

NOVA SCOTIA SECURITIES COMMISSION

Conflict of Interest Rules

Interpretation

1.1 Definitions - Unless inconsistent with the subject matter or context or unless defined otherwise in these rules, words and terms shall have the same meanings when used herein as they have in the *Securities Act* R.S.N.S. 1989 c. 418, as amended (the "Act").

1.2 Definitions - Other - The following words and terms shall have the following meanings ascribed to them in these rules:

"Annual Report" means a report in the form attached hereto as Schedule "A",

"Approved Blind Trust" means a trust approved in accordance with section 7.5 or 7.6 as the case may be,

"Blind Trust" means an arrangement between a member or employee or related party to the member or employee and another person whereby the member, employee or related party gives discretionary authority to the other person to trade on behalf of or for the account of the member, employee or related party and the arrangement is such that during its term neither the member nor the employee nor the related party will have knowledge of the securities held or traded by or for his or its account by the other person or held by another who acts as custodian under the arrangement,

"employees" mean all employees of the Commission other than special employees and includes the Director except where a contrary intention appears,

"exempt securities" mean those securities listed in Schedule "B" hereto,

"member" means a member of the Commission including a member appointed pursuant to subsection 9(1) or section 10 of the Act,

"Periodic Report" means a report in the form attached hereto as Schedule "C",

"offering document" means a preliminary prospectus, prospectus, amended prospectus, rights offering circular, securities exchange take-over bid circular, securities exchange issuer bid circular or offering memorandum which requires the approval or non-disapproval of the Director,

"related party" means, in relation to a member or employee,

- (i) any person to whom the member or employee is married, or with whom the member or employee is living in a relationship outside marriage;
- (ii) a child of a member or employee under the age of 18;
- (iii) a relative of the member or employee or of the spouse of the member or employee or of a person with whom the member or employee is living in a relationship outside marriage, who lives in the same residence;

- (iv) a trust of which the member or employee is a trustee, and which includes the member or employee or an immediate family member as a beneficiary;
- (v) a company over which the member or employee or the spouse of the member or employee or a person with whom the member or employee is living in a relationship outside marriage exercises control in law or in fact; or
- (vi) a business partner or associate of the member or employee,

"securities," for greater certainty, include exempt securities,

"special employees" mean persons appointed, retained or engaged by the Commission to perform a specific duty in the nature of research, investigation, examination, expert opinion or otherwise, and

"trading" includes purchasing.

1.3 Deferred Plans - For the purpose of these rules

- (a) securities held by or pursuant to a registered retirement savings plan within the meaning of the *Income Tax Act* (Canada) of which a person is an annuitant, registered retirement income fund within the meaning of the *Income Tax Act* (Canada) of which a person is an annuitant or an education savings plan within the meaning of the *Income Tax Act* (Canada) of which a person is the subscriber shall be deemed to be held for the account of that person where that person exercises control over the investments made by the plan or fund, and
- (b) securities held by a third party under any other arrangements whereby a person exercises control over the investments made pursuant to the arrangements shall be deemed to be held for the account of that person.

Authority and Effect

2.1 Authority - These rules are issued by the Commission pursuant to the authority contained in clause 19(1)(e) of the Act.

2.2 Effect - Compliance with these rules is a condition of employment of each employee and a condition of appointment of each member of the Commission. Failure to adhere to these rules may form the basis for disciplinary action or termination of the member or employee subject to any applicable rights of appeal and to sections 3.1 and 3.2.

2.3 Special Employees - These rules shall apply to special employees to the extent they are made applicable in the appointment or retainer of the special employees.

Appeals

3.1 Recourse/Employees - An employee directly affected by a decision arising out of an alleged violation of these rules shall be entitled

- (a) to grieve the decision in accordance with the *Civil Service Act* RSNS 1989, c. 70, or Collective Agreement, where applicable, when their terms and conditions for appointment are covered by the *Civil Service Act* or the *Civil Service Collective Bargaining Act* RSNS 1989, c. 71, and

(b) otherwise to have a hearing and review of the decision before and by the Commission or, where the Commission considers it appropriate, the Commission's designee.

3.2 Recourse - Members - A member directly affected by a decision arising out of an alleged violation of these rules shall be entitled to a hearing and review of the decision by the Minister or the Minister's designee.

Administration

4.1 Administration - Employees - The Director shall be responsible for monitoring compliance by employees, other than the Director, with these rules and the enforcement of these rules with respect to such employees.

4.2 Administration - Members - The Chairman shall be responsible for monitoring compliance by members, other than the Chairman, and the Director with these rules and the enforcement of these rules with respect to such members and the Director.

