



## Can I Invest in .....?

**Please note that exemptions may apply to allow certain investments that are now prohibited provided they were made prior to 11 August, 1999. Refer to our separate FAQ covering these exemptions. The comments made here are of a general nature only. You should not make any investment decision solely on the contents of this document and should refer to your financial adviser prior to proceeding.**

### Antiques, Art, Diamonds

Yes you can, provided such assets fall within the investment strategy of the fund and objectives of the members and are not purchased from the members or related parties. The trustees need to be able to demonstrate that they have sufficiently researched the investment potential of such investments to be satisfied that they make worthwhile investments for the fund. The investment strategy document should detail out the rationale for selecting these investments. Art works and antiques can be rented out to businesses provided the leases are on commercial terms. Most importantly, the trustees need to be able to demonstrate that they are obtaining no personal benefit from such assets eg wearing the diamonds, hanging the artwork in their own homes, eating at the antique table. From a custodian viewpoint the trustees must be able to demonstrate that they are adequately safeguarding the assets of the fund – diamonds should be kept in a secure location, art works and antiques should be stored to minimise damage. The assets must be adequately insured. All these procedures need to be minuted.

### Commercial Real Estate (Business Real Property)

Yes you can, provided such assets fall within the investment strategy of the fund and objectives of the members. Unlike residential real estate a Business Real Property can be purchased from the members or related parties provided it is purchased at market value. In addition the property can be rented to members or related parties or businesses provided the rent is calculated at market value and is actually paid. There can be no loan over the property and the property cannot be used as security for any other purposes.

By purchasing the premises as tenants in common, you can progressively purchase the premises if the superannuation fund does not have sufficient funds to purchase it outright. Car parks may also be deemed to be business real property if you can demonstrate that they are used exclusively for business purposes.

### Shares in a company or units in a unit trust that invests in Business Real Property

Yes you can, provided such assets fall within the investment strategy of the fund and objectives of the members and all the investments in the company or unit trust fall within the definition of Business Real Property (or other excluded assets such as listed shares). See the Commercial Real Estate section for other information.

### Residential Real Estate

Yes you can, provided such assets fall within the investment strategy of the fund and objectives of the members and are not purchased from the members or related parties. In addition **no** member or **related party** can live in or rent the property, there can be no loan over the property and the property cannot be used as security for any other purposes.

### A holiday house which is rented most of the year but used a few weeks a year by the member or a related party?

No. It is a breach of S71 relating to in-house assets as the member is deriving a person benefit from the asset held by the superannuation fund. The use also breaches the sole purpose test contained in S62.

### Our family home?

No. The fund can own residential buildings but **not** a home that the members or other related parties occupy. It is a breach of S71 relating to in-house assets as the member is deriving a person benefit from the asset held by the superannuation fund. The use also breaches the sole purpose test contained in S62.

## Personalised number plates (registration plates)

No, you cannot since they must be attached to a vehicle that an individual drives and hence obtains a benefit from.

## A Farm

Yes you can, provided the home area is less than 2 Hectares and the farm is a commercial venture. The super fund can own the farm itself and lease it to the member. [SISA S 66(6)]

## A business

A super fund **cannot carry on** a business (ie trade as a bottle shop) but it **can own the rights** to carry on a business ie it could purchase a taxi plate, patents or other rights and derive income from them in the way of royalties or lease income. The fund cannot purchase such rights from a member and any lease/royalty arrangements would need to be at commercial rates.

## Shares in a company that carries on a business

Part 8 of SISA allows this provided the company does not make contributions to the fund for any of the members ie it is not an employer sponsor of the fund AND/OR the members together with any associated parties own less than a controlling interest ie <50% of the shares and effective control of the company via directorships.

## A Unit Trust that carries on a business

Part 8 of SISA allows this provided the trust does not make contributions to the fund for any of the members ie it is not an employer sponsor of the fund AND/OR the members together with any associated parties own less than a controlling interest ie <50% of the shares and effective control of the company via directorships.

## A unit trust which then lends the funds to me or a related party?

No. It is a breach of S71 relating to in-house assets as the member is deriving a person benefit from the asset held by the superannuation fund. The use also breaches the sole purpose test contained in S62. Such an action would also be caught under the tax avoidance provisions contained within S66(3).

## Boat Mooring

Yes you can, provided the mooring is rented at a commercial rent to a commercial venture. For example, if the member runs a commercial fishing business then the mooring can be purchased by the fund and leased to the commercial fishing business. The mooring effectively becomes a business real premise.

## Frozen Embryos

Yes you can, provided such assets fall within the investment strategy of the fund and objectives of the members and are not purchased from the members or related parties. You would need to be able to demonstrate the investment potential of such an investment and your research into it.

## Coca-Cola original bottles

Yes you can, provided such assets fall within the investment strategy of the fund and objectives of the members and are not purchased from the members or related parties. You would need to be able to demonstrate the investment potential of such an investment and your research into it.

## 1st edition French novels from 1800s

Yes you can, provided such assets fall within the investment strategy of the fund and objectives of the members and are not purchased from the members or related parties. You would need to be able to demonstrate the investment potential of such an investment and your research into it.

## Racehorse sires

Yes you can, provided such assets fall within the investment strategy of the fund and objectives of the members and are not purchased from the members or related parties. You would need to be able to demonstrate the investment potential of such an investment and your research into it.