

# Winding Up an SMSF



Presented by Shelley Banton, Head of Education, May 21, 2024

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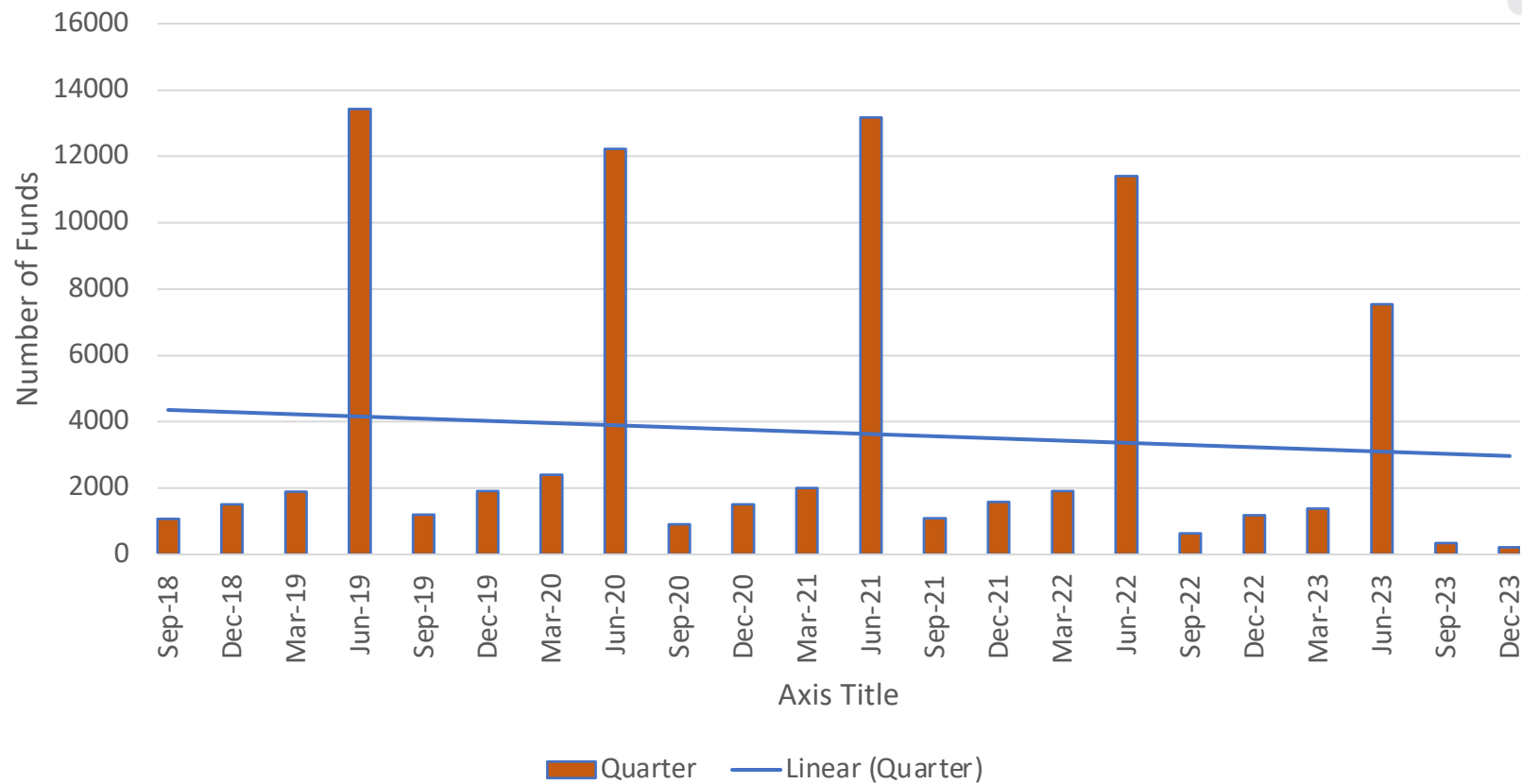
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# Reasons to Wind Up an SMSF

