

**MACARTHUR
COOK**

MacarthurCook Limited – International Real Estate Fund Manager

CONFLICT OF INTEREST AND RELATED PARTY POLICY

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1. An overview

MacarthurCook Limited, its related entities and related bodies corporate (collectively “**MacarthurCook**”) specialise in the investment management of direct property, real estate securities and mortgage assets. MacarthurCook recognises the importance of identifying and managing conflicts of interest that may arise from time to time within its operations. Having an adequate strategy for managing conflicts of interest is necessary to ensure that MacarthurCook complies with its legal obligations, and that the quality of its financial services is not compromised or diminished by conflicts of interest.

2. What are conflicts of interest, and what do they mean to MacarthurCook?

Conflicts of interest are circumstances where some or all of the interests of people (clients) to whom a licensee (or its representatives) provides financial services are inconsistent with, or diverge from, some or all of the interests of the licensee or its representatives. It includes actual, apparent and potential conflicts of interest.

For MacarthurCook, conflicts of interest can arise in a number of facets of its business. They can relate to the costs that are charged to investors, or dealings with others including related parties. Conflicts can arise between the interests of MacarthurCook corporate entities, investors in MacarthurCook funds and the interests of shareholders, individual directors or employees.

3. What does the law require in relation to conflicts of interest?

The existence of a conflict of interest in relation to MacarthurCook’s activities does not necessarily mean that the particular activity may not occur. While in some instances the only way in which a conflict can be managed appropriately is for the circumstances giving rise to it to be avoided completely, in other situations it will be possible to manage the conflict in such a way that the interests of all parties can be appropriately addressed.

The Corporations Act contains specific legal requirements in relation to the management of conflicts of interest that arise for those companies that hold Australian Financial Services Licences (**AFSL**). Section 4 of this policy sets out the policies for management of conflicts of interest overall, including for the purposes of satisfying AFSL obligations.

The Corporations Act and ASX Listing Rules contain specific legal requirements in relation to related party transactions. Section 5 of this policy sets out the requirements in relation to, and management policies for, dealing with related party transactions.

This policy is based on Australian law. Where any of the MacarthurCook entities operates in a foreign jurisdiction, MacarthurCook must ensure that the relevant laws and regulations relating to the management of conflicts of interest are also complied with.

4. Managing Conflicts of Interest as the holder of an AFSL

The *Corporations Act 2001* requires all licensees of financial services in Australia to have “...adequate arrangements for the management of conflicts of interest that may arise wholly, or partially, in relation to activities undertaken by the licensee or a representative of the licensee in the provision of financial services by the licensee ... as part of the financial services business of the licensee.”¹

¹ See section 912A(1)(aa) of the *Corporations Act* which became effective on 1 January 2005.

Other licensee obligations also deal with or relate to conduct potentially affected by conflicts of interest, including:

- the obligation to do all things necessary to ensure that their financial services are provided efficiently, honestly and fairly (s912A(1)(a));
- the obligation to have adequate risk management systems (s912A(1)(h));
- the obligation to comply with financial services laws and to take reasonable steps to ensure their representatives do likewise (s912A(1)(c) and (ca));
- the obligation to have adequate compliance arrangements (reg 7.6.03(g) and Pro Forma [PF 209]);
- the licensee's (and their authorised representatives') obligation to disclose benefits and relationships in a Financial Services Guide (FSG) before providing financial services to retail clients (s941A and 941B);
- the licensee's (and their authorised representatives') obligation to disclose benefits and relationships in a Statement of Advice (SOA) when providing personal financial product advice to retail clients (s946A);
- a range of prohibitions, including those for misleading or deceptive conduct in the provision of financial services, dishonest conduct, unconscionable conduct and insider trading; and
- the duties of the responsible entity of a registered managed investment scheme, including duties to act in the best interests of the members of the scheme and, if there is a conflict between the members' interests and its own interests, to give priority to the members' interests (s601FC).

MacarthurCook has adopted the following 3-point system for managing conflicts:

- (a) *controlling* conflicts of interest;
- (b) *avoiding* conflicts of interest; and
- (c) *disclosing* conflicts of interest.

Simply disclosing conflicts of interest is often not sufficient – it is imperative that all conflicts including potential conflicts, are identified, controlled and, where possible, avoided, before disclosure even becomes an issue.

Identification

Each staff member is responsible for identifying conflicts, whether actual or potential, that arise in his/her course of business and employment. Each staff member must notify the Compliance Manager, or in their absence the Head of Group Legal and Compliance, of such actual or potential conflicts.

