

## LEGAL NEWS ALERT August 2016

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### SUPERANNUATION FUND BORROWING



Since 2010, amendments to the superannuation legislation have resulted in a major change to the manner which superannuation funds may choose to operate. The legislation refers to the new amendments as the 'Instalment Warrants' exception. Unfortunately this initially led to the widespread misconception that a superannuation fund may only borrow to invest in instalment warrants. This is not the case, rather a superannuation fund can utilize the new borrowing amendments to invest in any asset that the fund could previously have invested in. Put simply, superannuation funds can borrow to invest!

Take for instance, the following example:

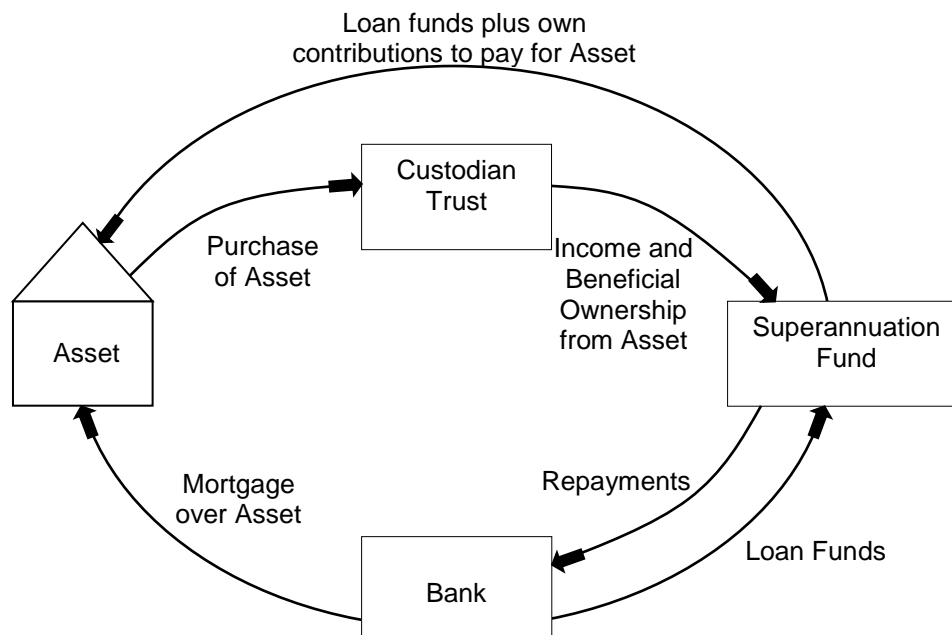
John has \$400,000 in his self-managed superannuation fund. What are his options for purchasing an investment property with this money?

#### Option 1

John simply purchases a property for less than \$400,000.

#### Option 2

John can borrow using the asset to be acquired and superfund borrowing arrangements. Most banks and financial institutions will lend up to 60% of the value of the property for super funds (some will even lend more). This means that John can now buy an income producing investment property worth up to \$1 million via his super fund.



How does this work?

- 1) The custodian trustee of the proposed asset enters into a contract on behalf of the super fund subject to finance being provided to the super fund.



- 2) Once the super fund has made all repayments on the loan, it can call on the custodian trustee to transfer full ownership of the property to it.
- 3) Solicitors for the super fund will prepare the following:
  - Contract terms.
  - Custodian trust.
  - Review existing super fund to ensure compliance and amend if necessary.

There are a number of limitations on the style of asset which can be acquired and how it may be used. The most common style of asset being acquired through this exemption is real estate. Given the wide range of possible arrangements which may fit within that description we are more than happy to discuss any transaction you may be considering in this regard.

*If you are interested in borrowing money and investing through your superannuation fund, please do not hesitate to contact either Adam Robinson or Guy Lawton on 3123 5750.*

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