

SPR 2014/1 -



Legislative Instrument

Self Managed Superannuation Funds (Limited Recourse Borrowing Arrangements – In-house Asset Exclusion) Determination 2014

I, Alison Lendon, Deputy Commissioner of Taxation, make this determination under paragraph 71(1)(f) of the *Superannuation Industry (Supervision) Act 1993*

Dated: 4 April 2014

Alison Lendon
Deputy Commissioner of Taxation

1. Name of Determination

This determination is the *Self Managed Superannuation Funds (Limited Recourse Borrowing Arrangements – In-house Asset Exclusion) Determination 2014*.

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.