



**ASIC**

Australian Securities & Investments Commission

## REGULATORY GUIDE 243

# Registration of self-managed superannuation fund auditors

January 2013

### **About this guide**

This guide is for people who wish to audit self-managed superannuation funds (SMSFs) under the *Superannuation Industry (Supervision) Act 1993* (SIS Act).

This guide explains how to apply for registration as an approved SMSF auditor, the types of registers of SMSF auditors maintained by ASIC and the transitional arrangements for the registration of existing approved auditors of SMSFs.

It also gives guidance on the continuing legal obligations of approved SMSF auditors.

### About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

**Consultation papers:** seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

**Regulatory guides:** give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

**Information sheets:** provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

**Reports:** describe ASIC compliance or relief activity or the results of a research project.

### Document history

This guide was issued in January 2013 and is based on legislation and regulations as at the date of issue.

Previous version:

- Superseded Regulatory Guide 243, issued 10 December 2012

### Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the SIS Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

# Contents

<b>A</b>	<b>Overview</b> .....	<b>4</b>
	The requirement to register as an ‘approved SMSF auditor’ .....	4
	Transitional arrangements for existing ‘approved auditors of SMSFs’ .....	5
<b>B</b>	<b>Eligibility requirements for registration</b> .....	<b>7</b>
	Prescribed qualifications .....	7
	Prescribed practical experience .....	9
	Passing of competency examination .....	10
	Unlikely to contravene your obligations .....	10
	Capable of performing your duties .....	11
	A fit and proper person .....	11
	Adequate and appropriate professional indemnity insurance .....	12
	An Australian resident .....	13
	Not disqualified or suspended .....	14
	ASIC discretion to register .....	14
<b>C</b>	<b>Lodging your application for registration</b> .....	<b>15</b>
	Accessing the registration system .....	15
	What you must provide .....	16
	What happens after your application is lodged? .....	18
	What if your application is refused? .....	19
	What happens to the information you provide? .....	19
<b>D</b>	<b>Your obligations after you are registered</b> .....	<b>21</b>
	Complying with any conditions on registration .....	21
	Complying with your ongoing obligations .....	21
<b>E</b>	<b>Your rights of review</b> .....	<b>25</b>
	Types of decisions that can be reviewed under the SIS Act .....	25
	Applying for a review of a decision .....	25
	<b>Key terms</b> .....	<b>27</b>
	<b>Related information</b> .....	<b>29</b>

## A Overview

### Key points

To audit an SMSF on or after 1 July 2013, you must be registered by ASIC as an ‘approved SMSF auditor’: see RG 243.1–RG 243.5. You can apply to register as an approved SMSF auditor from 31 January 2013.

Transitional arrangements will apply between 31 January and 30 June 2013 for existing ‘approved auditors of SMSFs’: see RG 243.7–RG 243.13.

### The requirement to register as an ‘approved SMSF auditor’

- RG 243.1 A registration scheme for self-managed superannuation fund (SMSF) auditors will commence on 31 January 2013 under:
- (a) the *Superannuation Industry (Supervision) Act 1993* (SIS Act), as amended by the *Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012* (Superannuation Laws Amendment Act); and
  - (b) the Superannuation Industry (Supervision) Regulations 1994 (SIS Regulations), as amended by the Superannuation Industry (Supervision) Amendment Regulations 2012 (Superannuation Amendment Regulations).

Note: References to legislation and regulations in this guide are to the SIS Act and the SIS Regulations, unless otherwise specified.

- RG 243.2 Under the new regime, ASIC has responsibility for registering ‘approved SMSF auditors’, setting competency standards and imposing any necessary administrative outcomes. The Australian Taxation Office (ATO) will continue to monitor the conduct of SMSF auditors and, in some cases, may refer an auditor to ASIC to consider taking further action.

Note: ‘Approved SMSF auditor’ has the meaning given in s10(1) after 31 January 2013.

- RG 243.3 To audit an SMSF on or after 1 July 2013, you must be registered as an approved SMSF auditor under the SIS Act. You can apply to register as an approved SMSF auditor from 31 January 2013.

Note: You should submit your application to ASIC by 30 April 2013 to ensure your application can be processed by 1 July 2013.

- RG 243.4 To be registered as an approved SMSF auditor:
- (a) we must be satisfied that you meet the eligibility requirements in the SIS Act and the SIS Regulations for registration—subject to the transitional provisions outlined in RG 243.7–RG 243.13 (see Section B);

- (b) you must lodge an online application for registration and pay the prescribed registration fee (see Section C); and
- (c) you must comply with any conditions imposed on your registration and with your ongoing obligations under the SIS Act, including undertaking continuing professional development (CPD), complying with required competency and auditing standards, holding professional indemnity (PI) insurance, lodging an annual statement with ASIC and notifying ASIC of certain matters (see Section D).

RG 243.5 We will assess your application based on the information you submit. You may be asked to provide us with further information to demonstrate that you satisfy these eligibility requirements.

RG 243.6 If we refuse your application for registration, we will give you the reasons for that decision. You may, if dissatisfied with our decision, request that we review the decision: see Section E.

## Transitional arrangements for existing ‘approved auditors of SMSFs’

RG 243.7 Transitional arrangements will apply for existing ‘approved auditors of SMSFs’ between 31 January and 30 June 2013 (the transitional period). Approved auditors of SMSFs who lodge their applications after 30 June 2013 will not be eligible for any transitional arrangements.

Note: ‘Approved auditors of SMSFs’ has the meaning given in s10(1) of the SIS Act before 31 January 2013.

RG 243.8 If you are an approved auditor of SMSFs immediately before 31 January 2013, you may continue to audit SMSFs during the transitional period. Under the transitional provisions in the SIS Act, you will be taken to be an ‘approved SMSF auditor’ from 31 January 2013 until your registration takes effect or until 30 June 2013 (whichever occurs first).

