Investment in Instalment Warrants by Super Funds

November 2006

Government Announcement

The Federal Government announced on the 3rd November 2006 that it will act to allow superannuation funds to continue to invest in instalment warrants, consistent with long-standing administrative practice. Below is a brief outline of the announcement.

Background

Under section 67 of the Superannuation Industry (Supervision) Act 1993 (SIS Act), regulated superannuation funds are generally prohibited from borrowing or maintaining an existing borrowing of money except in certain circumstances. Additionally, SIS Act Regulations prohibit a Trustee from giving a charge over an asset of a Fund. Recently, both APRA and the ATO (the regulators of superannuation funds) concluded that instalment warrant products entail a borrowing for the purposes of section 67 of the SIS Act and were therefore not an allowable investment for a superannuation fund.

Proposed Change to SIS Act

Investments by superannuation funds into instalment warrants has been a long standing practice that is widespread in the market. As a result of APRA's and the ATO's view on instalment warrants, the Government has announced that it will amend the SIS Act to allow regulated superannuation funds to continue to invest in traditional instalment warrants. Fund investments in instalment warrants must still comply with other superannuation rules including, for example, they must not result in fund assets being subject to a charge.

What happens prior to the Law Change

Pending the law change, APRA and the ATO have advised that superannuation funds investing in traditional instalment warrants will not be considered to be non-complying under the SIS Act merely because of their investment in those instalment warrants. This will allow the industry to continue as normal pending the law change.

Announcement Link

http://assistant.treasurer.gov.au/pcd/content/pressreleases/2006/078.asp

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