

Submission number: 2014/04

24 January 2014

RE: Self-Managed Superannuation Funds (Limited Recourse Borrowing Arrangements – In House Asset Exclusion) Determination 20xx

ASFA response to the ATO Tax Counsel Network's request for comments on the draft determination *Self-Managed Superannuation Funds (Limited Recourse Borrowing Arrangements – In House Asset Exclusion) Determination 20xx* supported the proposed change to the application of the in-house asset exemption provided by subsection 71(8) of the *Superannuation Industry (Supervision) Act 1993* (SIS Act).

ASFA notes that the effect of the draft determination is that where an SMSF invests through a limited recourse borrowing arrangement, the holding trust that needs to be established to hold the legal title to the asset in which the SMSF ultimately is investing is excluded from being an in-house asset of the SMSF in the following circumstances:

- where the supporting borrowing has not yet begun and the related trust does not yet hold the asset, or
- where the borrowing with respect to the asset has been repaid, and
- the investment would not otherwise have been considered an in-house asset under the application of subsection 71(8) of the SIS Act.