RG 243.9 From 1 July 2013 SMSF audits can only be conducted by auditors who are registered as approved SMSF auditors with ASIC.

### Exemptions from certain conditions of registration

RG 243.10 If you are an existing approved auditor of an SMSF who has lodged an application for registration during the transitional period, the following exemptions from certain conditions for registration may apply to you:

- (a) If you have signed off on at least one SMSF audit within the 12-month period before applying for registration, you will be exempt from the practical experience requirement in s128B(1)(a)(ii).

- (b) If you have signed off on 20 or more SMSF audits in the 12-month period before applying for registration, you will be exempt from both the practical experience requirement in s128B(1)(a)(ii) and the requirement to pass a competency examination in s128B(1)(a)(iii). If you apply for registration during the transitional period and have signed off on less than 20 SMSF audits in the 12-month period before applying, we may register you with a condition on the registration requiring you to pass the competency examination before 1 July 2014. Failure to pass the competency examination by 1 July 2014 would result in the cancellation of your registration. You can only make two attempts in this time to pass the competency examination.
- (c) If you are a registered company auditor, you will be exempt from the practical experience requirement in s128B(1)(a)(ii) and the requirement to sit a competency examination in s128B(1)(a)(iii).

RG 243.11 Those applicants who are able to take advantage of the exemptions under the transitional arrangements from the experience and/or competency examination requirements must still satisfy ASIC that they:

- (a) are unlikely to contravene the obligations of an approved SMSF auditor (see RG 243.24–RG 243.25); and
- (b) have the capability of performing the duties of an SMSF auditor (see RG 243.26–RG 243.27); and
- (c) are a fit and proper person to be an approved SMSF auditor (see RG 243.28–RG 243.30).

RG 243.12 In coming to a decision on the above matters, we will take into account relevant matters and information available to us. This would include an applicant's conduct and compliance with the requirements of the SIS Act and *Corporations Act 2001* (Corporations Act) while acting in other roles such as a registered company auditor or company director.

RG 243.13 The transitional arrangements are only available for applications for registration as an approved SMSF auditor lodged by 30 June 2013. If you have lodged an application for registration but it has not been assessed by 30 June 2013, you will not be able to audit SMSFs until you have been notified by ASIC that you are a registered approved SMSF auditor.

Note: Under s128L(5), your application to be registered as an approved SMSF auditor will not be considered lodged if the application fee is not received by us: see RG 243.53 and RG 243.61. The replacement to an application that is deemed withdrawn (see RG 243.51) or that was refused (see RG 243.67–RG 243.70) is a fresh application and would need to be lodged by 30 June 2013 to satisfy the transitional provisions.

## B Eligibility requirements for registration

### Key points

To be registered as an approved SMSF auditor, you must satisfy us that you meet the following eligibility requirements prescribed under the SIS Act and the SIS Regulations, subject to any applicable transitional arrangements:

- you have the prescribed qualifications (see RG 243.14–RG 243.16);
- you have the prescribed practical experience (see RG 243.17–RG 243.20);
- you have passed a competency examination in accordance with s128C (see RG 243.21–RG 243.23);
- you are unlikely to contravene the obligations of an approved SMSF auditor (see RG 243.24–RG 243.25);
- you are capable of performing the duties of an approved SMSF auditor (see RG 243.26–RG 243.27);
- you are a fit and proper person to be registered as an approved SMSF auditor (see RG 243.28–RG 243.30);
- you have adequate and appropriate professional indemnity (PI) insurance (see RG 243.31–RG 243.35);
- you are an Australian resident (see RG 243.36); and
- you do not have certain disqualifications or suspensions in force (see RG 243.37).

We have the discretion to register you even if you do not meet certain eligibility requirements prescribed under the SIS Act: see RG 243.38.

### Prescribed qualifications

- RG 243.14 You will be asked to provide information to demonstrate you have the qualifications to be registered as an approved SMSF auditor.
- RG 243.15 To satisfy us that you meet the requirement under s128B(1)(a)(i), you must show that you have:
- (a) the academic qualifications prescribed under regs 9A.01(1)–9A.01(4); or
  - (b) qualifications that are equivalent to the prescribed academic qualifications, as prescribed under reg 9A.01(1)(5).
- RG 243.16 See Table 1 for the prescribed qualifications. You must send all your supporting material, set out in Table 1, by email to [SMSFauditor.registration@asic.gov.au](mailto:SMSFauditor.registration@asic.gov.au). The subject line of the email should include the transaction number, the name of the applicant and type of transaction.

