



Australian Government



Northern Australia Infrastructure Facility

Conflicts of Interest Policy

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Document Review and Approval

VERSION	AUTHOR/REVIEWER	REVISION	APPROVAL	APPROVAL DATE	NEXT REVIEW DATE
1.0	NAIF Management	Original	Board	November 2016	November 2017
2.0	NAIF Management	Annual review	Board	June 2017	June 2018
3.0	Manager, Governance, Compliance and Risk	Annual review	Board	June 2018	June 2019
4.0	Manager, Governance, Compliance and Risk	Annual review	Board	May 2019	June 2019
4.1	Chief Operating Officer	Review	COO	May 2019	June 2019

Document Purpose

The NAIF Conflicts of Interest Policy (Policy) sets out NAIF's approach to the effective identification, disclosure and control of Conflicts of Interest.

1. Definitions

1.1 What is a Conflict of Interest?

A **Conflict of Interest** means a situation where one or more of one person's interests are inconsistent with, or diverge from, one or more of the interests of another person to whom the first person owes a duty. For the purposes of this policy and NAIF's approach to identifying and managing Conflicts of Interest, the term includes actual, apparent or potential Conflicts of Interest.

An actual Conflict of Interest arises where an analysis of the interests of the parties reveals that there are inconsistent or divergent interests between the parties, in the situation where one owes a duty to the other.

An apparent Conflict of Interest arises where a situation or relationship exists that could appear to involve or give a reasonable perception to an outsider that it involves a Conflict of Interest.

A potential Conflict of Interest is a situation which does not involve an actual or apparent Conflict of Interest at the present time, but where there is a reasonable possibility of such a Conflict of Interest arising.

1.2 Other Defined Terms

CEO means NAIF's Chief Executive Officer.

Director means a member of the NAIF Board (including the Chair) appointed under section 15 of the *Northern Australia Infrastructure Facility Act 2016 (NAIF Act)*.

EFA means the Export Finance Australia.

EFA Service Level Agreement means the service agreement between NAIF and EFA.

Financing Mechanism means a loan or any grant of financial assistance by NAIF under the *Northern Australia Infrastructure Facility Investment Mandate Direction 2018*

MIS means Management Information Systems function.

NAIF means the Northern Australia Infrastructure Facility.

Proponent means a person or entity that has received or is negotiating the receipt of a Financing Mechanism from NAIF.

Service Provider means a provider of support services to NAIF, and includes EFA.

Staff refers to persons employed by, or operating under an employment, consultancy or similar contract with NAIF including full time or part time employees, agents, consultants and contractors, and also includes staff or personnel of a Service Provider working on NAIF matters.

Transaction means the provision or proposed provision of a Financing Mechanism to a Proponent.

2. Scope

This Policy addresses Conflicts of Interest generally. In addition, NAIF recognises that Conflicts of Interest can arise in a variety of business contexts; including through the use of Service Providers and through the actions of Staff and Directors as set out below. This Policy provides particular guidance on managing Conflicts of Interest arising in those contexts. Directors and Staff should also be aware that issues relating to Conflicts of Interest, are also subject to more specific policy guidance contained in other policies and procedures, including:

- the Staff Securities Trading Policy;
- the Code of Conduct;
- the Board Charter;
- the Director and CEO and Travel Expenses Policy;
- the Employee Travel and Expenses Policy;
- the Anti-corruption Policy; and
- the Procurement Policy.

These policies operate in a manner consistent with, and complementary to, this Policy and must also be complied with by Staff and Directors as required.

2.1 Service Provider Conflicts of Interest

Where a Service Provider provides support services to NAIF, Conflicts of Interest may occur where NAIF's interest are inconsistent with those of the Service Provider. Examples include where both EFA and NAIF are approached by the same Proponent to provide that Proponent with financial assistance.

2.2 Staff Conflicts of Interest

From time to time Staff may be involved in a situation where their interests, duties and/or responsibilities (whether private, business or otherwise) are in conflict with, or could reasonably be perceived to be in conflict with, the proper performance of their duties and/or responsibilities to NAIF either as their employer or otherwise. Certain Staff have a duty under the *Public Governance, Performance and Accountability Act 2013 (PGPA Act)* to discharge their duties in good faith and for a proper purpose and not to improperly use their position or information obtained in the course of their duties. Examples of Staff Conflicts of Interest are where a Staff member holds a position of influence in a company which is a supplier to NAIF or where a Staff member has shares in, or is associated with, a company which has applied to NAIF for financial assistance.

Staff should also consider whether family relationships or relationships formed through work or engagement with the local community, including sporting, social, cultural or voluntary activities, have the potential to create a conflict (whether actual, apparent or potential) with official duties.

