



SMSF Association

Q&A

LRBA

Key Points

- Bare Trust Deeds
- Creating a separate company to be the Bare Trustee
- Obtain legal advice from a practitioner who is experienced in this area

Q

Can you please advise on whether we should be preparing a Bare Trust Deed for our SMSF client (and if so, how to best go about it) in the following circumstances:

- SMSF intends to buy a property off-the-plan
- Deposit will be paid by the SMSF and a LRBA loan will be obtained for the balance payment
- We have helped the SMSF create a separate company to be the Bare Trustee for this purpose
- Clients have also requested that we provide them with a bare trust deed

We are hesitant to do so for the following reasons:

- Our clients have not yet approached a financier and we do not know which bank will be financing the arrangement

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| | <ul style="list-style-type: none"> • Since the property is off-the-plan, the final particulars of the property are not yet ascertained • Preparing a Bare Trust Deed with these material particulars missing seems pointless at this stage <p>As this is the first time we have been approached with such a request, we will appreciate feedback from you on what is the best way to go about preparing the Bare Trust Deed if we should be preparing one. One of the things we are considering doing is to identify the property by linking it to the Sale and Purchase Agreement (perhaps by attaching a copy of Agreement to the Bare Trust Deed).</p> |
| <p>A</p> | <p>The following information is provided to assist you in your research.</p> <p>The SMSF Association believe that you should obtain legal advice from a practitioner who is experienced in this area.</p> <p>In situation where there is to be an LRBA, a bare trust document as a declaration of trust over the property should be prepared in all cases. This set out the terms of the property held in trust in very brief terms.</p> |
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