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## Superannuation Update

### Trustee Structure - Corporate Trustee vs. Individual Trustees?

A Self Managed Super Fund is required to have a trustee. This trustee can be two or more individual persons or a company (known as a corporate trustee).

A Self Managed Super Fund can have between 1 and 4 members. If individual trustees are opted for, if there is more than 1 member then all members will be trustees. However, in a single member fund a second trustee is required, who does not have to be a member of the fund (so you need to find someone you trust, who will be a joint trustee of your SMSF and know all your business).

If a corporate trustee is used, all members are directors and a single member fund can have just the one director.

It is widely accepted by professionals and the ATO that a corporate trustee structure is superior. We highly recommend this structure (vs. individual trustees) and here are some of the reasons why:

- Continuous Succession - the corporate entity cannot die, thus has an indefinite life span.
- Greater administrative efficiency
- Greater flexibility to pay lump sums or pensions
- Greater estate planning flexibility
- Greater asset protection
- Sole member SMSF's just need the one director, where if individual trustees are used, you need to find someone else - you must have two individual trustees.

If you would like to discuss any of this or to establish a trustee company, please contact Mark Rogerson via [email](mailto:mark@rogersonkenny.com.au) or 03 9802 2533

If you wish to enquire about or establish a Self Managed Super Fund, [Click Here.](#)

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## Our tip...

It costs \$800 to establish a Company as a Trustee and is well worth it.

An example where having two individual trustee's may go wrong is the case Katz v. Grossman [2005], if you Google this it will be an entertaining read. The case relates to binding death benefit nomination forms and the potential issues with having individual trustees.

All assets in a Superannuation Fund must have the full and correct names on the title. This becomes an issue if someone dies or leaves the super fund, all the names on the assets must be changed. This is a major administrative task. Further, the remaining sole trustee must find another trustee (as a super fund must have two individual trustees, even if it only has one member).

If a company were trustee and a member died, we would simply retire the member and director. No need to appoint another director, as only 1 director required. In this instance, updating of asset registers would not need to occur. It is also a recommendation that a SMSF Trustee Company should have the sole purpose of acting as trustee for the super fund. It is not good practice to have this company owning assets or acting as trustee for other entities.