



# Directors' Conflict of Interest Policy

**Revisions:**

Version 1 – 19 May 2019

Version 2 – 8 December 2021

Version 3 – 6 December 2023

## **A. INTRODUCTION**

1. The requirement for The States of Jersey Development Company Limited (“the Company”) and its Group entities (“the Group”) to manage the nature and extent of any material interest / conflicts of interest<sup>1</sup> of Board members is enshrined in the Articles of Association of the Company and in the Companies (Jersey) Law 1991 as amended.
2. Conflicts of interests occur where a person acting in a representative capacity (in this case, Executive and Non-executive directors (hereafter referred to in the collective ‘directors / Board’), could be unfairly influenced by financial or other commitments into failing to represent his or her constituency adequately, or adequately discharge their responsibilities in their appointed or elected position.
3. The key principle is the need for transparency in regard to any interest which might (regardless of the precise description of the relationship) be objectively regarded as potentially affecting or influencing the role of a Jersey Development Company Director.
4. This policy sets out how the Board will ensure that those conflicts are properly managed so as to reduce the risk of decisions of the Board being unduly influenced. The proper implementation of the policy will also help to ensure that each Director discharges their personal legal responsibilities in respect of conflicts of interest.
5. Compliance with this policy is the personal responsibility of each Director. The responsibility is continuous, and each Director must ensure that they consider any changes in their circumstances and the impact this may have on their own interests.
6. The information provided by Directors will be processed as defined by the applicable Data Protection (Jersey) Law. Data will be processed only for the purposes set out in this policy and not for any other purpose.

## **B. LEGAL, REPORTING AND CORPORATE REQUIREMENTS**

- 1) The Articles of Association<sup>1</sup> permit Directors to:
  - a) have interests in a transaction or an arrangement in which the Group is a party;
  - b) be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Group;
  - c) by reason of their office, be accountable to the Company for any benefit which they derive from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit; and
  - d) act by themselves or their firm in a professional capacity for the Group and their firm shall be entitled to remuneration for professional services as though they were not a Director.

in the case of (a) and (b), it is a requirement of the Company for a director to recuse themselves unless the Board agrees for that director to attend the meeting.

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<sup>1</sup> Clause 35 of AoA

- 2) It should be noted that within the Articles of Association there is no materiality threshold in respect of conflicts of interest and therefore any interest, no matter how small should be reported.
- 3) Under the Companies (Jersey) Law 1991, each director who has, directly or indirectly, an interest in a transaction entered into or proposed to be entered into by the Company, which to a material extent conflicts or may conflict with the interests of the Company and of which the director is aware, shall disclose to the Company the nature and extent of the director's interest.
- 4) International Accounting Standard (IAS) 24 – Related Party Disclosures. The Company follows the disclosure requirements of IAS 24 which seek to ensure that transactions and balances between the Group and other related parties (which includes key management personnel directly and indirectly) are disclosed in the financial statements.

### **C. REGISTER OF DIRECTORS' INTERESTS**

- 1) In order to document the discharge of each Director's duty to disclose all material interests and to ensure that such declarations remain visible and are not lost in the detail of Board minutes, the Company Secretary shall maintain a Register of Directors Interests. The Register shall contain details of interests declared by each Director reported using the reporting procedures set out below:
  - a) The register shall be distributed electronically to each Director whenever a change is made and shall be available in hard copy at the Company's offices for inspection by each Director;
  - b) The register shall be circulated by the Company Secretary at yearly intervals and Directors asked to confirm the accuracy of their interests recorded in the register;
  - c) The register shall remain confidential (unless required to be disclosed due to the public status of the Company such as a public meeting of a Scrutiny Panel);
  - d) Directors are not permitted to divulge the contents of the register to anyone whose details do not appear on the register unless required to do so by law, by the Company's insurers, auditors, lawyers and professional advisers to the Group or to each Director's legal advisors for the purposes of defending or pursuing a claim;
  - e) Directors must consider at the earliest stage possible whether they have an interest to declare in relation to any matter which is to be considered by the Board;
  - f) All interests must be declared as soon as practically possible once the reportable interest becomes known to the Director; and
  - g) Directors must consider and declare an interest in relation to any matter at the beginning of any Board or Committee meetings.
- 2) Notwithstanding the existence of the Register of Director's Interests, where a Director becomes aware of an interest that has not previously been disclosed and matters come to the Board for consideration for which the interest is relevant, it is the Director's legal responsibility to ensure that any such interest is appropriately disclosed at the meeting at which the matter is first considered by the Board or, if the Director fails to make the disclosure for any reason,

as soon as reasonably practical, in writing to the Company Secretary. Such a disclosure shall be recorded in the Minutes of the meeting of the Board and where applicable in the Register of Director's interests.

