

REVISED

CANADA-NOVA SCOTIA

CONFLICT OF INTEREST GUIDELINES

**MEMBERS OF THE CANADA-NOVA SCOTIA
OFFSHORE PETROLEUM BOARD**

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SCHEDULE "A"

Canada - Nova Scotia
Conflict of Interest Guidelines
for Members of the Canada-Nova Scotia Offshore Petroleum Board

1. Definitions

In these guidelines:

- (a) "Conflict of Interest Commissioner" means Conflict of Interest Commissioner for the Province of Nova Scotia;
- (b) "Board" means the Canada-Nova Scotia Offshore Petroleum Board;
- (c) "Business Entity" includes a person, partnership, association, or corporation which engages in or which in the knowledge of the Member is about to engage in operations or the provision of goods and services pertaining to the exploration, development, production, conservation, transportation or processing of petroleum in the Offshore Area, and includes those engaged in environmental, supply, or safety operations in connection with the foregoing;
- (d) "Chairman" means Chairman of the Board;
- (e) "Chief Executive Officer" means Chief Executive Officer of the Board;
- (f) "Controlled Assets" means assets, the value of which could reasonably be expected to be affected by Board decisions;
- (g) "Declarable Assets" means assets of a substantial value or any investment or business relationship in the petroleum sector not related to the Offshore Area which could be perceived as potentially giving rise to a conflict of interest;
- (h) "Federal Minister" means the Minister of Natural Resources Canada;
- (i) "Full-time Member" is a salaried Board Member;
- (j) "Implementation Acts" means the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation (Nova Scotia) Act*, S.N.S. 1987, c.3, and the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, S.C. 1987, C.28;
- (k) "Member" means a part-time or full-time Member of the Board appointed pursuant to the Implementation Acts; and includes the Chairman and Chief Executive Officer;

- (l) "Offshore Area" means the Offshore Area as defined in the Implementation Acts;
- (m) "Part-time Member" means a Board Member or alternate receiving an annual retainer and per diem fees while engaged in Board business, or a Public Servant as defined in the Implementation Acts who is not already subject to conflict of interest guidelines;
- (n) "Provincial Minister" means the Provincial Minister Responsible for the Petroleum Directorate and the Accord Implementation Act;
- (o) "Relative" in relation to a Member includes his or her mother and father, sisters, and brothers, spouse, sons, and daughters and their spouses; and
- (p) "Spouse" means a person married to another person and includes individuals who, not being married to each other, live together as husband and wife.

2. Principles

Members shall act honestly and in good faith at all times, with regard to the interests, operations and functions of the Board. Accordingly, Members shall comply with the following:

- (a) Members shall, at all times, act in a manner that will bear the closest public scrutiny an obligation that is not fully discharged by simply acting within the law;
- (b) Members shall not step out of their official roles to assist private entities, organizations or persons in their dealings with the Board where this would result in, or would give the appearance of, preferential treatment to any person;
- (c) Except as provided as a condition of their appointments, Members shall not use or allow the use of Board property including property leased to the Board, for other than Board purposes;
- (d) Members shall avoid being placed or giving the appearance of being placed under an obligation to any person, private entity or organization that might profit or appear to profit from special consideration on the part of the Member;
- (e) Members shall perform their official duties and shall arrange their private affairs in such a manner that will:

- i) Prevent real, potential or apparent conflicts of interest from arising; and
 - ii) Preserve and enhance the integrity, objectivity, and impartiality of the Board;
- (f) Members shall exercise care in the management of their private affairs so as not to benefit, or appear to benefit, from the use of information acquired during the course of their official duties which information is not generally available to the public;
- (g) Members shall not place themselves in a position where they could derive any direct or indirect benefit or interest from any matter before or pertaining to the Board over which that Member can influence decisions;
- (h) Members shall in the manner provided herein disclose all business, commercial, or financial interests where such interests might be construed as being in actual or potential conflict with their official duties;
- (i) Members shall not hold an outside office or employment which place on the Member demands inconsistent with their official duties or which call into question their capacity to perform those duties in an objective manner;
- (j) Members will not solicit or accept transfers or economic benefits other than incidental gifts, customary hospitality, or other benefits of nominal value, unless the transfer is pursuant to an enforceable contract or property right of the Member and is not contrary to these guidelines; and
- (k) Members shall not act after they leave the Board in such a manner as to take improper advantage of their previous office.

Where it is alleged that there is a breach of these guidelines or a conflict of interest, the matter will be resolved in such a manner that will enhance and preserve the impartiality and integrity of the Board.

3. Prohibited Activity

- (a) Members shall not, outside their official duties with the Board:
- i) Engage in the practice of a profession;
 - ii) Actively manage or operate a business or commercial activity;

- iii) Retain or accept directorships or offices in a Business Entity; or
- iv) Serve as a paid consultant;

unless information in sufficient detail to describe the activities is provided in writing to the Federal and Provincial Ministers and their written approval is first obtained.

