



BERKSHIRE

# **Conflict of Interest Policy**

Corporate Policy



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## 1. PURPOSE AND SCOPE

This Policy, which sets out the expected minimum standards of propriety regarding Conflicts of Interest is important and must be read, understood and followed by Berkshire Finance Company Limited's ("**Berkshire**" or "**Company**") employees at all times. Every employee is required, as a condition of their continued employment to read, understand and comply with this Policy. Violations will lead to disciplinary sanctions including possible termination of employment.

All employees are obligated to act for and in the best interests of the Company and its clients. Certain personal activities or interests of employees may have some connection with the Company or its interests but involve little or no conflicts of interest (for example charitable or civic activities). Certain interests or activities of employees may involve a significant actual or potential conflict with the interests or activities of the Company and/or its clients or may give the appearance of conflict though no actual or potential conflict exists (for example, the recruitment of an individual closely related to a Director) Each employee must be alert to such conflicts of interest. He/she should scrupulously examine and avoid any activity or situation in which personal behaviour directly or indirectly conflict with the interests of the Company or its clients. Such behaviour typically, but not exclusively, arises when it involves the use of knowledge acquired in conducting the Company's business or from relationships with the Company's clients or others.

One of the principal areas of potential conflict of interests is in the use of confidential information. Clients conduct business with the Company with the expectation that all information and data provided by them or related to the business they conduct with the Company will be maintained in absolute confidence. For this reason, all information concerning the business of the Company's clients and their transactions must be treated as absolutely confidential and must be confined, even within the Company's premises, only to those who need to know such information in order for the Company to carry out its business properly and effectively. In the event of circulated rumors, all employees are expected to maintain utmost confidentiality and are not to provide information that may give credit or discredit to the rumor.

No employee is permitted to benefit or allow a third party benefit (directly or indirectly, financially or otherwise) from knowledge of confidential information whether related to financial decisions, evaluation systems, strategies or methods, investment decisions, investment positions, in-house research or otherwise. This prohibition extends to all employees as well as related persons and any Appointed Representatives or Tied Agents (such as Debt Collections agents) of the Company.

Employees must ensure that they take particular care not to discuss confidential information with, or in the presence of, unauthorised persons, whether from within or outside the Company.

Each employee shall hold in a fiduciary capacity and for the benefit of the Company, all information, knowledge and data relating to or concerned with its operations, business and affairs. He or she shall not, at any time, use, disclose or divulge any such information, knowledge or data to any person or corporate body other than authorised persons within the Company, except as may be legitimately required in connection with the business and affairs of the Company.



## **2. DEFINITION OF TERMS**

### **DEFINITION OF TERMS**

#### **Coincidental Conflict of Interest**

This simply means a situation which occurs unexpectedly with regard to a single event (e.g. a transaction, the selection of service provider, etc.) and which can usually be managed with a one-off measure.

#### **Conflict of Interest**

This signifies a situation in which different parties have interests that conflict with each other. Such conflicts may arise between the Company and its customers /management bodies/ board members/ Employees/suppliers and business partners, between different functions, units and/or companies within the Company including tied agents, or any person directly or indirectly linked to them by control.

#### **Permanent Conflict of Interest**

This indicates a situation where a Conflict of Interest persists and needs to be managed permanently.

## **3. CONFLICTS OF INTEREST SITUATIONS**

### **Conflicts of Interest within the Company**

Conflicts of Interest relating to the Company can be broadly described as scenarios where an Employee's interest in the outcome of a particular activity differs from or conflicts with the interests of the Company or when a Business Unit within the Company favours its interest over another Business Unit which is inconsistent with the best interest of the Company.

