



Legislative Instrument

Self Managed Superannuation Funds (Limited Recourse Borrowing Arrangements – In-house Asset Exclusion) Determination 20xx

I, [insert name, position], make this determination under paragraph 71(1)(f) of the *Superannuation Industry (Supervision) Act 1993*

[insert name]
[insert position]

Dated: dd month 20xx

1. Name of Determination

This determination is the *Self Managed Superannuation Funds (Limited Recourse Borrowing Arrangements – In-house Asset Exclusion) Determination 20xx*.

2. Commencement

This determination is taken to have commenced on 24 September 2007.

3. Determination

3.1. An asset (***the investment asset***) of a self managed superannuation fund (***the fund***) that is an investment in a related trust of the fund, is not an in-house asset of the fund at a time (***the test time***) where:

- (a) the application of subsection 71(8) of the *Superannuation Industry (Supervision) Act 1993 (SIS Act)* would result in the investment asset not being an in-house asset of the fund at the test time but for the fact that:
 - (i) if a borrowing referred to in paragraph 71(8)(b) of the SIS Act has not yet begun – such a borrowing has not yet begun; and
 - (ii) the related trust does not yet hold the asset referred to in paragraph 71(8)(c) of the SIS Act; and
- (b) it is reasonable to conclude at the test time that:
 - (i) if a borrowing referred to in paragraph 71(8)(b) of the SIS Act has not yet begun – such a borrowing will occur; and
 - (ii) the related trust will hold the asset referred to in paragraph 71(8)(c) of the SIS Act; and
 - (iii) the application of subsection 71(8) of the SIS Act would result in the investment asset not being an in-house asset of the fund

from the time the related trust begins to hold the asset referred to in paragraph 71(8)(c) of the SIS Act.

3.2. An asset (***the investment asset***) of a self managed superannuation fund (***the fund***) that is an investment in a related trust of the fund, is not an in-house asset of the fund at a time (***the test time***) where:

- (a) the application of subsection 71(8) of the *Superannuation Industry (Supervision) Act 1993 (SIS Act)* resulted in the investment asset not being an in-house asset of the fund at all times from when the related trust began to hold the asset referred to in paragraph 71(8)(c) of the SIS Act until a borrowing referred to in paragraph 71(8)(b) of the SIS Act was repaid; and
- (b) the application of subsection 71(8) of the SIS Act would result in the investment asset not being an in-house asset of the fund at the test time but for the fact that that borrowing has been repaid.

4. **Definitions**

Expressions used in this determination have the same meaning as in the SIS Act.

DRAFT