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Brokers face SMSF lockout

By Kevin Eddy | 07 Jul 2010

Forthcoming changes in the law could mean brokers will be unable to act on SMSF lending without additional training.

Recommendations in the Cooper Review on superannuation, published yesterday, recommended that those 'advising' on SMSFs would need to develop specialist knowledge of SMSFs.

SMSF specialist I-Financial's managing director, Craig Morgan, told Broker News that although brokers recommending SMSF-related property sales were unlikely to be caught by this recommendation specifically, he argued this could in fact turn out to be a 'moot point'.

"While the Cooper Review may not originally have intended to catch finance brokers in the term 'financial adviser', proposed amendments to the Corporations Regulations will make SMSF loans a financial product - not a credit product - and therefore subject to AFSL requirements and not the National Consumer Credit Protection Act," he said.

"For most brokers, this appears to mean that, unless they have an AFSL to go along with their ACL, they will not be able to act on SMSF lending – even if it is referred by someone competent to provide advice to the SMSF – as the broker would be dealing in a financial product."

Morgan added that he believes even extant provisions would make it illegal for a broker to be recommending the establishment of a SMSF or giving advice. He agreed that this meant brokers are now effectively "locked out" of the SMSF market: however, he did speculate that limited coverage for brokers under the regulations may be a possibility in the future.

In the meantime, Morgan recommends that brokers should refer clients interested in SMSF lending to specialist outfits, and should concentrate on forming the appropriate alliances before the amendments to the regulations come into effect in September.

Craig Morgan is the Managing Director of I-Financial Group Pty Limited. SMSF Loans Pty Limited is a wholly-owned subsidiary of the I-Financial Group and Australia's premier specialist service provider for SMSF's wanting to leverage into property.

