

New SMSF auditor registration requirements

On 23 June 2012, the Minister for Financial Services and Superannuation announced that, from 1 July 2013, auditors must be registered with the Australian Securities and Investments Commission ('ASIC') to conduct audits of self managed superannuation funds ('SMSFs').

It is important to note that the legislation and regulations giving effect to the new regime have now been passed/registered, as follows:

1. *Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012 and Superannuation Auditor Registration Imposition Act 2012*;
2. *Superannuation Industry (Supervision) Amendment Regulation 2012 (No. 6)* - F2012L02408; and
3. *Superannuation Auditor Registration Imposition Regulation 2012* - F2012L02405.

Applications for registration can be made from 31 January 2013 and auditors will be required to register with ASIC by 1 July 2013, to conduct audits from this date (i.e., their registration application must be approved by 30 June 2013). ASIC advises prospective registrants to apply early, particularly as any transitional concessions are only available for auditors who are registered by 30 June 2013.

It is important to note that anyone who audits an SMSF from 1 July 2013 (referred to as the 'new regime') and is not registered with ASIC will be committing an offence and potentially faces fines of up to \$10,200 or 2 years imprisonment. Refer to S.131C of the SIS Act.

Under the new regime, an individual is unable to audit an SMSF unless they have satisfied the requirement to be an 'approved SMSF auditor'. In order for an individual to attain the designation of an *approved SMSF auditor* the individual must satisfy various educational (e.g., a tertiary qualification that include an audit component) and experience requirements (e.g., a minimum of 300 hours practical experience), which are highlighted below.

The following information outlines the registration requirements under the new regime and also includes guidance on the actual registration process.

1. Becoming an approved SMSF auditor

An individual will generally (ignoring the transitional registration rules – which are dealt with below) need to satisfy the following registration requirements (as contained in S.128B of the *Superannuation Industry (Supervision) Act 1993*) before they are entitled to become an approved SMSF auditor and be entitled to audit SMSFs:

- A. They are a natural person who is an **Australian resident**;
- B. The application to become an approved SMSF auditor is made in the **approved form**;
- C. The individual is a **fit and proper person**;
- D. The individual has satisfied the **educational qualifications** as specified by the regulations. Under the regulations, an SMSF auditor generally must have completed a degree, diploma or certificate in accounting of 3 years or more, which generally includes a course in audit, from a university or tertiary institution.
- E. The individual satisfies the **practical experience** requirements as specified within the regulations. An individual will satisfy the experience requirements where they have at least 300 hours of work in auditing SMSFs under the direction of an approved SMSF auditor in the three years immediately before making an application; and
- F. The individual must also pass a **competency examination**, in accordance with S.128C.

SMSF auditors considering registering with ASIC to become an approved SMSF auditor should also review Regulatory Guide (RG) 243 (issued by ASIC), which explains a number of elements associated with the registration process.

Transitional rules for existing SMSF auditors – up to 30 June 2013

Transitional rules have been introduced for existing SMSF auditors who apply for registration as an approved SMSF auditor between 31 January 2013 and 30 June 2013.

Under the transitional rules, an SMSF auditor who has signed-off on 20 or more SMSF audits in the past 12 months **will not** be required to undertake the competency examination that is referred to above.

In addition, an SMSF auditor who applies for registration as an approved SMSF auditor within the transitional period will not be required to satisfy the experience requirements mentioned above where they have signed off on at least one audit in the past 12 months. That is, an auditor **will not** be required to satisfy the 300 hours experience requirement where they have signed off on at least one SMSF audit in the past 12 months and apply for registration by 30 June 2013.

It should be noted that a registered company auditor who applies for registration as an approved SMSF auditor before 1 July 2013 is also not required to satisfy the 300 hour experience requirement.

2. Applying for registration with ASIC

All existing SMSF auditors are required to apply to ASIC by 30 June 2013 to ensure they are entitled to audit SMSFs after this date (subject to meeting the registration requirements).

Auditors conducting SMSF audits can apply for registration online. SMSF Auditors can apply to register as an approved SMSF auditor through ASIC's online portal, ASIC Connect, on the ASIC website at www.asic.gov.au, or by clicking on the following link to be directed to the ASIC portal home page at <https://asicconnect.asic.gov.au>.

It is important to note that SMSF auditors will need to register with ASIC to use its portal.

ASIC has provided an on-line step-by-step guide to the registration process for becoming an approved SMSF auditor. Auditors wishing to review ASICS's step-by-step guide should click on the following link that walks them through each element of the registration process, <http://asic.gov.au/asic/asic.nsf/byheadline/SMSF+auditor+registration?openDocument>. It is recommended that SMSF auditors refer to this information before undertaking the registration process.

It is also important to note that SMSF auditors may be required to supply copies of documents that confirm their credentials for registration purposes. In these circumstances, auditors will generally be required to email to ASIC copies of any supporting documents as part of the registration process. For example, an SMSF auditor may need to email copies of their degree, diploma or certificate from the university or institution that has provided them with their academic qualification they are relying on in the registration process.

Once all information has been provided, ASIC will then make an assessment of the SMSF auditor's application. ASIC will then grant an auditor registration as an approved SMSF auditor if they are satisfied that the individual satisfies the eligibility criteria. An auditor will then be issued with a certificate of registration and SMSF auditor number within 14 days after the application being granted by ASIC.

ASIC will send a letter and certificate of registration by email where an auditor has provided an email address.

An application fee of \$100 applies for all SMSF auditor registration applications, and is required to be paid upon submission of the application.