

OVERBERG ASSET MANAGEMENT
CONFLICT OF INTEREST MANAGEMENT PLAN

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BOARD NOTICE 58 of 2010

In terms of Board Notice no. 58 of 2010, published on 19 April 2010 every Provider (other than a Representative) must adopt, maintain and implement a conflict of interest management policy that complies with the provisions of FAIS.

INTRODUCTION

In order to ensure that Overberg Asset Management, its shareholders, Key Individuals, employees or agents observe the utmost good faith and exercise proper care and diligence when investing, holding, keeping in safe custody, controlling or administering all funds of clients such persons may not alienate, invest, pledge, hypothecate or otherwise encumber or make use of client funds or trust property or in any way furnish any guarantees designed to gain directly or indirectly any improper advantage for himself/herself or for any other person to the prejudice of the client.

Any breach of the above requirement will lead to the instant dismissal of the staff member concerned. The independent Compliance Officer must be immediately advised of any such breach for the purpose of advising the Registrar to amend the appropriate register.

All Directors, Members, Key Individuals or Representatives of Overberg Asset Management who take part in any decision to invest the funds of a client in any company or other undertaking in which he/she has a direct or indirect interest, must declare that interest in writing to the Board of Directors of Overberg Asset Management indicating the nature and extent of such interest, before any such decision is made.

The declarations made in this regard must be reflected in the minutes of the meeting of the Directors of Overberg Asset Management. The Chief Investment Officer has an obligation to review all such declarations and amendments thereto, at an interval of not more than 1 week.

In order to assist in the identification of any potential conflict of interest as defined all Key Individuals and Representatives of Overberg Asset Management are required to conduct all personal trading through a stock broker nominated by Overberg Asset Management. All Key Individuals and Representative must agree that the nominated stock broker be permitted to provide Overberg Asset Management with detailed trading schedules of each Key Individual and/or Representative.

All Key Individuals and/or Representatives who have any interest in any financial product in which the client is trading are prohibited from trading therein until such time that all orders pertaining to the client have been completed. Where a decision has to be made by a client with respect to his investments (i.e. a non discretionary client or an advice only client) the client must be fully advised of the interest that the Key Individual and/or Representative hold in the financial product concerned. Such disclosure to the client should be in writing and preferably countersigned by the client and thereafter minuted by the Directors of Overberg Asset Management.

Representatives of Overberg Asset Management may qualify for a proportion of the upfront fee payable to Overberg Asset Management by the clients. This fee is payable by the client irrespective of the product supplier utilized in affecting the clients investments and therefore cannot be motivated by any preference for any specific product supplier.

The Directors and Key Individuals of Overberg Asset Management are Nick Downing, Gemma Downing and Gielie Fourie who are hereby named as associates in keeping with the definition included in the General Code of Conduct as published. It should be noted that Overberg Asset Management does not hold any interest in the ownership of any third party.

A copy of this Conflict of Interest Management Policy is available for inspection at the offices of Overberg Asset Management at 9 DS Botha Street, Greyton, during normal business hours.

CONFLICT OF INTEREST: DEFINITION

“Conflict of interest” is defined as being any situation in which a Provider or a Representative has an actual or potential interest which may when rendering a financial service to a client:

- Influence the objective performance of his or her or its obligations to that client: or
- Prevent OAM or its representatives from rendering an unbiased and fair financial service to that client, or from acting in the interests of that client.

Conflict of interest may be direct or indirect and include:

- A financial interest.
- An ownership interest.
- Any relationship with a third party.

CONFLICT OF INTEREST MANAGEMENT POLICIES

Conflict of interests arises when a role-player (e.g. a representative) has business and personal interests that compete with each other. In such a situation it may be impossible or difficult for the representative to provide impartial advice and recommendations. To address scenarios where conflict may arise, the Overberg Asset Management (OAM) Conflict of Interest Management policy provides the following general and specific procedures:

General Procedures:

- Mechanisms for the identification of conflicts of interest.
- Measures for the avoidance of conflicts of interest, and where avoidance is not possible, the reasons therefore and the measures for the mitigation of such conflicts of interest.
- Measures for the disclosure of conflicts of interest.
- Processes, procedures and internal controls to facilitate compliance with the policy.
- Consequences of non-compliance with the policy by the provider’s employees and representatives.

Specific Procedures:

- OAM ensures that its employees, representatives and, where appropriate its associates are aware of the contents of its conflict of interest management policy, and provides for appropriate training and educational material in this regard.
- OAM continuously monitors compliance with its conflict of interest management policy and annually conducts a review of the policy.
- OAM or its representatives may not avoid, limit or circumvent or attempt to avoid, limit or circumvent compliance with OAM's conflict of interest management policy through an associate or an arrangement involving an associate.

