

## Rachel Green-Luther

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**From:** Rachel Green-Luther  
**Sent:** Thursday, 11 May 2023 9:31 AM  
**To:** Sarah Brandon; Randal King  
**Cc:** Elizabeth Meiklejohn  
**Subject:** FYI - DEK01S: Loan to Companies

Hi team,

FYI - Spoke to Danny yesterday. He is very interested in the SMSF lending \$ to his entities. May happen in next 3 months.

Come see me if you would like details.

Ta  
Rach

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**From:** Danny Dekker <dannypdekker@hotmail.com>  
**Sent:** Wednesday, May 10, 2023 4:38 PM  
**To:** Rachel Green-Luther <RachelG@virtusuper.com.au>  
**Cc:** Elizabeth Meiklejohn <ElizabethM@virtusuper.com.au>  
**Subject:** Re: Loan to Companies

Yes, I understand all of this. The Oberto Discretionary trust wants/needs the money to pay down the Strata Loan (9.2% is ridiculous). Call me anytime to discuss

Danny Dekker

P.O. Box 438

Coogee NSW 2047

Ph: 0412 423 560

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**From:** Rachel Green-Luther <[RachelG@virtusuper.com.au](mailto:RachelG@virtusuper.com.au)>  
**Sent:** Wednesday, 10 May 2023 4:03 PM  
**To:** Danny Dekker <[dannypdekker@hotmail.com](mailto:dannypdekker@hotmail.com)>  
**Cc:** Elizabeth Meiklejohn <[ElizabethM@virtusuper.com.au](mailto:ElizabethM@virtusuper.com.au)>  
**Subject:** RE: Loan to Companies

Hi Danny,

Essentially, Yes. Your super fund is permitted to lend money to your related entities. But with limits.

Some major points to consider:

- It can not be part of a scheme to get \$ out of the super fund.
  - How you use the money in Oberto Pty Ltd ATF DDP Discretionary Trust and DDP Pty Ltd is important and up for scrutiny.
- The super fund could lend approximately \$86,000 only as in-house loans between both entities.
  - Will this be enough?
  - How much do you want to borrow for:
    - Oberto Pty Ltd ATF DDP Discretionary Trust? and
    - DDP Pty Ltd?

The auditor has been very cautious with related party loans and has qualified super funds as a result.

The auditor has also asked questions like:

- why didn't the related party entity borrow from a bank?

The Super fund would need:

- Third-party supporting evidence for the terms of the loan (e.g. term length, interest rate, any security, repayments) – needs to market rates and on arms-length terms.
- The best third party evidence is written offers from banks and finance institutions.
- Consider if a finance application should be completed, to assess the risk and terms of the loan – similar to a bank/credit provider.
- Consider if security is needed and if security should be registered to protect their interests.
- Written loan agreement.
- Reviewing their investment strategy to ensure it is in line.
- Ensure the investment meets the sole-purpose test.
- The loan must always be under 5% in-house asset limit. Asset value changes particularly at 30 June may cause breaches. See ATO link here - <https://www.ato.gov.au/Super/Self-managed-super-funds/Investing/Restrictions-on-investments/In-house-assets/>
- Legislation allows a loan to a related entity, but not to a related individual. See ATO link here [Loans and early access | Australian Taxation Office \(ato.gov.au\)](#).

When would you be free to chat about this?

I am available:


- tomorrow:
  - Between 8.30am and 10.30am
  - After 12.30pm
- Friday
  - Before 3.30pm.

If you have any questions, please feel free to contact us.

Kind regards,

Rach



**Rachel Green-Luther** (she/her) SSA CPA 

Senior Accountant

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**From:** Danny Dekker <[dannypdekker@hotmail.com](mailto:dannypdekker@hotmail.com)>  
**Sent:** Tuesday, May 9, 2023 11:51 AM  
**To:** Rachel Green-Luther <[RachelG@virtusuper.com.au](mailto:RachelG@virtusuper.com.au)>  
**Subject:** Loan to Companies

Hi Rachel,

I have a situation that I would like to discuss. You advised me that DDP SUPER FUND could possibly loan monies to my company. The situation is this. My Oberto p/l Ltd ATF DDP Discretionary trust has a share in a strata loan for the property located at Carr st. This loan is 9.2%. The OC are about to offer us the opportunity to pay out our balances of the loan if we want to. Could the super fund lend this money to the oberto company so I can pay it out in full. I know I will need to pay the super fund interest and all that but is it possible? Also what's the possibility of a loan to my DDP Pty Ltd company as well?

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