Evaluation and treatment

The Register of Conflicts of Interest records how MacarthurCook manages conflicts. Conflicts are classified for treatment according to whether they are avoided, disclosed or controlled.

Conflicts are evaluated by the Compliance Manager and the Head of Group Legal and Compliance who will determine the treatment of such conflicts.

The Compliance Manager is responsible for the implementation of conflicts treatment, including action plans for improvements. Action plans will set out resource requirements, budget impacts and implementation timetables. The action plans will also nominate what monitoring and review processes are required, as these will be tailored to the relevant conflict.

Review, reporting and responsibilities

- The Head of Group Legal and Compliance (with the assistance of the Compliance Manager) is responsible for embedding conflicts management into the business operations. He or she is also accountable for implementing the policy and treatment plans.
- All conflicts and treatment of conflicts are to be reported to the Head of Group Legal and Compliance who will manage the Register of Conflicts of Interest (with the assistance of the Compliance Manager) and also advise Responsible Managers and the Board on the identification and treatment of conflicts. The Head of Group Legal and Compliance may seek the assistance of the Compliance Consultant or obtain external legal advice in relation to the identification and/or treatment of conflicts.
- The Head of Group Legal and Compliance will continuously monitor the conflicts management arrangements and will report to the Board at its meetings, where necessary.
- Conflicts are to be reassessed where there is a material change in the conflict or control environment, such as organisational restructure.
- At least annually, the Compliance Manager will assess the adequacy of the processes to identify and manage potential and actual conflicts of interest and report to the Head of Group Legal and Compliance and the Board.
- Conflict assessment, oversight and review is included as part of the cyclical risk management process which is part of the responsibility of the Board.
- Conflicts management is included as an agenda item for each Board meeting, at which time it will consider recommendations from the Head of Group Legal and Compliance. The Board shall monitor the effectiveness of the policy and processes at least on an annual basis.

The steps in MacarthurCook's system of conflicts management are set out below.

4.1 Controlling conflicts of interest

The strategy for controlling conflicts of interest involves:

- (i) identifying the conflicts specific to MacarthurCook;
- (ii) assessing and evaluating those conflicts; and
- (iii) formulating and implementing an appropriate response to the conflicts.

It is important for directors and staff of MacarthurCook to be aware of the potential for conflicts, and to recognise particular individual conflicts as they arise. Identification of conflicts is not always easy. Some conflicts may arise when people are performing multiple roles (for example, acting on behalf of MacarthurCook as a corporate entity or a fund), and this policy will obviously apply.

Other conflicts are less obvious. Conflicts may be actual or perceived, and there may be circumstances where, even if a matter is not actually a conflict, it may give rise to a perception of a conflict that still requires appropriate management.

All staff involved in any area of MacarthurCook's business should immediately raise **every** matter that they think is, or might potentially be, a conflict, with their Business Unit Manager, the Compliance Manager and the Head of Group Legal and Compliance in the first instance. . Where necessary, notification should also be made to the Chief Financial Officer and/or the Chief Executive Officer and external advice will be sought to help determine whether a matter is a conflict where required.

To enable better conflicts management, a Conflicts Register has been established. The Register is maintained by the Head of Group Legal and Compliance (with the assistance of the Compliance Manager), who is responsible for recording all instances in which a conflict, or potential conflict, has been reported by someone within MacarthurCook. The Head of Group Legal and Compliance must then report all recorded conflicts to the Board on a quarterly basis, together with the steps that were taken to manage the conflict. The Register of Conflicts of Interest will be reviewed by the Compliance Manager and the Head of Group Legal and Compliance on a quarterly basis, and will be retained for a period of 7 years.

Where appropriate, staff members should also refer to the Group Trading Blacklist and Conflict Management Protocol as a means of controlling any potential conflict.

Staff members should ensure they refer to the most recent version of this document as it is subject to continual review.

4.2. Avoiding conflicts of interest

There are some circumstances in which it is not possible for a conflict to be appropriately managed to ensure that the interests of all parties are addressed appropriately and the quality and integrity of MacarthurCook's business is not impinged. In these circumstances, the conflict **must** be avoided.

A decision to avoid a conflict in this way will be made by the Chief Executive in consultation with the Head of Legal and Compliance after i) a full review of the circumstances, ii) external legal or other advice on the matter, iii) the potential consequences of both continuing and discontinuing the matter and iv) the options available for management of the conflict.

