



Trusts Deed Upgrade Month



with Grant Abbott
and Ben Gill

The ATO are clamping down on compliance around discretionary trusts - particularly those that have claimed the Family Trust Election.

The Courts are also bringing fairness to distributions with Owies case and ensuring processes for variations and appointing or removing trustees and appointors follows Mercanti case.



**With your current discretionary
and SMSF Trust Deeds - which do
they resemble?**



Are you advising like this with your outdated deeds - SMSF and Discretionary Trusts



LYD and AM Trusts

- Undergoing thorough review by James Meli - leading trust lawyer
- Seven types of DT - standard, LMMDT, FPT, Crypto-DT, Death Benefits Trust, Special Disability Trust and Testamentary Trust
- Which to use and when?



Key Issues

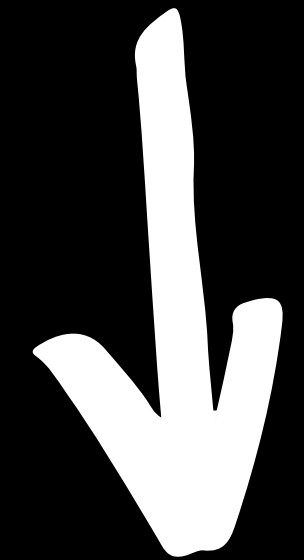
- Why upgrade?
- Who should I upgrade?
- What should my clients upgrade to?
- Is there a resettlement?
- What is the difference between a standard upgrade and an upgrade to a Leading Member or Family Protection Trust Deed?
- Client Email for you [here](#)



Weakness of Tax based Discretionary Trusts

- Depends on the deed and set up
- Most important person of all is the Appointor
- What happens if the Appointor is incapacitated, dies or is sued?
- Is there a line of succession for Appointors
- Should have a corporate trustee as individual trustees are open to attack
- Dangers of named beneficiaries if Trustee does not consider each beneficiaries financial circumstances each year

APPOINTOR



TRUSTEE
COMPANY

DISCRETIONARY
TRUST



Ensure - Convert to a Leading Member Trust

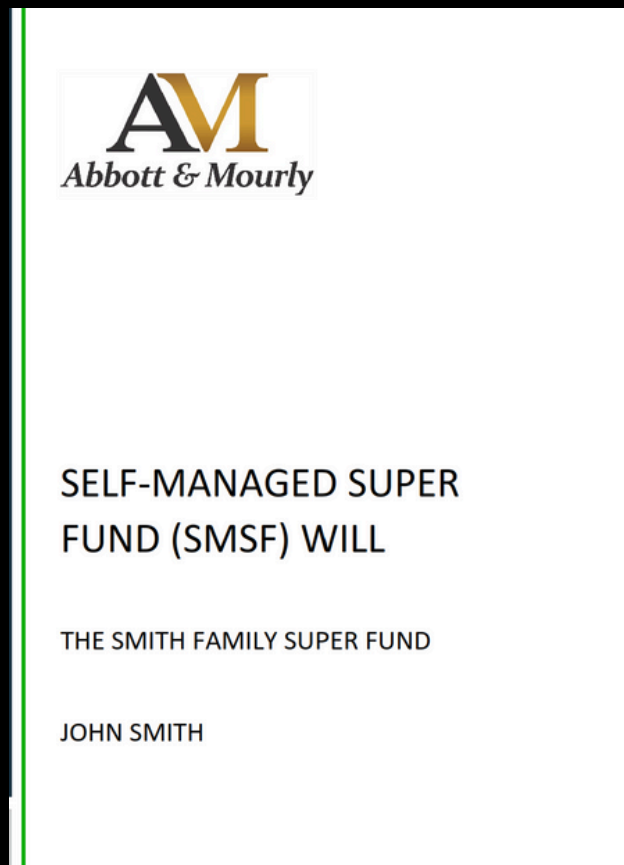
Line of Succession

- LMA
- Successor LMA
- 2nd Successor LMA
- 3rd Successor LMA

**Leading Member
Corporate Trustee**

**Leading Member
Trust**

- More than a Discretionary Trust
- Built to protect family wealth for bloodline
- The key is the Leading Member Appointor (LMA)
- Important to have a line of successor LMAs
- Multi-generational and forever
- Holds all of the family wealth
- On death it splits into family groups
- No resettlement if you convert in line with ATO rules TD2012/21



- The Deed is the engine of SMSF estate planning
- Binding death benefit nomination is for retail and industry super but sometimes used for SMSFs
- SMSF Will a better way:
 - revoke earlier BDBN and SMSF Wills'
 - reversionary pensions have precedence
 - accountant or planner as administrator of SMSF estate
 - how and to who death benefits are to be paid
- What happens if fund non-compliant
- Taxation - tax free to spouses and dependants (what does that mean)

Three Options

- Do it yourself on the platform but as you have seen it is a lot of responsibility
- Hand over to AM Lawyers - who will review past deeds and variations and complete for client - \$795
- Do through LBO for client upgrade of \$795 for standard DT and \$1,500 for LMĐT or FPT - upgrade of corporate trustee extra