MEASURES FOR THE AVOIDANCE OF CONFLICTS OF INTEREST

OAM does not provide any financial interest to a representative for giving preference to the quantity of business secured for the provider to the exclusion of the quality of the service rendered to clients:

- OAM strategy is to provide service excellence.
- OAM does not provide investment guarantees. Its service levels are however guaranteed.
- OAM strategy is to raise assets under management via referrals from existing clients, which depends on representatives giving preference to existing clients rather than quantity of business.
- OAM remunerates its representatives through a combination of ongoing "trail" commission taken from the annual investment management fee, and initial "set-up" commission taken from the initial charge to the client.

OAM does not offer any financial interest to a representative for giving preference to a specific product where a representative may recommend more than one of OAM's products to a client:

- OAM remunerates its representatives equally regardless of which product has been recommended and provided to a client.
- Fees paid by clients are equal across all OAM's products.

OAM receives no incentive or commission from any financial institution, stock-broker or custodian, or third party. It has no incentive to trade client accounts and has no conflict of interest when managing portfolios.

OAM does not levy performance related fees other than its flat rate fee. This ensures OAM does not take unreasonable or unsuitable risks.

If at any future stage OAM, its key individuals, representatives or any member of staff, engage in proprietary trading or have personal investment accounts, such persons will be obliged to buy or sell their investments only after they have been bought or sold for clients and once clients' best interests have been served.

The OAM investment mandate makes the following disclosure which states that its relationships with third parties do not give rise to a conflict of interest. The disclosure is provided in the mandate in an easily comprehensible form and manner. OAM and its representatives will also explain the disclosure at the earliest reasonable opportunity, which appears as:

“The financial services provider does not receive any commission, incentive, fee reductions or rebates from a LISP, collective investment scheme or member of a licensed exchange for placing a client’s funds with them. If any benefit as outlined above is suggested or received at any stage it will be passed onto the client in the form of lower transaction costs to the client.”

The OAM investment mandate itemises in an easily comprehensible form and manner the exact remuneration payable to OAM for its investment product. The basis on which representatives are remunerated is consistent across all investment products and clients, thereby avoiding any conflict of interest. Representatives are awarded a fixed share of the remuneration payable to OAM which includes a combination of ongoing “trail” commission taken from the annual investment management fee, and initial “set-up” commission taken from the initial charge to the client.

OAM and its representatives must in writing at the earliest reasonable opportunity disclose to a client any conflict of interest in respect of that client including the measures taken in accordance with the OAM conflict of interest management policy to mitigate the conflict.

OAM and its representatives inform clients of OAM's conflict of interest management policy and how it may be accessed.

MECHANISMS FOR THE IDENTIFICATION OF CONFLICTS OF INTEREST

OAM has mechanisms in place to ensure that it and its representatives identify conflicts of interest.

Nick Downing, the Key Individual of OAM ensures that OAM's employees, representatives and, where appropriate, associates are aware of the contents of

its conflict of interest management policy and provides for continuous training and educational material in this regard.

Nick Downing continuously monitors compliance with OAM's conflict of interest management policy and annually conducts a review of the policy. The annual takes place in the first week of August or as soon as possible thereafter.

The existence of any personal interest in the relevant service; or of any circumstance which gives rise to an actual or potential conflict of interest in relation to the service; of any financial interest and non-cash incentives offered and/or other indirect consideration payable by another provider, a product supplier or any other person to the provider could be viewed as a potential conflict of interest.

OAM requires that any conflict or potential conflict of interest is reported immediately to Nick Downing.

MEASURES TO MITIGATE IDENTIFIED CONFLICTS OF INTEREST

OAM and its representatives must avoid and, where this is not possible, mitigate any conflict of interest between OAM and a client or a representative and a client.

OAM or its representatives may not avoid, limit or circumvent or attempt to avoid, limit or circumvent compliance with this section through an associate or an arrangement involving an associate.

Should the avoidance of a conflict of interest not be possible, such disclosure will be made to the client.

MEASURES FOR THE DISCLOSURE OF CONFLICTS OF INTEREST

OAM and its representatives must in writing, at the earliest reasonable opportunity:

- Disclose to a client any conflict of interest in respect of that client including the measures taken in accordance with the OAM conflict of interest management policy to mitigate the conflict.
- Disclose to a client any ownership interest or financial interests, other than an immaterial financial interest that OAM or a representative may be or become eligible for.
- Disclose the nature of any relationship or arrangement with a third party that gives rise to a conflict of interest, in sufficient detail to a client to

enable the client to understand the exact nature of the relationship or arrangement and the conflict of interest.