**Table 1: Summary of the prescribed qualifications requirement**

	What qualifications you need	What you need to provide
Prescribed academic qualifications: s128B(1)(a)(i) and regs 9A.01(1)–9A.01(4)	<p>You need a degree, diploma or certificate from a university prescribed in Part 1 of the table in reg 9.2.02 of the Corporations Regulations 2001 (Corporations Regulations) or from an institution prescribed in Part 2 of the table in reg 9.2.02 of the Corporations Regulations that represents a course of study in accounting of not less than 3 years and either:</p> <ul style="list-style-type: none"> <li>• includes a course of study in auditing; or</li> <li>• if the degree, diploma or certificate does not include a course of study in auditing, you must have satisfactorily completed: <ul style="list-style-type: none"> <li>– a course in auditing prescribed by reg 9A.02; or</li> <li>– the self-managed superannuation fund specialist auditor program conducted by the SMSF Professionals' Association of Australia (SPAA).</li> </ul> </li> </ul>	<p>You will need to provide the following documents in support of your application:</p> <ul style="list-style-type: none"> <li>• a copy of your degree, diploma or certificate from the prescribed university or institution;</li> <li>• a copy of your statement of academic record from the prescribed university or institution;</li> <li>• a copy of a certificate or statement of academic record indicating that you have satisfactorily completed a course in auditing prescribed by reg 9A.02; or</li> <li>• a copy of a certificate or statement of academic record indicating that you have satisfactorily completed the SMSF specialist auditor program conducted by the SPAA.</li> </ul>
Equivalent qualifications: s128B(1)(a)(i) and reg 9A.01(5)	<p>If you do not hold any of the prescribed academic qualifications, we will assess whether your qualification or combination of qualifications (obtained in Australia or overseas) is equivalent to the prescribed qualifications.</p>	<p>You will need to provide the following documents in support of your application:</p> <ul style="list-style-type: none"> <li>• a statement setting out your qualifications, and the reasons why we should treat your qualifications as equivalent to the prescribed academic qualifications;</li> <li>• a copy of your degree, diploma or certificate from a university or institution;</li> <li>• a copy of your statement of academic record from each university or institution from which you have obtained your qualification; or</li> </ul> <p style="margin-left: 40px;">Note: If you are relying on an overseas accounting or related qualification, you may have to provide an assessment letter from an authorised assessing authority of the National Office of Overseas Skills Recognition (NOOSR). This letter should confirm the comparability of your qualifications to an Australian undergraduate degree in accounting or a related degree from a prescribed university or institution: see <a href="http://www.aei.dest.gov.au">www.aei.dest.gov.au</a>.</p> <ul style="list-style-type: none"> <li>• a copy of your certificate or statement of academic record indicating that you have completed satisfactorily a course that you rely on as being equivalent to a course in auditing prescribed by reg 9A.02.</li> </ul> <p style="margin-left: 40px;">Note: If you are relying on an overseas auditing course, you may have to provide an assessment letter from one of the Australian accounting bodies that conducts such courses in Australia, confirming the comparability of this course and the course conducted by the Australian body.</p>

## Prescribed practical experience

- RG 243.17 You will be asked to provide information to demonstrate you have the practical experience to be registered as an approved SMSF auditor.
- RG 243.18 To satisfy us that you meet the practical experience requirement under s128B(1)(a)(ii), you must show that you have:
- (a) the prescribed practical experience in auditing in reg 9A.03(a); or
  - (b) experience we consider equivalent to the prescribed practical experience in reg 9A.03(b).
- RG 243.19 Existing approved auditors of SMSFs who apply for registration during the transitional period will be exempt from the practical experience requirement in s128B(1)(a)(ii) (see RG 243.10(a) and RG 243.10(c)) if they:
- (a) have signed off on at least one SMSF audit within the 12-month period before applying for registration; or
  - (b) are registered company auditors under s1280 of the Corporations Act.
- RG 243.20 A summary of the prescribed practical experience requirement for registration as an approved SMSF auditor is set out in Table 2.

**Table 2: Summary of prescribed practical experience requirement**

	What experience you need	What you must provide with your application
Prescribed practical experience: s128B(1)(a)(ii) and reg 9A.03(a)	<p>You must:</p> <ul style="list-style-type: none"> <li>• have at least 300 hours experience in auditing SMSFs during the 3 years immediately before the date of your application under the direction of an approved SMSF auditor or, if the experience in auditing SMSFs was obtained before 31 January 2013, under the direction of a person who was an approved auditor of SMSFs;</li> </ul> <p>Note: A person who was an approved auditor of SMSFs on 31 January 2013 is deemed to be an approved SMSF auditor from 31 January 2013 until 30 June 2013. Consequently, experience obtained under their supervision before 30 June 2013 can be included in your application.</p> <ul style="list-style-type: none"> <li>• be a registered company auditor under s1280 of the Corporations Act and apply between 31 January and 30 June 2013; or</li> <li>• have signed off on at least one SMSF audit within the 12-month period before applying for registration and apply between 31 January and 30 June 2013.</li> </ul>	<p>You must provide information about your registered company auditor number and/or practical experience, as well as the details of your supervisor.</p>

	What experience you need	What you must provide with your application
Equivalent experience: reg 9A.03(b)	If you do not have at least 300 hours experience auditing SMSFs under the direction of an approved SMSF auditor in the 3 years before your application (and do not qualify for one of the two transitional arrangements above), you must be able to satisfy us that you have equivalent practical experience.	You must provide a written statement setting out details of your equivalent practical experience (it can be a separate attachment to your application if space does not permit).

Note: The prescribed practical experience requirement is subject to the transitional arrangements that will apply between 31 January and 30 June 2013: see RG 243.7–RG 243.13.

## Passing of competency examination

- RG 243.21 You must pass a competency examination conducted by or on behalf of ASIC within the 12-month period before you apply and you can only attempt the competency examination twice within that period.

Note: This requirement is subject to the transitional arrangements that will apply between 31 January and 30 June 2013: see RG 243.7–RG 243.13.

- RG 243.22 Existing approved auditors of SMSFs who apply during the transitional period will be exempt from the requirement to sit a competency examination in s128B(1)(a)(iii) if they either:

- (a) have signed off on 20 or more SMSF audits in the 12-month period before applying for registration; or
- (b) are a registered company auditor.

Note: For more information, see s128B(1)(a), 128C and 128D, reg 14.01 and Class Order [CO 12/1687] *Competency standards for approved SMSF auditors*.

- RG 243.23 If you apply for registration during the transitional period and have signed off on less than 20 SMSF audits in the 12-month period before applying, we may register you with a condition on the registration requiring you to pass the competency examination before 1 July 2014. Failure to pass the competency examination by 1 July 2014 would result in the cancellation of your registration.