4.3 Administration - Chairman - The Minister shall be responsible for enforcement of these rules with respect to the Chairman and the Director shall report to the Minister any non-compliance with these rules by the Chairman of which the Director may become aware.

4.4 Non-derogation - Nothing in these rules shall be taken as limiting, restricting or derogating from any other obligation or responsibility imposed on a member, the Director or an employee by applicable law or policy.

4.5 Post-Employment Activity - For a period of six months following the expiration or termination of a member's term of appointment the former member shall not have dealings with the Commission or staff on behalf of clients or on the former member's own behalf with respect to securing registration. This section shall not apply to any person or company of which the former member is a partner, associate, employee, director or officer from having such dealings provided that the former member does not personally deal with the Commission or staff in respect of the matter.

General

5.1 Purpose - The Commission has a mandate and duty to administer the Act for the general benefit and protection of the public of Nova Scotia. It is critical to the proper and effective fulfilment of the mandate and duty of the Commission that the members and employees conduct themselves in a manner which will not give rise to conflicts between their duties in administering the Act and their personal interests or give rise to perceptions, reasonably drawn, that such conflicts exist. The purpose of these mandatory rules is to assist members and employees in avoiding such conflicts or perceptions of conflicts. Ultimately however it is not possible to formulate rules which will cover all situations which may arise and therefore it becomes necessary for each member and employee to be sensitive to the policy concerns addressed in these rules and to exercise proper judgment.

5.2 Focus of rules - These rules focus on the following areas:

Confidential Information
Reporting Obligations
Exemptions

Trading in Securities
Personal Interest and Conduct
Coming into Force

Confidential Information

6.1 Confidentiality - Members and employees are frequently in possession of information which has not been disclosed to the public. This will include information included in material change reports filed on a confidential basis and information filed on a confidential basis with applications. It may however also include information which is on the public record but has not been widely disseminated such as information in offering documents, information in non-confidential material change reports and the mere existence of pending applications. Fundamental to the securities regulatory regime is the concept that all market investors have access to the same level of information. Consequently, it is imperative that

- (a) members and employees do not trade in securities while they are in possession of confidential information or information, although not confidential in the strict sense, which could give them or be perceived to give them an advantage over other market investors even though such information does not constitute a material fact, and
- (b) members and employees not disclose or discuss such information to or with any person, including associates, save as is necessary in the performance of their duties.

Members and employees are reminded of their statutory obligations under section 82 of the Act and the fact that these rules are in addition to those prohibitions.

Trading in Securities

7.1 Prohibitions - In part to give effect to section 6.1, the following rules shall apply:

- (a) Except as permitted in section 7.3, no member or employee shall trade on the member's or employee's own behalf or on behalf of a person and no member or employee shall cause or permit any person to trade on behalf of or for the account of the member or employee and a member or employee shall not give advice to any other person with respect to trading any security which is the subject of any offering document, take-over bid circular, issuer bid circular, or other filing or application with or to the Commission or any other security issued by the issuer of such a security while the filing is being processed or the application is pending or thereafter except as permitted by these rules.
- (b) No member or employee shall trade on the member's or employee's own behalf or on behalf of a person and no member or employee shall cause or permit any person to trade on behalf of or for the account of the member or employee and a member or employee shall not give advice to any other person with respect to trading a security with knowledge that or with information which would form a reasonable basis for believing that the issuer of the security or persons associated with the issuer or affiliated with the issuer of the securities is subject to an investigation or proposed investigation (formal or otherwise) by the Commission or by another regulatory or police agency.
- (c) Members and employees shall purchase securities with investment intent. Members and employees shall avoid trading practices which are based primarily on attempting to predict short term market swings in price because such a strategy may appear to emphasize the timeliness of market information and may give rise to the perception that the member or employee has used non-public information in trading even where in fact such is not the case.

7.2 Inquiry - For the purpose of section 7.1 the following apply:

(a) Before trading in a security members or employees may, for their own benefit, wish to inquire of the Director as to whether there is any fact which would result in the proposed trade being prohibited pursuant to section 7.1(a).

(b) Because of the confidential nature of investigations, an employee is not required to inquire as to the applicability of section 7.1(b) if the employee possesses no knowledge of and has no information which would form a reasonable basis for believing that any investigation is proposed or in process which would effectively preclude the proposed trade.

