CRISP

FINANCIAL

Ownership Structure and Lending Consequences

Personal name, partnership, LTC, company, trust.
Your accountant chose one for tax. Your lawyer chose one for asset protection. This is the column nobody fills in: what it did to your ability to borrow.

Finance explained. Decisions, supported.

This is not tax advice and it is not legal advice. It is the third conversation.

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BEFORE YOU READ ON

Three advisers. Three different questions.

Ownership structure gets decided on tax and asset protection. It should be. Those are the right reasons, and your accountant and your lawyer are the right people to decide them. What almost never happens is anyone asking the third question: what does this structure do to your ability to borrow, now and for the next purchase?

The answer is usually "more than you expected", and it is discovered eighteen months later, at the worst possible moment.

What this document is

Lending consequences only. Which structures lenders accept, what they will ask you to sign, what protections you keep or lose, and how the Reserve Bank's rules treat each one. Read it alongside your accountant and your lawyer, not instead of them.

What this document is not

- It is not tax advice. Income and loss treatment, ring-fencing, interest deductibility, bright-line, retained profits, trustee tax rates. All of it belongs to your accountant.
- It is not legal advice. Trust deeds, guarantees, relationship property, succession, asset protection, independent trustee obligations. All of it belongs to your lawyer.
- It does not recommend a structure. The right structure depends on facts this document cannot see.

The sentence this whole document exists to prevent

"We put it in a trust, and now the bank won't lend to us." That outcome is avoidable, but only if the lending question is asked before the structure is set up, not after.

One more thing worth knowing, because it is very recent. On 1 July 2026 the Financial Markets Authority took over regulation of the Credit Contracts and Consumer Finance Act, under the Credit Contracts and Consumer Finance Amendment Act 2026. That amendment also introduced new provisions relating to guarantors. If you are about to sign a guarantee, ask your lawyer what has changed. This area is moving.

THE MATRIX

Five structures. What the lender actually sees.

The fourth column is the one that surprises people, and it is the reason this page exists.

Structure	Who the borrower is	What you will be asked to sign	Do CCCFA borrower protections apply?	How LVR and DTI treat it	Practical lending friction
Personal name (sole or joint)	You. A natural person.	Nothing extra. You are the borrower, so no guarantee is needed.	Usually yes for the home you live in. For an investment purchase the purpose is investment rather than personal, domestic or household, so the protections may not apply. Ask your lawyer.	Applied to you directly and cleanly. Nothing to interpret.	Lowest. Every lender. Fastest and cheapest to establish.
Partnership	The partners, personally. Jointly and severally liable.	Cross-guarantees between partners are usual. The lender will want the partnership agreement.	Guarantee protections are reduced. The Act excludes a guarantee given by a partner acting as a partner from its definition of a relevant guarantee.	Your share of partnership debt and income. It gets messy quickly with multiple parties.	Moderate. Fewer lenders are comfortable, and documentation takes longer.
Look-through company (LTC)	A company. Not a natural person, whatever the tax treatment says.	Personal guarantees from the shareholders, commonly unlimited and joint and several.	No. The borrower is a company, so the loan is not a consumer credit contract.	Reserve Bank definitions expressly cover company structures. There is no escape here.	Higher. Company searches, constitution, guarantees. Some lenders route it through business banking.
Ordinary company	A company. Identical to an LTC from the lender's side.	Personal guarantees from the shareholders, commonly unlimited and joint and several.	No. Same reason. The borrower is not a natural person.	Same as an LTC. Retained profit you do not draw is generally not counted as your income for serviceability.	Higher. And the LTC-versus-company decision is a tax decision, not a lending one. Lenders barely distinguish.
Family trust	The trustees, acting in their capacity as trustees.	Personal guarantees from settlors and often all trustees. An independent trustee will require independent legal advice.	No. The Commerce Commission lists borrowing where the borrower is a trustee of a family trust among the arrangements that are not consumer credit contracts. The contract can still be reopened by a court if oppressive.	Reserve Bank definitions expressly cover trust structures. No escape here either.	Highest. Trust deed reviewed, independent legal advice, corporate trustees complicate matters, and some lenders decline particular structures outright.

The shaded cells are not a warning against those structures. They are a warning against choosing them without knowing this. Asset protection and borrower protection are different things, and you can trade one for the other without ever being told.

THE CONSEQUENCES

Three things that surprise almost everyone

1. A structure does not get you around LVR or DTI

This is the most common reason people restructure, and it does not work. The Reserve Bank defines an owner-occupied property by who occupies it, and states plainly that the definition covers common ownership structures such as company and trust structures. Investor classification works the same way. Moving a property into an entity changes who signs. It does not change which speed limit applies.

It can make things worse. The Reserve Bank's lending guidance acknowledges that where there are complex structures and multiple debtors, a bank may not be able to determine a DTI ratio at all, and must record it as undetermined. Loans with an undetermined DTI ratio still count toward the bank's qualifying credit. Your complex structure consumes the bank's quota without being classifiable. That is not a position you want to be in when a lender is deciding whose deal to write this quarter.

2. Guarantees make the structure mostly cosmetic for serviceability

People expect an entity to hold the debt at arm's length. Lenders expect the opposite. Where a company or trust borrows, the lender will normally require personal guarantees from the people behind it, frequently unlimited and joint and several. The serviceability assessment then looks straight through the entity to those people, and to every liability they carry.