Depending on the circumstances, conflicts may be avoided by:

- allocating another person or director to provide the service or to perform the task;
- declining to provide a product or service;
- preventing the dissemination of sensitive information;
- implementing a code of conduct which clearly states prohibited behaviour; and
- providing training and coaching to ensure that MacarthurCook personnel understand what is prohibited behaviour.

4.3 **Disclosing conflicts of interest**

While disclosure *alone* is often not a sufficient way to manage conflicts of interest, it does form an integral part of managing the process. “*Disclosure*”, in this sense, means providing enough detail in a clear, concise and effective form to allow investors to make an informed decision about how the conflict may affect the service being provided to them.

Disclosure of conflicts is another way in which MacarthurCook aims to provide clarity and transparency in all of its dealings.

MacarthurCook has put in place monitoring procedures to ensure that any non-compliance with the licensee’s conflicts management arrangements are identified and appropriately acted upon. All breaches of this obligation will be recorded in the Breach Register.

Where a conflict (not being a conflict to be avoided) is identified, and it is decided that disclosure is the most appropriate course of action, that disclosure should:

- (a) be timely, prominent, specific and meaningful;
- (b) occur before or when the relevant event affected by the conflict is to occur, but in any case at a time that allows the recipient of the disclosure reasonable time to assess the effect of the conflict; and
- (c) refer to the event to which the conflict relates.

Conflicts management arrangements could include measures such as:

- ❖ meetings with affected staff or clients;
- ❖ periodic review of business operations by an internal or external auditor or other person independent from the business unit;
- ❖ periodic review of client files and records of services provided;
- ❖ staff training;
- ❖ segregation of duties.

Disclosure should refer to the specific service to which it relates, and should be specific and clear enough for the client to understand the conflict and its potential impact on the services they are being offered. The level of details of disclosure will depend on:

- the level of financial sophistication of the client;
- the extent to which third persons are likely to rely, directly or indirectly, on the service;
- how much the client already actually knows about the specific conflict; and
- the complexity of the service.

5. Related Party Transactions

5.1 Conflicts of interest arising from related party transactions

Where a transaction or matter concerns related parties it can be hard to ensure that the interests of all parties are considered objectively and fairly, and that regard is to be had to the interests of underlying parties.

For this reason, the Corporations Act and the ASX Listing Rules contain detailed provisions in relation to “*related party*” transactions”. Most importantly, the law prohibits a public company from giving a financial benefit to a related party except in accordance with requirements set out in the Corporations Act. MacarthurCook Limited and its Australian subsidiaries are all public companies to which these provisions apply.

MacarthurCook is committed to ensuring that it has a culture of openness and transparency in all of its dealings, and that all staff understand their obligations when it comes to *related party* dealings.

5.2 What is a related party?

There are various types and permutations of *related parties* under the Corporations Act. Essentially:

- (a) an entity that controls a public company is a related party of that company. For example, this means that MacarthurCook Limited is a related party of MacarthurCook Fund Management Limited, MacarthurCook Real Estate Funds Limited and MacarthurCook Investment Managers Limited;
- (b) the following are related parties of a public company:
 - (i) directors;
 - (ii) directors of any entity that controls the public company;
 - (iii) spouses and de facto spouses of the persons in (i) and (ii); and
 - (iv) the parents and children of the persons in (i), (ii) and (iii).

At a particular time, an entity may also be a related party of a public company if that entity:

- (a) was a related party of the company at any time within the previous 6 months; or
- (b) believes or has reasonable grounds to believe that it is likely to become a related party of the company at any time in the future; or
- (c) acts in concert with a related party of the public company on the understanding that the related party will receive a financial benefit if the public company gives the entity a financial benefit.

Importantly, the related party transaction provisions also apply to registered schemes where the responsible entities of those schemes are related.² This means that each of the MacarthurCook Funds are related to each other for the purposes of the Corporations Act.

5.3 What is a financial benefit?

In determining what constitutes a *financial benefit*, consideration must be had to:

- (a) the benefits being given, even if civil or criminal penalties may be involved; and
- (b) the economic and commercial substance of the conduct giving rise to the transaction.

The following are examples of giving a financial benefit to a related party:

- giving or providing finance or property to the related party;
- buying an asset from, or selling an asset to, the related party;
- leasing an asset to or from the related party;
- supplying services to, or receiving services from, the related party;
- issuing securities or granting an option to the related party; and
- taking up or releasing an obligation of the related party.

Similar related party transaction provisions for responsible entities of registered schemes are set out in Part 5C.7 of the Corporations Act.

