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Your Reference: Change SMSF Name
Enquiries: Adj Professor, Dr Brett Davies
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Tuesday, 23 March 2022

DA Nominees Pty Ltd
2 Mosely Drive
Stirling North SA 5710
Australia

Build this legal document at

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change-smsf-name/](https://www.legalconsolidated.com.au/change-smsf-name/) – telephone us,*

*we can help you complete the
questions.*

Adj Professor, Dr Brett Davies – Partner

Dear Trustee,

Updating the DiAngelo Fund

Thank you for instructing us to prepare the attached Self-Managed Superannuation Fund Change Fund Name.

How to print your document

When you are satisfied that the document is according to your instructions please:

1. Download the PDF (Don't print directly from the browser.)
2. Print the PDF Printer settings: A4 paper
100% scale (turn off 'fit to page')
3. Print single sided (NOT duplex).
4. Once signed keep this covering letter with the document.
(However, do not staple the covering letter to the document)

We confirm that we act for:

DA Nominees Pty Ltd of 2 Mosely Drive, Stirling North SA 5710, Australia
ACN 849 816 513

(Trustee)

Being the Trustee of the Self-Managed Superannuation fund Deed entitled the DoAngelo Fund (Fund) in which membership is comprised of:

Lorenzo DiAngelo of 21 Kintail Street, Applecross WA 6153, Australia

Sofia DiAngelo of 21 Kintail Street, Applecross WA 6153, Australia

(collectively Membership)

The Deed of Variation updates the name of your Self-Managed Superannuation Fund. The name of the Self-Managed Superannuation Fund is usually just a 'nick-name'.

Unlike, say a Company Name, business name (that is registered) or a human name (that has a birth certificate) the SMSF Trust name is not usually officially registered anywhere. It is just used by you and your accountant to help identify your SMSF Trust.

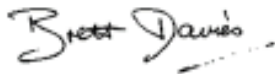
You will need to let the Australian Taxation Office know of the change of the SMSF Name. Complete this ATO form and send it to the ATO:

https://www.ato.gov.au/uploadedFiles/Content/SPR/downloads/n3036-09-2019_instructions_form_super_entities.pdf

We make special mention of the enclosed Minute regarding you needing to hold and retain, forever, original deeds. If you do not retain original signed deeds, you will not be able to open bank accounts or borrow money. Copies are not good enough. Ensure that both you and your accountant retain original deeds. They are precious and usually impossible to replace.

This now concludes the matter. Thank you for your instructions.

Yours sincerely,



Adj Professor, Dr Brett Davies, CTA, AIAMA, BJuris, LLB, LLM, MBA, SJD
National Taxation Partner
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This is a sample of the document you are building on our law firm's website.

Depending how you answer the questions the document and our letter may be different.

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*Dr Brett Davies
Partner
Legal Consolidated Barristers & Solicitors*

Resolution by the Trustees to change the Fund name of the Self-Managed
Superannuation Fund

Held at

Present:

DA Nominees Pty Ltd of 2 Mosely Drive, Stirling North SA 5710, Australia
ACN 849 816 513

(Trustee)

Lorenzo DiAngelo of 21 Kintail Street, Applecross WA 6153, Australia

Sofia DiAngelo of 21 Kintail Street, Applecross WA 6153, Australia

(collectively **Membership**)

Quorum: It was noted that a quorum was present at the meeting.

Notice of Meeting: It was confirmed that the Trustee received notice of this meeting and that there is unanimous consent to the meeting being held and waive the requirement for any specified period of the notice of the meeting. It was resolved unanimously that the meeting is validly constituted regardless of any failure to give notice as required under the *Corporations Act*.

Upon tabling the fully executed Deed of Variation (in triplicate) that varies the DiAngelo Fund Trust

IT WAS RESOLVED that:

1. the Trustee adopts the duly executed Deed of Variation to amend the DiAngelo Fund
2. authority is given to allow the Deed of Variation to be provided to any relevant lending institutions, as required
3. the Deed of Variation be lodged for stamp duty, if required
4. because of its value and that banks will generally not open bank accounts or provide loans if the bank does not cite original Deeds, the 2 duly executed Deeds of Variation were protected and stored as follows:
 - (a) one Deed of Variation to the accountant
 - (b) one Deed of Variation to be kept in the bank vault
5. the Trustee conducts an audit to ensure that it has original Deeds of the following
 - (a) the Trust Deed that established the Trust
 - (b) any subsequent deeds of variation

6. the Members being:

Lorenzo DiAngelo of 21 Kintail Street, Applecross WA 6153, Australia

Sofia DiAngelo of 21 Kintail Street, Applecross WA 6153, Australia

consent to the Deed of Variation being so executed and adopted

Signed as a true and correct record of the meeting immediately after the meeting.

DA Nominees Pty Ltd (Trustee) Date: 20

Lorenzo DiAngelo (Member) Date: 20

Sofia DiAngelo (Member)

.....