## Unlikely to contravene your obligations

- RG 243.24 We must be satisfied that you are unlikely to contravene the ongoing obligations of an approved SMSF auditor under Subdiv B: see Section D.
- RG 243.25 In determining whether you are ‘unlikely’ to contravene the obligations of an approved SMSF auditor under Subdiv B, we will take into consideration the

information provided in your application as well as other relevant information available to us. In some cases, we may request additional information be provided within a specified timeframe to make this determination.

## Capable of performing your duties

RG 243.26 We must be satisfied that you are capable of performing the duties of an approved SMSF auditor.

RG 243.27 In determining whether you are ‘capable’ of performing your duties as an approved SMSF auditor, we will take into consideration the information provided in your application as well as other relevant information available to us. In some cases, we may request additional information be provided within a specified timeframe to make this determination.

## A fit and proper person

RG 243.28 We must be satisfied that you are a fit and proper person to be an approved SMSF auditor.

RG 243.29 We consider you to be a fit and proper person to be an approved SMSF auditor if we are satisfied as to your honesty, integrity and good reputation. This is in addition to our being satisfied about your overall capability and whether you are unlikely to contravene the obligations of an approved SMSF auditor under Subdiv B.

RG 243.30 We will consider whether you are a fit and proper person based on your individual circumstances. As outlined in the Explanatory Memorandum to the Superannuation Laws Amendment Act (paragraphs 2.28–2.29), any of the following matters may indicate that you are not a fit and proper person to be an approved SMSF auditor, but a single factor might not be determinative in a particular case:

- (a) you have not carried out or performed adequately and properly the duties and functions of an approved SMSF auditor;
- (b) you have been subject to disciplinary action, including, but not limited to, suspension and exclusion from practice, by a regulatory body or a professional association;
- (c) you have been or are currently disqualified or banned under provisions of an Act or legislative instrument under Commonwealth, state or territory law;
- (d) you have been or are currently the subject of administrative, civil or enforcement action, which was determined adversely (including

- consenting to an order or direction, or giving an undertaking not to engage in unlawful or improper conduct) in any country;
- (e) you have been convicted or have legal proceedings pending for any criminal offences, any acts of dishonesty (such as theft or fraud), any breach of trust or fiduciary duty, any professional misconduct or other misconduct;
  - (f) you have served a term of imprisonment;
  - (g) you have been obstructive, misleading or untruthful in dealing with regulatory bodies, or a court;
  - (h) you have failed to deal with conflicts of interest appropriately; or
  - (i) you have or have had the status of undischarged bankrupt or insolvent under administration, or there is any such action pending.

This list is not exhaustive and we may take other relevant matters into account.

## Adequate and appropriate professional indemnity insurance

- RG 243.31 You will need to provide a copy of a certificate of currency with your application for registration as evidence you hold PI insurance cover for the audit of SMSFs. You will be required to provide us with a completed and signed PI statement confirming you hold 'adequate and appropriate' PI insurance cover in accordance with the requirements of the SIS Regulations. If you are a member or employee of an audit firm, you must ensure that at all times you are covered by an insurance policy maintained by that firm that complies with the SIS Regulations.

Note: A copy of the PI statement can be obtained from ASIC's website.

### Meaning of 'adequate and appropriate'

- RG 243.32 Information about what is considered to be adequate and appropriate PI insurance is in reg 9A.05 and the accompanying Explanatory Memorandum.

### Adequacy (quantum)

- RG 243.33 Regulation 9A.05 prescribes the adequate level of PI insurance required as either:
- (a) a level set under a limitation of liability scheme provided by a professional organisation mentioned in Sch 1AAA to its members; or
  - (b) if you are not part of a limitation of liability scheme, the level that is adequate to ensure that the amount of coverage for a single claim or in

aggregate is at least \$500,000 and is adequate because other terms of the policy will indemnify the auditor against civil liability that may arise from an act, error or omission in connection with audits of SMSFs.

### **Appropriateness (terms and conditions)**

RG 243.34 To be considered appropriate, the PI insurance must have the following features. The policy must:

- (a) cover claims made in respect of SIS Act audits;
- (b) cover costs and expenses, including legal costs and expenses of investigating, defending and settling claims (a costs-in-addition cover is preferred);

Note: Costs-in-addition cover provides for payment of legal and other defence costs in addition to the nominated level of cover in the PI policy.

- (c) cover fraud/dishonesty of directors/partners, employees and contractors of the insured (although fraud cover is not required for sole practitioners);
- (d) not be cancellable by the insurer solely because of an innocent non-disclosure or misrepresentation;
- (e) include at least one automatic reinstatement; and

Note: 'Automatic reinstatement' means that if the limit of indemnity (amount of cover) is depleted (reduced) by a claim or series of claims that equal the limit of indemnity under the policy, the limit of indemnity is automatically reinstated. For more information, see 'Key terms' at the end of this guide.

- (f) be on ordinary commercial terms offered by insurers for insurance of that type at the time the insurance contract is entered into.

RG 243.35 The PI insurance may:

- (a) cover claims for audits other than audits under the SIS Act;
- (b) have a deductible or excess—however, the excess in a policy should be set at a level at which the approved SMSF auditor has sufficient financial resources to cover but without affecting the minimum level of cover.

Note: In some circumstances, we may accept a bank guarantee that covers the amount of any deductible or excess. For further information, contact ASIC on 1300 300 630.

## **An Australian resident**

RG 243.36 You must provide information about your Australian residency. If you are not an Australian resident, your application for registration will be refused.

Note: In s10(1) an Australian resident means a person who is a resident of Australia for the purposes of the *Income Tax Assessment Act 1936*.

## Not disqualified or suspended

RG 243.37 Your application for registration will be refused if you are subject to a disqualification or suspension order that is in force under s130F or if you are disqualified from being or acting as an auditor of all superannuation entities under s130D.

Note: A person who has a disqualification order that is in force under s131 is taken to be disqualified under s130F.

