



## **ACIS Releases Updated SMSF Deed**

The governing rules of our SMSF deed have been upgraded to take into account recent changes to the SIS Act and ATO practice. To summarise, those changes are:

1. A SMSF may now release a member's benefits where the member is diagnosed as being terminally ill. The changes recognise that terminally ill members should have the benefit of their account balance where they will not ordinarily receive benefits at retirement because of death. In order to qualify, two medical practitioners (at least one being a specialist) would need to certify that, in the normal course, the member's condition will result in death within a period of 12 months.
2. A SMSF may now borrow or maintain a borrowing under certain circumstances. The changes have been incorporated to enable certain limited-recourse arrangements which have been historically referred to as Instalment Warrants and which were previously only in general use in relation to listed securities. The new rules broaden the classes of assets which may be geared provided the relevant conditions are satisfied.

The rules now allow a super fund to borrow or maintain a borrowing if:

- the borrowed money is or has been applied for the acquisition of an asset (or another asset acquired in substitution or replacement of the original) which is an asset that the fund not prohibited from acquiring i.e. the fund can only borrow to acquire an asset by this method if the fund would be permitted by the Act to acquire it directly without borrowing;
- the asset is held on trust so that the fund acquires a beneficial interest in the original asset or its replacement;
- the fund trustee has a right to acquire legal ownership of the asset or the replacement by making one or more payments after acquiring the beneficial interest; and/or
- the rights of the lender against the fund trustee for default on the borrowing, or on the sum of the borrowing and charges relating to the borrowing, are limited to rights relating to the original asset or the replacement.

Please call us toll-free on 1-800-773-477 should you have any queries.