7.3 Exceptions - Section 7.1(a) shall not, in and by itself, prohibit a trade in a security which would otherwise be prohibited by that section

(a) after the processing of the offering document has been completed and the distribution pursuant to it is completed or withdrawn,

(b) where the securities to be offered pursuant to the offering document will be in continuous distribution and a period of 30 days has elapsed after the processing of the offering document has been completed,

(c) where the securities which are the subject of the application are in distribution or are to be in distribution, and the decision in the application has been rendered and the distribution is completed or withdrawn,

(d) where the securities which are the subject of the application are in continuous distribution or are to be in continuous distribution and a period of 30 days has elapsed after the decision in the application has been rendered,

(e) where the prohibition in section 7.1(a) results from the filing of a take-over bid circular or an issuer bid circular, the bid has been commenced publicly and the trade is a tender of the securities which are the subject of the bid to the offeror or a sale into the market,

(f) where the prohibition in section 7.1(a) results from the filing of a take-over bid circular or an issuer bid circular and the bid has been withdrawn or expired,

(g) where the subject of the offering document is an offering of rights to existing security holders to subscribe for additional securities, the member or employee has not been directly involved in the processing of the offering document and the member, employee or related party is a security holder and as such is entitled to exercise the rights and the trade is limited to the exercise of the rights,

(h) where the offering document or application involves an amalgamation, merger or similar reorganization, the member or employee has not been directly involved in the processing of the offering document or application, the member, employee or related party is the owner of securities which are the subject of the amalgamation, merger or similar reorganization and the trade consists of the exercise by the member, employee or related party of rights held by virtue of the ownership of such securities,

(i) where the trade is exempt from the requirements of section 31 of the Act by virtue of clause 41(1)(z) or 41(1)(ai) of the Act and the trade does not include an optional cash payment,

(j) the trade is effected in accordance with an Approved Blind Trust, or

- (k) the member or employee is permitted to effect the trade pursuant to an exemption granted under section 10.1.

Section 7.1(a) shall not, in and by itself, prohibit the giving of advice by a member or employee with respect to a trade where the trade itself would not be prohibited pursuant to these rules.

7.4 Distribution Completion - A member or employee may have difficulty in determining whether a distribution has been completed and thus in determining whether reliance on section 7.3 is permissible. A member or employee shall be entitled to assume that a distribution is completed where it is reasonable to make such an assumption in the circumstances or may, where doubt exists, rely on the written opinion of the Director that the distribution is complete. In arriving at an opinion on whether a distribution is complete the Director may take into account the policy underlying these rules and shall not be limited to technical considerations.

7.5 Approval by Chair - The Chairman may, upon the request of an employee or member, approve a Blind Trust established by an employee or member or related party to the member or employee, if the Chairman is satisfied in all of the circumstances that the arrangement is *bona fide* and effective, is not inconsistent with the policy underlying these rules and will not bring the administration of the Act into disrepute.

7.6 Approval by Minister - The Minister may, upon the request of the Chairman, approve a Blind Trust established by the Chairman or a related party to the Chairman, if the Minister is satisfied in all of the circumstances that the arrangement is *bona fide* and effective, is not inconsistent with the policy underlying these rules and will not bring the administration of the Act into disrepute.

Reporting Obligations

8.1 Annual Compliance Reporting - Each member and employee shall, on or before the 15th day of January in each year, file a certificate with respect to compliance with these rules by the member or employee in the prior calendar year or the portion thereof during which these rules were in effect which certificate shall form part of the Annual Report.

8.2 Annual Securities Holdings Reporting - Each member and employee shall, within 15 days following the coming into force of these rules or, where the member is appointed or employee commences employment after the coming into force of these rules, within 15 days following the appointment or commencement of employment and thereafter on or before the 15th day of January in each year, file an Annual Report disclosing the holdings of securities, except exempt securities, as of the coming into force of these rules, the time of appointment or commencement of employment or the 31st day of December in the prior calendar year, as the case may be, by or for the account of

- (a) the member or employee, and
- (b) where the report is as of the 31st day of December in the prior calendar year, any related party to the member or employee when the member or employee has given advice while a member or employee and while these rules were in effect, to the related party in the preceding calendar year with respect to a decision to trade in securities.

8.3 Periodic Reports - Each member and employee shall file a Periodic Report in respect of each of the following trades in securities, other than exempt securities:

- (a) A trade by or for the account of the member or employee, and
- (b) A trade by or for the account of a related party to the member or employee to whom the member or employee has given advice with respect to the decision to effect the trade.

The Periodic Report required to be filed pursuant to this section shall be filed within 10 days following the trade.

8.4 Alternative Compliance - As an alternative to filing Periodic Reports in accordance with section 8.3 a member or employee may file within 10 days following receipt by the member or employee or applicable related party on a continuous basis

- (a) A copy of all trade confirmations, and
- (b) A copy of all monthly portfolio statements received by the member or employee or applicable related party.

