

20 POINT CHECKLIST - TRUST REVIEW

1	<i>What is the vesting date for the trust, and has it passed already?</i>
2	<i>Should the trust deed be amended due to changes in the law since it was established?</i>
3	<i>Does the trust deed restrict the range of beneficiaries who can receive income or capital distributions? Is the trustee excluded from receiving distributions?</i>
4	<i>Can beneficiaries be removed or added?</i>
5	<i>What is the date by which income distributions should be made in each financial year?</i>
6	<i>How is trust income defined and does the trustee have power to alter the meaning of trust income?</i>
7	<i>Does the trustee have absolute discretion in relation to income and capital distributions?</i>
8	<i>Is there a default distribution of the income and capital of the trust to particular beneficiaries?</i>
9	<i>Who holds the original trust deed and the originals of all variations (including changes of trusteeship)?</i>
10	<i>Who is the trustee of the trust? If the trustee ceases to act, do their powers pass to anyone else, and if so, who?</i>
11	<i>Does the trustee need consent/approval of any other person to exercise any of its powers?</i>
12	<i>Does someone (e.g. a principal, guardian, appointor) have the power to unilaterally change the trustee?</i>
13	<i>Is the role of trustee and principal (if any) automatically terminated on certain events (for example death or bankruptcy)?</i>
14	<i>If the principal ceases to act, do their powers automatically pass to anyone else, and if so, who?</i>
15	<i>Is the trustee in reality the 'alter ego' of an 'at risk' person?</i>
16	<i>Will the trust own more than one asset class?</i>
17	<i>Has there been a pattern of income or capital distributions to 'at risk' beneficiaries?</i>
18	<i>Is there a power to vary, and are there any restrictions on that power?</i>
19	<i>Have variations to the deed been validly made e.g. is there an appropriate exercise of the variation power and have all necessary consents been obtained?</i>
20	<i>What is the governing jurisdiction?</i>

The above summary is based on the law as at 13 February 2020.

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