## ASIC discretion to register

RG 243.38 We may exercise our discretion to register under s128B(2). This section allows us to grant registration to an applicant despite them not meeting one or more of the requirements in s128B(1)(a)—including the qualifications, practical experience and competency examination requirements—as long as they still meet the requirements of s128B(1)(b). The requirements of s128B(1)(b) are met if the applicant demonstrates they:

- (a) are unlikely to contravene the obligations of an approved SMSF auditor;
- (b) are capable of performing the duties of an approved SMSF auditor; and
- (c) are a fit and proper person to be registered as an approved SMSF auditor.

In certain circumstances our discretion will be exercised together with our ability to impose conditions on a registration under s128D.

## C Lodging your application for registration

### Key points

To register as an approved SMSF auditor, you will need to complete an online application form, lodge it with us and pay the prescribed registration fee.

You can access the online application form on ASIC Connect: see RG 243.39–RG 243.49. Your application must be submitted electronically with all of the required supporting material and the registration fee: see RG 243.50–RG 243.63. You will need to make declarations that the information in the application is complete, accurate and true: see RG 243.54–RG 243.56.

Your application will not be available to the public, but, if you are registered, some information about your business will be uploaded to a searchable public register: see RG 243.71–RG 243.81.

### Accessing the registration system

- RG 243.39 To register as an approved SMSF auditor, you will need to complete an online application form, lodge it with us and pay the prescribed registration fee.

Note: If you cannot access, or have difficulties with, the online application, you can contact ASIC on 1300 300 630 for assistance.

### Accessing ASIC Connect

- RG 243.40 Before you can access the online application form on our website, you will need access to our online service, ASIC Connect. You can create an ASIC Connect account through the ASIC website at [www.asic.gov.au](http://www.asic.gov.au).

Note: ASIC Connect services for approved SMSF auditors will be available through ASIC Connect close to the commencement date of the Register of Approved SMSF Auditors (31 January 2013).

- RG 243.41 You will be asked to provide your email address and a password to control access to your account. Your email address will serve as your user name. You will also need to provide your full name and phone number, so we can identify the user of the account.
- RG 243.42 You will be asked to provide a security question and answer that only you should know. If you forget your password, you can generate a new one after your identity has been verified using your security question and answer.

RG 243.43 After you have provided us with all the relevant information and we send confirmation that the account has been created/activated, you will be able to log on to ASIC Connect using your user name and password.

### Starting the online registration process

RG 243.44 To find the online application, you will need to go to our website at [www.asic.gov.au](http://www.asic.gov.au) and log into ASIC Connect. You can start the online application by selecting the 'Licences and Registrations' tab and then 'Apply for SMSF auditor registration'.

### Saving and resuming your application

RG 243.45 After you have started your application, you can save it at certain points in the process and resume it as many times as you like before you submit it. You can access your incomplete application by logging into ASIC Connect. We will store the information under an incomplete application for 90 days from when you last saved your application.

RG 243.46 The online application is designed so that certain information must be provided before you can progress to the next screen. This is to ensure that you do not accidentally omit any important information or submit an incomplete application.

RG 243.47 If you realise that you have made a mistake on a previous screen, you can go back to that screen to amend it at any time up until you submit your application.

RG 243.48 Your application is automatically saved by us every time you hit 'Next'. If you are disconnected from the internet or you close out of the application, we will have saved all information up until the question you last answered before you selected 'Next'.

RG 243.49 You will need to provide details about yourself in your application. You should be able to prepare your application without any professional assistance (but another person may lodge it on your behalf).

## What you must provide

RG 243.50 You must provide us with:

- (a) your application for registration electronically;
- (b) all of the required supporting material in the required format; and
- (c) the registration fee.

Note: All required supporting material should be emailed to [SMSFauditor.registration@asic.gov.au](mailto:SMSFauditor.registration@asic.gov.au). The subject line of the email must include the transaction number, the name of the applicant and the type of transaction

RG 243.51 We may request that you provide us with further information to support your application within a specified timeframe. It is important that you comply because otherwise your application will be deemed to have been withdrawn.

Note: If your application is deemed to have been withdrawn, you may submit another application for registration in accordance with s128A.

RG 243.52 You must ensure that all the details in your application are correct. We may check the information you provide as part of our request for further information. After you have submitted your application, you will not be able to change your answers.

RG 243.53 When you are satisfied that your application for registration is complete, the system will lead you through the steps to submit it. Your application will be lodged after you have submitted it online, paid the registration fee (see RG 243.60–RG 243.63) and the lodgement is accepted.

Note: There will be an online confirmation of your submitted application, which you should print out.

## Declarations

RG 243.54 You must declare that certain statements in your application are complete, accurate and true. For example, you must declare that you are not disqualified from being registered as an approved SMSF auditor.

RG 243.55 If you are not the applicant, you must be authorised by the applicant to make each declaration, and submit the application, on their behalf.

RG 243.56 It is a criminal offence to make false or misleading statements in, or omit material from, your application. Additionally, under s130F(2)(c), we may make a written order disqualifying a person from being an approved SMSF auditor, or suspending a person's registration as an approved SMSF auditor, if that person provides a false declaration in their application.

## Requesting an extension of time

RG 243.57 We may grant an extension of time to provide information to support your application. Extensions of time will be considered on a case-by-case basis. It should not be assumed that an extension of time will be granted automatically.

RG 243.58 Any request for an extension of time must be provided in writing (e.g. through ASIC Connect) and include a detailed reason as to why the extension is required.

RG 243.59 Applicants must have lodged an application by 30 June 2013 to be eligible for the transitional arrangements under the Superannuation Laws Amendment Act (see RG 243.7–RG 243.13). No extensions of time for

lodging an application past 30 June 2013 will be granted. Transitional arrangements only apply to applicants who lodge their application for registration by 30 June 2013.

