

# **CONFLICT OF INTEREST POLICY**

**NOVEMBER 2023**

<b>Policy Governance</b>	
<b>Policy approval authority</b>	IDC Board of Directors
<b>Recommended by</b>	Board Social and Ethics Committee
<b>Applicable Risk Category</b>	Governance
<b>Risk Owner</b>	Group Company Secretary
<b>Review date</b>	March 2021 – November 2023
<b>Material changes</b>	<ol style="list-style-type: none"> <li>1. The name of the policy has been changed from “Managing Conflict of Interest Policy” to “Conflict of Interest Policy;”</li> <li>2. Expanded the application of the policy to include that the policy would also be applicable to matters related to procurement and employment of family members of employees and directors</li> <li>3. Inserted a clause to address breach of the policy.</li> </ol>
<b>Less Material changes</b>	Added the definition of consultant and nepotism
<b>Next date of review</b>	November 2026
<b>Approved by</b>	IDC Board of Directors
<b>Approval date</b>	29 November 2023
<b>Policy location</b>	<ol style="list-style-type: none"> <li>1. Corporate Secretariat intranet site</li> <li>2. Records Department</li> </ol>

<b>Policy Ownership</b>	
<b>Policy Owner</b>	Corporate Secretariat Department
<b>Policy Custodian</b>	Compliance and Regulatory Affairs Department
<b>Responsible SBU/Department for maintaining the policy</b>	Corporate Secretariat Department

## 1. DEFINITIONS

- 1.1 **Board:** refers to the collective body of Directors of the IDC from time to time;
- 1.2 **Consultant:** means anyone who has a short-term employment and/or is contracted to provide expert advice;
- 1.3 **Directors:** refers to the individuals appointed in terms of the provisions of section 6 of the Industrial Development Corporation Act, No 22 of 1940;
- 1.4 **Employee:** means anyone who is employed by the IDC on a permanent or fixed term basis, including consultants who have a long-term arrangement with the IDC e.g. more than 12months;
- 1.5 **Enduring conflict:** means a conflict due to a close relationship or a close association or acquaintance between two or more people that may hinder objectivity or fair judgement of a director/employee.
- 1.6 **Nepotism:** means the practice among those with power or influence of favouring relatives, friends, or associates, especially by giving them either jobs, tenders and/or contracts
- 1.7 **Private or personal interests:** means a personal business and often financial interest which is judged by the Board/management that it might reasonably affect a director's/employee's independent judgement and is related to the director's/employee's or related party's personal wealth.
- 1.8 **Related Party:** related party means either:
- **Family members:** means parents, siblings, adoptive parents, spouse, life partner, including a person living with that person as if they were married to each other, own child, adopted child;
  - **Connected parties:** party who has a close relationship or is a close counterparty to a director/employee e.g. friends, business partners or associates, close fellow professional associates and fellow board members, any company, close corporation or other business entity of which the director/employee, or a related party is also a director, member or member of senior management.
- 1.9 **substantive and non-substantive conflicts:** substantive conflict refers to matters where

the risk regarding bias or split in loyalties is heightened, most likely and of great impact and non-substantive conflict refers to instances where the likelihood of undue bias and split loyalties is significantly diminished or unlikely and the impact is less significant.

1.10 **Supervisor:** means Divisional Executive, SBU/Departmental Head, Line Manager that the employee is responsible to for day-to-day operations.

## 2. WHAT IS A “CONFLICT OF INTERESTS” IN THE IDC

A conflict of interest exists when the following conditions are in place:

- any tension/stress to loyalty between the IDC’s interests and the director/employee’s private interests. The interest could accrue to the director/employee personally or to a related party, which could improperly influence or be perceived to influence the director/employee’s objective and their unfettered performance and decision-making in the discharge of their duties to the IDC.
- private and the IDC’s interests are mixed thereby affecting the objectivity and discretion of a director/employee in performing their duties or making decisions in the best interests of the IDC. This could also mean that the director/employee is in a position to make or influence a decision that is not objectively fair or rational in order to benefit personally or benefit related parties.
- business judgement or business decisions are influenced by private interests or personal gain.
- the private interests are so patent and material as to distract the director/employee from effectively discharging their duties, and
- discretion, judgement and decision-making are compromised or biased due to influence by the director/employee’s personal interests.

