

CHANGE OF FUND NAME – FAQ

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Document provided by

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Q1. What are the steps in changing the name of a fund?

These are set out in the Instruction Guide on the first page of the Written Resolution.

They are:

- (a) Complete the variables of the resolution
- (b) Sign and date the resolution
- (c) Notify the ATO of the change of name
- (d) Notify other relevant parties - bankers and the auditor
- (e) Update title records of the assets of the Fund
- (f) Update fund documents

Q2. How is the ATO notified of the change of fund name?

Use ATO form NAT 3036 or other approved methods as noted on ATO's website:

<https://www.ato.gov.au/super/self-managed-super-funds/administering-and-reporting/notify-us-of-changes/>.

This form must be completed, signed, and submitted to the ATO within 28 days of the date of the resolution.

Q3. What happens if the ATO is not notified of the change?

No, or late, notification is a contravention of a SIS operating standard.

Q4. Does the change of fund name have any regulatory implications?

In short, the answer is "no". The change of name will not create a new superannuation fund. In particular, the ABN and TFN of the superannuation fund will not change.

The change of name will not affect the compliance status of the fund.

However, the ATO must be advised of the change of name of the fund.

Q5. Must members and beneficiaries be notified of the change of name?

Yes - but as the change is not critical and does not affect a member's/beneficiary's interests in the fund, notification of the change can be made up to three months after the change has taken place.

However, there is no need to notify a person if they have signed the resolution.

Q6. How long is the resolution required to be kept?

The written resolution must be kept for a minimum of 10 years (this is required by s103 of the *Superannuation Industry (Supervision) Act 1993*).

Q7. How is the ABN register updated?

This will be done by the ATO as a result of the lodgement of form NAT 3036. There may be a delay (typically 7 to 10 working days) between the ATO's receipt of the form and the change occurring to the ABN register and to the Super Fund Lookup website.

Q8. Must existing documents be altered/updated?

Previously issued documents do not have to be updated as the change is on a prospective basis.

Documents issued after the change of name will have to be updated (eg PDS, membership application forms).

Q9. Is a deed required to effect the change of name?

The applicable trust deed and governing rules for the fund should be checked to determine whether a change of a fund name must be done by a deed.

Under the SUPERCentral Governing Rules or the Townsends Business & Corporate Lawyers Governing Rules, a change of a fund name can be effected by a resolution of the trustees.

However, effecting a change of fund name by deed will most likely satisfy the requirements of third parties such as banks, lenders, share brokers and title registry operators. Consequently, it is usually prudent to effect the change of fund name by deed.

In states (such as Queensland) where land title documents can be issued in a representative capacity (eg the registered proprietor is "AB as trustee" rather than simply "AB") then a deed will generally be required to evidence the change of name and to have the title records changed and replacement certificates issued.

Q10. What if a bank or other third party does not accept a written resolution as sufficient evidence of the change of fund name?

Unfortunately, little will be gained by arguing with the bank. Generally, the individual with whom you are dealing with at the bank will simply be operating from internal requirements and they will have no authority to vary from those requirements.

In this situation, the change of fund name must be confirmed by deed or by a statutory declaration, as the bank (or third party) requires.

Q11. How do we update the fund's account page on SUPERCentral or Townsends Lawyers websites?

Once the change of fund name has been completed, a scanned copy of the signed document should be emailed to info@supercentral.com.au or info@townsendslaw.com.au.

We will then update the fund's details on the account page so that future correspondence and documents contain the new name of the fund.



Do you think other questions should be included in this FAQ?

If so, please give your question to info@supercentral.com.au or info@townsendslaw.com.au