So the debt is still yours in every way that matters to the next application. The structure protected the asset. It did not protect your borrowing capacity.

3. You may be trading borrower protection for asset protection

The Credit Contracts and Consumer Finance Act protects borrowers under consumer credit contracts: disclosure, hardship applications, limits on unreasonable fees, and the lender responsibility principles. Those protections attach only where the borrower is a natural person borrowing predominantly for personal, domestic or household purposes. A company does not qualify. And borrowing where the borrower is acting as trustee of a family trust is listed by the Commerce Commission among the arrangements that are not consumer credit contracts.

The Act also excludes, from its definition of a relevant guarantee, guarantees given by a trustee of a family trust or by a partner of a partnership. The guarantee you sign in that capacity does not carry the same statutory protections as one you sign personally.

This is not an argument against trusts

Trusts exist for good reasons and they achieve them. The point is that the trade is real, it is rarely explained, and it should be a decision rather than a discovery. These arrangements remain credit contracts, and a court can still reopen them if they are oppressive. What you lose is the routine, everyday protection, not the last resort.

THE EXPENSIVE MISTAKE

Moving a property you already own

Restructuring an existing property into a trust or company is not an administrative step. It is a sale. Treat it as one, and price it before you commit.

It is a disposal at market value	Legally and for tax, ownership changes hands. Your accountant and lawyer must confirm the consequences before anything moves, including bright-line exposure. In writing.
The existing loan is repaid and a new one written	You are making a fresh lending application, with fresh approval risk. Nothing carries over automatically.
Your LVR is retested at today's rules and today's valuation	Not at the value you paid, and not under the rules that applied then. If your equity has moved against you, the lending you already hold may be lending you can no longer get.
Break costs if you are on a fixed rate	Repaying a fixed loan early can trigger a break fee. On a large loan mid-term this is not a rounding error.
Legal and establishment costs, twice	The transfer itself, plus the trust deed or company formation, plus independent legal advice for every guarantor and any independent trustee.
You may leave the CCCFA behind	See the previous page. Confirm with your lawyer whether the new loan will still be a consumer credit contract, and what that means for hardship and disclosure rights.
Time	Trust deeds get reviewed. Guarantors get independent advice. Company searches happen. Weeks, not days, and usually at the moment you least want a delay.

The order of operations that saves people money

Decide the structure before you buy, not after. A structure chosen at purchase costs the price of forming it. The same structure adopted three years later costs a disposal, a valuation, a new application, break fees, and possibly the deal you were trying to do next.

THE THREE CONVERSATIONS

Ask the right person the right question

Take this page to each of the three people. If any of them cannot answer their column, that is useful information about which adviser you have.

ASK YOUR ACCOUNTANT	ASK YOUR LAWYER	ASK YOUR ADVISER
• How is income taxed under this structure, and how are losses treated? • Does residential rental loss ring-fencing change anything here? • What is my bright-line exposure if I transfer an existing property? • What happens to profit retained inside a company? • Does the way I currently extract income still support a lending application? • Will you write your answers down for the bank?	• Who exactly will the borrower be on the loan documents? • What guarantee am I being asked to sign, and is it limited or unlimited? • Will this loan still be a consumer credit contract under the CCCFA? • Who needs independent legal advice, and what will it cost? • Does the trust deed permit this borrowing and this security? • What changed for guarantors under the 2026 amendment?	• Which lenders on your panel accept this structure, and which decline it? • Will this be priced and termed as residential lending, or as business lending? • How does each lender treat shareholder salary and retained profit for serviceability? • What does this structure do to my DTI, and could it be recorded as undetermined? • What is the refinance path if I need to change lenders in two years? • If the structure hurts my borrowing, will you tell me before I set it up?

The last question is the one that matters

"If the structure hurts my borrowing, will you tell me before I set it up?" An adviser paid on settlement has no incentive to slow you down. Ask anyway. And ask your accountant and lawyer the same thing in reverse: if the lending consequence is severe, will you reconsider the structure?

WHERE TO START

Two situations, two different answers

You are buying, and have not decided the structure

This is the cheap moment, and the only one. Get all three answers before you sign a sale and purchase agreement, because the structure needs to be named on the contract and formed before settlement. Start with your accountant on tax and your lawyer on protection. Bring the lending consequence in at the same time, not afterwards. If a structure would cost you the ability to fund the purchase at all, that is a fact worth knowing in week one.

You already own it, in the wrong structure

Slow down. Price the whole move before you commit to any part of it: the disposal, the tax, the new lending application, the valuation at today's LVR settings, break costs, legal fees, and independent advice for every guarantor. Then compare that total against what the restructure actually buys you. Sometimes the answer is clearly yes. Sometimes the honest answer is that the structure you have is imperfect and the cost of fixing it exceeds the benefit. Both answers are legitimate, and only one of them generates a fee for anybody.

A useful rule

If a structure is being recommended to you and nobody has yet asked what you plan to borrow next, the recommendation is incomplete. It might still be the right structure. It is not yet a finished decision.

Bring us in before the structure is set

Tell us the structure your accountant and lawyer are proposing and what you plan to buy. We will tell you which lenders accept it, how it will be priced and termed, what it does to your serviceability and DTI, and what it costs you in borrower protections. We work across main banks, specialist lenders and non-bank lenders, so the answer is not limited to one institution's policy. And if the structure would hurt your borrowing, we will say so while it is still free to change.

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