Conflict of interests are not limited to direct financial interests. In some instances, they can extend to accepting business courtesies and sometimes the timing of receiving such gift/gratuities becomes fundamental. The existence of these conditions could potentially make a director/employee feel beholden to another such that their discretion could be fettered, their independence and objectivity compromised in their discharge of their duties to the IDC.

There are three types of conflict of interests namely:

- an **actual** conflict of interests – where a director/employee is in a position to be influenced by their private interests when discharging their duties.
- a **perceived** conflict of interests – where a director/employee is in a position to appear to be influenced by their private interests when discharging their duties.

- a **potential** conflict of interests – where a director/employee is in a position where they may be influenced in the future by their private interests when discharging their duties.

**A conflict of interests exists when there is either an actual, perceived or potential tension and division of loyalty (*for personal gain or place a related party at an undue advantage*) in the mind of the director/employees which could hamper their ability to exercise their fiduciary duties i.e. to act in the best interests of the IDC.**

**NB: Not all connections will result in a conflict of interest, the mere fact of prior interaction with a counterparty will not always result in divided loyalties e.g. acquaintance, former colleagues etc. The principle to remember is that the final arbiter on the closeness of the connection is a personal matter and this issue revolves around the span of closeness, self- regulation. But the golden rule is to declare the connection (*sunlight is always a sanitiser*).**

### **3. POLICY STATEMENT**

Key principles that need to be kept in mind in the course of mitigating the effects of conflicting interests are the following:

- 3.1 directors/employees/consultants are expected to bring independence of thought and an unfettered discretion to their decision-making process and should always be found to be free of any conflicting interests. This is to ensure that all decisions made are made in the best interests of the IDC and its business and can stand up to external scrutiny and any court challenge.
- 3.2 the existence of a conflict of interest, whilst it could be an existence in fact, more often can be a matter of perception. In such matters, as the IDC, we do not only look at the existence of fact but also take into account the likely public perception and its potential ramifications on the reputation of the IDC, its leadership and brand value.
- 3.3 furthermore, the IDC is cognisant of the fact that the existence of a conflict of interests does not necessarily establish the factual existence of impropriety i.e. conflict of interests is not corruption but, left unmanaged, it has a high potential for corrupt conduct. Conflicts between private and public duties of directors/employees must therefore be correctly identified, appropriately managed and effectively resolved. As a result, this policy is designed to assist a director/employee in the management of any adverse impact of a conflict of interests during the course of service to the IDC.

- 3.4 a director/employee/ consultants may not use the position, the privileges as well as the confidential information obtained as a member of the IDC board/employee/consultant for personal gain or to improperly benefit another person.
- 3.5 whilst the management of conflict of interests should always be on an informed basis, be rational and be implemented appropriately, certain conflicts are so fundamental and permeating that they should be avoided *ab initio*.
- 3.6 the management of conflicting interests is largely on the basis of rectitude, high self-regulation, self-restraint and good governance. The onus of disclosing all interests rests with each individual director/employee/consultant.

**A conflict of interest could exist in actual fact or could be a matter of a third party's perception. Either way, the IDC board is committed to managing conflict of interests' situations in order to maintain the reputation of the IDC in the market, enhance good corporate governance both within the IDC, with its clients and generally in the marketplace.**

**The principle to consider is that the closer the relationship/shorter the span in control between the decision-maker and related party, the more likely the existence of a conflict of interests, and the resultant impairment in objective decision-making.**

**On the other hand, the more remote the relationship is between the decision-maker and a third party, the less likely is the existence of a conflict of interests and subsequent impairment in decision-making and impartial judgment.**

**It is incumbent on the director/employee to carefully undertake a situational analysis, bringing to bear the principles set above and determine whether there is, or potentially there could be a conflict of interests in any matter under consideration.**

#### **4. SCOPE OF APPLICATION OF THIS POLICY**

This policy applies to the IDC directors, employees, directors and employees of all its subsidiaries in relation to funding requests, matters related to procurement and matters related to employment of family members of employees and directors. This policy should be read in conjunction with the IDC Code of Ethics and the IDC recruitment principles.