- Inform the client of OAM's conflict of interest management policy and how it may be accessed.

LIST OF ALL ASSOCIATES

As part of its conflict of interest management plan, OAM keeps a list of all its associates. These are stock brokers to whom OAM outsources administration:

- Investec Securities.
- Charles Stanley.
- Afrifocus.
- Standard Bank Group Securities.

GENERAL CODE OF CONDUCT

The General Code of Conduct, amongst others, provides excellent guidelines that, if adhered to, enable a role-player to ensure transparency and to manage conflict of interests. It requires fair and honest disclosures, including the disclosure of a conflict of interest.

The General Code requires the following in respect of conflict of interest management:	
When a provider (including a representative) renders a financial service, the provider must disclose to the client:	<ul style="list-style-type: none"> • the existence of any personal interest in the relevant service; or • of any circumstance which gives rise to an actual or potential conflict of interest in relation to the service; and • the provider must take all reasonable steps to ensure fair treatment of the client.
Non-cash incentives offered and/or other indirect consideration payable by another provider, a product supplier or any other person to the provider could be viewed as a potential conflict of interest.	

The Code of Conduct for FSPs and their Representatives involved in Forex investment business requires the following in respect of conflict of interest management:

<p>A Forex investment intermediary must:</p>	<p>Avoid any conflict between own interests and the interests of a client and where a conflict of interest does arise, the Forex investment intermediary must:</p> <ul style="list-style-type: none"> • adequately disclose details of such conflict to the client while maintaining the confidentiality of other clients; or • decline to act for that client.
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In addition to the above, the General Code was amended in Board Notice 58 of 2010 to include more stringent measures relating to managing conflict of interest.

These requirements include the following:

A provider may not offer any financial interest to a representative of that provider for:

- Giving preference to the quantity of business secured for the provider to the exclusion of the quality of the service rendered to clients; or
- Giving preference to a specific product supplier, where a representative may recommend more than one product supplier to a client; or
- Giving preference to a specific product of a product supplier, where a representative may recommend more than one product of that product supplier to a client.

GENERAL PROVISIONS OF THE CODE OF CONDUCT

- Every provider, other than a representative, must adopt, maintain and implement a conflict of interest management policy that complies with the provisions of the Act.
- A conflict of interest management policy must be adopted by the sole proprietor of a provider, the board of directors of a provider or, in the case where a provider is not a company, the governing body of the provider.
- A provider must ensure that its employees, representatives and, where appropriate, associates are aware of the contents of its conflict of interest management policy and provide for appropriate training and educational material in this regard.

- A provider must continuously monitor compliance with its conflict of interest management policy and annually conduct a review of the policy.
- A provider must publish its conflict of interest management policy in appropriate media and ensure that it is easily accessible for public inspection at all reasonable times.
- A provider or representative may not avoid, limit or circumvent or attempt to avoid, limit or circumvent compliance with this section through an associate or an arrangement involving an associate.

DEFINITIONS

In order to understand the impact of Section 3 and 3A of the General Code regarding Conflict of Interest the following definitions are important:

- **Financial interest includes**
cash, cash equivalent, voucher, gift, service, advantage, benefit, discount, domestic/foreign travel, accommodation, hospitality, sponsorship, other incentives, valuable consideration (some defined benefit, such as money or performance that is promised as part of an agreement).
- **Financial interest excludes**
ownership interest, training on products (excluding travel & accommodation in relation to training), legal matters relating to products, general financial & industry information, 3rd party systems needed.
- **Associate**
Associate includes a natural person, juristic person and trusts controlled or administered by the person.
- **Third party**
Third party includes: product suppliers, another provided, associates of product suppliers and providers, distribution channel.
- **Immaterial financial interest**
This is any financial interest which in Rand value does not exceed R1 000 over a calendar year period, and which is paid by the same third party during that year

Example

FSP's have to disclose whether they hold more than a 10% share in a product supplier and where the FSP has received more than 30% of its total remuneration from a product supplier. The reason is that if an FSP has a share in a product supplier, the FSP may be inclined to recommend its own products to a client despite the fact that it may not best serve the needs of the client.

