

SELF MANAGED SUPERANNUATION FUNDS – THE COOPER REVIEW

On 30 June 2010 the Cooper Review (“the Review”) into Australia’s superannuation system was delivered to the Government in its final form. The formal response by the Government will not be issued until after the Federal election.

The self-managed superannuation sector in Australia is represented by over 400,000 funds and worth over \$400 billion. The Review reported positively on the SMSF sector stating it was “successful and well-functioning”. Accordingly, the recommendations made are not groundbreaking as such but are “aimed at ensuring that this growing sector can continue to prosper in an enhanced environment.” Space does not allow comment on all 29 recommendations so we have selected those relating to SMSF investments which we feel maybe of particular interest to trustees of SMSF’s.

Leverage

In 2007 the borrowing rules were amended to allow regulated SMSF’s to invest in instalment warrants. The general consensus from the industry was that the ability for SMSF’s to leverage should continue. This was also recommended by the Review and whilst the Review does not want leverage to become a core focus for SMSF’s, we believe it is an area many funds will consider.

Related party investments

The Review is of the opinion that while related party investments can and do form a part of SMSF investments, based on information it gathered from the ATO, they are not always undertaken in accordance with the rules and are open to misuse. On this basis the Review has recommended changes to these rules.

Note: The review is not proposing to unwind the 1999 grandfathering arrangements.

Collectables and personal use assets

The final report recommends prohibiting SMSF’s investing in art and other collectables and for existing investments in this asset class to be disposed of over 5 years or for the SMSF to switch to a small Australian Prudential Regulatory Authority fund (SAF). While such investments are held by a very small percentage of funds, the Review is trying to remove what it sees as a complex aspect of SMSF compliance and potentially open to misuse. The ALP on 30 July 2010 stated that it would not adopt this recommendation if it was re-elected. Collectibles and personal use assets would be permissible investments if the SMSF complies with new guidelines relating to the storage, documentation and valuation of such assets.

Watch this space as the government in due course issues its full response to the Cooper Review.

Maxim has a team of dedicated SMSF specialists headed by Linda Lloyd and Michelle Horner. Please contact us on (02) 6295 8744 if you would like to discuss your SMSF needs further.

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