QUANTUM

SMFS warned to beware personal guarantees

Self managed super funds using instalment warrants to gear into property need to be aware of the risks of giving personal guarantees.

The ATO has not clarified whether it considers personal guarantees to comply with the borrowing rules under the SIS Act and that such arrangements could be a breach given the loans are required to be limited recourse in nature.

In addition, recent ATO draft rulings has suggested that in the event of default, any additional personal contributions to meet shortfalls may be regarded as SMSF contributions and potentially lead to SMSFs exceeding the contributions cap.

Michael Kolikias of Quantum Warrants believes that when trustees provide a personal guarantee they accept personal financial responsibility if the lender makes a loss after selling a property as a result of a default.

“Many have accepted this practice simply because some of the big banks request personal guarantees and credit checks just like ordinary loans, but this does not have to be the case,” Mr Kolikias said.

“Quantum Warrants is one of the only warrant providers that don’t require personal guarantees.”

Many leveraged investments, like margin loans and normal investment property loans, expose all your assets to risk if there’s a default. With Quantum Property Warrants the risk is limited to the value of the property – no matter what happens.

Mr Kolikias says asking for a personal guarantee sidesteps the protection of the limited recourse loan, required under superannuation borrowing laws, to prevent the lender from claiming against the super fund assets.

“ SMSF trustees and their advisers should closely examine the process, costs and the risks associated with using personal guarantees before agreeing to them ,” Mr Kolikias said.

“While a personal guarantee doesn’t commit other assets held in the super fund, investors are asked to secure the loan with their personal assets,” he said.

Under a Quantum Property Warrants investors can buy a property of their choice as long as it meets certain rental income and capital appreciation criteria.

As the lender, Quantum’s risk is limited to the value and returns of the underlying asset so our interests are aligned with the investor’s when it comes to choosing the right property.

Once a client chooses the investment property and decides on the borrowing level up to 80 per cent, Quantum arranges the loan from its own finance arm, Quantum Finance which is supported by a syndication of institutional lenders.

Rental income is used to meet property outgoings and part of the loan's interest payments. Quantum then reports back to the super fund on income and expenses on a quarterly basis.

This vertical integration makes Quantum's one of the only true warrant products in the market. It also makes it very easy to use for independent financial advisors with some advisors writing 50 to 60 property warrants a year.

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