Below are some examples of practical activities in which a Conflict of Interest may potentially arise:

- An Employee (or, where applicable, a family member or close personal relationship) receives a financial or other significant benefit as a result of the Employee's position in the Company that is inappropriate in nature
- An Employee's existing financial or other interest or previous engagement in an activity or relationship with another person, impairs or could impair his or her judgment or objectivity in carrying out his or her duties and responsibilities to the Company
- A Conflict of Interest arises in connection with a transaction or arrangement entered into between the Company and a material shareholder or between entities within the Group due to the close relationship (personal or professional) between the parties
- An Employee of the Company performing or taking part in external engagement, entailing a risk that the Employee's ability to perform his/her work in the Company is affected



- An Employee has the opportunity to influence the Company, granting business or making administrative and other material decisions in a manner that leads to personal gain or advantage for the Employee or a family member or close personal relationship
- An Employee's personal or professional relationship with an external stakeholder (e.g., material suppliers, consultancies or other service providers) impairs or could impair his or her judgment or objectivity in carrying out his or her duties and responsibilities to the Company
- An Employee's economic interests (e.g., shares, other ownership rights and memberships, financial holdings and other economic interests in commercial customers, intellectual property rights, loans granted the Company to a company owned by a staff, membership in a body or ownership of a body or entity with conflicting interests) causes a Conflict of Interest to occur
- A Conflict of Interest arises because of an Employee's previous employment within the recent past (e.g., five years)
- A Conflict of Interest arises because of an Employee's political influence or political relationships

#### **Conflicts Of Interest Relating To Customers**

Conflicts of Interest relating to customers can be broadly described as scenarios where the Company, its Employee or a third-party representative:

- Is likely to make a financial gain or avoid a financial loss to the potential detriment of the customer
- Has an interest in the outcome of the service provided to the customer or of a transaction carried out on behalf of the customer, which is different from the customer's interest
- Has a financial or other incentive to favour the interest of another customer or group of customers over the interests of the initial customer
- Conducts the same type of business as the customer
- Receives or will receive from a person other than the customer an inducement in relation to the service provided to the customer in the form of monetary or non-monetary benefits or services other than the standard commission or fee for the service in question

Examples of potential Conflicts of Interests relating to customers includes:

- Situation or status where the customer and the Company become related parties
- Situation or status where the customer and the Company have interests that are exclusive to each other, or have competing interests
- Situation or status where the Company is structurally able to gain its own benefit by using disclosed information which the Company obtained from the customer



#### **4. IDENTIFICATION AND INVESTIGATION OF CONFLICTS OF INTEREST**

In order to proceed with a transaction or business relationship in the event of a potential conflict of interest, one of the following processes, depending on the situation, must be adhered to:

- Where the conflict of interest situation is governed by a specific policy, the contents and requirements of such other specific policy must be adhered to
- With regard to the receipt and providing of gratifications, this must be done in accordance with the Company's Gratification manual

The following must be reported to the Assurance Services Group as early as possible:

- All significant and/or unusual transactions, as determined by business areas, with, or on behalf of clients, potential clients, business partners or potential business partners including both company and proprietary transactions
- Disclosure of financial interest in a company when he/she, his/her spouse owns 5% or more of the issued shares or is able to significantly influence or control the decision making process in such entity
- Disclose any interest that may impact on the decision making or tender process

No Director or Affected Person shall be present where his/her conflict of interest issues are being discussed or where discussions are to be taken/reached on such issues. In the event that a potential conflict of interest situation is not governed by the above paragraphs, clarification can be sought from the Assurance Services Group.

#### **5. DISCLOSING CONFLICTS OF INTEREST**

All Employees should periodically study the contents of the Conflict of Interest Policy and ensure that they fully understand and abide by the policy. In instances where an employee identifies a conflict of interest, be it real or perceived, they must complete and submit a Conflict of Interest Declaration Form (Appendix 1) to the Assurance Services Group.

