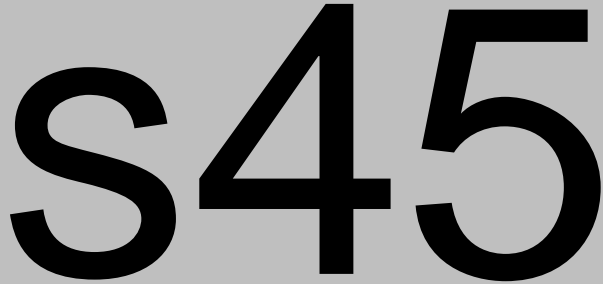


Consultation on LRBA's – Key themes

Retirement Benefits Unit, RIPD, is conducting some informal, confidential consultations on limited recourse borrowing arrangements for self-managed superannuation funds.

These discussions are not for attribution, so please do not disseminate.



S45

Extract A

APRA made a [submission](#) to the FSI following release of the Interim Report in 2014.

The section on leverage in superannuation (p. 32) includes the following:

APRA has long had reservations about extending the ability of superannuation funds to borrow and was reluctant to facilitate relaxation of the borrowing rules, which took place in 2007, to accommodate instalment warrants.

A degree of indirect leverage already exists within many assets commonly held by superannuation funds, including listed equities, fixed income and property investments. Additional direct leverage may amplify returns but exposes superannuation fund members to greater financial risks.

APRA remains of the view that the risks associated with direct leverage are incompatible with the objectives of superannuation and cannot adequately be managed within the superannuation prudential framework. Direct leverage can multiply the returns from investment in rising markets but it can also multiply losses in falling markets. Where borrowing is undertaken for investment in illiquid assets such as property, it can form a relatively large part of the portfolio, reducing the opportunity for diversification and hence further increasing risks.

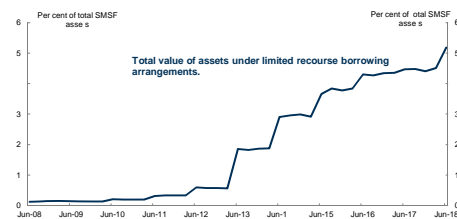
Pages 1-2 and 4-6 are
exempt in full under
47C

Table 3: Asset allocation (\$m)

These tables contain estimates of the amount of assets held by SMSFs for each type of asset listed on the SMSF annual return. Tables also contain estimates of borrowings, other liabilities and total net Australian and overseas assets held by SMSFs.

Historical data

Table with columns for dates (Jun-08 to Jun-18) and various asset categories including Unlisted trusts, Insurance policy, Other managed Investments, Cash and term deposits, Debt securities, Loans, Listed shares, Unlisted shares, Limited recourse borrowing, Non-recourse real property, Residential real property, Collectables and personal use assets, Overseas shares, Overseas non-residential real property, Overseas residential real property, Overseas investments, Other assets, Total Australia and overseas assets, Borrowings, Other Liabilities, Total net Australian and overseas assets, and LRBA as a per cent of total SMSF assets.



3.422691

Table 8a Total superannuation assets - trend^a
(£ billion)