A member or employee who wishes to utilize this section shall file an undertaking in form satisfactory to the Chairman or Director, as the case may be, to comply with this section and shall comply with the undertaking until a notice withdrawing the undertaking is filed.

8.5 Blind Trust - A member or employee shall be exempt from the requirements of sections 8.2 and 8.3 with respect to securities held under or trades in securities effected by an Approved Blind Trust.

8.6 Breaches - Every member or employee who believes that the member or employee may have violated these rules shall immediately report such violation to the person who is authorized by section 10.3, to grant exemptions to the member or employee pursuant to section 10.1.

8.7 Reporting and Filing - Members and employees shall make filings and reports hereunder to the Director, the Director shall make filings and reports hereunder to the Chairman and the Chairman shall make filings and reports hereunder to the Director except where provided otherwise herein.

8.8 Confidentiality - All reports filed and made hereunder shall be held in confidence save to the extent that disclosure is required by law or is necessary in connection with the enforcement of these rules.

8.9 Reporting Conflicts - Every employee, other than the Director, shall immediately report in writing to the Director and every member and the Director shall immediately report in writing to the Chairman and the Chairman shall immediately report in writing to the Vice-Chairman:

- (a) any actual or perceived conflicts of interest;
- (b) if the individual has securities or has a personal or other interest in an issuer or project assigned to the individual; or
- (c) if the individual's current or prior employment or relationship may be considered to prejudice or affect the individual's work on the assignment.

Personal Interest and Conduct

9.1 General - The overriding obligation of members and employees is to avoid actual or perceived conflicts of interest, and to identify and disclose fully any which may arise. The general rule is one of full disclosure and in any case of doubt, the Chairman or the Director, as the case may be, should be consulted. In determining how to deal with an actual or perceived conflict the Chairman or Director shall make reference to all the circumstances of the case, including the actual state of knowledge, the bona fides of the individual involved and the materiality of the conflict.

9.2 Prohibition - A member or employee shall not:

- (a) engage, directly or indirectly, in any personal business transaction or private arrangement for personal profit or benefit which accrues from or is based upon the member's or employee's official position or authority or upon confidential or non-public information which the individual gains by reason of such position or authority;
- (b) act in any manner, whether or not specifically prohibited by these rules, which might result in or create the appearance of
 - (i) using public office for private gain or benefit; or
 - (ii) losing independence or impartiality;
- (c) divulge confidential or non-public information to any unauthorized person or release such information in advance of authorization for its release;
- (d) act in any official matter with respect to which there exists a personal interest incompatible with an unbiased exercise of official judgment;
- (e) have direct or indirect business or financial activities which conflict or appear to conflict with the individual's official duties and responsibilities;
- (f) seek or accept investment services from dealers and advisers except on terms generally available to the investing public;
- (g) be an employee of, hold office in or be a director of any registrant or person registered pursuant to the securities legislation of another jurisdiction or reporting issuer or an issuer holding a similar status in another jurisdiction; or
- (h) engage in any outside work or business undertaking which interferes with the performance of the individual's duties to the Commission.

9.3 Members - Members are reminded that the Commission exercises quasi-judicial powers and as such has been established as an independent agency of government. As such the Commission must not only be free of but must be perceived to be free of governmental and political interference. Certain types of partisan political activities by a member may be inconsistent with these principles.

Exemptions

10.1 When Appropriate - An exemption from one or more provisions of these rules may be granted where, in the opinion of the person granting the exemption, the provision is inappropriate to the circumstances or compliance would result in undue hardship and the exemption would not bring the administration of the Act into disrepute. Applications for exemptions shall be in writing. Exemptions may be granted subject to terms and conditions and shall be in writing.

10.2 De Minimis - Section 9.2(a) and (b) prohibit, for example, an employee or member from performing a function or acting in a matter where the employee or member has an interest. There may be circumstances where the employee's or member's interest is so indirect or tenuous or the interest is so insignificant that a person acting reasonably and with knowledge of all the facts would not perceive that, by virtue of the interest, the employee or member would be influenced in performing the function or acting in the matter. Whether these situations are viewed as involving *de minimis* conflicts or not as conflicts at all is less important than the manner in which they are dealt with. The employee or member should not rely on self-judgment but rather should disclose the facts to the official who has authority to grant exemptions to the employee or member and rely on that official's determination of the matter. Where the official determines, by applying the standard in this section, that the performance of the function in question or acting in the matter in question would not bring the administration of the Act into disrepute, the employee or member shall be at liberty to so perform or act and the official shall maintain a record of

the determination. A determination of the nature referred to in this section is not an exemption for the purposes of these rules.

