

# Superannuation Borrowing to Invest

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# Disclaimer

- This is not advice. Readers should not act solely on the basis of the material contained in this presentation. Items herein are general comments only and do not constitute or convey advice. Also, changes in legislation may occur quickly. We therefore recommend that our formal advice be sought before acting in any of the areas covered in this presentation.
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# Introduction

- New opportunities
- Previous Rules
- Other Strategies
- Installment Warrant Strategy
- Other Considerations
- Questions



# New Opportunities

- Increase Superannuation Assets and Retirement Income
  - Allowed to borrow to acquire new assets
    - Shares
    - Property
    - Other Assets
- Acquire assets without having cash reserves
- Acquire more assets than available cash reserves
  - asset diversification



# New Opportunities

- Aggressive marketing
- Flexible / Tailored Structuring
- Documentation
- Proper Advice
- Proper Accounting
- Implementation and Administration



# Previous Rules

- Superannuation Funds not permitted to borrow
- No charge over Superannuation Fund assets



# Other Strategies

## - Property Investments

### Acquire Assets directly

- Liquidity and Size of Superannuation Fund
- Jointly Held Property
  - Borrowing and equity in non-superannuation fund assets
  - Fixed proportional ownership
  - Deductibility of Interest
- Non-Geared Unit Trusts
  - Borrowings and equity in non-superannuation fund assets
  - Strict Trust Structure requirements
  - Allows for change in proportional ownership
  - Deductibility of Interest



# Installment Warrant Strategy

- What we can do now!
  - Superannuation Fund can now borrow to acquire an asset
  - Arrangement wider and more flexible than traditional installment warrants
  - Flexibility to tailor to individual circumstances

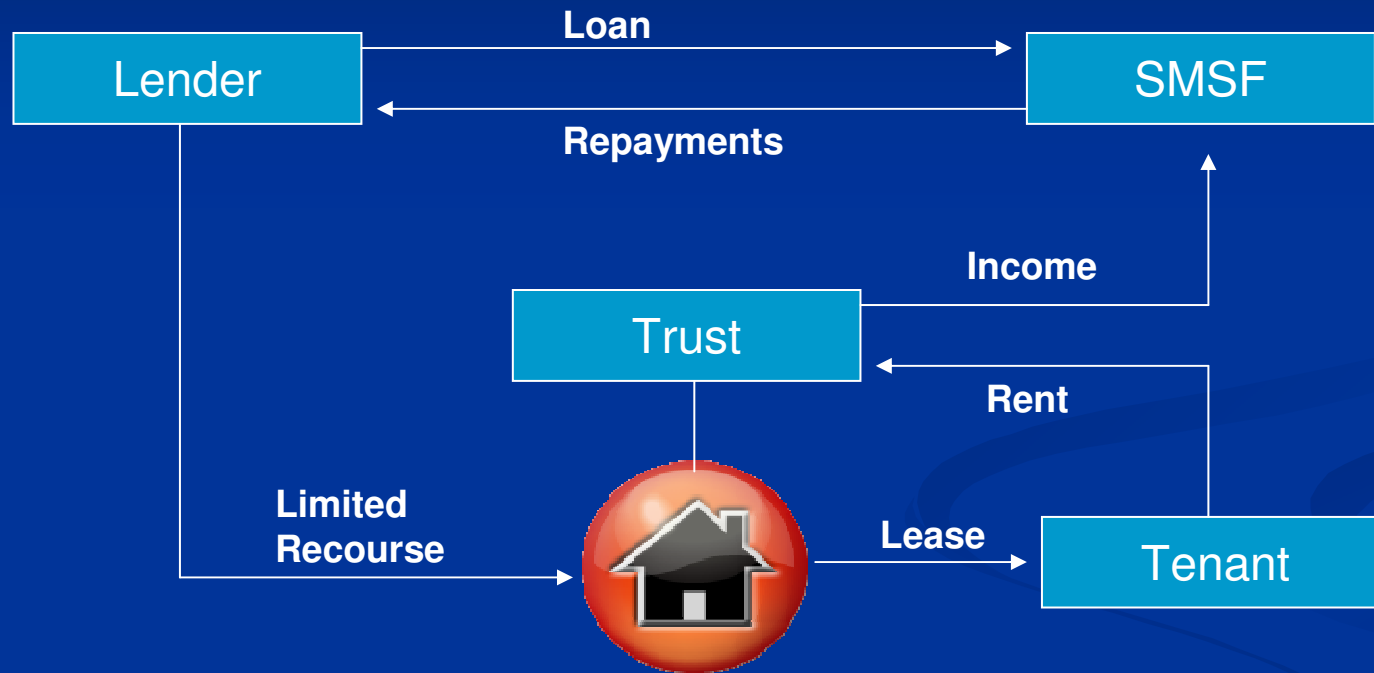


# Installment Warrant Strategy

- Why!
  - Borrowing to acquire a more valuable asset than the Superannuation Fund otherwise could have:
    - Contribution caps
    - Size of Fund
    - Liquidity of Fund
    - Equity in non-superannuation assets and other available strategies