#### **D. REPORTABLE INTERESTS**

1) Interests need to be reported if they fall into the following categories:

##### **a) Remuneration**

- i) An interest exists where a Director receives remuneration (of any kind) by virtue of being:
  - employed;
  - self- employed;
  - the paid holder of an office;
  - a director of an undertaking;
  - a Trustee of an undertaking;
  - in receipt of a pension;
  - a partner in a firm; or
  - undertaking a trade, profession or vocation or any other paid work.
- ii) Where a Director is also an employee of the Group, that employment does not need to be disclosed; and
- iii) Where a Director holds a paid role in D. 1) a) above and by virtue of that role also holds unpaid offices then those offices should also be disclosed alongside the paid role (e.g. paid Director of a parent co and unpaid Director of subsidiary).

The amount of remuneration is not required to be disclosed;

##### **b) Contracts**

An interest exists where a Director has made, is negotiating to make or regularly enters into a contract or contracts with the Group:

- i) under which goods or services are to be provided, or works are to be executed; and
- ii) which has not been fully discharged.

##### **c) Shares and Securities**

- i) A "material" interest in shares (direct or indirect), debt or other financial securities in a company or organisation by a Director should be disclosed where that Company or organisation may trade with, be significant to, of relevance to, or bear upon, the work and operation of the Group;
- ii) The value of such interests need not be disclosed;
- iii) The test to be applied when considering "materiality" is to consider whether a member of the public acting reasonably might consider whether any interests in shares and securities could potentially affect or influence a Director's actions and / or decision-making. Different measures will apply depending on the circumstances (e.g. a modest personal holding of shares in HSBC PLC would probably not be considered material whereas a similar holding in one of the Group's main contractor or another major supplier could well be construed as material). The test should be applied looking at all elements of the relationship; what is not material to one party may be very material to another;

- iv) No disclosure is required under D)1)c)i) above where the interest is held by virtue of a Director's interest in independently managed unit trusts, funds or other investment vehicles that may include Companies with which the Group trades as part of its portfolio of investments (e.g. if a Director has an interest in an independently run UK unit trust that holds investments in Sir Robert McAlpine (construction contractors) (whom Jersey Development Company have had previous dealings) then this would not require disclosure); and
- v) Guidance should be sought in writing from the Company Secretary if there is any doubt as to whether or not an interest should be disclosed.

**d) Non-financial Interests**

- i) Directors may have material non-financial interests which may be significant to, of relevance to, or bear upon, the work and operation of the Jersey Development Company. It is important that relevant interests such as membership or holding office in public bodies, charities, clubs, societies and organisations such as trades unions, are registered and described; and
- ii) The test to be applied when considering "materiality" is to consider whether a member of the public acting reasonably might consider whether any non-financial interests could potentially affect or influence a Director's actions and / or decision-making. Different measures will apply depending on the circumstances (for example membership of the National Trust for Jersey would probably not be "material" whereas sitting on the Council or its committees would probably warrant disclosure). The test should be applied looking at all elements of the relationship; what is not material to one party may be very material to another.

**2) Indirect interests social / business relationships and family interests**

Directors may have an interest where they benefit indirectly from an interest held for their benefit third party. Interests are as defined above, but the nature of the benefit is indirect. For example, where a Director is the beneficiary of a trust or has a self-invested pension fund that has interest in Jersey Development Company or its Group entities then the Director has an indirect interest.