#### **5. VARIOUS TOOLS TO BE USED IN MANAGING CONFLICT IN INTERESTS**

There are a number of acceptable practices that are recognised as best practices in the management of

conflicting interests such as:

- **Declaration:** this is the first step in the management of a conflict of interests and depending on the fact of each case, sometimes it can be an adequate mitigation in the course of managing any relatedness, especially in cases where the existence of a conflict of interest is remote.
- **Disposal of personal interests** – this refers to an act of disposing of a personal interest to safeguard the integrity of public duty.
- **Recusals** – this refers to a position of isolation, non-participation in a forum that is expected to consider and make a decision on a related matter.
- **Prevention of access to related information** – this refers to a position where the conflicted party is debarred from accessing information related to their conflict.
- **Management of personal interests at arms-length** – this can be achieved through the total delegation of personal interests to someone and is usually referred to as “blind trust”. For this tool to be a successful mitigation against conflicts of interests, there needs to be total insulation between owner and new management.

**There are various best practices employed in the management of conflict of interests and a conflicted director/employee, depending on the facts of each case, can employ any of these to mitigate and manage the situation.**

## **6. DIRECTOR’S RESPONSIBILITY**

- 6.1 Directors are directly responsible for the management of their personal interests. This process involves self-regulation and awareness of the impact that outside activities might have on their duties at the IDC.
- 6.2 Directors have a fiduciary duty of disclosing the nature of their interests at each board and committee meeting. These are to be recorded in a register clearly kept for this purpose. Each directors’ personal interests shall be kept and updated at each Board meeting and this register is to be circulated at each board meeting for information.
- 6.3 In instances where there is a specific matter on agenda that a director has a private or personal interest or has a connection in via a related party, the director shall in good faith, ideally before the relevant meeting date, raise the issue with the chairman of the board and/or the Group Company Secretary. This is to enable the chairman of the board to

consider the information presented, and where necessary, obtain further advise on the way forward. If an opportunity has not presented itself before the meeting, the director shall disclose to the Board/committee the interest at the meeting for record.

6.4 Where necessary, the chairman of the board may rule that the matter should serve in front of the Board Social and Ethics Committee for consideration.

6.5 The chairpersons of the Board or the Board Social and Ethics Committee, with support from the Group Company Secretary, are tasked with the role of considering and exercising judgment on the substance of each case and applying their minds to the materiality of impact to the IDC and its reputation in the market and providing guidance on how each case is to be handled in mitigating impact of the conflict in interests.

**The management of conflict of interest is a matter of self-regulations and it is incumbent on the impacted director/employee to:**

- raise and declare the conflict;**
- provide full disclosure on related circumstances where applicable;**
- if required, refrain from participating in the decision-making process via recusal, not accessing related information (*see clause 5 for additional mitigations*).**

**Directors are encouraged to declare their conflict of interests more proactively and not wait for the meeting but rather apprise the chairman of the board in good time to allow for proper consideration and the direction of how the process is to be managed to ensure that the conflict of interests is fully mitigated.**

**In warranted cases, the matter shall serve in front of the Board Social and Ethics Committee as directed by the chairman of the Board.**

**The directors' register of interests shall serve at each board meeting for an open disclosure and recordal.**

## **7. EMPLOYEE'S RESPONSIBILITY**

7.1 IDC employees and their family members are prohibited from approaching the IDC, directly or indirectly, for funding of personal business interests. The prohibition is applicable to matters related to procurement and employment of family members of employees and directors (employment only as it relates to nepotism). Where applicable, IDC employees, as set out in the Code of Ethics (Beyond Ethics), have a responsibility of disclosing the nature of their business interests at least once a year or whenever it may be necessary. The Corporate Secretariat department is charged with the responsibility of



managing the online declaration of interests made by employees and the process of declaring is as set out in the IDC's Code of Ethics policy document.