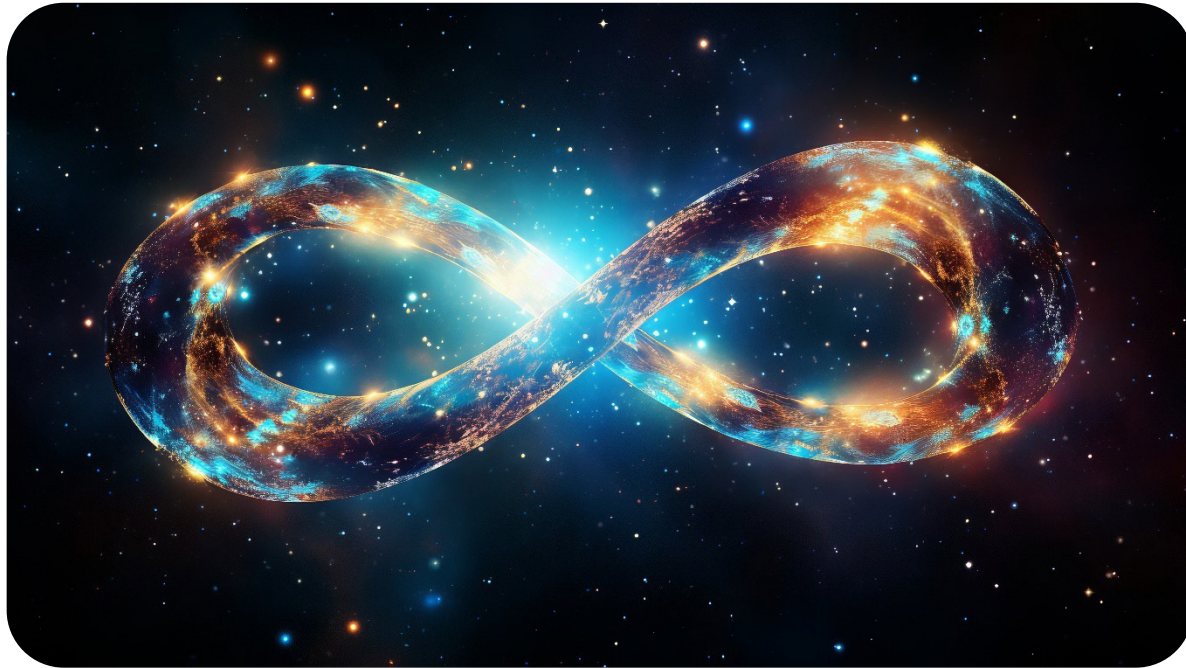


# ATO Quarterly SMSF Windups Sept 2018 – Dec 2023

Source: ATO SMSF Statistical Report Dec 2023



# 1. An SMSF Windup is Forever



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There is no  
coming back

SMSF ceases  
to be a legal  
entity

Communicate  
with trustees



## 2. Read the Deed, You Must

Sets out rules  
& procedures

Binding  
agreement

Face  
potential  
legal issues

Liable for  
damages or  
losses

Specific  
requirements



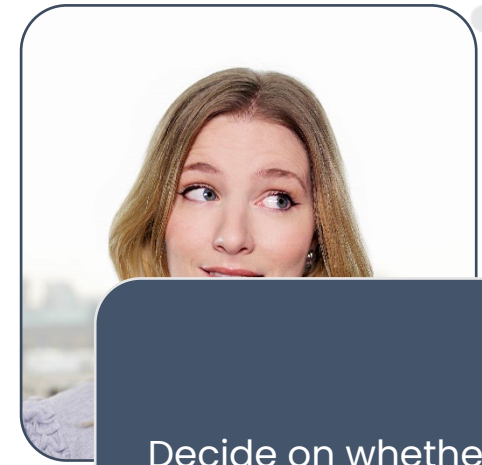
# 3. Organise a Final Windup Meeting



Organise a meeting  
to ensure all parties  
agree



Keep minutes and  
get every trustee to  
sign wind up  
agreement



Decide on whether  
the corporate trustee  
gets wound up

# 4. The Mechanics of Paying Out Benefits



Confirm payment of  
benefits

Trustee to notify member

Specifics of how and  
where to be paid

Rolled over? Paid  
out?

SIS & Trust Deed  
rules critical!!!



## 5. Use the Force ... of SuperStream



Confirm ESA  
for Rollovers

Validate SMSF  
bank account

Confirm ABN  
still registered

Update SMSF  
data with ATO

## 6. The Finer Details ...

### Tax & Compliance Obligations

- Complete before lodging
- Prior year done?

