

Guidelines for Deceased Estates team

This document provides guidelines for dealing with deceased estates by the Deceased Estates (DE) team, including:

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Background

Under section 69B of the Banking Act, we may apply any amount up to \$15,000 to a deceased person's funeral expenses or to the deceased's executor or administrator, without the production of Probate Orders or Letters of Administration.

Outside of this \$15,000 protected threshold, we assume the risks associated with paying out estates without Probate or Letters of Administration.

This document sets out the documents and authorisations to mitigate risks associated with dealing with a deceased estate and is to be read together with DB Legal's Deceased Estates Procedures Manual and Qudos Bank procedures.

1. General deceased estates

1. Frontline staff notify DE/DE accounts must be restricted.
2. Obtain executor/solicitor/beneficiary written instructions, Death Certificate and Will.
3. Obtain account balance, review instructions and documents.
4. Obtain certified copies of the beneficiary/s or executor/s identity documents (such as a passport or driver's licence) if they are not Qudos Bank customers.
5. Provide account balance, explaining that we require:
 - a. Probate if there is a Will, or
 - b. Letters of Administration if there is no Will, and
 - c. If the executor/solicitor/beneficiary does not agree with obtaining Probate or Letters, they may put their reasons in writing (i.e. the balance of the accounts is low). Explain that our requirement for Probate/LOA cannot be waived but if there are cogent reasons, it may be considered by senior management but no guarantees.
6. Provide all documents to Assistant Manager for assessment and approval (in accordance with the tables below). Assistant Manager will assess and may refer to Legal for recommendation and obtain approval from Manager.
7. Once approval is obtained, Assistant Manager may request Indemnity.
8. DE team member drafts Indemnity and sends to Legal for review.
9. Once all documents are signed and file is complete, Assistant Manager provides final assessment and approval to release funds.

1(a) With Probate or Letters of Administration

*Certified copy

^Required at Assistant Manager's discretion

Funds:	You have:	For approval, you need:	Approval required:
\$0 - \$400	Will	1. Sealed probate* 2. Death certificate* 3. Will* 4. Statutory declaration^	DE team member
	No Will	1. Sealed LOA* 2. Death certificate* 3. Statutory declaration^	
\$401 - \$15,000	Will	1. Sealed probate* 2. Death certificate* 3. Will* 4. Statutory declaration^	DE team member
	No Will	1. Sealed LOA* 2. Death certificate* 3. Statutory declaration^	

\$15,000 +	Will	<ol style="list-style-type: none"> 1. Sealed probate* 2. Death certificate* 3. Will* 4. Statutory declaration^ 	Assistant manager or Manager
	No Will	<ol style="list-style-type: none"> 1. Sealed LOA* 2. Death certificate* 3. Statutory declaration 	

1(b) No Probate or Letters of Administration

Note: Written request for waiver must accompany these types of requests.

*Certified copy

^Required at Assistant Manager's discretion

Funds:	You have:	For approval, you need:	Approval required:
\$0- \$200	Will	<ol style="list-style-type: none"> 1. Death certificate* 2. Letter/Email outlining the reasons why Letters of Administrations should be waived 	DE team member
	No Will	<ol style="list-style-type: none"> 1. Death certificate* 2. Letter/Email outlining the reasons why Letters of Administrations should be waived 	
\$201 - \$400	Will	<ol style="list-style-type: none"> 1. Death certificate* 2. Will* 3. Letter/Email outlining the reasons why Letters of Administrations should be waived 	Assistant manager or Manager
	No Will	<ol style="list-style-type: none"> 1. Death certificate* 2. Statutory declaration^ 3. Letter/Email outlining the reasons why Letters of Administrations should be waived 	
\$401 - \$15,000	Will	<ol style="list-style-type: none"> 1. Death certificate* 2. Will* 3. Statutory declaration_^ 4. Indemnity ^ 5. Letter/Email outlining the reasons why Letters of Administrations should be waived 	Assistant manager or Manager
	No Will	<ol style="list-style-type: none"> 1. Death certificate* 2. Statutory declaration^ 3. Indemnity ^ 4. Letter/Email outlining the reasons why Letters of Administrations should be waived 	
\$15,000 +	Will	<ol style="list-style-type: none"> 1. Death certificate* 2. Will* 3. Statutory declaration 4. Indemnity 5. Letter/Email outlining the reasons why Probate should be waived 	Assistant manager or Manager

	No Will	<ol style="list-style-type: none"> 1. Death certificate* 2. Statutory declaration 3. Indemnity 4. Letter/Email outlining the reasons why Letters of Administrations should be waived 	Manager
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2. Deceased joint account owner

Where there is a joint account and one account owner is deceased, joint survivorship rules apply – this means that the funds in the account automatically transfer to the other joint account owner.

