



## **ACIS RELEASES NEW UNIT TRUST AND HYBRID FAMILY UNIT TRUST**

ACIS are pleased to announce the release of our new Unit Trust and Hybrid Family Unit Trust deeds.

The deeds have been comprehensively reviewed and rewritten to make them more readable. In doing so, we have eliminated the older forms of drafting and made the deeds simpler to understand.

As our previous deeds were good, functional documents, we found it unnecessary to make wholesale changes of substance. We have, however, made a lot of formal changes and updated them to deal with issues that have come to our notice and to make them easier to use. The changes also conform to the general format and style of the ACIS Discretionary Trust deed.

The main changes are:

1. The clauses have been reordered so that provisions dealing with common issues appear together or close to each other making it easier to navigate through the deed.
2. We have incorporated the concept of a Record Date as being a relevant date for the purpose of determining the point in time when the proportion of Unit holdings is determined. This has been applied to distributions of income, new or bonus Unit issues and Unit transfers and increases the certainty of these provisions.
3. The definition of Spouse has been expanded to include same sex relationships.
4. The pre-emptive rights attached to Units for the purposes of new Unit issues and Unit transfers, have been refined and are defined in greater detail.
5. A formula for calculating the amount per Unit of distributions of income has been incorporated.
6. The concept of partly paid Units has been clarified.

7. A minimum set of valuation criteria has been introduced as a guide for the process of valuing Units for various purposes.
8. As a means of preventing deadlocks and providing timely responses in the transfer of Units, the trustee will now be deemed to have approved a transfer of Units if it has not expressly rejected the transfer within 7 days after it is submitted with all required information.
9. Unit holders' meetings may now be held by electronic means.
10. We have incorporated a proxy form as a new schedule.
11. Some difficulty has arisen in some jurisdictions due to an interpretation of trustee legislation which has equivalents in most states. The difficulty arises from the wording of the legislation which states that, in some circumstances, resigning trustees are not discharged from performance of the trusts in the deed and that it is not possible to reduce the number of trustees to only 1 where 2 or more were originally appointed unless the deed has an express provision allowing this. We have now inserted clauses to address this issue specifically. While some jurisdictions may not have the problem due to adequate legislative drafting, the new provisions have general application nationally in any event.
12. The trustee is now expressly given all the powers of a natural person as if the trustee beneficially owned the trust property. We have maintained the specific powers of the trustee in the deed since some institutions still require to sight those specific powers. The trustee's powers are now divided into banking / financial transactions powers and other general powers to make those powers easier to locate and understand.

Should you have any queries with respect to this matter, please contact us on Freecall 1-800-773-477.