### Payment of the registration fee

- RG 243.60 The fees to register as an approved SMSF auditor are prescribed by the Superannuation Laws Amendment Act and the Superannuation Amendment Regulations. For more information on registration fees, go to our website at [www.asic.gov.au](http://www.asic.gov.au).
- RG 243.61 You can choose to pay during the registration process using your credit card, or an invoice for the fees can be sent to you detailing the various methods of payment for settlement at a later date. Under s128L(5), your application to be registered as an approved SMSF auditor will not be considered lodged if the application fee is not received by us.

### Will you be reimbursed if you withdraw your application?

- RG 243.62 Once the application has been accepted for lodgement, the application fee will not be reimbursed if you decide to withdraw your application.
- RG 243.63 Your fee will *not be* reimbursed if we refuse to register you as an approved SMSF auditor.

## What happens after your application is lodged?

- RG 243.64 We will grant your application and register you as an approved SMSF auditor if we are satisfied that you meet the eligibility requirements for registration under the SIS Act.
- RG 243.65 Our ability to make a decision will be affected by:
- (a) whether we require further information from you about any aspect of your application and the time it takes for you to reply; and
  - (b) how quickly we receive confirmation about the information you provided in your application, which we may request from third parties.
- Note: If you do not comply with our request for further information within a specified timeframe, your application is taken to be withdrawn: see RG 243.51.
- RG 243.66 If we are satisfied that you meet the eligibility requirements for registration, we will register you and issue your certificate of registration within 14 days of being satisfied that you meet the requirements: s128B(6). We will write to you advising that your application for registration has been successful and that you are registered as an approved SMSF auditor. We will also give you

an SMSF auditor number (SAN) at this time, which should be used when reporting to the ATO.

Note: If you provided an email address with your online application, we will send you the letter and certificate of registration by email. If you have *not* provided an email address, it will be sent by post.

## What if your application is refused?

- RG 243.67 Subject to transitional arrangements, we may refuse your application if you do not meet the qualification, practical experience and competency examination eligibility requirements, as described in Section B, unless we exercise our discretion under s128B(2). For an explanation about exercising our discretion, see RG 243.38.
- RG 243.68 We must refuse your application for registration as an approved SMSF auditor if you:
- (a) do not meet the requirements under s128B(1)(b);
  - (b) have a disqualification order or suspension order in force against you under s130F; or
  - (c) have been disqualified from being or acting as an auditor of all superannuation entities under s130D.
- RG 243.69 If we refuse your application for registration, we will give you the reasons for that decision. You may, if dissatisfied with our decision, request ASIC to review the decision: see Section E.
- RG 243.70 If your application is refused and you address the matter that resulted in the refusal, you can apply again for registration.

## What happens to the information you provide?

- RG 243.71 The information you enter in your online application is protected by industry-standard encryption and stored on a secure server at ASIC.
- RG 243.72 The application lodged by you is not available to the public. However, after you are registered with us, certain information about you will be uploaded to the Register of Approved SMSF Auditors: see RG 243.74–RG 243.78.
- RG 243.73 ASIC may also disclose the information you provide to the ATO for the purposes of the ATO administering the provisions under the SIS Act. Such disclosure from ASIC to the ATO is permitted under s128N.

Note: See the privacy statement at [www.asic.gov.au](http://www.asic.gov.au) for more information.

## Register of Approved SMSF Auditors

- RG 243.74 ASIC maintains a Register of Approved SMSF Auditors under the SIS Act, which records the details of approved SMSF auditors and suspended SMSF auditors.
- RG 243.75 If you are registered as an approved SMSF auditor, the Register of Approved SMSF Auditors will include the following details:
- (a) your name;
  - (b) your SAN;
  - (c) the date your registration took effect;
  - (d) your principal place of practice; and
  - (e) if you practise as an auditor or a member of a firm, or under a name or style other than your own name—the name of the firm, or the name or style under which you practise.
- RG 243.76 If you are a suspended SMSF auditor, any particulars of your suspension will appear on the Register of Approved SMSF Auditors.
- RG 243.77 We may, from time to time, decide to place other details that we consider appropriate on the Register of Approved SMSF Auditors.
- RG 243.78 We must remove your details from the Register of Approved SMSF Auditors if you cease to be an approved SMSF auditor—for example, if your registration has been cancelled or we have issued an order that disqualifies you from acting as an approved SMSF auditor.

## Register of Disqualified SMSF Auditors

- RG 243.79 ASIC maintains a Register of Disqualified SMSF Auditors under the SIS Act.
- RG 243.80 If you have been issued with an order disqualifying you from being an approved SMSF auditor under s130D, 130F or 131, your name and contact details last known to us will be placed on the Register of Disqualified SMSF Auditors while that order is in force. We must also publish details of this order in the *Government Notices Gazette* as soon as practicable after it is made.
- RG 243.81 If you have applied successfully for the disqualification order to be revoked, we must remove your details from the Register of Disqualified Auditors. In these circumstances, we will also publish the details of the revocation in the *Government Notices Gazette* as soon as practicable after the decision is made.

## D Your obligations after you are registered

### Key points

As an approved SMSF auditor, you must comply with any conditions we impose on your registration: see RG 243.82–RG 243.84.

You must also comply with your ongoing obligations, including:

- undertaking continuing professional development (see RG 243.88–RG 243.90);
- complying with required standards (see RG 243.91–RG 243.93);
- holding a current policy of PI insurance (see RG 243.94);
- lodging an annual statement (see RG 243.95); and
- notifying ASIC of certain matters (see RG 243.96–RG 243.97).