### Contributions

- Tax Deduction?
- Redirect employer conts

### Pensions

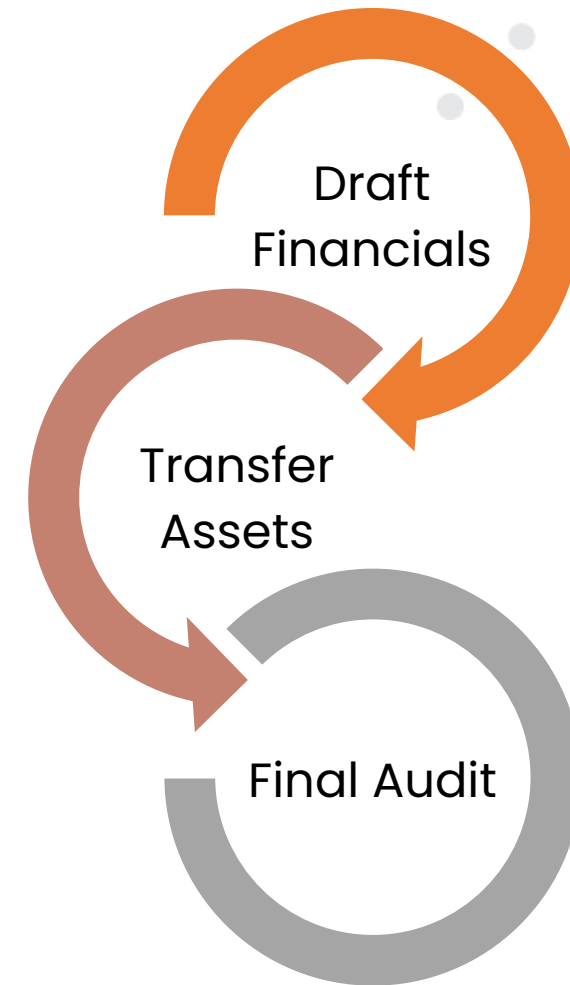
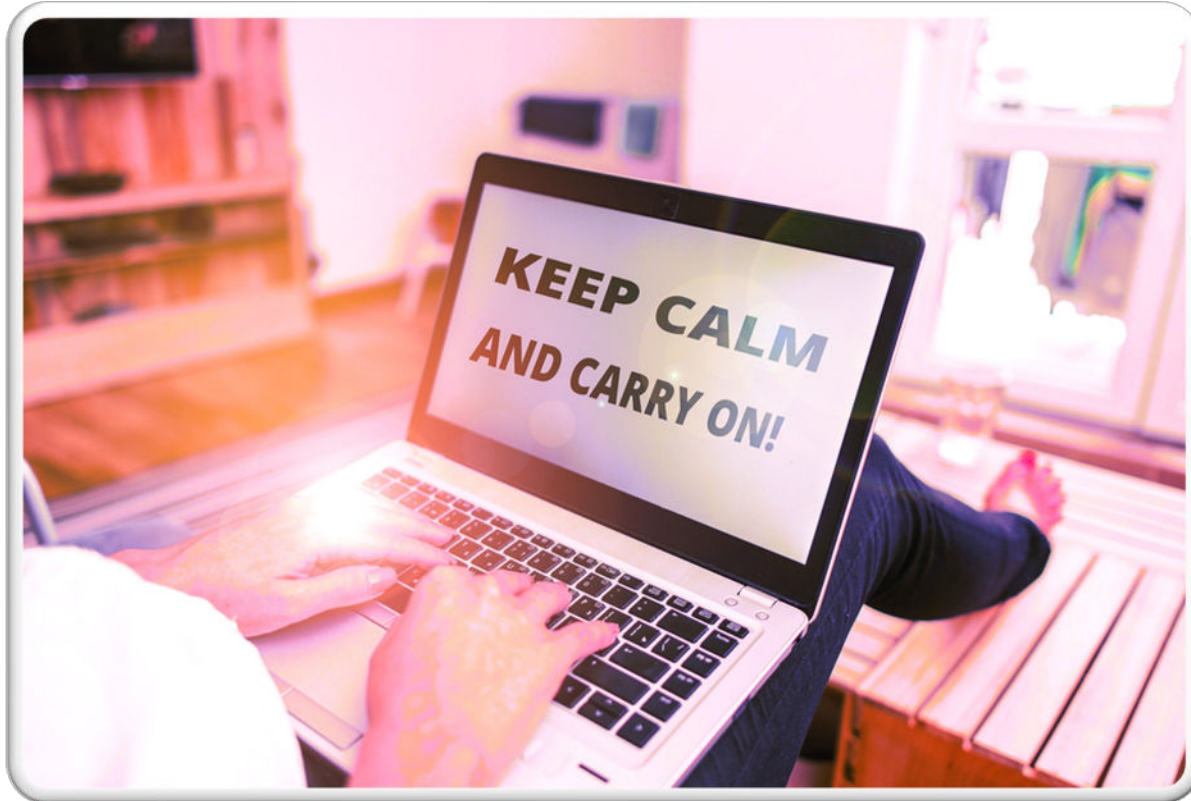
- Minimum paid