- 7.2 At the instance of a related party transaction, the employee is charged with the responsibility of making a full disclosure to their immediate supervisor and where warranted, be excused from handling, participating and making any decision in the matter. Furthermore, the employee should not have access to any information in relation to the transaction.
- 7.3 It is also incumbent upon the supervisor to consider the implications of the declaration in totality, consider how substantive the conflict of interests is and the possible ramifications for the IDC, and take appropriate action suitable in mitigating the situation. If in doubt, the supervisor is encouraged to seek the counsel of the Group Company Secretary for guidance.
- 7.4 In instances where the conflict is enduring and substantive, the Group Company Secretary may decide to refer the matter for ruling by the Executive Management Committee.
- 7.5 It is not possible to enumerate all situations which could constitute a conflict of interest, the facts of each case will need to be considered in the context of the general principles as set out in this policy document.

**Ideally all IDC employees should avoid situations where there is or could potentially be a conflict of interests either at a personal level or in relation to related parties. As a matter of course, employees are expected to declare their interests on an annual basis or whenever there is a need to do so.**

**In instances where there is or potentially there could be a conflict in interests, the employee has a duty of informing their immediate supervisor, recusing themselves from working on, participating in the decision-making in relation to the related party transaction.**

**It is incumbent upon the manager to deal with and provide guidance with regards to the disclosed conflict and ensure that appropriate action is taken in line with best practice to mitigate any adverse ramification of such conflict. The manager is encouraged to seek guidance where required from their immediate supervisor or the Group Company Secretary.**

## **8. UNDUE INFLUENCE BY EXTERNAL PARTIES**

It is recognised that in some instances, employees/consultants might be placed under undue

pressure to support and recommend for approval of projects and/or transactions including procurement transactions that may have negligible commercial merit for the IDC but disproportionately high benefits for outside parties. In those circumstances, the employee/consultant should be mindful of the duty of care that they owe to the IDC and avoid such situations by reporting any instances where they feel pressured to their immediate supervisor, and the latter is advised to immediately escalate the matter to the Executive Management Committee.

**All IDC employees and consultants owe the corporation a duty of care and it is important that their professional judgment is not impaired or fettered by third parties. In instances where the employee feels they are being pressured by a third party to make decisions that are not to the benefit of the IDC, they are encouraged to report this immediately to their immediate supervisor.**

## **9. EX OFFICIO POSITIONS**

- 9.1 From time to time, the IDC nominates its employees to serve as non-executive directors of investee companies. Inherently, the nominated employees have no personal gain as they are executing and exercising their fiduciary duties for the sole interest and benefit of the investee company and the IDC.
- 9.2 Ex officio positions generally result in the employee being called upon to defend two thrones i.e. protect the interests of the IDC as well as those of the investee company.
- 9.3 Generally, there is no challenge except where the interests of the IDC do not converge with the interests of the investee company, and this invariably results in the employee having divided loyalties.
- 9.4 Admittedly in some instances the conflict is more enduring because it is situational rather than transactional e.g. funding transactions and investment monitoring/portfolio management transactions. An enduring conflict can serve to diminish the effectiveness of an employee as a result of split loyalties as well as having to be recused on key matters to both principals.
- 9.5 In reference to clause 9.4 above, depending on the materiality of the matter at hand, the resultant conflict can either be substantive or non-substantive.
- In cases where the conflict is non-substantive, the nominee director is required to

make the declaration for record and can participate in the discussion and subsequent decision-making.

- In instances where the conflict is substantive, because of the misalignment in interests of both the IDC and the investee company, and the resultant split in their fiduciary duties, the nominee director should make a declaration, share related information (*provided they have a commensurate understanding and consent with the investee company*) and recuse themselves from the decision-making process.

