

SAMPLE SMSF INVESTMENT STRATEGY AND INDEMNITY LETTER

This letter may be used to recommend to clients to update their investment strategy.

**IMPORTANT INFORMATION ABOUT THIS DOCUMENT**

This document or the text contained within it does not constitute legal advice. Examples in this text are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements. It is your sole responsibility to determine the suitability of the advice you are providing to your client.

**This is not an advice document.**

This text has been designed to encourage clients to review and update their 2019 – 2020 investment strategy to cater for the Commissioner of Taxation’s increasing focus and pressure directed at SMSF auditors in relation to Fund investment strategies. Although the Commissioner has warned and threatened over 17,000 SMSF Trustees for potential breaches of investment strategies, he has put ALL SMSF auditors on notice to appropriately check investment strategies. This puts the adviser in the firing line and this means one of three things:

1. The adviser is comfortable that the investment strategy covers all the requirements of section 52B(2)(f) of the SIS Act 93 plus SIS Regulation 4.09 and that no action is required;
2. The client agrees to update the Fund’s investment strategy for the 2019 – 2020 income year using the LightYear Docs investment strategy automation;
3. The client does not heed advice and seeks to ignore or go it alone and provides an indemnity to the adviser in that regard.

**WARNING:** Where a document purporting to be an investment strategy does not meet the requirements under the law and you have provided it, then any losses occasioned by the client in relation to any fund investments may be recoverable under section 55(3) of SIS 93.

**Importantly the path to investment strategy success starts with a conversation with the client.**  For that we have prepared this letter – *Investment Strategy Review urgently required* – a strong word about compliance and the Commissioner of Taxation’s requirements. Remember also that the fee payable by the Trustee is tax deductible.

You may reproduce all or any part of this text in hard copy and/or in electronic format, without asking for permission from LightYear Docs.

Adviser/Accountant Name

Firm Name

Address

City, State, Postcode

Date

Client Name

Address

City, State, Postcode

Dear Mr./Ms. [Client Name]:

**URGENT: Commissioner of Taxation Blitz on Fund Investment Strategies**

A number of our clients have received letters from the Commissioner of Taxation stating the following:

“As a trustee you are ultimately responsible for ensuring your investment strategy meets the requirements under the law. *You could also be liable for an administrative penalty of $4,200 if your investment strategy fails to meet these requirements*”.

**What you need to do**

You need to review your investment strategy to make sure it complies with the law. In particular, you need to be able to provide evidence, ideally within a written investment strategy, of how you considered the following:

* diversification of your fund’s investments;
* the risks associated with inadequate diversification within the context of your SMSF's investment Portfolio;
* the making, holding and realising and the likely return from your investments having regard to your retirement objectives and expected cash flow requirements;
* the liquidity of your investments, meaning ability of your fund to pay benefits as members retire and pay other costs incurred by your fund;
* whether to hold insurance cover for one or more members of your SMSF.

Have your investment strategy ready to provide to your Fund's approved auditor as part of your next audit. This will help your auditor form an opinion on your fund's compliance with these requirements.”

**Importantly** an investment strategy is a forward-looking document and the Trustee must have one in place for the income year ending 30 June 2020. This should be completed in the next 60 days before we advance any further into the financial year. Given the Commissioner’s blitz on SMSF investment strategies, the responsibility of the Trustee to complete one for 2019 – 2020 and the possible $4,200 fine we highly recommend an implementation and review of the current year’s investment strategy. We are happy to conduct this for the Trustee of the Fund to get the investment strategy into full audit shape with relevant workpapers, Trustee minutes and relevant reference materials and guidelines.

The fee for this service will be <$350>. It is important to complete this task immediately given where we are in the 2019 – 2020 income year. Alternatively you could review the Fund’s investment strategy yourself having regard to all of the above factors.

Can you please tick one of the boxes below on this urgent matter and sign underneath and send back:

* We hereby seek to proceed with the detailed Fund investment strategy review and preparation to meet legislative and Commissioner of Taxation guidelines for the Fund We will invoice the Fund <$350> for this service;
* No Adviser Review of the Fund investment strategy:
We hereby disclaim all liability for damages, costs and any fines for our professional SMSF advisers in relation to the Fund’s investment strategy in the event of any compliance, litigation or ATO actions as a consequence of running the fund with an invalid investment strategy.

As time is of the essence can you please tick one of the boxes above and fax, scan, post or email this letter back to us promptly.

Signed:

**Trustee of the Fund**

Sincerely,

Name of Professional