Staff must make a written declaration to NAIF as soon as the Staff member becomes aware of an actual, apparent or potential Conflict of Interest, including any Conflict of Interest that arises in relation to the Staff member's immediate family. Declarations in connection with Conflicts of Interest should be given to the CEO, who is responsible (through the Company Secretary) for ensuring a register of all Conflicts of Interest is maintained.

NAIF and Service Provider legal staff have professional or statutory duties to avoid Conflicts of Interest in relation to the provision of legal services and advice to NAIF. NAIF manages legal conflicts by (amongst other things) only employing or engaging legal practitioners with current Australian or relevant overseas practising certificates (or equivalent) which require adherence to standards that include the avoidance of Conflicts of Interest under professional and/or regulatory penalty.

2.3 Directors' Conflicts of Interest

Members of NAIF's Board of Directors may be involved in Conflicts of Interest where their other duties or interests conflict with their duty to govern NAIF in accordance with the NAIF Act and the PGPA Act and otherwise in accordance with the principles of good corporate governance. Examples of Directors' Conflicts of Interest are where a NAIF Director also sits on the Board of another company which is applying for a Financing Mechanism from NAIF or where a NAIF Director holds shares in a company which has applied to NAIF for a Financing Mechanism.

Directors should also consider whether family relationships or relationships formed through work or engagement with the local community, including sporting, social, cultural or voluntary activities, have the potential to create a conflict (whether actual, apparent or potential) with official duties.

NAIF's approach to managing a Director's Conflicts of Interest requires Directors to provide a disclosure of non-portfolio shareholdings and other material personal interests which may give rise to the potential for conflicts of interest upon joining the NAIF Board and to keep this disclosure updated by notifying NAIF's Company Secretary of changes. The Company Secretary tables a summary of all disclosed interests at each Board meeting. The Company Secretary takes into account the disclosed interests when distributing Board papers prior to a meeting to ensure that Directors are not provided with information on a matter where they have a Conflict of Interest. Directors have a duty to disclose material personal interests that relate to NAIF's affairs on an ongoing basis and must absent themselves from Board discussions where they have a Conflict of Interest.

Directors have voluntarily agreed to adhere to the Staff Securities Trading Policy to ensure that the purchase or trading of any securities by them does not cause a Conflict of Interest and should ensure they understand the requirements of that policy.

3. Policy Statement

NAIF is committed to identifying and appropriately managing Conflicts of Interest.

3.1 Identifying Conflicts of Interest

NAIF will arrange for training as appropriate from time to time to be provided to Staff and Directors to assist them to identify Conflicts of Interest that may arise in various contexts.

3.2 Mechanisms for Managing Conflicts of Interest

Depending on the nature of the Conflict of Interest, NAIF may adopt any one or more of the following three mechanisms for managing it:

- disclosing the Conflict of Interest;
- controlling the Conflict of Interest; or
- avoiding the Conflict of Interest.

Disclosing Conflicts of Interest

All Conflicts of Interest subject to this Policy (other than Director and CEO Conflicts of Interest) must be disclosed to the CEO who will arrange for the maintenance of a register of Conflicts of Interest through the Company Secretary. Once such a report is made, the CEO will make a determination on whether disclosure of the Conflict of Interest to affected parties (which may include the Proponent) is necessary to manage the Conflict of Interest and/or whether additional mechanisms are necessary. If the CEO has a Conflict of Interest, he/she should report this matter to the Chair of the Board. The Chair of the Board will make a determination about how the matter should be managed. Director Conflicts of Interest must be disclosed to the Board Chair and the Company Secretary who maintains a Conflicts of Interest Register.

Controlling Conflicts of Interest

Where the CEO has determined that disclosure of the Conflict of Interest to the affected parties is insufficient to effectively manage the Conflict of Interest, the CEO may require the implementation of other measures he/she decides are appropriate, including those set out in section 3.3 of this Policy. Where Directors or the CEO have disclosed a Conflict of Interest, the Board Chair will determine whether additional measures to control the Conflict of Interest are appropriate.

When EFA is acting as a Service Provider to NAIF in respect of a proposed or active Transaction, and the CEO is aware of a Conflict of Interest (e.g. where a Proponent has approached both NAIF and EFA to provide financial assistance to the Proponent) the CEO (or delegate) will liaise with the EFA CEO (or delegate) to determine what measures are necessary or appropriate to control or avoid the Conflict of Interest.

Avoiding Conflicts of Interest

NAIF and its Staff and Directors must avoid an actual Conflict of Interest where the nature of the inconsistent interests between the parties is such that it is not possible for NAIF, its Staff or Directors to appropriately control the Conflict of Interest. Generally, such a decision will be informed by how well the Conflict of Interest is able to be controlled by existing policies, procedures and systems. Factors that indicate that the Conflict of Interest must be avoided are where there is a risk of damage to a party to whom NAIF owes a duty, where NAIF may make a financial gain at the expense of a party to whom NAIF owes a duty or where the party to whom NAIF owes a duty is subject to a financial detriment by virtue of NAIF's actions in relation to a Transaction.

