

## **SELF MANAGED SUPER FUND IN-HOUSE ASSETS**

Superannuation law restricts the investment practices of superannuation funds in order to ensure that the funds are investing for genuine retirement purposes and members' benefits are not subject to excessive risks. One of the key areas of focus in this regard is the potential investment of funds in 'in-house' or 'non arm's length' investments.

The definition of an in-house asset includes:

- Investments in, and loans to, related parties;
- Investments in related trusts;
- Assets of the fund that are subject to a lease, or lease arrangements, between the trustee and related parties.

The basic rule is that subject to certain exceptions, in-house assets of a fund are limited to 5% of the fund's total assets.

Further, a fund is prohibited from acquiring an in-house asset if the market value of its current in-house assets already exceeds this 5% limit, or the acquisition of the asset would result in the fund breaching the 5% limit.

### **Exceptions**

For superannuation funds in general, an in-house asset does not include:

- A life policy issued by a life insurance company;
- A deposit with an approved deposit taking institution (ADI);
- An investment in a pooled superannuation trust, where the trustee of the fund and the trustee of the pooled superannuation trust acted at arm's length in relation to making that investment;
- An asset which APRA determines is not an in-house asset of the fund;
- An investment in a widely held unit trust;
- Property owned by the superannuation fund and a related party as tenants in common, other than property subject to a lease arrangement between the trustee of the fund and a related party.

In addition, SMSFs receive the following additional exceptions:

- Business real property that is subject to a lease or lease arrangement between the trustee and a related party of the fund;
- Investments in a non-g geared company or unit trust, provided that the company or trust meets certain requirements.

### **Business Real Property**

Business real property is defined in superannuation law to be any freehold or leasehold interest in real property (or an interest in Crown land) where the property is used wholly and exclusively in one or more businesses, but does not include any interest in the capacity of beneficiary of a trust estate.