### Expenses

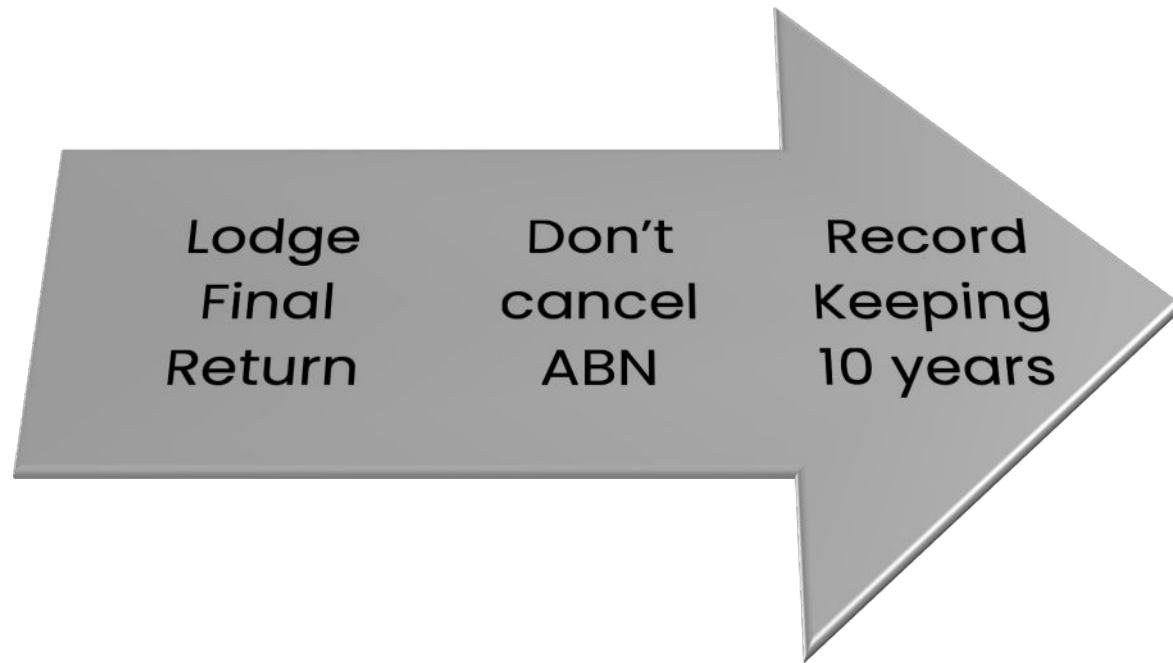
- Final invoices, asset sales, PAYG, GST



## 8. Getting Through the Audit



# 9. The Final Countdown





# Quick Quiz 1

Michelle & Peter are trustees of their SMSF but the fund cannot pay its debts as and when they fall due.

Michelle & Peter decide to wind up the fund.

- 1) Do they have to get the fund audited?
- 2) Do they have to close the bank account beforehand?

The fund has a corporate trustee.

Michelle and Peter commences action to wind up the corporate trustee before the fund is wound up.

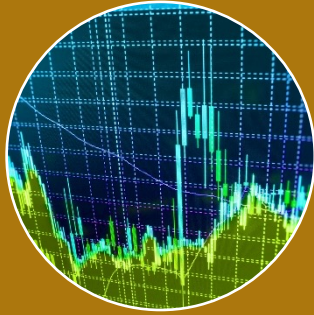
Is this a breach of SIS?