### Complying with any conditions on registration

RG 243.82 Under s128D, we may impose conditions, or impose additional conditions or vary or revoke conditions, on your registration as an approved SMSF auditor and may do so at any time by giving written notice. We may do so, for example, if we think it is necessary to address concerns about the conduct of a particular approved SMSF auditor or approved SMSF auditors generally, or we may impose a condition or conditions immediately following the granting of the application for registration as an approved SMSF auditor.

RG 243.83 We are not limited to the nature or type of conditions that may be placed on a person's registration. Conditions are determined on a case-by-case basis.

RG 243.84 Conditions may include requiring the person to complete a course of education or training, or requiring the person to undertake and pass a competency examination within a timeframe specified by us: see s128D(3). Our decision to impose or vary conditions, or impose additional conditions, on a person's registration and our decision to refuse an application to vary or revoke conditions, or impose additional conditions, on a person's registration is a reviewable decision: see Section E.

### Complying with your ongoing obligations

RG 243.85 Approved SMSF auditors have ongoing obligations under the SIS Act, including:

- (a) undertaking continuing professional development (see RG 243.88–RG 243.90);
- (b) complying with required standards (see RG 243.91–RG 243.93);
- (c) holding a current policy of PI insurance (see RG 243.94);
- (d) lodging an annual statement (see RG 243.95); and
- (e) notifying ASIC of certain matters (see RG 243.96–RG 243.97).

RG 243.86 The ATO has powers under the SIS Act to monitor compliance by approved SMSF auditors with their ongoing obligations. The ATO will refer matters of non-compliance to ASIC.

RG 243.87 If we determine that an approved SMSF auditor has failed to comply with their ongoing obligations under the SIS Act, we will decide what appropriate action to take in the circumstances. The SIS Act includes provisions for us to decide on whether to:

- (a) cancel an approved SMSF auditor's registration;
- (b) suspend an approved SMSF auditor's registration;
- (c) impose or vary conditions on an approved SMSF auditor's registration;
- (d) accept a written enforceable undertaking from an approved SMSF auditor; or
- (e) issue a disqualification order.

### **Undertake continuing professional development (CPD)**

RG 243.88 Approved SMSF auditors must satisfy a requirement to undertake a set number of CPD hours that could reasonably be expected to enhance the auditor's technical skills or professional service delivery.

RG 243.89 You will need to complete 120 hours of CPD over each three-year period, which must include 30 hours of development on superannuation and at least 8 hours of development on auditing SMSFs.

RG 243.90 You must keep a written record of the development undertaken for at least 3 years after the end of the calendar year in which the development occurred.

Note: For more information, see s128F(a) and reg 9A.04.

### **Comply with required standards (competency and auditing)**

RG 243.91 You will need to comply with competency standards issued by ASIC. These standards cover an ability to conduct certain tasks and knowledge of auditing and assurance engagement standards as well as SIS compliance matters.

Note: For more information, see [CO 12/1687] and s128Q.

- RG 243.92 For each financial year of an audited SMSF, the auditor must form an opinion and report in accordance with the requirements of the SIS Act. This includes forming an opinion on the SMSF's financial report and the SMSF's compliance with certain requirements of the SIS Act and SIS Regulations.
- RG 243.93 In addition to the competency standards we set, you will need to comply with standards applicable to your duties as an approved SMSF auditor. These standards are:
- (a) any relevant Australian auditing and assurance engagement standards issued by the Auditing and Assurance Standards Board, including the Australian auditing standards and the Australian Standard on Assurance Engagements ASAE 3100 *Compliance engagements*; and
  - (b) auditor independence requirements prescribed by the SIS Regulations—specifically, the independence requirements included in the Accounting Professional and Ethical Standards APES 110 *Code of ethics for professional accountants*.

### **Hold PI insurance**

- RG 243.94 Approved SMSF auditors must hold current PI insurance to reduce the risk that, in the event of claims being made against the auditor in connection with audits of SMSFs, inadequate compensation is available due to a lack of available financial resources. You must hold a current policy of PI insurance that is adequate and appropriate, as specified by the SIS Regulations: see RG 243.31–RG 243.35.

Note: For more information, see s128F(b) and reg 9A.05.

### **Lodge an annual statement with ASIC**

- RG 243.95 You will need to lodge an annual statement with ASIC within 30 days of the annual anniversary of your registration. This requirement applies regardless of whether you are an approved SMSF auditor or a suspended SMSF auditor. If you need an extension of time to lodge the annual statement, you must make a written request to us before the due date.

### **Notify ASIC of certain matters**

- RG 243.96 As an approved SMSF auditor, you must give information to ASIC within 21 days after the occurrence of the following events:
- (a) you cease to practise as an approved SMSF auditor;
  - (b) you are no longer an Australian resident;
  - (c) there are changes to any of the details about you on the Register of Approved SMSF Auditors; or

(d) your contact details have changed.

Note: Contact details, including your phone numbers (business and private), email and residential address, are not displayed on the Register of Approved SMSF Auditors.

RG 243.97 You can give this information to us using online notifications that are accessed through ASIC Connect.

Note: For more information on the notifications that may be lodged by approved SMSF auditors, see the 'Related information' section at the end of this guide.

## E Your rights of review

### Key points

A number of our decisions are reviewable decisions for the purposes of the SIS Act: see RG 243.98.

If you are dissatisfied with a decision made by ASIC, you may request a review of that decision: see RG 243.99–RG 243.102.

### Types of decisions that can be reviewed under the SIS Act

- RG 243.98 A number of ASIC's decisions are reviewable decisions for the purposes of the SIS Act. These are a decision:
- (a) refusing your application for registration as an approved SMSF auditor made under s128A;
  - (b) imposing or varying conditions, or additional conditions, on your registration as an approved SMSF auditor under s128D;
  - (c) refusing an application to vary or revoke conditions, or impose additional conditions, imposed under s128D on your registration as an approved SMSF auditor;
  - (d) cancelling your registration as an approved SMSF auditor under s128E(2);
  - (e) refusing an application to waive the payment of the whole or a part of a fee under s128L(4);
  - (f) making an order under s130F disqualifying you from being an approved SMSF auditor; and
  - (g) refusing your application to revoke a disqualification order under s130F.