Disclosures necessary when dealing with Conflict of Interest situation during tender process and recruitment involving related parties:

- Where a vendor who is related to an Employee of the Company is bidding for, or is a part of a tender process, such employees should disclose the extent of the relationship and also disclose whether their roles will impact on the fair process of the Contract bidding or tender
- Employees must also not interfere with the tender process to ensure that all transactions are done at arm's length
- Where it can be proved beyond reasonable doubt that there is no other vendor who can provide the services in question and only a vendor company in which a related party has stake can provide such service(s), the related party should give a full disclosure of the extent of his/her relationship with the vendor company



- Where an employee's relative is being interviewed for a vacant position, such employee must declare the extent of his/her relationship with the candidate and declare that their relationship will not affect the recruitment process
- Where it can be proved that employing the prospective candidate(s) will result to a compromise, such recruitment may be discontinued unless the candidate is a rare match in the market. Such candidates will be required to sign a duty of allegiance form
- Where an employee sits on Board of other businesses that carries out the same function as that of Berkshire, the Employee must declare the extent of his involvement in the company. If necessary, such Employee may be asked to step down from the Board of the conflicting businesses to ensure transparency
- Where Berkshire already renders a service to a client that might materially impair the ability of a related party (Subsidiary, Associate, Business Unit or Department etc.) to take an arm's length decision if involved in any other dealings with the same client

## **6. RESOLUTION OF CONFLICTS OF INTEREST**

- After investigating a potential conflict in line with the steps above, the Assurance Services Group advise the Affected Person whether they are cleared to proceed with the transaction. Any dispute that cannot be resolved by the Group will be escalated to the Executive Committee and if not resolved, will be escalated to the Board Audit and Remuneration Committee through the MD/CEO for a final and equitable decision
- Where the Assurance Services Group clears a transaction, the Affected Person must follow the directives issued by the Group as regards managing the conflict. This may involve:
  - a. disclosing the conflict of interest to all parties concerned
  - b. restricting information flows by means of a Chinese Wall or a strict regime of segregations or other structural or procedural arrangement

For the purpose of this policy, a Chinese Wall is a structural and operational arrangement that prevents information, being held or acquired by the Company during the carrying on of one part of its business, from being disclosed to another part of its business or employees who should not be aware of the information, in circumstances where there may be a conflict of interests.

## **7. DISCIPLINARY PROCEDURES**

Disciplinary action may be taken against any employee that does not either intentionally, as a result of his/her negligence or due to his/her wilful default follow the policy, procedures and rules. Such disciplinary action may result in the termination of employment.

## **8. OBLIGATIONS IN RESPECT OF MANAGEMENT OF CONFLICTS OF INTEREST**

The Company is required to take all appropriate steps to identify conflicts of interest between:

- Itself, including its managers, employees and appointed representatives or tied agents or any person directly or indirectly linked to them by control, and a client of the Company



- One client of the Company and another client that arise in the course of the Company providing services to its clients and in the course of carrying on regulated activities or ancillary activities or providing ancillary services. The Company has a policy of applying the same standards for identification, prevention or managing, of conflicts across all of its business lines

In order to fulfil its obligation to 'take all appropriate steps' the Company will consider:

- The level of risk that such a conflict may constitute or give rise to
- The nature, scale and complexity of its business
- Nature and range of products and services offered in the course of its business

The Company will maintain and operate effective organisational and administrative arrangements so as to ensure it takes all appropriate steps to prevent conflicts of interest from adversely affecting the interests of its clients and the business.

### **Board of Directors Responsibilities**

The responsibility for the management of Conflicts of Interest rests with the Company's Board of Directors. The Company's Board of Directors shall therefore ensure that they are kept fully aware of the CBN requirements in respect of Conflicts of Interest and are able to identify and prevent or manage any Conflicts of Interest or potential Conflicts of Interest. They must be able to assess objectively any conflicts or potential conflicts and be aware of the steps that need to be taken to mitigate any such conflicts in respect of both their business and personal responsibilities.

