

ATO Provides Sole Purpose Test Guidance to DomaCom

DomaCom Limited (ASX: DCL) (DomaCom) is pleased to announce that DomaCom and the Australian Tax Office (ATO) have reached agreement on the conditions under which the ATO will not apply compliance resources regarding the Sole Purpose Test (SPT) for an investment by an SMSF into a DomaCom sub-fund that owns a residential property, where a related party of the SMSF may happen to become a tenant.

The conditions agreed with the ATO include:

- Amendment to the DomaCom Platform to allow trustees to make a SPT Declaration (see attached declaration) when making an investment. The declaration ensures that SMSF trustees do not engage in behaviour that suggests they are maintaining their SMSF for the collateral purpose of providing accommodation to a related party tenant.
- The platform will record this declaration and make it available to the ATO and SMSF auditors.
- Amendments to the Product Disclosure Statement (PDS) and Supplementary SPDS for the DomaCom Fund covering the SPT Declaration.

DomaCom CEO, Arthur Naoumidis, says “I am pleased to confirm that DomaCom has obtained ATO confirmation on how SMSF trustees in DomaCom can satisfy the Sole Purpose Test after the Full Federal Court of Australia judgement in *Aussiegolfa Pty Ltd (Trustee) v Commissioner of Taxation* [2018] FCAFC 122.”

“We thank the ATO for providing this practical clarification so that SMSFs can continue to invest in DomaCom property sub-funds where, subject to certain protocols being observed, related parties may happen to become the tenant of the underlying properties.”

About DomaCom:

DomaCom Australia Limited AFSL 444365 is the owner and operator of the DomaCom investment platform (www.domacom.com). The platform seeks to provide the SMSF market and other long-term investors the opportunity to make fractional investments in a range of asset classes including property related investments, mortgage backed securities and debt securities they choose via a unique trust structure. Investments in DomaCom platform are facilitated in the DomaCom Fund ARSN 167 020 626 (Fund), a licensed managed Investment scheme registered with ASIC. The trustee and responsible entity of the Fund is Melbourne Securities Corporation Ltd AFSL 428289, a part of MSC Group.

Media enquires:

Arthur Naoumidis CEO, DomaCom Australia Limited +61 411 958 084

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DomaCom Ltd
Attention: Mr Arthur Naoumidis
L6, 99 Queen Street
MELBOURNE VIC 3000

30 October 2019

Self-managed superannuation funds investing in the DomaCom Fund – our approach to the sole purpose test

Dear Mr Naoumidis

Thank you for your email dated 16 October, providing updated copies of the Product Disclosure Statement (PDS) and sample Supplementary Product Disclosure Statement (SPDS) for the DomaCom Fund. We confirm that these documents refer prospective self-managed superannuation fund (SMSF) investors to the 'Sole Purpose Test Declaration' we have attached to this letter.

We confirm that, where the trustee of an SMSF:

- invests in a Sub-Fund of the DomaCom Fund,
- signs the 'Sole Purpose Test Declaration' accompanying the relevant SPDS,
- retains a copy of this declaration and provides a copy to their Approved Auditor, and
- we are not subsequently made aware of evidence that indicates the trustee has acted inconsistently with the terms of the declaration,

we will not apply compliance resources to scrutinise whether the trustee has contravened the sole purpose test in section 62 of the *Superannuation Industry (Supervision) Act 1993 (SIS Act)* through their investment in the DomaCom Fund.

Please note that we may still apply compliance resources to scrutinise whether an SMSF has contravened other provisions of the SIS Act (such as the in-house asset rules), and we may apply compliance resources to scrutinise whether the trustee contravenes the sole purpose test through other unrelated conduct.

We understand that DomaCom will maintain a record of SMSF trustee investors that have/have not signed the declaration, and will be able to provide this data to approved auditors and/or the ATO when needed.

More information

If any SMSF trustees seek further information on their specific arrangements, they may contact the ATO on **13 10 20** between 8:00am and 5:00pm, Monday to Friday.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Dana Fleming', written over a horizontal line.

Dana Fleming
Assistant Commissioner of Taxation

Encl. 20191030_Sample SPT Declaration

Trustee declaration in respect of the purpose of a proposed investment

I/We as an individual trustee/trustees or as director(s) of the corporate trustee of

SMSF name	(‘Fund’)
SMSF Trustee(s) name(s)	(‘Trustee’)

in respect of the Fund’s contemplated investment in

DomaCom Sub-Fund	(‘Sub-Fund’)
Underlying Property	(‘Property’)

declare that:

1. The sole purpose of the Fund’s investment in the Sub-Fund is to provide financial returns to provide benefits to the Fund’s members upon their retirement or, upon a member’s death, to provide benefits to the members’ dependants or for any purpose otherwise that is consistent with the sole purpose test in section 62 of the *Superannuation Industry (Supervision) Act 1993* (Cth) (‘SISA’).
2. As trustees, we have considered the investment in the Sub-Fund in the context of:
 - the circumstances of the Fund,
 - the Fund’s investment strategy¹, and
 - the purposes for which the fund is maintained as described in paragraph 1 above.
3. The decision to invest in the Sub-Fund was made because we as trustees consider:
 - the investment in the Sub-Fund of which the underlying interest is the Property is appropriate in line with the factors outlined in paragraph 2 above,
 - the Property is to be maintained as an investment rental Property on an ongoing basis with the view to obtaining the best investment return for the provision of benefits for the Fund’s members consistent with the Fund’s purpose outlined in paragraph 1 above.
4. As trustees, we confirm that the decision to invest in the Sub-Fund has not been influenced by or made for the collateral purpose of providing any other benefit to a:
 - Fund member,

¹ As described in section 52B of the SISA and regulation 4.09 of the *Superannuation Industry Supervision Regulations 1994*.

- 'relative'² of a Fund member, or
- 'related party'³ of the Fund,

such as allowing a member, 'relative' or 'related party' to live in or rent the Property.

5. Moreover, the Trustee acknowledges that:

- the Property will not be acquired from a member, 'relative' or 'related party';
- we will not exert influence over or make requests of:
 - DomaCom Australia Ltd;
 - the responsible entity ('RE') of the Sub-Fund; or
 - the property agent/manager of the Property;

to have a member, 'relative' or 'related party' to be placed as a tenant of the Property, or as to the process or outcome of tenancy applications in respect of the Property or the terms of tenancy arrangements; and

- we will not influence or request a member, 'relative' or 'related party' to apply to become a tenant of the property,
- if a member, 'relative' or 'related party' is ever independently approved as a tenant in relation to the Property, we will not exert influence regarding any dealings that relate to the Property in relation to DomaCom Australia Ltd, the RE or the property agent/manager.

By signing this declaration I acknowledge that the statements above are true and correct.

Declared at

[place]

Person making declaration

Trustee's or director's name:	
Trustee or director's signature:	
Date:	

Trustee's or director's name:	
Trustee or director's signature:	
Date:	

² As defined in subsection 10(1) of the SISA.

³ As defined in subsection 10(1) of the SISA.