	Jun 200	Jun 2005	Jun 2006	Jun 2007	Jun 2008	Jun 2009	Jun 2010	Jun 2011	Jun 2012	Jun 2013	Jun 2014	Jun 2015	Jun 2016	Jun 2017	Jun 2018	Jun 2019	Change 2014-2017 (%)
Total superannuation assets^b	613.9	730.5	90	1 172.9	1 131.3	1 059.8	1 188.1	1 328.9	1 382.1	1 583.2	1 808.0	2 017.3	2 113.7	2 30	2 30	2 30	18.5%
Of which: Domestic Product (GDP)	860.2	921	995.7	1 085.1	1 175.7	1 236.3	1 299.1	1 1	1 96.8	1 533.9	1 995.8	1 621	1 699.4	1 796	1 796	1 796	5.8%
Total superannuation assets as a proportion of GDP	71%	81%	91%	108%	98%	8%	91%	9%	12%	103%	113%	12%	127%	1	1	1	146.1%
By fund type																	
Corporate	36	5.7	3.3	57.8	31.8	7	8.3	9	7.1	31.8	35.5	53.9	5.4	56.6			7.3%
Industry	88.7	115.5	1	193.2	195	185.1	218.5	2	257.7	313.3	376.1	3	46	5	5	5	16.5%
Public sector ^c	11	120.3	157.1	183.6	176.8	156.1	180.1	219.3	232.0	259.9	305.6	3	256.1	360.3			57.1%
Retail	20	250.3	30	371.1	330.6	315.2	3	378.2	300.0	335.5	35	356.5	3	380.7			7.9%
Small ^d	130.3	163.9	206.3	215.9	221.4	222.3	236.2	0.6	23.5	80.3	539.2	592.5	636.7	698.8			9.8%
Balance of life of law statutory funds	39.6	3.8	.0	3.3	35.2	3	36.7	36.6	1.8	5	5.9	56.7	5.4	5			-0.2%
Total	613.9	730.5	90	1 172.9	1 131.3	1 059.8	1 188.1	1 328.9	1 382.1	1 583.2	1 808.0	2 017.3	2 113.7	2 30	2 30	2 30	18.5%
By regulatory class^e																	
APRA-regulated																	
Public offer	2	308.6	390.2	5	520.5	78.5	5	618.3	6	75	887.0	1	1	1	1	1	13.3%
Non-public offer ^b	120.5	1	170.8	156.2	1	128.8	168.6	18	181.1	200	212.0	236.6	235.0	20.9			79.1%
Single member approved deposit funds	3	5.0	5.5	5.7	5.5	5.2	5	5.3	5	5.1	5.1	.9	.7				-6.6%
Multi-member approved deposit funds	0	0.3	0.3	0.2	0.2	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.0			-5.3%
Small APRA funds	2.8	3.1	3.3	3.7	2.6	2.0	2.0	2.0	1.9	2.0	2.1	2.1	2.0	2.1			5.6%
of which: single member approved deposit funds	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0			-28.2%
Podded superannuation on trusts	35.1	5.8	58.9	83.6	78.6	69.7	79.1	78.3	87.6	96	108.2	137	123.2	136.3			10.6%
Total APRA-regulated^f	375.8	6	570.1	707.7	673.8	61	722.5	809.8	833.0	962.0	1	1	1	1	1	1	25.2%
	6	6	63.0	65.3	59.6	58.0	60.8	60.9	60.3	60.8	6	6	6	6	6	6	66.6%
ATO-regulated																	
Self-managed superannuation on funds	127.5	160.8	203.2	312.2	319.0	203.3	35	01.6	21.6	75.3	137.1	590	63	696.7			9.8%
	30.8	2	22.5	28.6	28.2	29.8	30.2	30.2	30.5	30.2	29.7	29.3	30.0	27.8			27.3%
Other regulated																	
Overseas public sector superannuation on schemes	71.0	82.5	87.2	105.7	103	90.6	7	80.9	85.7	97.5	116.7	131.1	132.2	135.5			2.5%
Balance of life of law statutory funds	39.6	3.8	.0	3.3	35.2	3	36.7	36.6	1.8	5	5.9	56.7	5.4	5			-0.2%
Total	613.9	730.5	90	1 172.9	1 131.3	1 059.8	1 188.1	1 328.9	1 382.1	1 583.2	1 808.0	2 017.3	2 113.7	2 30	2 30	2 30	18.5%

^a Data for each year are for financial years ended in the reference period to June. For 2000 data are for financial years ended June 2000 only.
^b Changes to this item reflect the adoption of AASB1056 from the June 2017 annual reporting period.
^c See Fostering superannuation funds and new APRA funds - including single member approved deposit funds.
^d Podded superannuation trusts are not included in total assets as they are captured in other superannuation entity categories.



The consumer protections that apply to SMSFs include:

- The regulation by ASIC of advice providers, SMSF auditors and providers of products and services to SMSFs; and
- The consumer protection provisions of the ASIC Act.