10.3 Who May Grant - The Director may grant an exemption pursuant to section 10.1 to employees and shall forthwith give notice to the Chairman of all exemptions so granted. The Chairman may, if he considers it appropriate, veto any exemption granted by the Director but a veto so exercised shall not adversely affect the employee in respect of actions previously taken in reliance on the exemption. The Chairman may grant an exemption pursuant to section 10.1 to members and the Director. The Vice-Chairman may make determinations of the nature referred to in section 10.2 with respect to the Chairman. Exemptions may only be granted to the Chairman by the Minister.

10.4 Application in Abeyance - Frequently applications involve matters of fundamental policy which must be resolved on a national basis by the Canadian Securities Administrators. When such is the case the application may be in a state of abeyance for some considerable time. In such circumstances it may be appropriate to provide exemption relief where, by the nature of the application, there would be an unreasonable restriction on the ability of members or employees to trade in certain securities. This is particularly so where the application involves a family of mutual funds.

10.5 Public Record - An exemption granted pursuant to section 10.1 and the facts on which it is based shall be a matter of public record save that where the disclosure of a name or circumstance in connection with an exemption would constitute an unwarranted invasion of the privacy of the member or employee and the person granting the exemption is of the opinion that a summary of the circumstances surrounding the exemption constitutes adequate and reasonable disclosure and will maintain the integrity of these rules and will not bring the administration of the Act into disrepute, the person granting the exemption may place such a summary on the public record as an alternative to placing the exemption itself and the facts on which it is based on the public record.

Coming Into Force

11.1 Effective Date - The rules herein shall come into force on January 1, 1995.

* * *

Adopted on the 2nd day of November, 1994.

SCHEDULE "A"
ANNUAL
DISCLOSURE STATEMENT

NOVA SCOTIA SECURITIES COMMISSION

**[Conflict of Interest Rules (the "Rules")]
(Sections 8.1 and 8.2)**

Dated: _____

PART I

I HEREBY CERTIFY that the following represents all of the securities other than Exempt Securities which are owned beneficially by me or to the best of my information, knowledge and belief any related party whose holding of securities I am required pursuant to the Rules to report.

<u>Holder</u>	<u>Securities Held</u>	Number and Class of
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(attach list where space insufficient)

PART II (This part does not apply to an initial filing)

I FURTHER CERTIFY that from the ____ day of _____, 199_ to date neither I nor to the best of my information, knowledge and belief any related party whose trades in securities I am required pursuant to the Rules to report purchased or sold any securities other than

- (a) Exempt Securities, and
- (b) securities the purchase or sale of which were previously reported.

PART III (This part does not apply to an initial filing)

I FURTHER CERTIFY that I have complied with the Rules throughout the preceding calendar year.

* * *

In this certificate, "Exempt Securities" mean exempt securities within the meaning of the Rules.

CERTIFIED to be true by:

(Name and Position)

SCHEDULE "B"

EXEMPT SECURITIES

- (a) instruments which are not included in the definition of "security" under the *Securities Act* RSNS 1989, c. 418, as amended (the "Act"),
- (b) securities referred to in clauses 41(2)(a), (b), (c), (e), (f), (g), (h), (j) and (o) of the Act and in Blanket Order No. 13 of the Commission,
- (c) a debt security of a corporation which is wholly owned by a government or municipal corporation referred to in subclauses 41(2)(a)(i) and (ii) of the Act and which is a public utility which is not carried on for the purpose of gain of private sector shareholders,
- (d) a security which is a strip coupon or strip residue or an interest in strip coupons or strip residues where the underlying security is a security referred to in clause 41(2)(a) of the Act or clause (c) of this definition; and
- (e) a security designated by the Commission from time to time to be an "exempt security."

SCHEDULE "C"

**PERIODIC REPORT
OF**

TRADES

**[Conflict of Interest Rules (the "Rules")]
(Section 8.3)**

NOVA SCOTIA SECURITIES COMMISSION

Dated:

I HEREBY CERTIFY that I and/or the following related parties whose trades in securities I am required pursuant to the Rules to report have traded in the following securities in accordance with the information contained in the attached trade confirmations (where applicable):

Bought:

<u>Holder</u>	<u>Securities</u>	<u>Date</u>	Number and Class of
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Sold:

<u>Seller</u>	<u>Securities</u>	<u>Date</u>	Number and Class of
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(attach list where space insufficient)

The foregoing does not include exempt securities within the meaning of the Rules.

CERTIFIED to be true by:

(Name and Position)