Date: 20

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2. Receive legal advice
3. Get a signed letter on our law firm's letterhead with the legal document
4. We take responsibility for the legal document

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Adj Professor, Dr Brett Davies - Partner



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Change Fund Name Deed of Variation for the DiAngelo Fund

(formerly known as the DoAngelo Fund)

This Deed of Variation is made by:

DA Nominees Pty Ltd of 2 Mosely Drive, Stirling North SA 5710, Australia
ACN 849 816 513

(Trustee)

1 Background

- 1.1 The DoAngelo Fund was created by a deed dated 12 March 2019 together with any amending deeds (Trust Deed).
- 1.2 The Trustee has examined the Trust Deed (or sought legal advice) and the Trustee is satisfied that there is power to revoke, add to and vary the terms of the trusts constituted by the Trust Deed.
- 1.3 The funds in the DoAngelo Fund are not vested.
- 1.4 The Trustee seeks to vary the Trust Deed from the date of this Deed of Variation or on a date as otherwise stated by minute and there is consent to do so by:

Lorenzo DiAngelo of 21 Kintail Street, Applecross WA 6153, Australia

Sofia DiAngelo of 21 Kintail Street, Applecross WA 6153, Australia

in the capacity of the Members.

2 Dictionary

Members:

Lorenzo DiAngelo of 21 Kintail Street, Applecross WA 6153, Australia

Sofia DiAngelo of 21 Kintail Street, Applecross WA 6153, Australia

SIS Act the *Superannuation Industry (Supervision) Act 1993*

SIS Legislation all superannuation acts, including, together with the administrative guidelines, including, by way of example:

- a. *SIS Act and SIS Regulations*
- b. *Superannuation Legislation (Consequential Amendments and Provisions) Act 2011*
- c. *Superannuation (Financial Assistance funding) Levy Act 1993, Superannuation (Roll-over) Act 1993, Superannuation (Resolution of Complaints) Act 1993, Superannuation (Roll-over) Act 1993*
- d. *Superannuation Industry (Supervision) Consequential Amendments and Provisions Act 2011, Superannuation Supervisory Levy Amendment Act 1993*
- e. *Occupational Superannuation Standards Amendment Act 1993*
- f. *Superannuation Act 2005, Superannuation Act 1990, Superannuation Act 1976*
- g. *Superannuation (Productivity Benefit) Act 1998*
- h. *Superannuation Benefits (Supervisory Mechanisms) Act 1990*
- i. *Superannuation (Family Law - Superannuation Act 1922) Orders 2004 and Superannuation (Family Law - Superannuation Act 1976) Orders 2004*

Update SMSF name for when:

1. correcting spelling errors (e.g. Smitth Super Fund)
2. your Spouse has died (e.g. Coral & Ted Smith Superannuation Fund)
3. your spouse has divorced you (e.g. Joanne and John Lee Super Fund)

- j. *Superannuation Guarantee (Administration) Act 1992*

SIS Regulations *Superannuation Industry (Supervision) Regulations 1994*

Superannuation law includes:

- a. SIS Legislation
- b. any common law or law including the *Corporations Act 2001* and the *Security Act 1991*, relating to superannuation or the taxation of superannuation
- c. any lawful requirement to the Fund by a Responsible Authority
- d. any other body that has responsibility for the regulation of superannuation including an Asset-test Exempt Pension
- e. changes to any superannuation law after the date of this Deed of Variation
- f. any proposed law or lawful requirement that the Trustee be bound to apply with retrospective effect

4. *your name is not as clever as you first thought (e.g. Scrooge McDuck Super Fund)*
5. *your name may upset the ATO (e.g. Get out of Tax Superannuation Fund)*
6. *your parents may have died and you now want to remove their names from the Superannuation fund*

3 Change of Name

- 3.1 The Trust Deed is currently called the DoAngelo Fund.
- 3.2 The Trust Deed has now changed its name to the DiAngelo Fund.
- 3.3 In all other respects, the Trust Deed remains unchanged.

4 Severing to reduce taxes and maintain SIS compliance

- 4.1 The Trust Deed and this Deed of Variation is interpreted to reduce taxes, imposts, duties and stamp duty (including State and Federal) (Taxes) and avoid any illegality. If any clause nonetheless fails to reduce Taxes or is illegal, it is severed, read down or fettered, as required, from the Trust Deed or Deed of Variation to the extent of the illegality or in the furtherance of the reduction of the Taxes.
- 4.2 The Trust Deed and this Deed of Variation are read down so that no mandatory taxation law or Taxes, from time to time, are contravened that would lead to an unfavourable taxation position.
- 4.3 For land ownership registration requirements, including where there is a change of Trustee then all powers in the Trust Deed and this Deed of Variation are severed, read down or fettered, as required, and vesting restricted, as required to allow for minimal duty or stamp duty in the relevant jurisdiction.
- 4.4 The Trust Deed and this Deed of Variation are interpreted so that they remain at all times in compliance with the SIS Legislation. If any clause nonetheless fails to comply with the SIS Legislation then it is severed, read down or fettered, as required, from the Trust Deed or Deed of Variation to the extent of the illegality or in the furtherance of the mandatory compliance of the SIS Legislation.