The Board of Directors are responsible for ensuring that the Company's systems and controls are robust and sufficient to determine that the Company is taking all appropriate steps to identify and prevent or manage any conflicts of interest that may arise. The Board of Directors will ensure that they receive sufficient Management Information to enable them to carry out an informed assessment of the Company's arrangements in order to assess that they are operating effectively. In practice, this requires the Board of Directors to:

- Be involved in the identification and management of areas where conflicts of interest may arise
- Regularly review the Company's risks of conflicts of interest arising and the mitigating arrangements in place. This will involve an inclusive review of the entire business activities of the Company
- Review the Conflicts of Interest Policy and the register of conflicts on a regular basis
- Assess and review on an ongoing basis situation that could potentially give rise to Conflicts of Interest
- Put in place processes so that the Management is able to identify any new conflicts of interest that may arise, for example as a result of new business or new product initiatives





### **The Company's Executive Committee (ExCo)**

- Review the conflict of interests situations referred to the ExCo by the Assurance Services Group
- Make a determination as to whether or not the situation presented constitutes a conflict of interest
- Notify the members of the Board whether or not to proceed and provide reasons or recommendations on how to proceed or not to proceed
- Ensure that the policy and/or minimum requirements are adhered to

### **Business Unit Heads**

- Refer to and obtain approval from the Assurance Services Group when involved in a possible conflict of interest
- Ensure that all staff within the respective Business Unit are aware of this Conflicts of Interest policy
- Determine parameters of what constitutes a significant and/or unusual transaction within the context of the business unit and report such parameters to the Company's Assurance Services Group upon determination
- Refer all Conflict of Interest situations within their Business Units to the Assurance Services Group
- Consult the Company's Assurance Services Group if any doubt exists regarding a transaction and/or relationship

### **Affected Persons**

- Disclose any conflict or potential conflict of interest situation to the Assurance Services Group
- Abide by the decision or recommendations of the Business Unit Head and the Assurance Services Group as the case may be. This may involve:
  - a. disclosing the conflict of interest to all parties concerned
  - b. disregarding any material interest or conflict of interest when advising a client or dealing for a client in the exercise of discretion; or
  - c. disclosing of personal, financial or political interests
- When an Affected Person is in doubt as to whether he/she is in a conflict of interest situation, he/she should seek clarification from the Assurance Services Group



### **Assurance Services Group**

- Identify potential conflicts of interest
- Ensure that conflicts are managed appropriately
- Maintain the Conflicts Management system by updating the system with actions and resolution to the conflict
- Monitor adherence to this policy
- Inform ExCo of any potential conflict of interest that they may have identified
- Investigate any potential conflicts of interest that may have arisen and taking appropriate disciplinary actions where necessary
- Escalate the conflict to the ExCo if unable to resolve same
- Ensure reporting of conflict-of-interest cases to the relevant Board Committees and/or Regulatory Authorities

## **9. RECORD KEEPING**

The Company shall maintain a record of any circumstances in which a conflict of interest may arise or has arisen as a result of its activities of which this Policy forms the basis. Any conflicts that may arise during the course of business will be logged by authorised person on the conflict of interest register for review by the Compliance Officer. These records will be maintained and updated on a regular basis and will be retained for a minimum period of six (6) years.



## APPENDIX

### Appendix 1: Conflict of Interest Information Form

Name: \_\_\_\_\_ Date: \_\_\_\_\_

Please describe below any relationships, positions, or circumstances in which you are involved that you believe could contribute to a Conflict of Interest (as defined in Berkshire Finance Company Limited Policy on Conflicts of Interest) arising.

I hereby certify that the information set forth above is true and complete to the best of my knowledge. I have reviewed, and agreed to abide by, the Policy of Conflict of Interest of Berkshire Finance Company Limited that is currently in effect.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Appendix 2: Conflict of Interest Register**

<b>S/N</b>	<b>Conflict of Interest Situation</b>	<b>Employee Name</b>	<b>Date of Disclosure</b>	<b>Date of Determination</b>	<b>Determination</b>	<b>Name and Designation of persons making the Determination</b>	<b>Referred to the Executive Management (Y/N)</b>	<b>Determination if referred to the Executive Management</b>
1.								
2.								
3.								
4.								
5.								
6.								