comply with the Code of Ethics.

SISA S.128F(d)

SISR R.9A.06

ASIC RG 243

Q14: My firm is part of a group of firms that are each separately owned and operated. The group is used for marketing, training and referral purposes. Can I accept SMSF audits from firms within that group or refer SMSF audits to those firms?

A14: The answer depends on the nature of that group and whether it meets the definition of 'network' in the Code of Ethics, including whether it is a structure aimed at cooperation; which is clearly aimed at profit or cost sharing or shares common ownership, control or management, common quality control policies and procedures, common business strategy, the use of a common brand-name, or a significant part of professional resources. Groups of firms or network structures and operations are varied. You will need to consider whether the structure and operations of the group impact your independence either of mind or in appearance. If there is no common ownership between the firms, directly or indirectly, and the group operates only as a marketing vehicle or to pool resources to leverage economies of scale in engaging external providers for training or software, it may be possible to accept audit work from another firm within the group. Threats to independence in these

Code of Ethics– Section 120

Section 520

Paragraphs:

- 400.50 A1-400.54 A1

Independence Guide Chapter 6

circumstances may include self-interest, familiarity and intimidation. These threats will need to be assessed applying the conceptual framework, but may be able to be reduced to an acceptable level with safeguards applied. Safeguards may include not sharing staff and avoiding reciprocal arrangements between firms. If there are common ownership and/or systems of quality management, it is unlikely that threats will be able to be addressed by safeguards and such referrals may not be able to be accepted.

Q15: Where can I find additional resources to assist with understanding the Independence Requirements?

A15: In addition to the Independence Guide and Code of Ethics, CPA Australia has compiled a current list of additional resources to assist firms in understanding and applying the requirements. These resources include podcasts and webinars with the standard setters and regulators responsible for developing and enforcing the requirements, articles and ATO updates. AUASB Guidance Statement GS 009 is also useful in putting the requirements into context, as well as providing details on how to conduct the financial and compliance audits. We encourage all members to avail themselves of these resources:

CPA Australia website: SMSF Auditors

- ATO: SMSF News and Alerts
- ATO: SMSF auditors New guidance on SMSF Auditor Independence due for publication March 2021
- CPA PODCAST: SMSF auditors: Independence and Code of Ethics
- CPA Webinar recording: Independence requirements are changing – what you need to know
- Accountants Daily: Charting a new course of Independence for SMSF accounting and audit firms
- INPRACTICE: Restructured Code of Ethics clarifies SMSF audit independence issues
- INTHEBLACK: Changing winds of accounting ethics
- AUASB Guidance Statement GS 009 Auditing Self-managed Superannuation Funds