**Ex officio positions raise unique challenges and the underlying principle is that the related conflict is inherent, situational and all enduring. Whilst the inherent conflict can be managed as it is not personal but arises from one's duty to the IDC, sometimes the conflict can be so fundamental and result in a real exposure to the nominee director if it is not managed properly.**

**The principle is that caution needs to be taken in instances where one is charged with guarding two thrones! The fundamental principle is that one cannot guard one throne at the expense of the other.**

## **10. PROCESS OF MANAGING CONFLICT OF INTERESTS FOR DIRECTORS**

The fact that the conflict of interest has been disclosed does not mean it has been dealt with or mitigated. Based on the extent of the interest:

10.1 there will be instances where disclosing the facts of a matter would be sufficient in the process of managing conflict of interest (*in instances of a non-substantive conflict*).

10.2 equally, there could be instances where the conflict of interests is actual and sometimes so severe that mere disclosure is not sufficient. In these cases the director should:

- not receive any documentation i.e. the submission, the minutes and any other document in relation to the matter that raises the conflict in their interests. It is the responsibility of the IDC's Corporate Secretariat to ensure that where warranted, the circulation of related submission is restricted accordingly;
- before being recused, they can be afforded an opportunity to address the meeting on any pertinent facts that they believe would assist the decision-making body in making a decision based on full facts;
- thereafter recuse themselves and leave the meeting until the matter has been discussed

and settled by the decision-making body (*their departure will not be accounted for quorum purposes for determining whether a resolution has sufficient support to be adopted; however, the director would be regarded as being present at the meeting for the purpose of determining whether sufficient directors are present to constitute the meeting*);

- not use or divulge any IDC information that is not already in the public domain to benefit themselves personally or benefit family or related parties;
- in addition, the director is prohibited from exerting influence on IDC staff to make decisions for their benefit or the benefit of their family or related parties.

**Disclosure is a starting point in the management of conflicting interests. Depending on the circumstances of each fact, other actions in mitigating can be taken e.g. recusals, limiting access to information or submitting the matter for the ruling or discussion by the Executive Management or Social and Ethics Committees.**

## **11. PROHIBITIONS TO IDC DIRECTORS/EMPLOYEES/ CONSULTANTS**

- 11.1 With effect from 1 April 2017, the IDC directors were disqualified from contracting with the IDC either as vendor, purchaser, borrower or otherwise. Equally, IDC employees are prevented from accessing IDC funding for their private endeavours in the market.
- 11.2 Nepotism is prohibited at the IDC.
- 11.3 The prohibition in relation to directors shall not apply in relation to approvals/business arrangements that pre-existed the rule i.e. before 1 April 2017.
- 11.4 The prohibition on directors/employees doing business with the IDC shall remain valid for a period of 24 months after the date that a director / employee ceases to hold office in the IDC; i.e. the cooling off period.
- 11.5 This principle is extended to external members of internal governing structures such as the credit committees.
- 11.6 The cooling off period will not be applicable to consultants.

**IDC directors/employees are prohibited from doing business with the IDC and such prohibition will survive their departure from the IDC board until a lapse of 24 month after such departure. This principle is extended to external members that sit at internal governing structures in the IDC.**

## **12. PROCEDURE TO FOLLOW ON TRANSACTIONS INVOLVING IDC DIRECTORS**

This clause is not applicable to cases where the director has personal business interests in a matter. It will be followed when a director is considered to be conflicted by virtue of their ex officio role in another institution which may have competing interests to those of the IDC.

In instance where the director has no personal interests in the matter but rather has a connection by virtue of their ex officio role, the process to follow in the management of this conflict of interest is as follows:

12.1 declare their interests to the IDC board;

12.2 retain as confidential the discussion and any related information raised in the IDC board unless they have received an express approval otherwise.

