

Super splitting by Court Order

SPSL Limited (the Trustee) requires the following guidelines to be followed, and prefers the following wording to be used, in Order(s) which split a super interest in the SPSL Master Trust:

Formal Details

1. The name of the super fund in which the member has an interest is *SPSL Master Trust*. In the first instance please refer to the SPSL Master Trust in full, then any further reference to the 'Fund' is sufficient.
2. Following the initial reference to the Fund, please **insert** the member's account number.
3. The correct name of the Trustee of the Fund is *SPSL Limited*. In the first reference to the Trustee, please refer to SPSL Limited in full. Any subsequent reference to the 'Trustee' is sufficient.
4. Each reference to the base amount should be rounded up or down to the nearest whole dollar, consistent with regulation 45 of the *Family Law (Superannuation) Regulations 2001*.

Preferred Draft Wording

5. Please ensure that draft orders reflect the requirements of section 90XT(4) by **inserting** the following preferred wording:
That the court allocate pursuant to section 90XT(4) of the Family Law Act 1975, a base amount of [insert base amount] to the [wife/husband] out of the [husband's/wife's] interest in the SPSL Master Trust (the "Fund") - Account Number – [account number].
6. Please ensure that the draft orders meet the requirements of section 90XT(1)(a) by **inserting** the following preferred wording:
That in accordance with section 90XT(1)(a) of the Family Law Act 1975, whenever a splittable payment becomes payable from the [Member Spouse's] interest in the SPSL Master Trust, SPSL Limited (the "Trustee") shall pay the [Non-Member Spouse] an amount calculated in accordance with Part 6 of the Family Law (Superannuation) Regulations 2001 using the 'base amount' of [insert base amount] and that there be a corresponding reduction in the entitlement that the [Member Spouse] would have in the SPSL Master Trust but for these Orders.
7. The Trustee requires an unambiguous and clear operative time be defined in the orders and that the operative time be defined with reference to service of the final sealed and signed orders on the Trustee. The orders should **include** the following preferred wording:
The operative time of these Orders is the [insert number of days eg. four] business days after the day on which the final sealed and signed Orders are served on the Trustee.

General Guidelines

8. Please **do not include** any order or wording which attempts to bind the Trustee, such as:

- *'these orders shall bind the Trustee of the Fund'*
- *'and the Trustee gives effect to this Order'*
- *'the Trustee will do all acts and things and execute all such documents.'*

It is the Trustee's view that such statements are outside the powers conferred on the Family Court under the Act.

9. Please **do not include** any of the following words in the orders:

'administrators' 'executors' 'beneficiaries' 'heirs' 'assigns'

The Trustee may only split an interest in favour of the non-member spouse or his/her legal personal representative.

10. If the orders cover more than one super interest, please **do not group** references to this Fund or this Trustee with other super interests. The Trustee requires the SPSL Master Trust to be referenced separately and suggests against the use of *the Fund* or *the Trustee* in the orders.

11. Where possible, the draft orders should be signed by both parties or their legal representatives.

Important: The Trustee must be given at least 28 days to review and comment any court order which attempts to split a super interest in the SPSL Master Trust before that order is made by the court. The '28 days' does not begin until the Trustee has received all the relevant documentation.

Where to send the draft Orders

To avoid delays, please email the draft orders to the Trustee at

superclaims@spsl.com.au

If you are unable to email the draft orders you may post them to the Trustee at:

Private & Confidential
Attn: Family Law (2SL057)
SPSL Limited GPO Box 4305
SYDNEY NSW 2001

What happens next?

If the orders do not comply with the Trustee's requirements we will let you know what needs to be changed. Once the orders have been accepted by the Trustee we will provide you with a formal letter of acceptance for you to provide the Court.

When the Court has approved and sealed the orders, please send a certified copy to the Trustee at the above mailing address. We will then commence the splitting process and will be in contact with both parties to obtain the information we need to enable us to process the split.