

Your accountant or financial adviser may have recommended that you accumulate part of your family's wealth through a **'discretionary trust'** (more commonly known as a **'family trust'**).

You can use this facility to instruct us in relation to establishment of a family trust. It is important that you understand how a family trust operates before deciding whether it is a suitable investment structure. If you have not already done so, please consult us or your accountant to determine if this is the best option for you. We regularly review the terms of our discretionary trust deed to ensure that it complies with State and Commonwealth legislation, tax law and succession issues.

The following guidelines may assist you when making your selections:

Name of Trust

You do not need to check to see if the proposed name of your trust is available. The trust will not be a trading entity; the trust name is only an identifiable feature of the terms documenting the provisions of the trust (the **trust deed**).

Settlor

The Settlor is the person who will pay a nominal sum to the trustee to establish the Trust. The Settlor is not eligible to derive any benefit from the Trust, so you should avoid choosing a potential beneficiary (ie a relative) to be the Settlor. The Settlor and the Trustee agree on the terms and conditions under which the trustee must hold the trust property and they sign a trust deed reflecting those terms and conditions.

Trustee

The Trustee has the power to make investments on behalf of the trust, to make income distributions to one or some of the specified beneficiaries of the trust, to accumulate any income for future distributions and to make limited variations to the terms of the trust. The trust deed specifies the powers of the trustee. The trustee will also have the power to borrow money from banks and other financial institutions.

You may have been advised to have a corporate trustee for your trust, and you may have already instructed us in relation to the inception of the proposed corporate trustee by completing the *Company Instruction Form*. Please note that we cannot finalise the trust documents until the corporate trustee has been registered with the Australian Securities and Investments Commission and has been allocated an Australian Company Number. We can however complete the documents in draft form for your perusal.

Alternatively, one or more individuals can act as trustee of a discretionary trust.

Beneficiaries

The range of potential beneficiaries of a discretionary trust usually extend to a wide class of people, including a **'specified'** or **'primary'** beneficiary or beneficiaries, and that beneficiary's remoter issue (ie spouse, parents, brothers, sisters, children, grandchildren, and related companies and trusts). It is important that the range of potential beneficiaries be made as wide as possible upon inception of the trust. The inclusion of additional beneficiaries after the trust has been established and has accumulated assets may constitute a resettlement of the

trust, and will give rise to significant tax and stamp duty implications. If in doubt, you should discuss this issue with us or your accountant or financial adviser.

Appointor

It is usual for the trust deed to give power to a nominated person (the '**Appointor**') to remove and appoint trustees. Usually the first appointor is the person who has initiated the establishment of the trust. The Appointor effectively controls the trust, as he has the power to appoint and remove trustees. The trust deed usually allows the power of appointment to be passed on to another person nominated by the appointor. For example, if you are the appointor named in the trust deed, you could nominate your spouse as your successor in your Will. If you do, you should reconsider your Will when your personal circumstances change significantly to ensure the appropriate person gains your power of appointment. Please contact us if you wish to discuss this aspect further.