Where NAIF has decided it must avoid an actual Conflict of Interest it may appoint independent parties to represent those entities having inconsistent or divergent interests.

3.3 Controlling Conflicts of Interest

NAIF has developed the internal controls listed below to control Conflicts of Interest. NAIF's CEO will make a decision on which of these internal controls or any others should be adopted in an individual case. In the case of Directors' Conflicts of Interest, the Board Chair will determine whether additional controls are appropriate.

- The establishment of information barriers for particular Transactions.
- Having separate working environments for Staff members working on competing Transactions or different sides of a Transaction subject to an information barrier.
- Requiring an individual who is subject to a Conflict of Interest not to take part in any considerations or discussions regarding the matter.
- Arranging for entities on different sides of a Transaction subject to an information barrier to be listed on NAIF's embargo list under the Staff Securities Trading Policy to prevent insider trading of listed securities.
- Board Audit and Risk Committee oversight of information barrier arrangements to bring an independent perspective on the appropriateness of Conflict of Interest management practices.
- Requiring Staff operating on either side of information barriers to provide declarations as to their own independence in relation to the listed entities involved in a Transaction which involves a Conflict of Interest.

4. Roles and Responsibilities

Role	Responsibility
Board and Board Audit & Risk Committee (BARC)	<p>The Board is responsible for approving this Policy in line with Section 5.2 of this Policy.</p> <p>The BARC is responsible for reviewing this Policy and endorsing it for Board approval.</p> <p>Directors are responsible for complying with this policy.</p> <p>The Board Chair is responsible for making decisions on how Conflicts of Interest reported by Directors should be managed under this Policy.</p> <p>The Board Chair is responsible for implementing appropriate remedial, disciplinary or other action for failure of Directors to comply with this Policy.</p>
CEO	<p>The CEO is responsible for:</p> <ul style="list-style-type: none"> • making decisions on how Staff reported Conflicts of Interest should be managed under this Policy; • communicating those decisions to the affected business areas and the Board Audit and Risk Committee; • disclosing any Conflicts of Interest, he/she may have to the Board Chair; • encouraging Staff to comply with this Policy and make any recommendations for continuous improvement; • overseeing this Policy and ensuring adequate and appropriate resources are allocated to implement, develop, maintain and comply with this Policy; • implementing appropriate remedial, disciplinary or other action for failure by Staff to comply with this Policy; and • bringing to the attention of the Board Chair issues which the CEO considers may be relevant to the Board Chair's consideration of Directors' compliance with this Policy.
Manager, Risk & Compliance	<p>The Manager, Risk & Compliance is responsible for:</p> <ul style="list-style-type: none"> • arranging training from time to time for Staff and Directors on this Policy including the consequences of a breach; • providing (as appropriate) advice to Staff, and Directors on compliance with this Policy; • updating Staff and Directors regarding material changes to this Policy; and • maintaining a Conflicts of Interest register.
Management Information System (MIS)	<p>NAIF, or its Service Provider's MIS Staff, is responsible for implementing information barriers for electronic documents when directed to do so by the CEO, or a delegate of the CEO.</p>
Legal	<p>Legal (through the General Counsel) is responsible for providing advice to Directors, and Staff on legal issues relating to compliance with this Policy.</p>

All Staff	<p>Staff are responsible for complying with this Policy including by:</p> <ul style="list-style-type: none"> • attending relevant training and understanding their obligations; • disclosing Conflicts of Interest to the CEO, their manager or their Transaction deal team leader as appropriate; • raising any compliance issues with the Manager, Risk & Compliance and Legal as appropriate; and • following relevant procedures and providing feedback for continuous improvement.
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5. Reporting and record keeping

The CEO will include incidents of non-compliance with this Policy in the quarterly Risk Management and Compliance Report.

5.1 Record Keeping Relating to Conflicts of Interest

NAIF (through the Company Secretary) will maintain a register of all reported Conflicts of Interest.

5.2 Review and Approval

This Policy is reviewed annually, or more frequently if required, by or on behalf of the CEO to ensure it remains aligned with governing legislation. The Board approves all material amendments and reviews the Policy at least every two years.

The Manager, Governance, Compliance and Risk will ensure material changes to this Policy are communicated to Staff in a timely manner.

6. Non Compliance

Failure by Staff to comply with this Policy may result in disciplinary action being taken, including termination of employment or other relevant agreement with NAIF.

Where Directors fail to comply with their obligations with respect to managing Conflicts of Interest the Minister may remove them.

7. Seeking assistance

If Staff have any queries or need any assistance in relation to this Policy, they should contact the CEO. Directors should direct queries to the Board Chair or CEO.