# Trips & Traps Of Winding Up: Capital Gains



## Capital Gains or Losses

- Triggered on disposal of assets



## Accumulation

- Net capital gain has tax liability
- Reduce net value to be rolled over/paid



## Pension

- No CGT paid UNLESS pension commuted to accumulation



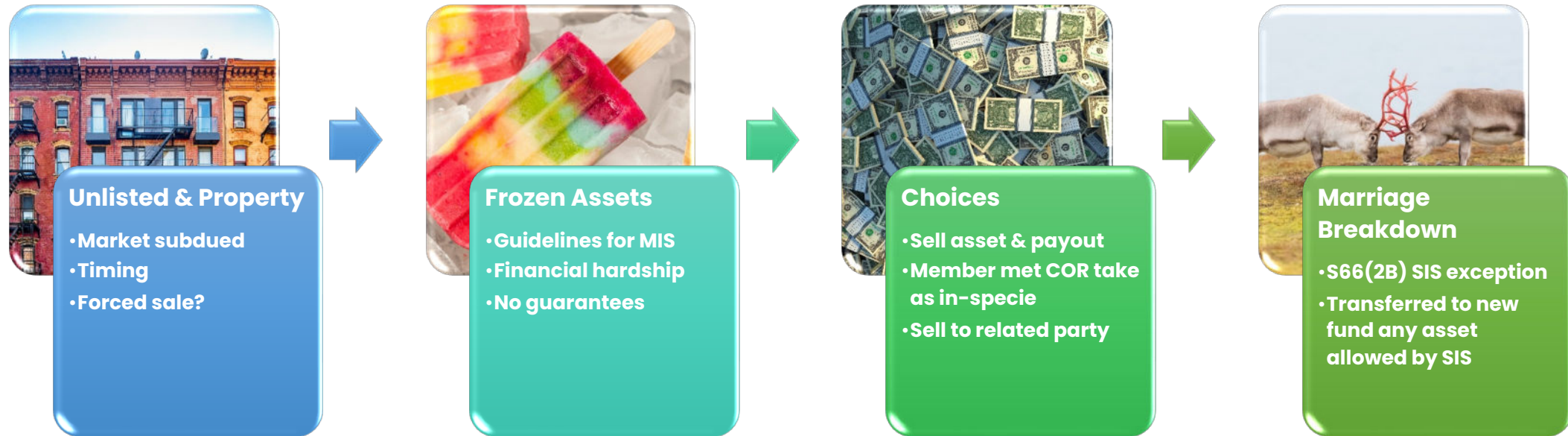
## CGT Exemption

- T/F of asset due to relationship breakdown EXCEPT if asset sold first

# Capital and Tax Losses

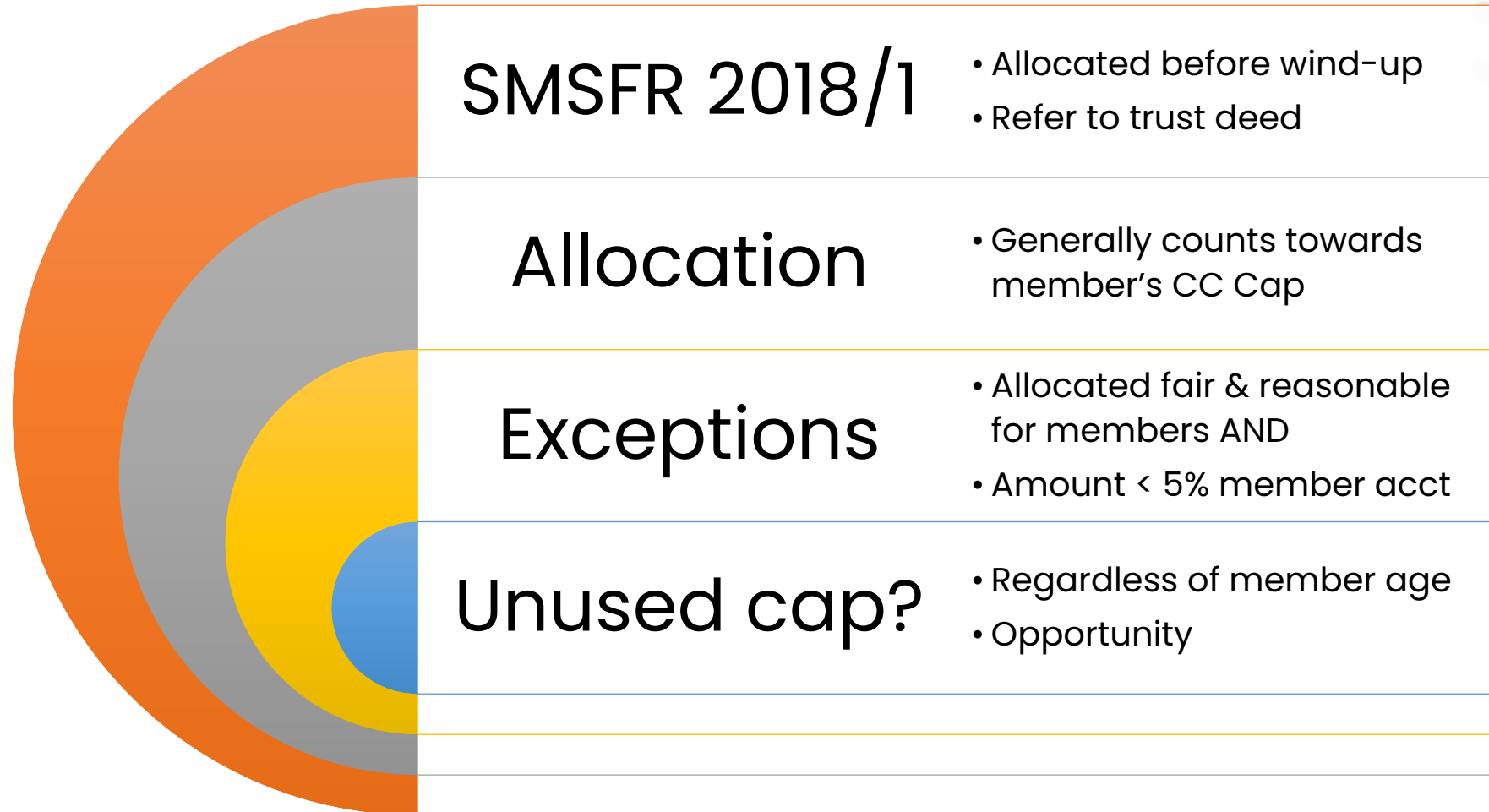


# Illiquid Assets





# Reserves



# Complying Pensions

Commutated in  
limited  
circumstances

Rolled over to  
another new  
complying  
pension

If commuted,  
reserve  
account  
generated

Also reportable  
for TBC  
Can jeopardise  
a Centrelink  
pension



# Quick Quiz 2

Susan is married to Bill and they have decided to separate

They are both directors of the corporate trustee for their SMSF

Susan wants to start her own SMSF

Does she have to sell her assets?

Can she transfer her life insurance policy?

She's been given property in the split. Is there CGT on the transfer?



# Getting SuperStream Ready



Confirm SMSF data with ATO database



