

Individual or corporate trustee?

You can choose one of the following structures for your fund:

- up to four individual trustees
- a corporate trustee (essentially, a company acting as trustee for the fund)

The two structures differ in terms of:

Member and Trustee Requirements

Individual trustees	Corporate trustee
Maximum of four members.	Maximum of four members.
Each member of the fund must be a trustee, and each trustee must be a member of the fund (except for single-member funds – see below).	Each member of the fund must be a director of the company, and each director of the corporate trustee must be a member of the fund (except for single-member funds – see below).
A member cannot be an employee of another member (unless they are relatives).	A member cannot be an employee of another member (unless they are relatives).
Single-member funds - There must be two trustees. One trustee must be a fund member.	Single-member funds - The trustee company can have one or two directors, but no more. The fund member must be either the sole director or one of the two directors.
Single-member funds - If the fund member is an employee of the other trustee, the fund member and the other trustee must be relatives.	Single-member funds - If there are two directors and the fund member is an employee of the other director, the fund member and the other director must be relatives.

Costs

Individual trustees	Corporate trustee
Ongoing administrative requirements and establishment costs are less because there are no ASIC fees.	ASIC charges a fee to register a company for the first time. There is also an annual review fee, which is relatively low if the company acts solely as a super fund trustee, but higher if the company also performs another function, such as running a business.
A trustee cannot be paid for their duties or services as a trustee.	The corporate trustee cannot be paid for its services as a trustee. Directors of the corporate trustee cannot be paid for their duties or services as directors in relation to the fund.

Ownership of the fund assets

The title of fund assets must be in the name of the current trustees 'as trustees for' the fund.

Individual trustees	Corporate trustee
If an individual trustee is removed or another added, you must change the titles of the SMSF's assets. This can be costly and time-consuming. State government authorities may charge a fee for title changes. On top of this cost, most financial institutions charge fees for amending the titles of the assets within the SMSF.	Recording and registering assets can be simpler, particularly for changes in membership. When a person starts or stops being a member of the SMSF, they become, or cease to be, a director of the corporate trustee. ASIC and ATO must be notified of the change in director but the corporate trustee itself doesn't change, so the title to the SMSF's assets is unchanged.

IMPORTANT INFORMATION: SMSF Works has taken reasonable care to ensure that the information found in this fact sheet is correct at the time of writing. The information contained in this fact sheet is a guide only. You should obtain further information specific to your situation or professional advice before making a decision. Changes in the law or ASIC's policies may occur at any time and may impact the accuracy, reliability or completeness of the information. We are not liable for any decision taken on the basis of the information shown in or omitted from this document. Copyright © SMSF Works. All rights reserved. Version 1 – November 2016

Individual or corporate trustee?

Separation of assets

The fund's assets must be kept separate from any assets members hold personally.

Individual trustees	Corporate trustee
There is a risk that fund assets may be intermingled with personal assets.	Having a separate corporate trustee reduces the risk of personal assets becoming intermingled with fund assets. Also, as companies have limited liability, a corporate trustee offers greater protection if the trustee is sued for damages.

Penalties

Individual trustees	Corporate trustee
<p>If super laws are breached, administrative penalties are levied on each trustee.</p> <p>For example, for failing to prepare financial accounts and statements, each trustee would be liable for a \$1,800 penalty (10 penalty units), which would amount to \$7,200 if there were four trustees.</p> <p>This penalty is levied on each individual trustee, not the fund. The value of a penalty unit is \$180.</p>	<p>If super laws are breached, administrative penalties are levied on the corporate trustee.</p> <p>For example, for failing to prepare financial accounts and statements, a corporate trustee would be liable for a \$1,800 penalty (10 penalty units). The advantage of having a corporate trustee in place is that the penalty would be applied only once (a maximum of \$10,800) as there is only one trustee. The penalty is levied on the company and the sole director, or directors jointly and severally, liable. The value of a penalty unit is \$180.</p>

Succession

Individual trustee	Corporate trustee
A fund with individual trustees is not likely to continue to operate as usual when changes in trustees occur, unless an appropriate succession plan has been prepared.	A company continues in the event of a member's death. With a corporate trustee, control of an SMSF and its assets is more certain in the event of the death or incapacity of a member.

The above information is of a factual nature only and should not be used or seen as specific advice. From 1 July 2016, anyone providing personal advice must be licensed to do so with the advice being presented in a written Statement of Advice (SoA). For further information please contact your adviser or info@smsfworks.com.au

Other Factsheets on various SMSF topics are available on our website at www.smsfworks.com.au

IMPORTANT INFORMATION: SMSF Works has taken reasonable care to ensure that the information found in this fact sheet is correct at the time of writing. The information contained in this fact sheet is a guide only. You should obtain further information specific to your situation or professional advice before making a decision. Changes in the law or ASIC's policies may occur at any time and may impact the accuracy, reliability or completeness of the information. We are not liable for any decision taken on the basis of the information shown in or omitted from this document. Copyright © SMSF Works. All rights reserved. Version 1 – November 2016