

SMSF & PROPERTY BORROWING

Under the SIS Act, a Self-Managed Superannuation Fund (“SMSF”) can borrow money to assist in the acquisition of Real Property. The arrangement is commonly referred to as Limited Recourse Lending.

Why Limited Recourse?

Under a Limited Recourse Arrangement, the property being purchased is isolated in a Bare Trust or Property Trust which will have a different trustee to the SMSF. This ensures that the assets of the SMSF are protected and there is “No Recourse” at all by the Bank to the assets of the SMSF.

Banks will usually reserve the right to recourse to the fund members, either through their role as individual trustees, or in the case of a corporate trustee they will seek unsupported limited guarantees from the members.

SMSF Trustee

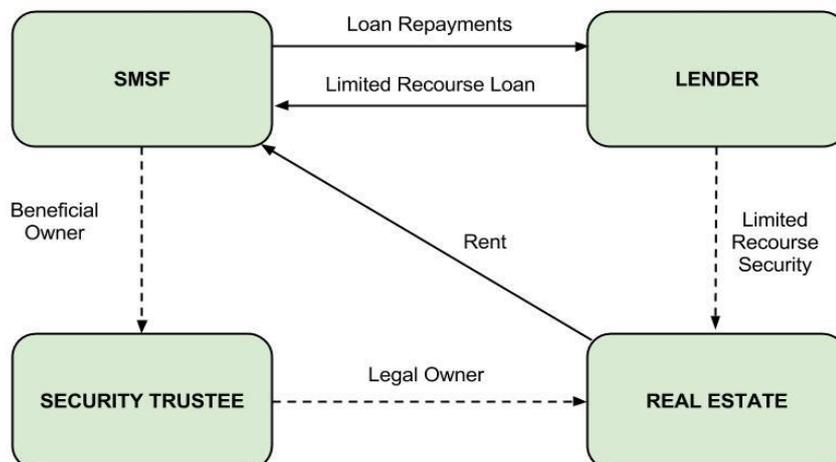
The SMSF Trustee may be the Individual Members of the fund, or a Corporate Trustee (where every member over 18 is required to be a director).

Generally, banks favour Corporate Trustees over Individual Trustees as they can obtain a guarantee as the individuals themselves do not form part of the borrowing entity.

There are also some advantages of having a Corporate Trustee which you may want to discuss with MCP or your advisor.

Typical Lending Structure

Please refer to the example below.



Loan to Value Ratio's ("LVR's")

Each bank has specific security criteria, and maximum LVR may vary, so the table below should be used as an indicative guide only.

	Corporate SMSF Trustee	Individual SMSF Trustee
Residential Property	80%	72%
Commercial Property	65%	55%

Lending

Some of the major banks (Westpac, CBA and NAB) compete in this space; however, recently they have introduced more restrictive policies on eligible funds and security types.

Whilst many lenders do not play in this segment due to its regulated nature, several them have a niche. Expect to pay a premium in costs and interest rates compared with similar profiled deals outside the Superannuation environment.

Finance Timeframe

You should allow 60 days for the Establishment of any SMSF Lending facility. These transactions are heavily scrutinised by lenders and legal representatives, to ensure compliance under the SIS Act.

General Bank Security Requirements

- 1st Registered Mortgage on the Security Property.
- Guarantee and Indemnity from the Custodial Trustee.
- All Members of Corporate SMSF Trustees structures to provide Unsupported Personal Guarantees, limited to the loan principal, fees and charges (The waiver of this is rare).

Financial Advice Requirements

It is an ATO requirement that a SMSF has an Investment strategy in place which is updated annually. Lenders generally seek comfort that the trustees have obtained financial advice from an RG146 accredited Advisor.

A lender will generally ask for either a Statement that the transaction is consistent with the SMSF Investment Strategy and may require a Certificate of Advice (using the Bank's Template) from the accredited Advisor. In some instances, a Financial Plan may be sought.

A SMSF that does not get this professional advice will be limiting their lending options as funders will be reluctant to assist a fund that is not appropriately advised.

More Information?

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