

DEALER GROUPS BAULK AT LENDING CERTIFICATE

Australian Financial Review

Published: 21 Jul 2011

Bianca hartge-hazelman

Financial planners may be putting themselves at risk if they sign off on loan documents for self-managed superannuation fund clients who want to borrow to buy property in their fund.

Some of the banks and other lenders that provide loans to self-managed schemes will often seek reassurance that the fund can afford to repay the loan by asking the financial planner to sign a certificate of advice.

By doing so, the planner is in effect verifying that he or she has reviewed the relevant documents and schedules attached to the loan; attesting that the structure of the trust deed is legally valid and allows for the fund to borrow to buy property; and that the trustees of the fund have been briefed about the loan arrangements.

But it is understood that some financial planner dealer groups are becoming uncomfortable with their advisers signing the certificates because of concerns that they might be acting outside the scope of their professional indemnity insurance (PI).

Michael Hallinan, special counsel at Townsends Business and Corporate Lawyer, said “the PI cover might only cover advice in respect of products on the licensee’s approved product list and might not extend to providing advice to people who are not clients, such as the bank.

“The certificate could amount to a promise given by the adviser to the bank that they will cover the banks against any loss on the borrowing.”

Craig Morgan, director of NSW-based broker SMSF Loans, said also that there was no standard certificate of advice form between the lenders and that “some of them are quite innocuous but depending on the provider of the finance there could be a sting in the tale”.

SMSF Loans estimates that around 5000 SMSF mortgages were arranged in the past financial year by banks, brokers and individual SMSFs that in effect lent money to themselves to acquire investment property.

Of those loans, 35 per cent were written for clients of either institutional or boutique dealer groups. A further 30 per cent were written for clients of accountants and another 35 per cent for clients who made direct inquiries to a lender.

Figures provided by SMSF Loans also show that the average loan size last financial year was \$260,000, with the smallest being \$65,000 and the largest \$1.4 million. Around 80 per cent of loans were for residential property and the rest for commercial real estate.

The top five locations for self-managed schemes to borrow to invest, in order of popularity, include south-east Queensland, Melbourne, Sydney, Perth and the remainder of Queensland.

The top five lenders, in alphabetical order, include Bankwest (owned by the Commonwealth Bank of Australia), National Australia Bank, Westpac and St George, and a number of other non-bank lenders.