- (b) Members shall not in respect of their powers, duties and functions under the Implementation Acts, give preferential treatment to Relatives or friends or to organizations in which Relatives or friends have an interest.
- (c) Members shall not participate in the process of appointments or promotions of Board staff where the Member may be in a position to in any way influence the decision to appoint or promote a Relative.

4. Investments and Other Financial Interests

In this section, 'Trusts' means a blind trust, frozen trust, or retention trust as described in Schedule 'A' to these guidelines, and all trusts established pursuant to these guidelines, shall be established in compliance with the provisions of these guidelines, and in particular, Schedule 'A'.

4.1 **Controlled Assets**

- (a) During the term of a Member's appointment, such Members shall not acquire any Controlled Assets, nor enter into any agreement with a Business Entity.
- (b) If, at the time of appointment, a Member or his or her relative in the knowledge of the Member, hold any Controlled Assets, is party to an agreement with a Business Entity, or has or later acquires an interest as a result of which there is a possibility of a conflict between such an interest and his or her position as Member, the Member shall:
 - i) Table at the next regular Board meeting, a written declaration in sufficient detail to describe the Controlled Assets or the nature of the agreement or interest, for disclosure to the other Members and for filing with the minutes of such Board meeting; and

- ii) If a change in such Controlled Assets or agreement is made, table at the next regular Board meeting following such change a written declaration of such change for disclosure to the other Members and for filing with the minutes of such Board meeting.
- (c) Following the action noted in 4.1.b. where a Member owns Controlled Assets, he or she must either sell them in an arm's length transaction or make them subject to a trust arrangement.
- (d) Confirmation of sale and a copy of any executed trust instrument shall be filed with the Conflict of Interest Commissioner, and with the exception of a statement that a sale has taken place or that a trust exists, all information relating to the sale and the trust is confidential.
- (e) For the purposes of these guidelines, trust arrangements shall be such that they do not leave in the hands of the Member any power of management or decision over the assets placed in trust.

However, the trust agreement may include general parameters which may be modified from time to time, such as to what extent equities will be chosen for investment as compared to fixed interest securities.

- (f) The Conflict of Interest Commissioner has the responsibility for determining that trust arrangements meet the requirements of these guidelines.
- (g) A Member shall be reimbursed by the Board for all reasonable trust costs incurred as a result of creating, administering, and terminating a trust under these guidelines, but these costs shall not include any loss of investment or value of property while held in trust.

4.2 **Declarable Assets**

- (a) Members shall, within a reasonable period of time after their appointment, provide to the Conflict of Interest Commissioner, a written statement of any "Declarable Assets" held by the Member.
- (b) The Conflict of Interest Commissioner shall review the written statement of Declarable Assets and, following consultation with the Member, shall determine whether ownership of any of the assets places or could place the Member in a real or perceived conflict of interest situation.

- (c) Where the Conflict of Interest Commissioner makes a determination that there is a real or potential conflict of interest with respect to a Declarable Asset pursuant to sub-section 4.2.b, the Commissioner shall either deem the asset to be a Controlled Asset for purposes of these guidelines or, the Commissioner shall reach agreement with the Member to eliminate the potential conflict of interest with respect to the asset.
- (d) Where a Declarable Asset is deemed by the Conflict of Interest Commissioner, pursuant to sub-section 4.2.c. to be a Controlled Asset, the Member shall comply with the provisions of these guidelines as if the asset was a Controlled Asset. Where the Member and the Conflict of Interest Commissioner reach an agreement referred to in sub-section 4.2.c., the Member shall comply with the provisions of the agreement.
- (e) Where a Member disagrees with any determination by the Conflict of Interest Commissioner, pursuant to sub-section 4.2.c., or sub-section 4.2.d., the Member may seek a Ministerial determination with respect thereto in accordance with Section 10.

5. Voting and Discussions at Board Meetings

If a Member holds or has knowledge that his or her Relative holds any rights, interest or share in, or is party to an agreement with a Business Entity, the Member shall leave any meeting of the Board prior to discussion of, and not vote on, any matter coming before the Board involving such Business Entity in any way.

6. Information and Advice

- (a) A Member shall keep in confidence all information coming to the attention of the Member as a consequence of the Member's association with the Board or attendance at Board meetings, excepting information generally available from public sources.
- (b) A Member shall not:
 - i) Discuss any matters arising from Board meetings with any person other than other Members of the Board, Board staff Members authorized by the Chairman, or staff Members of the federal or provincial governments authorized by the Chairman, or authorized by the respective Ministers as defined in the Implementation Acts, or such other person as the Chairman or bylaws may authorize.

- ii) Offer any advice or comments of any kind to a Business Entity concerning activities, business opportunities or investment opportunities based upon, or referring to, any information obtained by the Member's association with the Board or at the Board's meetings, except where such information is already part of the public domain.

7. Gifts

- (a) A Member, in his or her capacity as a Member, shall not accept any gift or benefit, other than of nominal or token value.
- (b) A Member shall return to the sender any gift of greater than nominal or token value as described in 7(a).

