



Limited Recourse Borrowing Arrangement

Documents needed
1. Super Fund Deed
2. Custodian deed
3. Purchase contract
4. Loan documents

For each document we look for a few key items:

1. Super fund deed

Clause specifically allowing the super fund to enter into a LRBA. This is usually found under the investment powers clause but can also be found under the trustee powers clause. Just having a general clause saying the trustee can enter into an arrangement so long as it doesn't contravene the SIS Act is insufficient. It must specifically deal with s67 LRBA's.

2. Custodian deed

Should have the super fund trustee, the custodian trustee and the asset being purchased under the LRBA.

3. Purchase contract

Only the custodian trustee without the mention of a trust arrangement.

4. Loan documents

Super fund trustee and a clause outlining that the recourse on the loan is limited only to the asset being purchased.



Loans to individuals

There should be 3 fundamental elements to a related party loan document
1. Loan Amount
2. Interest Rate – this should be market rates
3. Term of the Loan

There are all different types of loans that can be organised, but the documentation must reflect the arrangement accurately and be signed and dated.

- 1. Loan amount**

This should be entered on the loan agreement or on a Schedule to the agreement.

- 2. Interest rate**

Must be both reasonable and commercial.

- 3. Term of the loan**

If there is no term, it can mean it's "at call" – detail this in the agreement.

- 4. Security**

If the loan is secured, the agreement should detail what the security is.

- 5. Are there regular repayments**

Are they consistent with the loan agreement?