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# SMSF exit strategies and alternatives

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# Agenda

1 INDUSTRY ACTIVITIES

2 SMSF EXIT STRATEGIES

3 ALTERNATIVE STRUCTURES

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## Industry activity

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## ASIC activity

REPORT 337

INFORMATION SHEET 205

COMPLIANCE TIP

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## ASIC compliance tip

ASIC are likely to look at whether clients have been made aware of what may be required to wind up their SMSF and the likely costs involved

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## Elder abuse

- Elder abuse – ‘A national legal response’
- *Australian Law Reform Commission Report 131*
- July 2017
- Superannuation recommendations

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## Superannuation recommendation

Require SMSF trustees to consider loss of trustee capacity as part of the fund’s investment strategy and objectives

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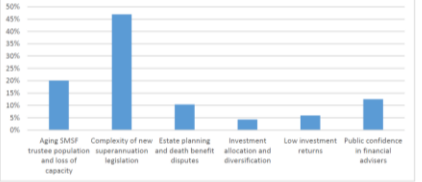
## SMSFA 2017 member survey

**What is the single biggest challenge you believe the SMSF industry is currently facing or will face in the near future?**

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## SMSF exit strategy considerations

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## When do we need an exit strategy?

DEATH

DIVORCE

DEMENTIA

DISABILITY

DISINTEREST

DISQUALIFIED

DEPARTED

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## Loss of capacity

- More than 410,000 Australians with dementia
- Projected to be over 530,000 by 2025
- Second leading cause of death of Australians
- Leading cause of death of Australian women in 2016

Concurrent 6C – Caroline Harley
Loss of capacity

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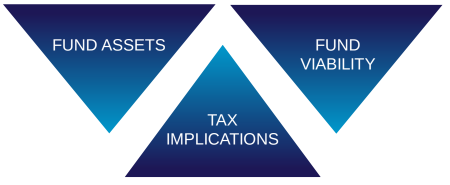
## Why do we need an exit strategy?

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### FUND ASSETS

- Illiquid or indivisible assets
- Ability to make benefit payments
- Assets not accepted by retail funds
  - Business real property
  - Collectables
- Choice of investments offered by public offer fund
- Desire to retain assets in the family unit
- Limited recourse borrowing arrangement

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### TAX IMPLICATIONS

- Capital gains tax (CGT)
- Timing of disposal of assets
- Capital gains crystallised
- Losses unable to be carried forward
- Pension or accumulation phase

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FUND VIABILITY

- Ability and desire
- All trustees are created equal but…
  - Will the surviving member(s) want to continue the fund?
  - Will the surviving trustee(s) have the necessary skills and interest?
- Trustee structure
  - Privacy

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## SMSF exit strategy alternatives

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## Exit strategies

ROLLOVER TO A PUBLIC OFFER FUND

CONVERT TO A SAF

MEET A CONDITION OF RELEASE

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## Rollover

- Retail or industry fund
- CGT event
- Inability to transfer private assets
- Frozen funds?
  - Members may need to buy from SMSF
- Complete rollover reporting

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## The other self-managed super

- Small APRA fund
- An SMSF with a professional licensed trustee
- Compliance risk borne by licensed trustee
- Professional real-time administration
- Investment flexibility - wide investment menu
  - May be narrower than some SMSFs
  - Requires a diversified portfolio

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## Convert to a SAF

- Not a CGT event
- Likely to be able to keep assets
- Member directed investments
- Member directed death benefit nominations
- No issues with single member funds
- Retains privacy

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## Meet a condition of release

- Pay benefit and wind-up fund
- Sell assets and pay cash
- In-specie payments
- Ensure sufficient funds for wind-up costs and taxes
- Complete benefit payment reporting
- Wind up the fund

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## Alternative structures

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## Beyond 2017

Transfer balance cap
- Limits amount of death benefit that can be retained in super

Contribution caps
- Limits amount of wealth accumulation

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## Death benefit issues

- Maximum $1.6 million as a death benefit pension
- Potentially more restrictive for child death pensions
- Any excess must leave the super system
- Estate plans must be revisited!
- Control versus tax


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## Alternative distribution structures

- Testamentary trusts
  - Protection of beneficiaries
  - Taxation advantages
  - Protection of assets
- Condition of release met
  - Move assets to family trust or company
  - Investment bonds

Concurrent 8B – Liz Westover
Complementing your SMSF with alternative tax planning structures

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## Wealth accumulation


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# Case study

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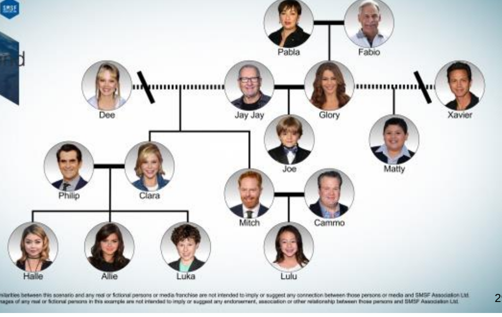


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## Jay Jay

- Age 62
- Married 9 years to Glory age 41
- Two children age 13 and 4
- Debt-free
- $2.2 million in SMSF

Jay Jay

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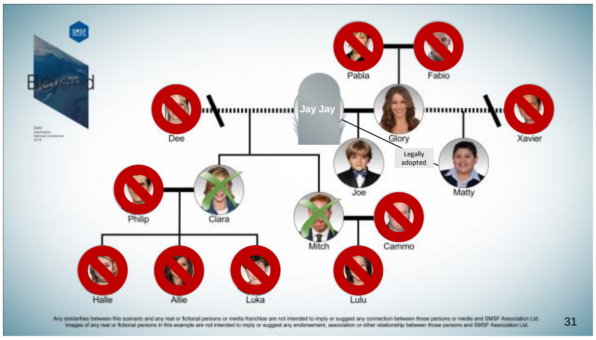


## Jay Jay


$1.6 million as pension ✚ $600,000 leaves super system

All to Glory

All to Matty and Joe

Combination between Glory, Matty and Joe

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## Jay Jay


$600,000 leaves super system

Lump sum to Glory and/or Matty and Joe

Lump sum to LPR to distribute income from testamentary trusts

Death benefit nominations must be updated

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## Jay Jay

Jay Jay

REVIEW DEATH BENEFIT NOMINATIONS

REVIEW WILL AND ESTATE PLANS

NO ONE CORRECT ANSWER

MUST CONSIDER PERSONAL CIRCUMSTANCES

MUST CONSIDER CHANGES IN PERSONAL CIRCUMSTANCES

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## Pabla

Pabla

- Self-funded retiree
- $5 million in an SMSF
- One daughter and two grandsons
- No dependant eligible to receive a death benefit pension
- All $5 million must leave the super system

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## Pabla

Pabla

- $80,000 annual pension
  - Meets all living expenses
- $750,000 potential PAYG tax bill for Glory
- Withdraw funds and use alternative structures

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## Learning outcomes

- Review ASIC's expectations for considering an exit strategy
- Identify when an exit strategy may be required
- Understand the alternative exit strategies available
- Identify clients who could consider alternative structures

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## Questions?

## Additional resources

ATO videos



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