LEGISLATION

The General Code states:

3A. Financial interest and conflict of interest management policy

(1)

- (a) A provider or its representatives may only receive or offer the following financial interest from or to a third party –
- (i) commission authorised under the Long-term Insurance Act, 1998 (Act No. 52 of 1998) or the Short term Insurance Act, 1998 (Act No. 53 of 1998);
 - (ii) commission authorised under the Medical Schemes Act, 1998 (Act No. 131 of 1998);
 - (iii) fees authorised under the Long-term Insurance Act, 1998 (Act No. 52 of 1998), the Short-term Insurance Act, 1998 (Act No. 53 of 1998) or the Medical Schemes Act, 1998 (Act No. 131 of 1998), if those fees are reasonably commensurate to a service being rendered;
 - (iv) fees for the rendering of a financial service in respect of which commission or fees referred to in subparagraph (i), (ii) or (iii) is not paid, if those fees –
 - (aa) are specifically agreed to by a client in writing; and
 - (bb) may be stopped at the discretion of that client;
 - (v) fees or remuneration for the rendering of a service to a third party, which fees or remuneration are reasonably commensurate to the service being rendered;
 - (vi) subject to any other law, an immaterial financial interest; and
 - (vii) a financial interest, not referred to under subparagraph (i) to (vi), for which a consideration, fair value or remuneration that is reasonably commensurate to the value of the financial interest, is paid by that provider or representative at the time of receipt thereof.
[Para. (a) inserted by BN 58/2010 w.e.f. 19 October 2010]
- (b) A provider may not offer any financial interest to a representative of that provider for

- (i) giving preference to the quantity of business secured for the provider to the exclusion of the quality of the service rendered to clients; or
 - (ii) giving preference to a specific product supplier, where a representative may recommend more than one product supplier to a client; or
 - (iii) giving preference to a specific product of a product supplier, where a representative may recommend more than one product of that product supplier to a client.
[Para. (b) inserted by BN 58/2010 w.e.f. 19 April 2011]
- (c) For the purposes of this section, where the same legal entity is a product supplier and a provider, paragraph (a) does not apply to the representatives of that entity. That entity is subject to section 3A(1)(b), in respect of its representatives.
[Para. (c) inserted by BN 58/2010 w.e.f. 19 October 2010]
- (2) (a) Every provider, other than a representative, must adopt, maintain and implement a conflict of interest management policy that complies with the provisions of the Act.
- (b) A conflict of interest management policy must –
- (i) provide for the management of conflicts of interest as defined in section 1, and –
 - (aa) mechanisms for the identification of conflicts of interest;
 - (bb) measures for the avoidance of conflicts of interest, and where avoidance is not possible, the reasons therefore and the measures for the mitigation of such conflicts of interest;
 - (cc) measures for the disclosure of conflicts of interest;
 - (dd) processes, procedures and internal controls to facilitate compliance with the policy; and
 - (ee) consequences of non-compliance with the policy by the provider's employees and representatives; and
 - (ii) specify the type of and the basis on which a representative will qualify for a financial interest that the provider will offer a representative and motivate how that financial interest complies with section 3A(1)(b);

- (iii) include a list of all its associates;
 - (v) include the names of any third parties in which the provider hold an ownership interest;
 - (vi) include the names of any third parties that holds an ownership interest in the provider; and
 - (vii) include the nature and extent of the ownership interest referred to in subparagraph (v) and (vi); and
 - (viii) be drafted in an easily comprehensible form and manner.
- (c) A conflict of interest management policy must be adopted by the sole proprietor of a provider, the board of directors of a provider or, in the case where a provider is not a company, the governing body of the provider.
 - (d) A provider must ensure that its employees, representatives and, where appropriate, associates are aware of the contents of its conflict of interest management policy and provide for appropriate training and educational material in this regard.
 - (e) A provider must continuously monitor compliance with its conflict of interest management policy and annually conduct a review of the policy.
 - (f) A provider must publish its conflict of interest management policy in appropriate media and ensure that it is easily accessible for public inspection at all reasonable times.
[Subs. (2) inserted by BN 58/2010 w.e.f. 19 April 2011]
- (3) A provider or representative may not avoid, limit or circumvent or attempt to avoid, limit or circumvent compliance with this section through an associate or an arrangement involving an associate.
[Subs. (3) inserted by BN 58/2010 w.e.f. 19 October 2010]
- (4) (a) A compliance officer or, where the provider need not, in terms of the Act, have a compliance officer, the provider, must include a report on the provider's conflict of interest management policy in compliance reports submitted to the Registrar under the Act.
 - (b) The report referred to in paragraph (a) must report on at least the implementation, monitoring and compliance with, and the accessibility of the conflict of interest management policy.