

# Conflict of Interest Policy

## DEFINITIONS

**Conflict of Interest:** Refers to any situation where a Financial Services Provider or its representative possesses an actual or potential interest that may affect the rendering of a financial service to an investor. This includes situations where the interest may:

- Influence the objective performance of obligations to the client.
- Hindering the provider or representative from providing an impartial and equitable financial service to the investor or acting in the investor's best interest. This includes, but is not limited to:
  - Financial interest
  - Ownership interest
  - Any relationship with a third party

**Financial interest** encompasses any form of remuneration, including cash, cash equivalents, vouchers, gifts, services, advantages, benefits, discounts, domestic or foreign travel, hospitality, accommodation, sponsorship, other incentives, or valuable considerations.

However, it excludes:

- Ownership interest
- Training, provided it is not exclusive to a specific group of providers or representatives, on:
  - Products and legal matters related to those products
  - General financial and industry information
  - Specialized technological systems of a third party necessary for rendering financial services. (Note: Excluding travel and accommodations associated with such training)

**Ownership interest** is defined as:

- Any equity or proprietary interest acquired by the owner for which fair value was paid at the time of acquisition. This excludes equity or proprietary interests held as an approved nominee on behalf of another person.
- It also encompasses any dividends, profit shares, or similar benefits derived from the equity or ownership interest.

**Third party** is defined as:

- A product supplier
- Another provider
- An associate of a product supplier or a provider
- A distribution channel
- Any person who, in terms of an agreement or arrangement with a person mentioned above, provides a financial interest to a provider or its representatives.

**Associate** is defined as:

- In relation to a natural person:
  - A person recognized in law or the tenets of religion as the spouse, life partner, or civil union partner of that person.
  - A child of that person, including a stepchild, adopted child, and a child born out of wedlock.
  - A parent or stepparent of that person.
  - A person in respect of which that person is recognized in law or appointed by a court as the person legally responsible for managing the affairs of or meeting the daily care needs of the first-mentioned person.
  - A person who is the spouse, life partner, or civil union partner of a person referred to in points 2, 3, and 4 above.
  - A person who is in a commercial partnership with that person.
  
- In relation to a juristic person:
  - If it is a company, it means any subsidiary or holding company of that company, any other subsidiary of that holding company, and any other company of which that holding company is a subsidiary.
  - If it is a closed corporation registered under the Close Corporations Act, it means any member thereof as defined in section 1 of that Act.
  - If it is not a company or a closed corporation, it means another juristic person that would have been a subsidiary or holding company of the first-mentioned juristic person:
    - Had such first-mentioned juristic person been a company; or
    - In the case where that other person, too, is not a company, had both the first-mentioned juristic person and that other juristic person been a company.
  - Any person in accordance with whose directions or instructions the board of directors of, or in the case where such juristic person is not a company, the governing body of such juristic person is accustomed to act.
  
- In relation to any person:
  - Any juristic person of which the board of directors or, in the case where such juristic person is not a company, of which the governing body is accustomed to act in accordance with the directions or instructions of the person first-mentioned in this paragraph.
  - Includes any trust controlled or administered by that person.

## **SCOPE**

All employees or individuals associated with the Patula Risk are obligated to understand, comply with, and support the Conflict of Interest Policy. This is crucial for rendering financial services honestly, fairly, with skill, care, and diligence, in the best interests of investors, and to uphold integrity in the financial services industry. Failure to comply may result in disciplinary action or dismissal.

## **PURPOSE**

The purpose of this policy is to ensure adherence to Section 3A(2)(b)(i)(aa) of the General Code of Conduct, mandating Financial Services Providers to implement a Conflict of Interest Management Policy. The aim is to manage conflicts of interest effectively within the business.

## **IDENTIFICATION AND ASSESSMENT**

The Board of Directors, Key Individual, and Compliance Officer are tasked with assessing the materiality of actual or potential conflicts of interest. When faced with situations that may give rise to conflicts, they are expected to exercise due care and diligence.

