



SUPERANNUATION

SELF MANAGED SUPER FUNDS AND BORROWING A NEW OPPORTUNITY April 2008

Can a superannuation fund borrow?

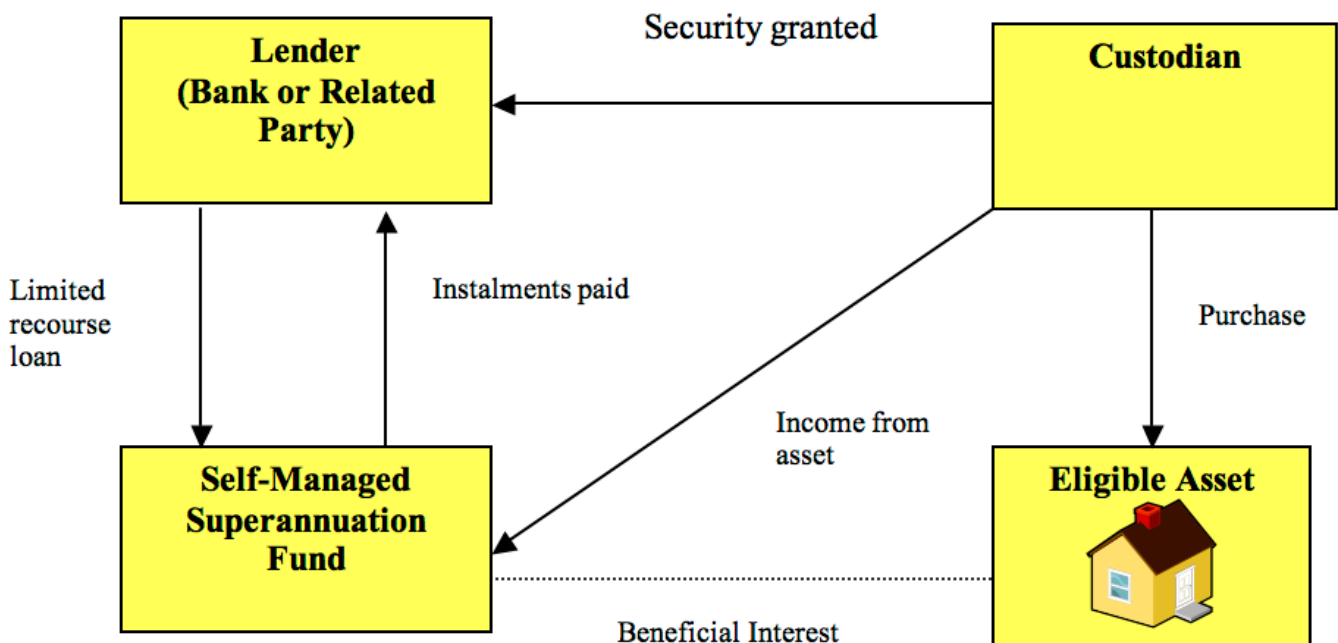
Until recently, it has not been possible for superannuation funds to borrow because the Superannuation Industry (Supervision) Act had a strict requirement that super funds did not borrow or place and charges over their assets. An amendment was made to the act in September 2007, which allowed super funds to borrow to invest in an Installment Warrant provided certain conditions were complied with.

Whilst the amendment was originally done to allow funds to invest in installment warrants over listed shares, the changes to the act were much wider than anticipated and now allows self managed superannuation funds to borrow to purchase a wide variety of assets including property.

How does the structure work?

The Super fund trustee borrows money under a limited recourse loan and uses this money to invest in a special purpose trust. The special purpose trust is asset specific (the trust can only be set up and used for a single asset). The special purpose trust buys an approved asset such as property or listed shares. The super fund trustee has an obligation to make further payments for the asset under an installment agreement. Once the superannuation fund has paid the total installments they can call for the transfer of the asset.

Financiers including some of the major banks are already coming on board to lend to self-managed superannuation funds.



What are the opportunities?

- The super fund can borrow to acquire assets it may not be able to afford to purchase outright and pay them off over time.
- The super fund obtains the income and capital growth from the asset from the time of acquisition.
- A related party could lend money to the superannuation fund at a commercial interest rate. This could be used as a way of getting money into the fund outside of the contribution limits.
- The fund could acquire business real property or a portfolio of listed securities from a related party.

What are the risks and costs?

- Set up costs (see below for further details).
- The lender will charge a premium due to the limited recourse nature of the loan.
- Some banks may not be keen to lend to super funds due to previous borrowing restrictions.
- Borrowing costs from the lender.
- Need to be conscious of the super funds cash flow and its ability to repay the loan particularly if the fund is paying a pension.
- Stamp duty or capital gains tax may apply if the asset is transferred from a related party.
- This arrangement may not be available forever. There is a risk that the provisions may be changed by legislative amendment, Australian Taxation Office rulings or under the 2008 Federal Budget.

What are the documentation and legal requirements?

- Special purpose company to act as custodian.
- Trust deed for special purpose trust.
- Preparation or review of loan agreements and mortgage.
- Personal guarantees (if required).
- Advice on stamp duty and legal sign off on the arrangement.

How much does it cost to set up?

Following is an indication of the likely costs, which will be incurred, with the establishment of the structure:

- Incorporation of Custodian corporate entity &
- Establishment of the special purpose (property) trust structure &
- Legal advice and sign-off.
- Bridgewater AFS professional advice and facilitation
\$6,000
- Super fund deed update to allow borrowing (if required) \$ 650
- Bank application fees, agreements, security documentation, guarantees etc \$ to be quoted by lender.
- Stamp Duty and registration \$ to be quoted based on price.
- Your lawyers conveyancing costs \$ to be quoted by your lawyer.

The above costs will vary based on the complexity of the structure. We can provide you with a fixed quote prior to proceeding.

Once the initial structure is in place additional trusts can be set up for different assets for a fraction of the cost.

How to find out more?

If you would like to take advantage of our free consultation or would like to know more about our services please contact us on (07) 3832 6020, Email info@bridgewaterafs.com.au or visit our website on <http://www.bridgewaterafs.com.au>

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