**3) Personal & professional relationships**

- i) The policy requires only a Director's interests to be registered;
- ii) There will however be occasions where a Director has an interest by virtue of a personal or professional relationship with another person who has an interest in Jersey Development Company or its Group entities (either by way of employment, contracts, ownership or a non-financial relationship);
- iii) Directors should consider the declaration of an interest in respect of any interest, both financial and non-financial, of which they are aware, of people with whom they have a personal or professional relationship (e.g. the interests of family, friends and colleagues); and

**E. VOTING AND QUORUM FOR MEETINGS**

- 1) Where a Director has declared an interest then they shall not vote in respect of any contract or proposed contract in which they have an interest; and
- 2) A Director shall not be counted towards the quorum at any meeting of the Directors at which any contract or proposed contract in which they have an interest is considered.

**F. GIFTS AND HOSPITALITY**

- 1) Directors must never canvass or seek gifts or hospitality;
- 2) Directors are responsible for their decisions connected with the offer or acceptance of gifts or hospitality and for avoiding the risk of damage to the public standing and reputation of the Group. As a general guide, it is usually appropriate to refuse offers except:
  - i) isolated gifts of a trivial character or inexpensive seasonal gifts;
  - ii) normal hospitality associated with a Director's duties and which would reasonably be regarded as inappropriate to refuse (e.g. meal invitations, corporate events, networking opportunities); or
  - iii) gifts received on behalf of Jersey Development Company.
- 3) Directors must not accept any offer by way of gift or hospitality which could give rise to a reasonable suspicion of influence on a Director's part to show favour, or disadvantage, to any individual or organisation.
- 4) A Gift & Hospitality Register should record all gifts to Directors and staff of £25 or more.

## Appendix 1 –Articles of Association

35. Subject to the provisions of the Law, and provided that he has disclosed to the Directors the nature and extent of any material interests of his, a Director notwithstanding his office:
- (a) may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested;
  - (b) may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested;
  - (c) shall not, by reason of his office, be accountable to the Company for any benefit which he derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit; and
  - (d) may act by himself or his firm in a professional capacity for the Company and he or his firm shall be entitled to remuneration for professional services as though he were not a Director.
36. For the purposes of the preceding Article:
- (a) a general notice given to the Directors that a Director is to be regarded as having an interest of the nature and extent specified in the notice in any transaction or arrangement with a specified person or class of persons shall be deemed to be sufficient disclosure of his interest in any such transaction or arrangement; and
  - (b) an interest of which a Director has no knowledge and of which it is unreasonable to expect him to have knowledge shall not be treated as an interest of his.
44. A Director may not vote in respect of any transaction, arrangement or proposed transaction or arrangement, in which he has an interest but provided that he has disclosed any such interest in accordance with these Articles he may be counted towards a quorum at any meeting of the Directors at which any such transaction or arrangement or proposed transaction or arrangement shall come before the Directors for consideration.

## Appendix 2 - Legal Requirements – Extract of Companies (Jersey) Law 1991 as amended

### 75 Duty of directors to disclose interests

- (1) A director of a company who has, directly or indirectly, an interest in a transaction entered into or proposed to be entered into by the company or by a subsidiary of the company which to a material extent conflicts or may conflict with the interests of the company and of which the director is aware, shall disclose to the company the nature and extent of the director's interest.
- (2) The disclosure shall be made -
  - (a) at the first meeting of the directors at which the transaction is considered after the director concerned becomes aware of the circumstances giving rise to his or her duty to make it; or
  - (b) if for any reason the director fails to comply with sub-paragraph (a), as soon as practical after that meeting, by notice in writing delivered to the secretary.
- (2A) The secretary, where the disclosure is made to him or her –
  - (a) shall inform the directors that it has been made; and
  - (b) shall in any event table the notice of the disclosure at the next meeting of the directors after it is made.
- (2B) Any disclosure at a meeting of the directors shall be recorded in the minutes of the of the meeting.
- (3) A disclosure to the company by a director in accordance with paragraph (2) that he or she is to be regarded as interested in a transaction with a specific person is sufficient disclosure of his or her interest in any such transaction entered into after the disclosure is made.
- (4) Nothing in this Article prejudices the operation of any rule of law restricting directors of a company from having an interest in transactions with a company.