### Applying for a review of a decision

- RG 243.99 Your request for review of our decision must be made in writing and given to us within 21 days after the day on which you first receive notice of our decision. When we have received your request, we will reconsider the decision. We may confirm or revoke the decision, or vary the decision, in any manner we think is appropriate.

RG 243.100 If we do not confirm, revoke or vary a decision before the end of the period of 60 days *after* the day on which we received the request to reconsider the decision, we are taken, at the end of that period, to have confirmed our original decision.

RG 243.101 However, if we confirm, revoke or vary a decision *before* the end of the period of 60 days after the day on which we received the request to reconsider the decision, we will give written notice to you or the person making the request on your behalf advising:

- (a) the result of the reconsideration of the decision; and
- (b) the reasons for confirming, varying or revoking the decision, as the case may be.

RG 243.102 If you are still dissatisfied with our decision, you may within 28 days of being informed of the decision seek a review of our decision by the Administrative Appeals Tribunal.

Note: For more information, see s344(2)–(6). Information Sheet 9 *ASIC decisions—Your rights* (INFO 9) sets out an overview of your rights connected with the decision.

## Key terms

Term	Meaning in this document
approved auditor of SMSFs	Has the meaning given in s10(1) of the SIS Act before 31 January 2013
approved SMSF auditor	Has the meaning given in s10(1) of the SIS Act after 31 January 2013
ASIC	Australian Securities and Investments Commission
ASIC Connect	ASIC's online portal for SMSF auditor registration
ATO	Australian Taxation Office
Australian resident	Has the meaning given in s10(1) of the SIS Act
automatic reinstatement	<p>If the limit of indemnity (amount of cover) is depleted (reduced) by a claim or series of claims that equal the limit of indemnity under the policy, the limit of indemnity is automatically reinstated.</p> <p>Depending on the number of reinstatements provided by the policy, this clause can provide indemnity for multiple claims during the year if the total of these claims exceeds the policy limit of indemnity. It is important to note that no one claim payment by the insurer will exceed the policy limit of indemnity.</p> <p>For example, if an insured entity purchases a policy with a \$250,000 limit of indemnity, and the policy contains one automatic reinstatement, the policy provides cover for claims aggregating up to \$500,000 during the period of insurance, subject to any one claim being no greater than \$250,000</p>
competency examination	A competency examination, in accordance with s128C, conducted by or on behalf of ASIC
competency standard	An auditing competency standard established by ASIC under s128Q of the SIS Act
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
costs-in-addition cover	Provides for payment of legal and other defence costs in addition to the nominated level of cover in a PI policy
deductible excess	The first part of a loss, which is borne by the insured. The insured is responsible for the loss up to the deductible amount and the insurer pays the remainder of the loss, up to the policy limit

Term	Meaning in this document
exclusions	A provision of an insurance policy that precludes coverage in particular circumstances
limitation of liability scheme	A scheme limiting the civil liability of members of the applicable professional association approved under the <i>Civil Law (Wrongs) Act 2002</i> (ACT), the <i>Professional Standards Act 1994</i> (NSW), the <i>Professional Standards Act 2004</i> (NT), the <i>Professional Standards Act 2004</i> (Qld), the <i>Professional Standards Act 2004</i> (SA), the <i>Professional Standards Act 2003</i> (Vic.) and the <i>Professional Standards Act 1997</i> (WA)
minimum requirements	The amount and terms of cover that ASIC requires to be included in the insurance coverage of a registered agent, as specified by ASIC from time to time
PI insurance	Professional indemnity insurance
reg 9A.01 (for example)	A regulation of the SIS Regulations (in this example numbered 9A.01), unless otherwise specified
Register of Approved SMSF Auditors	The register of approved SMSF auditors established and maintained under s128J of the SIS Act
Register of Disqualified SMSF Auditors	The register of disqualified SMSF auditors established and maintained under s128K of the SIS Act
s128 (for example)	A section of the SIS Act (in this example numbered 128), unless otherwise specified
SAN	SMSF auditor number
SIS Act	<i>Superannuation Industry (Supervision) Act 1993</i>
SIS Regulations	Superannuation Industry (Supervision) Regulations 1994
SMSF	Self-managed superannuation fund
SPAA	SMSF Professionals' Association of Australia
Superannuation Amendment Regulations	Superannuation Industry (Supervision) Amendment Regulations 2012
Superannuation Laws Amendment Act	<i>Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012</i>
suspended SMSF auditor	Has the meaning given by s10(1) of the SIS Act
transitional arrangements	The transitional arrangements that will apply for existing approved auditors of SMSFs between 31 January and 30 June 2013

## Related information

### Headnotes

approved SMSF auditor, ASIC Connect, Register of Approved SMSF Auditors, Register of Disqualified SMSF Auditors

### Class order

[CO 12/1687] *Competency standards for approved SMSF auditors*

### Legislation

Corporations Act, s1280

Corporations Regulations, regs 9.2.02

*Income Tax Assessment Act 1936*

SIS Act, Subdiv B, s10(1), 128A, 128B, 128C, 128D, 128E, 128F, 128L, 128N, 128Q, 130D, 130F, 131 and 344

SIS Regulations, regs 9A.01, 9A.02, 9A.03, 9A.04, 9A.05 and 14.1

Superannuation Amendment Regulations

Superannuation Laws Amendment Act

Superannuation (Self Managed Superannuation Fund Auditors) Fees Imposition Regulation 2012, reg 4(1)

### Information release

INFO 9 *ASIC decisions—your rights*