ASIC also provides simple, plain language information to consumers about SMSFs on ASIC's MoneySmart website.

Advice providers

Many consumers decide to set-up an SMSF after seeking advice from an advice provider.

In recent years, there has been considerable legislative reform to address concerns about the quality of financial advice, including:

- a. The Future of Financial Advice (FOFA) reforms, which commenced in 2012 and became mandatory from 1 July 2013, introduced a number of new requirements designed to improve the quality of financial advice and reduce conflicts of interest in the financial advice industry.
- b. The Australian financial services (AFS) licensing exemption applying to accountants was removed and, from 1 July 2016, all accountants who give advice to clients about acquiring or disposing of an interest in an SMSF must operate under an AFS licence: see Information Sheet 216 *AFS licensing requirements for accountants who provide SMSF services*.
- c. The financial advisers register was introduced on 31 March 2015, and provides key information on all individuals who have, since this date, provided personal advice to retail clients on relevant financial products—that is, all financial products other than basic banking products, general insurance products or consumer credit insurance (or a combination of any of these products).
- d. The *Corporations Amendment (Professional Standards of Financial Advisers) Act 2017*, which commenced on 15 March 2017 and will come into effect between 1 January 2019 and 1 January 2024, seeks to increase the professional, ethical and education standards for financial advisers.
- e. Reforms to the payment of life insurance commissions in 2017, under the *Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2017*, commenced on 1 January 2018 and aim to better align the interests of clients with those providing advice on life insurance products.

The FOFA reforms introduced the changes that most directly impact on the quality of advice provided to consumers seeking SMSF advice including:

- a. an obligation for advice providers to act in the best interests of the client, provide appropriate advice, and place the client's interests ahead of their own when providing advice (together, known as the 'best interests duty and related obligations');
- b. a ban on most conflicted remuneration, including commissions and volume-based payments;
- c. an annual fee disclosure statement requirement;
- d. an opt-in obligation requiring advice providers to renew a client's ongoing fee agreements every two years; and

- e. enhanced powers for ASIC.

In 2017, ASIC undertook a large project to examine, amongst other things, whether advice providers are complying with the law when providing personal advice to retail clients to set up an SMSF.

As part of this work, ASIC engaged an independent expert to review 250 client files where personal advice to set up an SMSF was provided to clients by an advice provider. The client files reviewed were randomly selected by ASIC from data provided by the ATO.

Through this work, ASIC saw a number of examples where an advice provider recommended gearing through an SMSF to invest in property. ASIC has publicly stated that this strategy is high risk and in many cases is likely to result in financial detriment to consumers. This strategy is being actively promoted by 'property one-stop shops.' ASIC is particularly concerned about the operation of 'property one-stop shops because of conflicts of interest and, together, with the ATO, will have an increased focus on property one-stop shops. This will include building and sharing data and intelligence and ASIC taking enforcement action where it sees unscrupulous behaviour.

The findings of ASIC's work are further discussed at [].

To assist advice providers provide compliant advice, ASIC has released a considerable amount of guidance including:

- Information Sheet 205 *Advice on self-managed superannuation funds: Disclosure of risks;*
- Information Sheet 206 *Advice on self-managed superannuation funds: Disclosure of costs;*
- Report 337 *SMSFs: Improving the quality of advice given to investors; and*
- Report 575 *SMSFs: Improving the quality of advice and member experiences*

Report 575 contains practical tips advice providers can use to improve the quality of SMSF advice they provide to clients.

Where ASIC sees examples of non-compliant advice, ASIC can take a range of regulatory actions, or a combination of actions, including:

- requiring the licensee to review and remediate clients in line with ASIC Regulatory Guide 256: *Client review and remediation conducted by advice licensees;*
- taking administrative action against an individual (banning) or against a licensee (suspending or cancelling a licence or imposing conditions); and
- taking court based action (i.e. civil penalty proceeding).

Where an SMSF member suffers financial loss as a result of fraudulent conduct, theft or inappropriate advice given by their advice provider, they can make a complaint to an external dispute resolution scheme.

