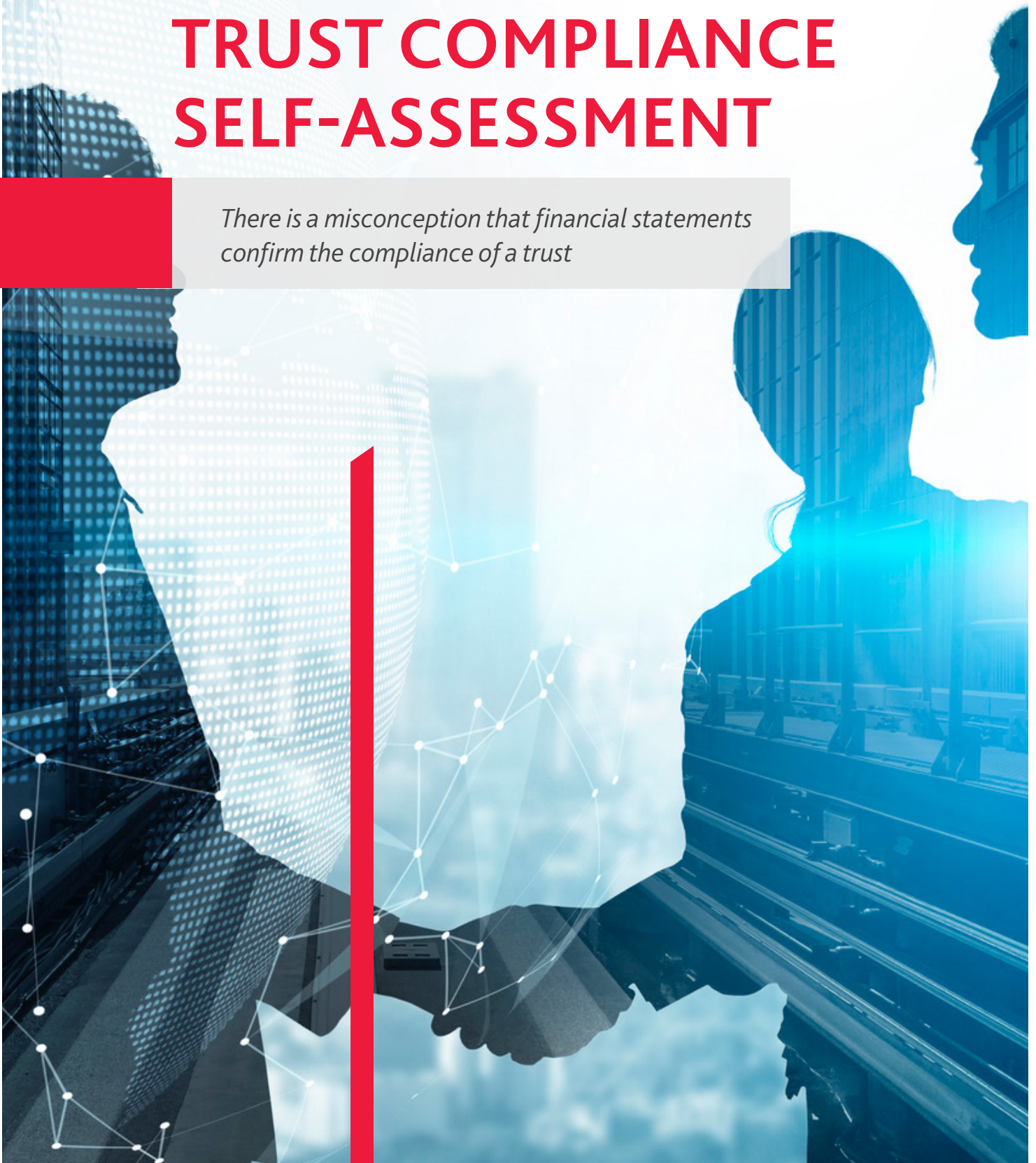


# TRUST COMPLIANCE SELF-ASSESSMENT

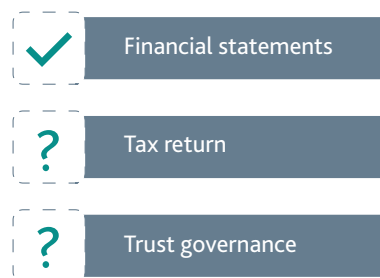
*There is a misconception that financial statements confirm the compliance of a trust*



# TRUST COMPLIANCE SELF-ASSESSMENT

A Trust is not a company. A Trust is a legal contract established through a deed of trust. Company statutory compliance therefore does not apply to a Trust. Each Trust Deed is unique and establishes the basis for trustees to administer trust assets for the benefit of beneficiaries. The governance of a Trust is therefore subject to the administrative obligations imposed in its trust deed, the provisions contained in the Trust Property Control Act and the Income Tax Act. The validity of a trust rests on a system of administration that caters for the specific governance and compliance requirements for trusts. Often there is a misconception that financial statements confirm the compliance of a trust. This is not the case. Without adhering to the Trust Property Control Act, the Income Tax Act and the trust deed, a trust may not be valid or compliant. A shortfall in any of these three areas of trust compliance may result in a trust being attacked by creditors, SARS or beneficiaries as being invalid.

As the accountant to the Trust, BDO requires all trustees to complete the trust compliance self-assessment and reflect on their collective administrative responsibilities to the trust beyond just the financial statements. Please complete the trust compliance self-assessment and return to BDO.



Is the trust valid?			Is the trust compliant?		
	YES	NO		YES	NO
1.1) Was the trust registered before 2001?			6.1) Does the trust have a bank account?		
1.2) Does the trust deed make provision for Capital Gains Tax legislative changes?			6.2) Are all trust related payments and receipts made via this bank account and not by the trustee?		
A "severability clause" in a trust deed allows certain provisions to remain in effect even if others are illegal or unenforceable.			6.3) Was the initial donation in terms of the trust deed paid into the trust bank account by the founder?		
2) Does the trust deed contain a severability clause?			7.1) Is the trust registered for Income Tax?		
3.1) Has the purpose of the trust changed since it was founded?			7.2) Have the relevant tax returns been submitted to SARS to date?		
3.2) If yes, has the trust deed been amended to record this change?			7.3) Have you submitted a Beneficial Ownership register for the trust to the Master of the High Court?		
A "testamentary reservation" is a provision in a trust deed that grants a specific person (usually the founder) the power to prescribe the distribution of trust assets or income in his or her will. This can result in the trust being challenged.			Trustees are required to meet at least once annually.		
4) Confirm that the trust deed does not have a testamentary reservation.			8.1) Are Trustees fulfilling this requirement?		
5) The founder does not have any reserve rights in the trust deed that may indicate control of the trust or a lack of intention to create a trust.			8.2) Have Minutes been prepared and signed to record the decisions undertaken by the trustees?		
			9) Have the trustees actively prepared and signed resolutions documenting and approving decisions made and transactions entered into during the year .		
			10) Does the trust have an asset register other than the notes in the annual financial statements?		

Trust Name: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

FOR A CLEAR PERSPECTIVE,  
PLEASE CONTACT US:

## **BDO TRUST ADMINISTRATION**

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