



## 20 POINT CHECKLIST - TRUST REVIEW

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| 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>Does the deed deem unpaid distributions to be treated as loans by the beneficiary?</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 1 January 2015.

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