The giving of financial benefit to a related party by a public company, or an entity that the public company controls, or by the responsible entity of a registered scheme, or an entity that the responsible entity controls to a related party, member approval must be obtained in accordance with the Corporations Act, and the benefit must be given within 15 months after the approval.

5.4 ASX Listing Rules

In addition to the Corporations Act requirements for related party transactions, MacarthurCook must also comply with ASX Listing Rules on transactions with persons in a *position of influence*.

Under Listing Rule 10.1, but subject to certain exceptions, MacarthurCook must ensure that neither it, nor any of its “child entities”, acquires a substantial asset from, or disposes of a substantial asset to, any of the following persons without the approval of the holders of the relevant securities or without the grant of a waiver by the ASX:

- (a) a related party (as defined in the Corporations Act – see part 5.2 above);
- (b) a subsidiary;

² Section 601LA of the Corporations Act.

- (c) a substantial holder, if the person and their associates have a relevant interest, or had a relevant interest in the preceding 6 months, in at least 10% of the total votes attached to the voting securities;
- (d) an associate of a person referred to in paragraphs (a) to (c) above; and
- (e) a person whose relationship to the entity or a person referred to in paragraphs (a) to (d) above is such that, in ASX's opinion, the transaction should be approved by security holders.

An asset is 'substantial' if its value, or the value of the consideration for it is, or in ASX's opinion is, 5% or more of the equity interests of the entity as set out in the latest accounts given to ASX.

Rule 10.1 does not apply to:

- (a) a transaction between the entity and a wholly owned subsidiary;
- (b) a transaction between wholly owned subsidiaries of the entity;
- (c) an issue of securities by the entity for cash;
- (d) in the case of a trust, a transaction involving a substantial asset that was not beneficially held for the trust before the transaction and is not beneficially held for the trust after the transaction; or
- (e) a transaction between the entity and a person who is a related party by reason only because the person believes, or has reasonable grounds to believe, that the person is likely to become a related party.

5.5 Procedure for dealing with Related Party Transactions

If a MacarthurCook entity proposes to enter into a transaction which may be a "related party transaction" or come within the ASX Listing Rules requirements, the following procedure applies:

- (a) The manager or executive proposing the transaction must:
 - discuss the matter in detail with the Head of Group Legal and Compliance, Chief Financial Officer and Chief Executive ;
 - obtain legal and other advice as necessary on the requirements for proper management of the matter; and
 - prepare a detailed report on the proposed transactions for the Chief Executive and the Board, including the reasons for it, advantages and disadvantages for all affected parties, financial analysis, recommendations for appropriate management of conflicts of interest and recommendations for compliance with legal requirements.
- (b) The Board will then consider the information provided in order to determine whether and how to proceed with the proposed transaction, taking into account of all relevant legal and other advice.
- (c) If the Board determines that the proposed transaction may be carried out without reference to the related party requirements of the Corporations Act and relevant ASX

Listing Rules, it may be conducted in the normal manner (including having regard to requirements in relation to the management of conflicts of interest as set out in this policy).

- (d) If the Board determines that the proposed transaction is to proceed, but requires compliance with Corporations Act and ASX Listing Rules requirements, the Head of Group Legal and Compliance will be responsible for ensuring that all relevant requirements are met. This may include calling a meeting of members to approve the related party transaction in accordance with all applicable laws, rules and the constitution of the relevant entity/scheme.

Any questions on whether a matter constitutes a related party transaction or on the relevance or application of the Corporations Act or ASX Listing Rule requirements should be referred to the Head of Group Legal and Compliance.

6. How this Policy is managed and maintained

This Policy forms part of the MacarthurCook Policy Manual.

The Compliance Manager will, on an annual basis, review this Policy after consultation with the Head of Group Legal and Compliance. Any deficiencies or improvements in the Policy will be prepared by the Compliance Manager and given to the MacarthurCook Limited Board for approval and implementation. Training on the policy is provided to staff on commencement of employment and on an ad hoc basis.

The Compliance Manager will also be responsible for random audits of each business unit to ensure adherence to this Policy. Any instances of non-compliance will be referred to the Head of Group Legal and Compliance (and, where appropriate, the Board) for sanction.

MacarthurCook will retain for at least seven years, records of:

- (a) conflicts identified and action taken;
- (b) any reports given to MacarthurCook's shareholders, directors or senior management about conflict of interest matters; and
- (c) copies of written conflict of interest disclosures given to clients or the general public.

The conflicts management structure is set out in the table below.