From 1 November 2018, a new single EDR scheme for consumers and small business complaints, the Australian Financial Complaints Authority (AFCA) will replace the two

existing ASIC approved EDR schemes – the Financial Ombudsman Service and the Credit and Investments Ombudsman – and the Superannuation Complaints Tribunal.

Unlike members of APRA-regulated funds, SMSF members do not however, have access to the Superannuation Complaints Tribunal to deal with complaints about the decisions and conduct of trustees. This is because members of SMSFs are the trustees of the fund and cannot complain about decisions they have made as trustees of their own fund.

If issues or disagreements arise about how the SMSF is being managed, it is up to SMSF trustees to sort these issues out between themselves or seek legal advice.

Consumer protection provisions of the ASIC Act

ASIC administers the consumer protection provisions of the *Australian Securities and Investments Commission Act 2001* (ASIC Act). These provisions are in substantially the same terms as the Australian Consumer Law, but apply to the supply of financial services including credit.

The provisions include:

- the power to deal with unfair contract terms, and
- penalty and redress provisions for consumers such as:
 - pecuniary penalties;
 - disqualification orders;
 - substantiation notices;
 - redress for non-party consumers;
 - infringement notices; and
 - public warning notices.

When enforcing the law ASIC will seek to:

- stop the unlawful conduct;
- undo the harm caused by the contravening conduct (for example, by corrective advertising or redress for those adversely affected);
- ensure future compliance with the law;
- deter future offending conduct;
- encourage the effective use of compliance systems; and
- when warranted, impose penalties or fines.

ASIC has issued a number of infringement notices in relation to misleading or deceptive SMSF advertising.

From: s22
To: s22
Cc: Dana Fleming; s22
Subject: FW: Big banks ban super home loans [SEC=UNCLASSIFIED]
Date: Friday, 28 September 2018 2:13:31 PM

Hi s22

s47C

Of interest is that NSW and Vic have the highest number of SMSFs and Sydney is ranked first and Melbourne ranked third for falling house prices.

<http://www.abc.net.au/news/2018-09-18/house-values-fall-36-billion-dollars/10262540>

Regards s22

s22

Director | SMSF Client Engagement, Superannuation

Australian Taxation Office

P s22

From: s22 @TREASURY.GOV.AU]
Sent: Wednesday, 26 September 2018 3:35 PM
To: s22
Cc: Dana Fleming; s22
Subject: RE: Big banks ban super home loans [SEC=UNCLASSIFIED]

Thanks s22 – I agree the table is useful, I will try and incorporate it.

s22 | Retirement Benefits Unit | Retirement Income Policy Division
Department of the Treasury | Langton Crescent, Parkes, A.C.T. 2600
ph: +61 2 s22 @treasury.gov.au

From: s22 @ato.gov.au]
Sent: Wednesday, 26 September 2018 2:02 PM
To: s22
Cc: Dana Fleming; s22
Subject: FW: Big banks ban super home loans [DLM=For-Official-Use-Only] [SEC=UNCLASSIFIED]