DE instructions

1. DE must obtain:
 - a. a certified copy of the death certificate, and
 - b. written instructions from the surviving joint account owner.
2. Once received, DE may transfer the account into the name of the surviving joint account owner, including:
 - all payments set up on the account,
 - new cheque or deposit book in the sole name of the surviving joint account owner,
 - cancelling all existing cards of the deceased, and
 - confirming that statement names have been updated to surviving joint account owner.

3. Superannuation and Retirement Savings Accounts (RSA)

Funds held in superannuation or RSA accounts are not estate assets (i.e. they can't be transferred into a deceased estate to be dealt with in our normal procedure).

Superannuation accounts will be dealt with by the trustee. The trustee will normally confirm whether the deceased left a binding death nomination and if so, will pay out in accordance with the nomination, the governing rules of the fund and the law.

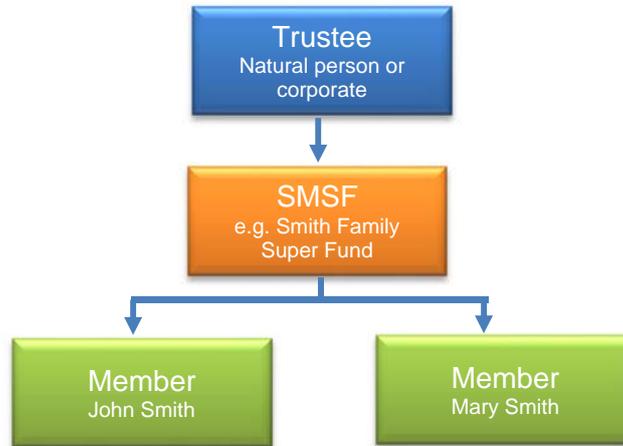
Qudos RSAs are dealt with by our administrators. Generally, our administrator will complete its own process to ensure a deceased RSA is dealt with in accordance with the law, this may include continuing a pension income stream to a reversionary spouse. We do not permit the nomination of a reversionary dependant.

DE instructions

If requested, DE may have to obtain and provide certified copies of the death certificate, will or marriage certificate to the trustee of a superannuation fund or the administrator of our RSA.

4. Self-managed Superannuation Fund (SMSF)

SMSFs are usually comprised of a trustee, the SMSF and members. This is a simple SMSF structure we are likely to see:



Generally:

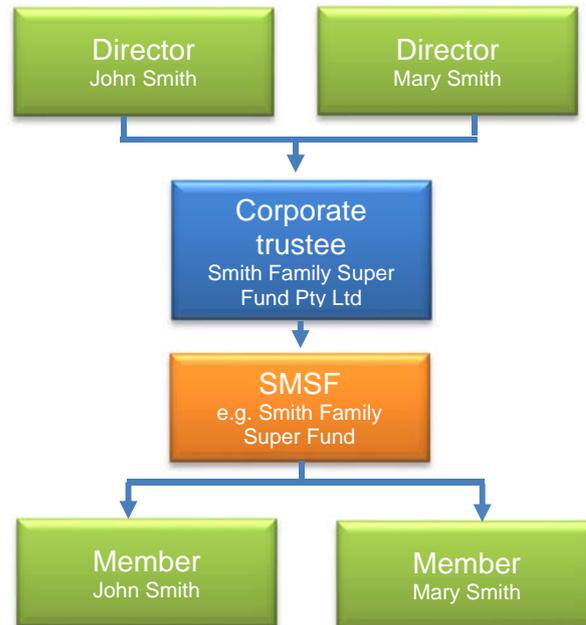
- when a member dies, the trustee of the SMSF will pay out a lump sum death benefit to whoever the deceased member has nominated in their binding death nomination (BDN) (if they have one)
- when a trustee dies, the Trust Deed may explain what happens to the trust, but trustee death may result in the closure of the SMSF or the appointment of a new trustee or director to carry on the SMSF.

4(a) SMSF with natural person as trustee

Scenario:	What happens to the SMSF	DE instructions
Deceased is either sole member or joint member only	Dependant on the trust deed Death benefit may be paid by trustee (if applicable)	<ol style="list-style-type: none"> 1. Obtain Trust Deed 2. Obtain any instruments amending the trust 3. Refer to Assistant Manager for decision
Deceased is sole trustee	Dependant on the trust deed Deceased legal personal representative will be appointed at death (i.e. executor/ administrator) New trustee may be appointed within 6 months of death and ownership of assets must be transferred, or the SMSF closed	<ol style="list-style-type: none"> 1. Obtain Trust Deed 2. Obtain any instruments amending the trust 3. Refer to Assistant Manager for decision
Deceased is joint trustee and joint member	Dependant on the trust deed Deceased legal personal representative will be appointed at death (i.e. executor/ administrator) Death benefit may be paid (if applicable) New trustee may be appointed within 6 months of death and ownership of assets must be transferred, or the SMSF closed	<ol style="list-style-type: none"> 1. Obtain Trust Deed 2. Obtain any instruments amending the trust 3. Refer to Assistant Manager for decision