The materiality of an interest is contingent upon the circumstances of each case and involves a judgment call by the director, considering what is material to the company and the director personally.

In instances where a conflict of interest exists, 'material' is interpreted as having the capacity to influence the vote of a specific director on a decision to be made.

The material personal interest doesn't have to be the subject of a conflict of interest at the time it is disclosed. Furthermore, the interest is not strictly confined to financial or monetary aspects.

Directors are bound by fiduciary duties under common law, preventing them from leveraging their position for personal advantage. These duties align with statutory obligations imposed by the Companies Act.

The courts have identified these fiduciary duties, including the obligation to act bona fide in the best interests of the company, exercise powers for a proper purpose, retain discretion, and avoid conflicts of interest.

A conflict of interest arises when a director holds interests that clash with the company's interests or when these interests may reasonably be perceived as conflicting with the company's interests. It is a personal statutory obligation for each director to disclose such conflicts.

## **AVOIDANCE AND MITIGATION**

Upon identification of an actual or potential conflict of interest, the following procedures will be implemented to determine whether the conflict is avoidable:

1. The Board of Directors will convene to openly and honestly review the actual or potential conflict of interest.
2. Full disclosure of all information related to the conflict must be made to all interested parties, the Key Individual, and the Compliance Officer.

3. If the Board determines that the conflict is avoidable, the following steps will be taken:
  - a. The Board must approve, by a majority vote, the removal of the underlying cause of the conflict.
  - b. The underlying cause must be removed as soon as reasonably possible.
  - c. Any negative impact on investors resulting from the removal of the conflict must be minimized.
  - d. The reasons for deeming the conflict avoidable must be recorded.
  - e. All decisions and actions regarding conflict avoidance must be documented and kept in the compliance file.
  - f. Similar situations that may give rise to conflicts of interest must be avoided in the future.
  
4. If the Board determines that the conflict is unavoidable, the following mitigation process will be initiated:
  - a. The Board will convene openly to review an appropriate mitigation process for the conflict.
  - b. All information and reasons explaining why the conflict cannot be avoided must be recorded and disclosed to interested parties, the Key Individual, and the Compliance Officer.
  - c. The mitigation process will include the adoption of measures:
    - i. The conflict must only persist for as long as absolutely necessary, given its unavoidability.
    - ii. Continuous investigation of alternative arrangements for the proposed transaction, contract, or arrangement subject to the conflict.
    - iii. Conducting financial services with the best interest of the investor in mind, to the extent possible given the unavoidability of the conflict.
    - iv. Ensuring all employees are aware of the conflict and its unavoidability.
    - v. Full disclosure of the conflict must be made to the investor at the earliest reasonable opportunity.

## **DISCLOSURE**

The Board of Directors is obligated to provide comprehensive disclosures to third parties, including investors, as an integral part of its strategy to manage conflicts of interest. While recognizing that disclosure alone may not always suffice, the Board emphasizes the importance of disclosure in the overall management of conflicts of interest. The Board is dedicated to ensuring that investors are promptly informed about any conflicts of interest that might jeopardize the provision of financial services.

Furthermore, it is acknowledged that while a clearly identified conflict of interest may not necessarily significantly compromise the provision of financial advice to an investor, such conflicts should still be disclosed to the investor. The investor must be given the opportunity to independently assess the significance of the conflict of interest and decide to what extent they will rely on the advice or intermediary service.

Complete disclosure of identified conflicts of interest must be communicated in writing to all Key Individuals, employees, the Compliance Officer, and investors within 30 days.

To adhere to Section 3A(2)(b)(i)(cc) of the General Code of Conduct, the annexure section needs to be completed at least annually and, if necessary, updated to ensure that processes remain effective in identifying, assessing, evaluating, and successfully controlling conflicts of interest.