

## **How to Buy Property With Your Super Money**

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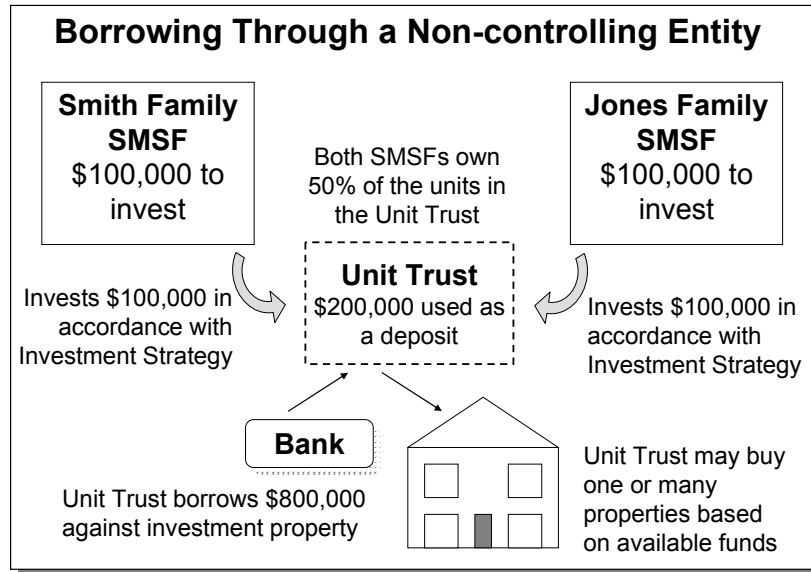
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The reason this strategy is possible is that the fund falls into a similar category as that of a large master fund, in that ownership is spread across a vast number of people and therefore it is allowed to borrow. By keeping ownership 50% or less it also becomes possible for a SMSF. It is important, however, that the two SMSFs are non-related parties. Remember that the definition of related includes business partners under a partnership arrangement, but if you are directors of a company, then you are not considered to be related partners under the definition (see related parties in the glossary).

### Example #6: Borrow Using Instalment Warrants

A change in legislation in September 2007 has provided a means for SMSFs to borrow money and invest. It still doesn't

change the Super Rules mentioned in this book as the ability to borrow has very specific criteria. For starters, it can only be done using *Instalment Warrants*.

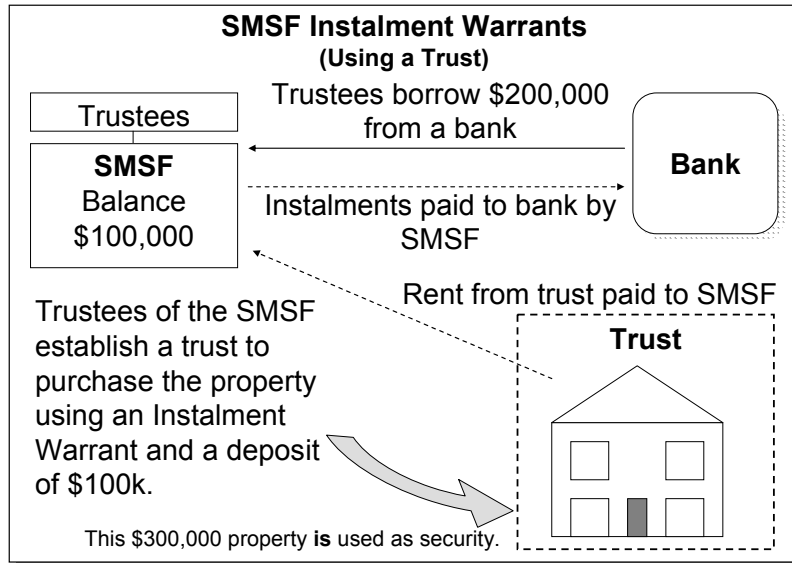
A warrant is a document that enables the holder to acquire an asset (like property or shares) at a certain price. An Instalment Warrant is when the investor pays an initial instalment and borrows the remaining amount to acquire the asset. The amount borrowed is repaid by the investor making further instalment payments.

Using an Instalment Warrant is similar to getting a normal loan with 2 major differences. The first is that the asset is not transferred into the investor's name until all instalments are paid (i.e. the loan is paid off). Secondly, if at any time the investor defaults, all payments made would be lost, as would the underlying asset. The lender has no claim over any other assets of the investor. These differences limit the investor's risk.

Therefore, a SMSF can invest using an instalment warrant without risking other assets in the fund. So, in essence, a SMSF now has a "restricted borrowing" capacity.

To further understand this strategy, let's look at how you go about it.

The following method requires that the SMSF trustees establish a trust to buy the property.



It's important to note that a special type of trust must be used. A standard discretionary or unit trust is not suitable to fit the criteria stipulated in the new law.

### Borrowing Money

Not all lenders are currently up to date with this legislation change and are yet to provide the public with a loan product specifically catering for trustees of SMSFs.

Some of the lenders that provide funds for instalment warrants have restricted the borrowing capacity to less than 80% (meaning that your SMSF will need more than a 20% deposit.) Other restrictions are often placed on the length of the loan with some lenders providing only a 9 year loan period. The trustees need to also take into account interest

rates and possible entry and exit fees associated with the loan to determine the actual cost to their SMSF.

As with all new things, it will take a little while for the industry and the general public to catch up to this new change; but when they do, it should become a more widely accessible solution for all and at reasonable interest rates as well.

### **Important Changes to Your SMSF Deed**

This new change in the law is quite significant and a positive one for investors and those with a SMSF. Aside from the fact that it provides a means to further invest, it will also create more demand in the marketplace.

With such a change in the law, trustees of a SMSF must ensure that their current SMSF deed provides the ability for them to use Instalment Warrants. The ATO specifically states:

*“The governing rules of a super fund must allow the trustee of the fund to borrow before any instalment warrant type arrangement can be entered into.”*

Therefore, you must have your deed reviewed and modified before you embark upon using this strategy. Your accountant or financial advisor can help you with this step.

For more information on Instalment Warrants visit [www.ato.gov.au/super](http://www.ato.gov.au/super) and click on the *Changes to Super* link, follow the section under *Self Managed Super Funds*. Alternatively, you can access the information from the Resource Centre at [knowledgecentre.com.au](http://knowledgecentre.com.au).

## Summary

These strategies are provided only as a guide. Because each client's circumstances are different, we of course provide different solutions to different clients. There are, as mentioned, even more complex strategies than this whereby you can invest alongside your super via a Joint Venture arrangement. Due to its complexity, it is beyond the scope of this book.

But we hope that by sharing these strategies with you we have shown you what is possible. To find out what else you can do might require more help and that's what we cover next ...

## Super Factor

- ☞ *Super Rule:* A SMSF can invest in "Business Real Property" with related parties.
- ☞ *Super Rule:* As of September 2007 a SMSF is able to borrow using an Instalment Warrant.
- ☞ Trustees of a SMSF must ensure their deed provides for the use of Instalment Warrants before they embark on borrowing.