

## Documents required to complete a SMSF Borrowing

Topdocs ensures your clients have every box checked when they enter into a Super Fund borrowing arrangement. Our team of specialists carefully go over each transaction, ensuring the documentation provided is compliant not only with the s67A legislation, but with the lending institution as well.

**The documents that may be required to complete a Super Fund Borrowing transaction are as follows:**

- ▶ Self Managed Superannuation Fund Establishment (if not already established)
- ▶ Trustee for the Self Managed Superannuation Fund (most lenders require this to be a company trustee)
- ▶ Self Managed Superannuation Fund deed update (if you have an existing SMSF and the current deed does not contain the required clauses for borrowing)
- ▶ SMSF Custodian Trust (also called a Bare Trust or Property Trust). This is the trust that holds the property. This also includes all of the required minutes and documents showing that the Custodian Trust only holds the property beneficially for the SMSF.
- ▶ Trustee for the SMSF Custodian Trust (most lenders require this to be a company trustee)
- ▶ SMSF Investment Strategy with clauses allowing SMSF borrowing
- ▶ Limited Statement of Advice. Some lenders require this.

### Self Managed Superannuation Fund Establishment or Deed Update

In order to comply with the ATO and the SIS legislation and regulations, your client's Trust Deed has to not only permit borrowing, but must provide for a range of other abilities as well. These include the charging of assets, the appointment of a custodian, and the ability to invest in property. Further to this, if the Fund is borrowing from a bank, the bank itself will have specific provisions it requires in order to release the loan to the Super Fund.

The Topdocs deed is vetted by the major banks and complies with all relevant SIS and ATO requirements.

All new Topdocs SMSF Establishments have deeds that contain the clauses necessary for Super Fund borrowing. All existing Topdocs SMSF deeds date coded on or after 08/08 also contain the necessary clauses.

Topdocs can update other brands of deeds that do not meet the SIS or lender requirement to ensure they are acceptable to your lenders.

Topdocs also provides individual letters of legal oversight from Topdocs Legal Pty Ltd confirming that the deeds have been correctly updated. For more information on legal oversight see our brochure titled "Topdocs and Legal Oversight".

### Corporate Trustees or Individual Trustees for SMSF Borrowing

Most, but not all SMSF lenders require Corporate Trustees for both the SMSF and the Custodian (Bare) Trust. The legal entity that is the SMSF Trustee is required to be a separate legal entity to the Custodian (Bare) Trustee. To see if your chosen lender requires a Corporate Trustee check the "Topdocs Super Fund Borrowing Lender Comparison" brochure.

Topdocs can register either a standard Pty Ltd company for a Custodian Trustee, or a Sole Purpose Company Registration for a SMSF Trustee.

## SMSF Custodian (Bare) Trust

Topdocs provides SMSF Custodian (Bare) Trusts for both external lenders (Banks) and related party lenders.

These are the trusts that hold the property and the complete package also includes all of the required minutes and documentation evidencing that the Custodian Trust only holds the property beneficially for the SMSF.

Topdocs also provides individual letters of legal oversight from Topdocs Legal Pty Ltd confirming that our Super Fund borrowing documentation correctly meets all of the SIS legislation requirements.

## SMSF Investment Strategy

The Super Fund's Investment Strategy should provide for borrowing, and the investment in property by the Super Fund. Topdocs can prepare an ATO and SIS compliant investment strategy for the Fund tailored for Super Fund borrowing.

## Limited Statement of Advice

Through our subsidiary company Superannuation Support, we can provide your clients with Statements of Advice in relation to Super Fund borrowing, a requirement for some banks lending on these loans.

## Structure of a Super Fund borrowing