Check SFLU for complying status of SMSF receiving fund



Check APRA fund requirements & any additional docs



A separate PRN is required for every transaction



Talk to the bank and be aware of withdrawal limits



Error message does not identify problem



# SuperStream Doesn't Apply To...



## Overseas Superannuation & In-Specie Rollovers



## Contribution Splitting



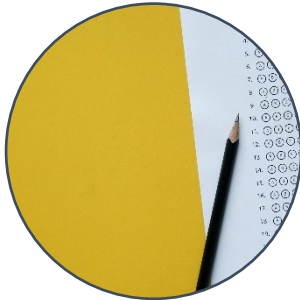
## Non-complying SMSFs when completing a rollover to another fund



## Family Law Splits

- Applies to the benefits a non-member receives from a spouse
- Does NOT apply if a Member decides to leave

# SuperStream Problems in Practice



## Multiple Transactions

- Trustee set up to fail
- Multiple transactions of rollovers will exceed 3 days



## SuperStream Bypassed

- SMSF to SMSF
- SMSF to APRA (on same platform)



## When Does the 3 Days Start?

- Receiving fund, ABN, ESA & member number
- Legitimate request



## ATO Working on Solution

- ATO is aware of common problems in practice
- Exceptions based
- Stay tuned!!



**Any Questions?**

**Winding Up  
an SMSF**





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