8. Post-Employment/Appointments

- (a) If a Member, during the term of his or her appointment, receives from any Business Entity an offer of employment including employment as a consultant, or an offer of a partnership or directorship, that Member shall, at the next regular meeting of the Board, table a written declaration of such offer describing in sufficient detail the nature of the arrangement, which shall be disclosed to the other Members and filed with the minutes of such Board meeting.
- (b) Where an offer has been received by a Member, the Member shall notify and consult with the Federal Minister and the Provincial Minister concerning any offer he or she proposes to accept.
- (c) Upon acceptance of an offer as described in 8(a), or while such offer is still outstanding, the Member shall leave any meeting of the Board prior to discussion of, and shall not vote on any matter coming before the Board involving such Business Entity in any way.
- (d) Members shall not, within six months after leaving office, accept appointment to a board of directors, or make representations for, or on behalf of, any Business Entity with which they have had significant official dealings during the period immediately prior to the termination of their service with the Board (excepting for employment concerned with matters unrelated to the Offshore Area), unless he or she has first notified and consulted with the two Ministers.

- (e) A former Member shall not act for, or on behalf of, any Business Entity in respect of any ongoing specific negotiations for which he or she acted or has advised the Board.
- (f) Members shall not draw on privileged information or on the services of Board employees in an endeavour to secure future employment.

9. Failure to Comply

Where a Member does not comply with the provisions of these guidelines, that Member shall be subject to such appropriate measures as may be determined jointly by the Federal Minister and the Provincial Minister.

10. Ministerial Determination

A Member or former Member may apply to both the Federal Minister and Provincial Minister for any determination respecting that Member's compliance or non-compliance with these guidelines. In considering such an application, the Federal Minister and Provincial Minister may jointly waive any requirement including any limitation period specified within these guidelines.

SCHEDULE 'A'

TRUSTS

1. The following trusts are examples of the most common trusts that may be established for the purpose of divestment:

- a) **Blind Trust**

A blind trust is one in which the trustee makes all investment decisions concerning the management of the trust assets with no direction from or control by the person who has placed the assets in trust.

No information is provided to the person (settlor) except information that is required by law to be filed. A person who establishes a blind trust may receive any income earned by the trust, add or withdraw capital funds, and be informed of the aggregate value of the entrusted assets.

- b) **Frozen Trust**

A frozen trust is one in which the trustee maintains the holdings essentially as they were when the trust was established. Persons who establish a frozen trust are entitled to any income earned by the trust.

Assets requiring active decision-making by the trustee (such as convertible securities and real estate) or assets easily affected by Government action are not considered suitable for a frozen trust.

- c) **Retention Trust**

A retention trust is one in which the trustee maintains rights in holding companies, established for estate planning purposes, essentially as they were when the trust was established. The settlor makes arrangements to have third parties exercise his or her voting rights in relating to the shares in the holding companies as long as such arrangements will not result in a conflict of interest. Retention trusts usually do not generate income for the settlor.

This form of divestment is useful for a person who has assets to be held under special proper management through a holding company for estate planning purposes.

PROVISIONS COMMON TO ALL TRUSTS

2. Provisions common to all trusts are:

a) **Custody of the Assets**

The assets to be placed in trust must vest in the trustee.

b) **Power of Management or Control**

The person (settlor) shall not have any power of management or control over trust assets. The trustee, likewise, may not seek or accept any instruction or advice from the person concerning the management or the administration of the assets.

However, the settlor may include in the trust agreement general management parameters which may be modified from time to time, such as to what extent equities should be chosen for investment as compared to fixed interest securities.

c) **Schedule of Assets**

The assets placed in trust shall be listed on a schedule attached to the trust agreement.

d) **Duration of Trust**

The term of any trust is to be for as long as the person who establishes the trust continues to hold an office that makes that method of divestment appropriate. A trust may be dismantled once the trust assets have been depleted.

e) **Return of Trust Assets**

Whenever a trust agreement is dismantled, the trustee shall deliver the trust assets to the person.

TRUSTEES

3. Care must be exercised in selecting trustees for each type of trust arrangement. If a single trustee is appointed, the trustee should be:
 - a) A public trustee;
 - b) A company, such as a trust company or investment company, that is public and known to be qualified in performing the duties of a trustee; or
 - c) An individual who performs trustee duties in the normal course of his or her work.
4. If a single trustee is appointed, he or she will clearly be at arm's length from the settlor.
5. If more than one trustee is selected, at least one of them shall be a public trustee or a company at arm's length from the settlor.

TRUSTEE INDENTURE

6. Acceptable blind, frozen and retention trust indentures should be available from the Conflict of Interest Commissioner. Any amendments to such trust indenture shall be submitted to the Conflict of Interest Commissioner before it is executed.
7. Under the trust options available, Members are required to file with the Conflict of Interest Commissioner a copy of any trust instrument. Except for the fact that a trust exists, detailed trust information will be kept in the Member's confidential file and will not be made available to anyone for any purpose.