Hi s22

s47C

Regards s22

s22

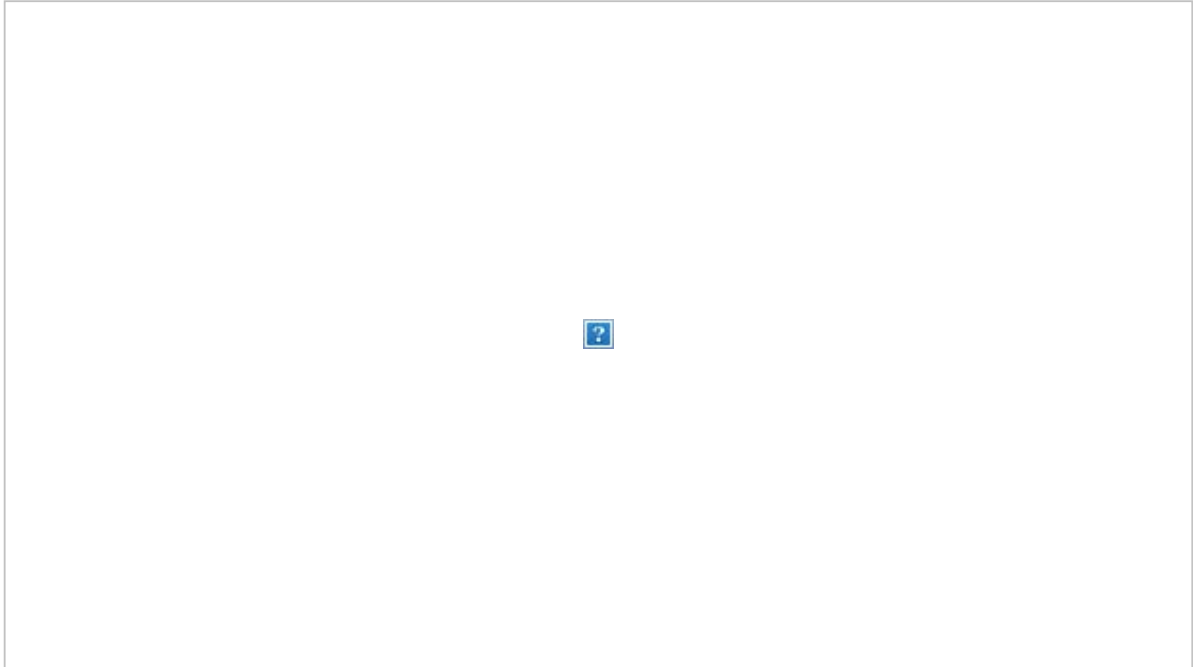
Director | SMSF Client Engagement, Superannuation

Australian Taxation Office

<https://www.news.com.au/finance/real-estate/brisbane-qld/big-banks-ban-super-home-loans/news-story/c03d6b7c11adf38d80fb568d29e43aaa?cspt=1537907535%7Cb15b6d306acaf60c40efc68ab50536ea>

Big banks ban super home loans

September 25, 2018 5:25pm



Anyone hoping to use a self-managed super fund to buy property had better move fast as banks begin to close out options..*Source:Supplied*

HALF Australia’s Big Four banks have announced a new ban on loans for self-managed super funds to buy property — but a list of lenders expect to defy the move.

Commonwealth Bank, Westpac and now AMP have announced that they will stop self-managed super fund property lending as part of a portfolio wide attempt to cut risk.

“AMP will continue to support existing SMSF home loan customers, however from November they will not be permitted to switch to interest-only, internally refinance or extend their loan term,” according to RateCity research director Sally Tindall.

“Westpac stopped SMSF home loans for new customers on 31 July, while CBA announced its ban would take effect from October 12, 2018.”

Those who got in early will continue to be serviced by banks, according to RateCity.



Those who got in early will continue to be serviced by banks, according to RateCity. *Source: Getty Images*

[Secret entrance hidden in plain sight](#)

[The fast & the luxurious: V8 star's mansion](#)

[Staggering profit in nine months](#)

Those who scraped in early won't be discarded though, with both Westpac and CBA expecting to continue to support existing SMSF loan customers.

"Banks are focused on reducing risk in their loan books," Ms Tindall said. "

"In a falling property market, it's not surprising we're seeing lenders retreat from this type of lending."

She said the biggest banks still offering SMSF property loans now in her list of 19 were Macquarie Bank, Bendigo Bank and Bank of Queensland.

Here's the RateCity list of lenders offering SMSF loans from next month:

Nine of the 19 lenders offering SMSF loans next month. Source: RateCity.

Nine of the 19 lenders offering SMSF loans next month. Source:
RateCity.*Source:Supplied*

Ten of the 19 lenders offering SMSF loans next month. Source: RateCity.



Ten of the 19 lenders offering SMSF loans next month. Source:
RateCity.*Source:Supplied*

[FOLLOW SOPHIE FOSTER ON FACEBOOK](#)

Originally published as [Big banks ban super home loans](#)



Sent from my iPhone

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