

Property & SIPP Update

Borrowing concerns for self invested pension schemes

Borrowing under the new rules

With the publicity surrounding the rule changes from April 2006 ('A Day'), most people interested in buying property via pension schemes are aware of the heavy restriction on borrowings that will take effect. These will mean that after *A Day* they can only borrow up to 50% of scheme assets (compared to the current 75% of purchase cost). Many people are therefore looking to complete on property deals before *A Day* to get within the old rules. However, those people who already have property in self invested pensions might be paying less attention to the situation, believing the changes will have no impact upon them; however, this could be a false assumption!

A hidden trap for current owners

A darker side to the legislative changes has now emerged that could have a profound effect on members of schemes who already own their property, but have borrowings which are in excess of 50% of scheme assets. Whilst the rule changes regarding borrowings will not be retrospective, there are concerns over the potential implications the new rules could have, should circumstances warrant either a change in scheme provider or bank.

Barnes Roffe Topical Tip

- As can be seen, it is imperative for all existing schemes in which borrowings are currently in excess of 50% of scheme assets to review their structure, ensuring that they are happy with their share in the asset, the current scheme provider and also the bank providing the borrowings. If there are concerns, then the position should be urgently reviewed, especially as these issues could well take a couple of months to resolve.

Consult your Barnes Roffe LLP contact partner for further guidance on this important topic.



You could be chained to your provider or lender...

For example, a SIPP (or SSAS) that acquired a property through 75% borrowings under the old rules will find itself unable to transfer to a new SIPP provider should the existing relationship become strained. Similarly it could be chained to the same lender if the interest rates became uncompetitive. This is because either transfer would result in a new funding test against the post *A Day* limit and, if borrowing was in excess of 50% of the scheme's assets, the scheme would be in breach of the new regulations.

...or an unwilling member

This scenario above will also apply to multi-member schemes that have acquired property jointly and where one member wants to exit the property. In a worst-case scenario, if the property was already highly geared, this could result in the members having to find sufficient cash to buy out the member without being able to source any additional funding from bank borrowings.