4(b) SMSF with corporate trustee

Where a corporate trustee is appointed, the structure changes to include directors of the trustee corporation. A corporate trustee exists beyond the deaths of its directors unless wound up in accordance with the relevant law. A typical structure we're likely to see is below:



Scenario:	What happens to the SMSF	DE instructions
Deceased is either sole member or joint member only	Dependant on the trust deed and company constitution (if applicable) Death benefit may be paid by corporate trustee (if applicable)	<ol style="list-style-type: none"> 1. Obtain Trust Deed 2. Obtain any instruments amending the trust 3. Obtain company constitution (if applicable) 4. Obtain print out of online ASIC Form 484¹ Changing director etc. 5. Refer to Assistant Manager for decision
Deceased is sole director of corporate trustee	Dependant on the trust deed and company constitution (if applicable) Deceased legal personal representative will be appointed as director at death (i.e. executor/ administrator) New director may be appointed within 6 months of death, or the corporate trustee and SMSF may be closed If new director is appointed, the corporate trustee and SMSF continues	<ol style="list-style-type: none"> 1. Obtain Trust Deed 2. Obtain any instruments amending the trust 3. Obtain company constitution (if applicable) 4. Obtain print out of online ASIC Form 484 Changing director etc. 5. Refer to Assistant Manager for decision
Deceased is joint director and joint member	Dependant on the trust deed and company constitution (if applicable) Deceased legal personal representative will be appointed at death (i.e. executor/ administrator) Death benefit may be paid (if applicable)	<ol style="list-style-type: none"> 1. Obtain Trust Deed 2. Obtain any instruments amending the trust 3. Obtain company constitution (if applicable)

¹ASIC Form 484 to change directors, shares etc is only available online from November 2015.

	<p>New director may be appointed within 6 months of death or the corporation would up and SMSF closed If new director is appointed, the corporate trustee and SMSF continues</p>	<p>4. Obtain print out of online ASIC Form 484 Changing director etc. 5. Refer to Assistant Manager for decision</p>
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5. Powers of Attorney/ Enduring Powers of Attorney

If the deceased appointed a Power of Attorney or Enduring Power of Attorney during their lifetime, this appointment ends upon death. This means that a POA/EPOA can no longer operate the deceased accounts from date of death.

6. Document checklist

No.	Document	Y/N?	Comments	Y/N?
1.	Instructions from:			
	Solicitor?			
	Executor?			
	Next of kin?			
	Family/friend?			
	Joint account owner?			
2.	Death certificate:			
	Properly certified?			
	Matches details provided in instructions?			
	Noted down spouse, children?			
	Anything out of the ordinary?			
	For foreign death certificates, do we have a translation by an accredited Australian translator?			
3.	Will:			
	Properly certified?			
	Matches details provided in instructions and death certificate?			
	Properly signed (signed by deceased and two witnesses)?			
	Deceased signature matches system records?			
	Anything out of the ordinary?			
	For foreign Wills, do we have a translation by an accredited Australian translator?			
4.	Codicil:		<i>Codicil is a document that amends or replaces all or part of the Will.</i>	
	Properly certified?			
	References the Will correctly (date, names, clauses)?			
	Properly signed (signed by deceased and two witnesses)?			
	Deceased signature matches the Will and system records?			
	Anything out of the ordinary?			
5.	Indemnity includes correct:			
	Parties (correct Executor, Beneficiary etc and Qudos Bank details)?			
	Names?			
	Addresses?			
	Dates (date of death, Will, membership details)?			
	Amount of funds in account?			
	Reference points in background?			
	Signatures from estate and our managers?			
	<i>Other:</i> No abbreviations of words (shortened words)? Grammatically correct? No spelling errors? Formatted correctly? Reviewed by Legal?			
6.	Statutory declaration:			
	Correct State/Territory form used?			
	Correct document used (joint account holder, no will or probate etc)?			
	Correctly completed?			
	Signed?			

7.	Executor/beneficiary payee documents:			
	Name/ DOB/ Address recorded?			
	Certified copy of passport/driver's license?			
	Account details recorded?			
8.	Other documents:			
	Complete Trust Deed			
	Instruments amending Trust Deed			
	Company constitution			
	ASIC Form 484			
	Other ASIC documents			