

# Talking points – Joint property purchase via a nominee

Bulletin 15 | October 2007

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## Current SIPP borrowing limits have meant that more and more investors are looking to purchase property jointly

The relaxation of the rules surrounding connected persons has made this easier for an investor to make a purchase through their SIPP along with another party – including themselves

### How it works

Certain SIPP providers, Suffolk Life included, are able and willing to deal with acquisitions of this nature. However for various reasons it is not desirable for them to own the legal title jointly.

The solution instead is to have a nominee hold the legal title who will hold the property on a holding trust for the SIPP and for the other beneficial owner(s) outside the SIPP. The nominee will typically be the SIPP members and outside investor(s) or their limited company.

A trust deed will be drawn up between the nominee and the beneficial owners which will set out each party's interest in the property and the rights and obligations of the parties. The trust deed is pivotal to the whole process. If borrowing has been used to assist with the acquisition, then the trust deed will also set out each party's interest in the debt. This will be covered in more detail later.

### Who can purchase this way

The nominee route can be used to acquire a property with a third party, a connected party, and also to acquire a share in a property already owned by the SIPP investor or someone connected to them.

Beneficial owners can be SIPP or non SIPP investors and there is no limit on how many can hold an interest in the property, and indeed providing the transaction is at a market value and all other beneficiaries agree, the proportions of ownership can be varied. These shares can be bought and sold within the arrangement, although stamp duty land tax (SDLT) and transaction costs may apply.

### Borrowing

If borrowing is required it will be the nominee as legal owner who borrows, as they are in the position to grant a legal charge in favour of the lender over the property in return for the loan, which must be on normal commercial terms. As stated above the trust deed sets out the allocation of borrowing between each beneficial owner. The sum of debt allocated to each SIPP investor must not exceed 50% of the SIPP's net fund value as stipulated by current pension legislation.

As far as the non pension borrowing is concerned, it must be demonstrated that the personal investor does not receive a benefit from the involvement of the pension fund. As such, we will require confirmation that the personal investor is contributing a minimum of 20% equity toward their share. We will then need to ensure that the personal investor does not exceed this level of borrowing for his share of the transaction. You will appreciate that this will also protect the pension fund's equity contribution in the event that the personal investor defaults on their loan and the bank is required to enforce its security at a time where property values are depressed.

Repayments of the loan are made by the nominee, with the beneficiaries being responsible for providing the nominee with their share of the repayments pro rata to their allocation of debt. Similarly, if the property is let, the nominee grants the lease and assumes responsibility for collection of the rent which is then passed to the beneficiaries pro rata according to each beneficiary's investment in the property. Rent to non SIPP investors will of course be subject to tax at the individual's rate, and the non SIPP investor's share will of course be liable to CGT upon disposal. If the tenant is connected to a SIPP investor, the terms of the lease must accord with the advice of a qualified valuer to ensure it is on the commercial terms required by HMRC.

## Our view

Whilst the current SIPP borrowing limits can be disappointing for some, a combination of the relaxation of the connected persons rule and the use of the nominee route fully backed up by the expertise and experience at Suffolk Life, ensures that the investor has every opportunity and degree of flexibility available to make a property acquisition on the most advantageous terms.

This combination together with the introduction of now being able to self invest protected rights funds (which will be covered in a later Talking Point) opens up the opportunity of property acquisitions to individual or collaborating SIPP investors together with 'ordinary' buyers, and should lead to renewed interest in considering a SIPP when it did not seem possible before.

If you would like an example of how this works in practice, please [click here](#) to view our case studies.