# Installment Warrant Strategy



# Installment Warrant Strategy

- How!
  - Borrowed funds applied to acquire an Asset
    - Shares, Real Property, other
  - The Asset is an asset permitted to be acquired under SIS provisions
  - Superannuation Fund is not the legal owner
    - Warrant Trust is the legal owner
    - Superannuation Fund is the beneficial owner



# Installment Warrant Strategy

- Superannuation Fund has right to any income from the assets
  - Dividend, Rent, etc
- Upon making final payment, the Superannuation Fund has the right (but no obligation) to acquire the legal ownership of the Asset
- The Lender's rights against the Superannuation Fund upon default under the loan are limited to the Asset – Limited Recourse Loan



# Limited Recourse Loans

- Liability of Superannuation Fund limited to installments made / equity in underlying asset
  - If Superannuation Fund defaults asset sold to repay loan
    - No call on Superannuation Fund for any shortfall
  - During or at the end of the Arrangement, the Trustee of the Superannuation Fund can:
    - Payout the loan and acquire the asset
    - Default, having the asset vest back to the Vendor
  - Security may be offered by Third Party, or over non-superannuation fund assets



# Structure of Arrangement

- Borrowing
- Installments
- Interest
- Security



# Structure of Arrangement

- Borrow funds from:
  - Direct loan from Bank
    - Little or no equity in non-superannuation fund assets
    - Lending ratios
    - Security
    - Restriction on Asset Type
    - Warrant Trust unrelated to Super Fund Trustee



# Structure of Arrangement

- Borrow funds from:
  - Indirect Loan from Bank
    - Equity in non-superannuation fund assets
    - Security
    - Simplicity
    - Flexibility & Structure
    - Control
      - Related party Warrant Trustee
      - Related party Lendor



# Structure of Arrangement

- Borrow funds from:
  - Direct Loan from Related Party
    - Sufficient private funds
    - Contribution caps
    - Division 7A and loans to related parties
      - Non-concessional contributions



# Structure of Arrangement

- Installments
  - Term of Loan
  - Number of Installments
  - Amount of Installments
    - Contribution caps
      - Age of Members
    - Liquidity of Fund
    - Risk
    - Nature of Asset



# Structure of Arrangement

- Interest
  - Interest Only
  - Principle & Interest
  - Tax Deductible
    - Superannuation Fund in:
      - Pension phase
      - Accumulation Phase
  - Timing of Payments
    - Upfront
    - Quarterly / Annually in advance
    - Packaged into final installment
  - Commercial Interest Rate
    - Section 109 of SIS Act



# Structure of Arrangement

- Security
  - Security offered by Warrant Trust, not Superannuation Fund
  - Bank may require security over other non-superannuation assets
  - Bank may require personal guarantees



# Other SIS Provisions

- Sole purpose test
- Trust Deed permits
- Investment strategy
- In-house assets
- Acquiring assets from Related Parties
- Arms length dealings



# Case Study

- Smith Superannuation Fund wants to acquire \$500,000 commercial property
- Cash reserves of \$100,000
- Mr. & Mrs. Smith can contribute \$50,000 each for the next 5 years
- Superannuation Funds' earnings from other assets = \$20,000
- Rental from Property = \$35,000



# Case Study

- Borrow \$400,000 from Lender under Installment Warrant Strategy
  - 5 year term, interest payable quarterly at 9%
- Trusteeco Pty Ltd acquires Property on Trust for the Smith Superannuation Fund
- The Smiths contribute \$100,000 per year to the Superannuation Fund for next 5 years



# Case Study

- Structure of Installment Warrant
  - Repayments
    - \$25,056 per quarter
    - \$100,227 per year
  - Interest in first year
    - \$33,799



# Other Considerations

- Underlying investment strategy
  - Level of gearing
  - Mix and weighting of asset classes
- Superannuation Funds liquidity requirements
  - Servicing the loan installments
    - Net income of existing Superannuation Fund Asset
    - Net income of proposed asset
    - Future superannuation contributions of members
- Loan Structure and deductibility of interest
  - Pension or Accumulation Phase



# Other Considerations

- Age of the Members
  - Retirement strategy
  - Contribution caps
- Contribution levels
  - Liquidity requirements and continual ability to make contributions
  - Age of Members
  - Contribution caps
- Strategy & Risk
  - Individual circumstances
  - Other options
- Estate planning and asset allocation

