Switzer Super Report

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S&P 500 close to all-time high

Despite concerns earlier about the bailout plan for Cyprus being in disarray, the S&P 500 gained overnight and is around six points away from its all time high of 1,565. Locally, we're just shy of the 5,000 mark.

So which stocks should you be looking at right now? Ron Bewley investigates the IT sector while James Dunn analyses companies in the jobs and recruitment space.

Also, Chad Padowitz from Wingate Asset Management tells us why he OXY, Andrew Bloore reveals the investment rules for your SMSF to live by, and Gavin Madson shows why the chance of more rate cuts has dropped. Plus, don't miss the question of the week.

Sincerely,

Peter

Peter Switzer

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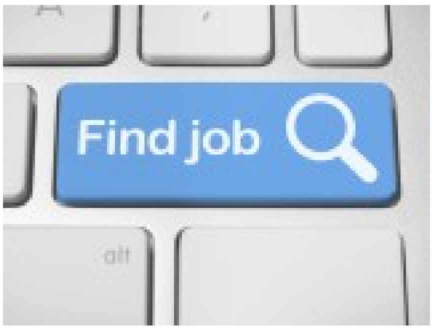

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Investment rules for your SMSF to live by

by Andrew Bloore

It's hard work being a trustee of a self-managed super fund. There are many stringent duties and obligations when making investment decisions to ensure that assets are properly invested for retirement purposes. Most responsible trustees would be well aware of these conditions but, just to make sure, here are a few of the main ones and what you can do to make sure you stay on the right side of the law.

Sole purpose test

The sole purpose test requires that any investment is undertaken for the sole purpose of providing retirement, or retirement related, benefits for members or dependants, and that any other benefits or advantages are merely incidental or ancillary to achieving this sole purpose.

Arm's length transactions

All investment transactions of SMSFs must be maintained on an arm's length basis. Transactions need not necessarily be at arm's length (i.e. they may be between related or associated parties) but investment transactions must be on an arm's length (commercial) basis.

Essentially that just means that investments must be entered into and maintained on commercial terms, or on terms that are no more favourable to the other party than would reasonably be expected if the dealing was at arm's length in the same circumstances. For instance, the purchase price of an investment should be at market value. In addition, the agreed or expected return from that investment should not be less than a true market rate.

All parties to the transaction should seek professional advice on the tax consequences where an investment is made and/or maintained on terms more favourable to the SMSF than to the other party.

In-specie transfers

Assets of a member or a relative of a member may be contributed in-specie to the SMSF as a contribution. Regulations limit such assets to listed securities (for example, shares, units or bonds listed on an approved Stock Exchange), business real property and in-house assets which, after being acquired by the trustees, would not result in the level of in-house assets of the SMSF exceeding more than 5% of the SMSFs total assets.

Where an asset is moved into an SMSF in-specie, capital gains tax (CGT) may apply upon transfer, as this constitutes a transaction (sale and purchase). CGT is normally payable where the beneficial interest of an asset changes notwithstanding the fact that the member may be transferring assets from non-superannuation to a superannuation investment fully vested in his or her own name.

The government is currently considering some changes to the in-specie transfer rules which would become effective from 1 July, 2013. These rules could disallow in-specie transfers entirely or merely make their application much more difficult.

Investment strategy for an SMSF

Underlying all investment decisions in an SMSF should be a proper investment strategy. Trustees of SMSFs are required to prepare and implement an investment strategy for their fund, and regularly review the strategy. The devising and documenting of an appropriate investment strategy is crucial to the success of an SMSF. Trustees of SMSFs need to be wary of the superannuation investment rules, in particular the acquisition of assets from related parties and the exceptions relating to these provisions. They need to bear in mind that the primary purpose of superannuation is saving for retirement and that all investments must be suitable for this purpose.

What to do?

It is recommended that specific advice be sought before a fund invests in any type of investment as there are a number of rules that need to be considered before an SMSF acquires the asset.

When making investment decisions in an SMSF, the key questions that trustees need to ask themselves are:

- does the investment satisfy the sole purpose test?
- is the investment consistent with the investment strategy of the fund?; and
- does the investment breach any of the investment standards?

When considering the appropriateness of the investment in terms of the sole purpose test, the fund needs to consider:

- what is the expected income flow from the investment?
- is any capital appreciation likely to rise from the investment?
- if there is only an expected capital appreciation, does the amount of this appreciation justify the lack of income flow?
- what insurance is required to protect the asset?
- if it is an investment the fund intends to lease/rent to the employer sponsor, is the asset releasable to other parties in the event the employer's business goes under?
- is the fund able to treat the asset on an arm's length basis?

If a fund closely adheres to all of the above, they shouldn't receive any nasty surprises in their auditor's report.

Important: *This content has been prepared without taking account of the objectives, financial situation or needs of any particular individual. It does not constitute formal advice. Consider the appropriateness of the information in regards to your circumstances.*

Question – What is considered a long-term investment?

by Paul Rickard

Q. *What is considered a long-term investment where shares are concerned? Is it 2 years or more or some other rule of thumb?*

A. There is no specific definition of “long term”, however through general convention and usage, it is typically regarded as being five or more years. “Medium term” would typically be two to five years, and “short term” less than two years.

It gets a little tricky with “short term” – because there is arguably a difference between short term investment and short term trading. For traders, the “short term” can be measured in hours or even minutes – for investors, it is more likely to be weeks or months.

I hope this helps.

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Did you know?

I returned from my trip to Vietnam this week and spoke to SMSF specialist at AMP, Paul Sainsbury, about some issues for DIYers.