

Update: 29 January 2009 Super fund borrowings - Renewed interest?



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Summary

The recent share market “meltdown”, has meant many fund trustees are looking at other options for investment. Limited cash in a fund means limited purchase options – it *may* be worthwhile for trusts to take another look at superannuation fund borrowings for property or other investments.

The current law

Since 24 September 2007 super funds have been able to borrow to purchase permitted assets, as long as certain rules are followed.

Some practical issues were clarified in early 2008, but fund trustees have been slow to embrace the new more liberal regime, no doubt as a result of being distracted by the cataclysmic financial events which took place during the rest of that year.

What's changed?

Although the financial crisis is far from over, most fund trustees have some available cash and will be looking around for suitable investments.

With property values dropping, some trustees see opportunities to diversify into that area by availing themselves of opportunities under the new borrowings regime.

There is evidence that banks were unenthusiastic in the past about superannuation fund borrowings, but the loss of their more traditional markets may see banks reconsider this alternate source of business.

Care needed

Although a super fund can borrow, it must carefully follow the new rules and ensure the borrowing is properly structured and documented.

What are the benefits?

There are some paradoxes in the current superannuation regime – the Federal Government want to see retirees self-fund, but caps on contributions (not to mention the erosion of asset values!) have made this more difficult. Gearing strategies to leverage fund investments can potentially increase the amount in superannuation without breaching caps and using what (limited) cash is available.

How can Fleming Muntz help?

At Fleming Muntz we have business lawyers who are well equipped to advise clients on the effects of the recent changes, and the important documentation needed to comply with the rules.

Important fine print

This update is for general information only. It is not a complete guide to the area of law. Competent advice should be obtained before taking any action.

We resent unwanted email as much as anyone – if you would prefer not to receive any further updates, please telephone us on (02) 6021 2222 or email to enquiries@flemingmuntz.com.au.

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