5 No Resettlement

- 5.1 This Deed of Variation is supplemental to the Deed. This Deed of Variation amends the Deed in all Australian jurisdictions.

- 5.2 If any of the terms of the Deed are inconsistent with the terms of this Deed of Variation, then the terms of this Deed of Variation prevail. However, this Deed of Variation in no way constitutes a resettlement of the Trust Deed or any part of it. If anything in the Deed of Variation establishes a resettlement of the Trust Deed then the applicable words are read down so as not to constitute a resettlement.
- 5.3 The Deed of Variation is interpreted to avoid any illegality. If any clause is nonetheless illegal, it is severed from the Deed of Variation to the extent of the illegality.
- 5.4 The Deed of Variation is read down so that no mandatory superannuation law, taxation law, duty or impost (both State and Federal) or Responsible Authority direction from time to time, is contravened that would lead to an unfavourable taxation position.
- 5.5 Every part of this Deed of Variation, every clause and term is subservient to the above clauses.

6 Protecting grandfathered structures & defined benefits

6.1 In house asset rules

- 6.1.1 If any clause in this Deed of Variation adversely affects the grandfathered provisions for any structures or transactions that the Trust Fund has under the in-house asset rules including for sections 71A to 71E *Superannuation Industry (Supervision) Act 1993* then the offending words are read down so as not to adversely affect any such transactions or structures that are grandfathered.

There are no taxation issues when you update the SMSF name. With every document, you build on our website you get a letter on our law firm's letterhead. The letter confirms there are no taxation issues when you correct the SMSF name.

6.2 Defined Benefit Pensions

- 6.2.1 The Deed of Variation is read down so as to preserve any payments under defined benefit pensions and any other pensions and payments. Any power to vary a defined benefit pension (under the Deed) is preserved.

6.3 Accrued Benefits preserved

- 6.3.1 This Deed of Variation is not intended to prejudicially affect or reduce any entitlement or Benefit that has accrued. This Deed of Variation is read down so as to be required, to give effect to this clause.

7 What is not varied

All the other terms contained and implied in the Trust Deed remain in full force and effect.

8 Using the definitions in the Trust Deed

Unless the context otherwise requires, the expressions and expressions of similar import contained in this Deed of Variation have the same meanings as in the Trust Deed. This Deed of Variation does not alter the rights or entitlements of any Members.

9 Deed of Variation versus the Trust Deed

This Deed of Variation is supplemental to the Trust Deed within the meaning of the applicable State or Territory Property Law Act. If any of the terms of the Trust Deed are

inconsistent with the terms of this Deed of Variation, then the terms of this Deed of Variation prevail.

HOWEVER, this Deed of Variation in no way constitutes a resettlement of the Trust Deed or any part of the Trust Fund. If anything in this Deed of Variation would otherwise establish a resettlement of the DiAngelo Fund then the applicable words are read down so as not to constitute a resettlement.

10 When does this Deed of Variation take effect?

Unless otherwise stated in any minutes, this Deed of Variation takes effect on the date of this Deed of Variation.

11 Decision making in more than one place and Notices

- 11.1 This Deed of Variation may be executed in different locations by signatories and all counterparts together constitute the Deed of Variation.
- 11.2 Meetings and decision making can be conducted in more than one place, by telephone, the Internet or other means.
- 11.3 Notices may be provided via the post or email.

The Australian Taxation Office (ATO) regulates Self-Managed Superannuation Funds. You need to let the ATO know within 28 days of changing your Superannuation Fund's name. Our covering letter that you get with the Deed to update your SMSF Name has a link to the form that the ATO requires you to complete.

12 Interpreting the Deed of Variation

In this Deed of Variation, unless the context indicates a contrary intention:

- 12.1 headings are for convenience only and do not affect interpretation
- 12.2 a reference to a 'person' includes a reference to: an individual; body corporate (wherever incorporated); body politic; association of persons (whether incorporated or unincorporated) partnership; trust; person in the capacity as a trustee; person in the capacity as the Personal Representative of a deceased estate; superannuation fund
- 12.3 the plural includes the singular and vice versa and a reference to a gender includes every other gender
- 12.4 a reference to the Deed of Variation includes a reference to any amendment, variation, supplemental deed or replacement from time to time
- 12.5 a reference to any party to this Deed of Variation includes successors and assignees
- 12.6 a reference to laws in this Deed of Variation refers to those laws as amended or replaced as consistent with the overall purpose of the Deed of Variation and does not lead to an anomaly
- 12.7 a reference to any statute, or any subordinate legislation or instrument includes all statutes, subordinate legislation or instruments amending, modifying, consolidating, re-writing, re-enacting or replacing them and a reference to a statute includes all subordinate legislation and instruments made under that statute

Executed as a Deed on20.....

EXECUTED for and on behalf of
DA Nominees Pty Ltd

ACN 849 816 513

Member, by authority of its Directors in
accordance with section 127
Corporations Act 2001 (Cth)

Signature of Director or Secretary

Signature of Director (if a 2nd)

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