Any transaction in which a director of the IDC has an actual or perceived private interests will be dealt with as follows (*irrespective of any quantum involved*):

12.3 all transactions in which a director of the IDC is involved shall be considered by the Executive Credit and Investment Committee;

12.4 the Executive Credit and Investment Committee may, if in support of the transaction, recommend that it be submitted to the Board Social and Ethics Committee for consideration in alignment with the Terms of Reference of that committee;

12.5 the Board Social and Ethics Committee may make a recommendation on the transaction to the IDC Board for finalisation.

12.6 the chairman of the Board will then communicate back to the conflicted director any outcome or decision made by the board in relation to the matter.

**The policy prescribes the process to be followed by directors conflicted in matters for their personal gain (*or the gain by their connected parties*) as well as a result of their ex officio positions.**

### **13. BREACH OF THE POLICY**

- 13.1 A breach of this policy is considered serious misconduct which may result in a disciplinary process in terms of the company disciplinary policy and Code of conduct for the employees.
- 13.2 Any breach by a member of the Board of directors may result in removal of the member from the Board, and other measures that may be considered by the Board or the Shareholder depending on the severity and impact of the breach and other factors.
- 13.3 The Board shall be obliged to inform the Shareholder of any director's breach of policy without delay stating measures taken against the director. The Board may also recommend desired action to be taken by Shareholder including removal from office.

### **14 APPROVAL OF THE POLICY**

- 14.1 The Board of directors are responsible for approving the policy and any subsequent amendments.

### **15 REVIEW OF THE POLICY**

- 15.1 The policy shall be reviewed every three (3) years or when necessary.

**Approved by the Board on 27 November 2023.**

## Appendix A

### FREQUENTLY ASKED QUESTIONS

**Question:** A director is a panel member in an interview process in the IDC and realises that one of the incumbents that will be interviewed is a person that they know and have worked with previously in a different company. What should the panel member do to manage any perception of impropriety and perceived conflict of interest?

**Illustrative Answer:** here are points to ponder:

- it's the degree of relatedness that should be considered in order to test the **existence** or **potential perception** on a conflict of interest, and the establishment of the degree of such relatedness is key to ensuring that there is a balanced approach to managing any perceptions (*present and future*) in this situation. Interviewing a “family member” carries a stronger perception of an existence of a conflict than interviewing a person with whom one has/had a professional relationship with e.g. a niece and a member of the same professional organization or an executive where connected director sat as a non-executive board member.
- a conflict of interests exists in instances where there is something more than superficial prior interaction with the subject and any future decision-making could likely hamper the decision-maker in making an unbiased decision.
- in this case, whilst there is no actual existence of conflict, for good governance, the panel member is advised to declare the “relationship/connection” i.e. the existence of a previous professional relationship with the incumbent as soon as they become aware of the list of candidates. This indicates the appreciation of the value of proactive and full disclosure to one's peers and assists in bringing sunlight to any potential negative perceptions that might surface down the line.
- whilst on the face of things there is no need for a recusal (*on the grounds that the decision-making is by a panel working on an auditable and independently verifiable process rather than by an individual*), it is important to consider not only the possible views by un-related parties, but those of the candidate for interview. The connected director needs to consider and respond to a question whether the

candidate would have grounds to feel disadvantaged should the connected director remain on the panel. Should the director be of the view that the candidate might feel disadvantaged by their presence in the panel, the suggestion is that the director should recuse themselves from the panel in order to safeguard the integrity of the process ab initio.

**Question:** an IDC director has an interest in a business that is currently bidding for a tender in one of the IDC's subsidiary companies. A related transaction comes up in the IDC board meeting for decision-making. What process should the director pursue to manage any actual or potential conflict of interests in this matter?

**Illustrative answer:** here are points to ponder:

- the director must activate the process described in clause 5 by declaring the matter proactively with the chairman of the Board or with the Group Company Secretary. In the board pack, the impacted director will not have access to documentation in relation to this matter. At the actual meeting on the day, the director should declare their interests and recuse themselves from the meeting until the board meeting has fully disposed of the matter. The director should refrain from sharing the IDC's information, processes etc. that is not in the public domain with her/his counterparty for personal benefit.