SIRIUS LEX

COMMITTED TO COMPLIANCE.

CONFLICT OF INTEREST SUMMARY

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DEFINITION

'Conflict of Interest' means any situation in which a provider or a rep has an actual or potential interest that may, in rendering a financial service to a client, -

a) influence the objective exercise of his, her or its obligations to a client; or
b) prevent a provider or rep from rendering unbiased and fair financial service, or from acting in the interests of a client, including, but not limited to –
    i. a financial interest;
    ii. an ownership interest
    iii. any relationship with a third party;

In other words, anything that will influence your objectivity and/or ability to do the right thing. Always do things for the right reasons.

FINANCIAL INTEREST

An FSP may NOT offer to, or receive from a third party, a financial interest other than –

- Regulated commission as authorised by the LTIA, STIA & MSA
- Fees authorised under the LT Insurance Act if such fees are reasonably commensurate to a service being rendered
- Where the above fees and commission are not paid, fees agreed by the client in writing and which the client can stop
- Fees/remuneration for rendering a service to a third party, which fees are reasonably commensurate to the service being rendered
- An immaterial financial interest (R1 000 per annum per individual)
- A financial interests for which fair value is paid at the time of receipt

A financial interest is:

- Incentive
- Cash/equivalent
- Discount
- Domestic/Foreign travel
- Gift/Voucher
- Service/Benefit
- Hospitality and Accommodation
- Sponsorship
- Training (allowed but not for an exclusive group and not to obtain qualifications)
- Advantage
- Technology of a third party necessary for the rendering of a financial service

Financial Interest to reps:

A provider may not offer any financial interest to its reps for:

- Quantity of business, to the exclusion of the quality of the service rendered to the client (Its not only about the volume)
- If they may recommend more than one product supplier, no preference may be given to specific product supplier (No reward for preference)
- If they may recommend more than one product of a product supplier, no reward for preference re specific product

IMMATERIAL FINANCIAL INTEREST

Means any financial interest with a determinable monetary value, the aggregate of which does not exceed R1000 in any calendar year from the same third party in that calendar year received by –

a) a provider that is a sole proprietor
b) a rep for that rep's direct benefit
c) a provider, who for its benefit or that of some or all its reps, aggregates the immaterial financial interest paid to its reps

OWNERSHIP INTEREST

Any equity or proprietary interest, for which fair value was paid by the owner at the time of acquisition, other than equity or a proprietary interest held as an approved nominee on behalf of another person and includes dividend, profit share or similar benefit derived from that equity or ownership interest.

HOW TO MANAGE CONFLICT OF INTEREST:

Providers and reps are required to avoid any conflicts of interest with clients (this may include declining to act). If this is not possible, they are to mitigate the conflict. Any conflicts must be disclosed to the client in writing ASAP.

Implementation:

- Develop a Conflict of Interest Management Policy (must be implemented 18 April 2011)
- Change your Disclosure Documentation
- Implement controls to ensure compliance with the prohibitions on financial and immaterial interest

CONFLICT OF INTEREST MANAGEMENT POLICY

In terms of the General Code of Conduct a provider and a rep must avoid, and where this is not possible, mitigate any conflict of interest between the provider and a client or a rep and a client.

In order to adhere to this requirement, the FSP must ensure that adequate arrangements are in place for the management of conflicts of interests that may arise wholly or partially, in relation to the provision of any financial services to clients by the FSP, or any Reps of the FSP, as part of the financial service business of the FSP.

This document must be drafted in simple, easily understood terms. It is a public document and must be accessible to clients and published in the appropriate media (i.e. your website).

A provider must ensure that its employees, reps and associates are aware of the content of its Conflict of Interest Management Policy and provide for appropriate training and educational material in this regard.

It must provide for:

- Management of conflicts of interest
- Mechanisms to identify conflicts of interests
- Measures to avoid conflicts of interest and if it is not possible measures of mitigation
- Measures for disclosure of conflict of interest
- Processes, procedures and internal controls to facilitate compliance with the policy
- Consequence of non-compliance
- Specify criteria for accepting or offering, and disclosing any immaterial financial interest to provider or its reps may accept or offer
- Specify any financial interest that the provider or its associates will offer a rep and motivate how that financial interest complies with the General Code of Conduct
- Rep remuneration must be spelled out in the policy –
  i) do you remunerate based on volumes?
  ii) what will quality of business entail and how will you measure it?
  iii) how do you ensure reps do not give undue preference to specific product provider?
  iv) what drive your reps to sell; are reps giving advice or are they pressurized to 'sell' specific financial products that will mean higher commission/fees/bonuses?
- Include a list of all its associates
- Include the names of any third parties in which the provider holds an ownership interest
- Include the names of third parties that holds an ownership interest in the provider; and
- Include the nature and extent of the ownership interest

DISCLOSURE OF CONFLICT OF INTEREST

It is an integral part of managing conflicts and should be done in a clear, concise and effective way to enable a informed decision. It should be doen pre-transaction.

In your Disclosure Document/Letter of Introductions the following must be disclosed:

- You have a Conflict of Interest Management Policy

- You place high priority on client's interests

- Instances of Conflicts will be identified

- If conflicts cannot be avoided, they will be managed equitably and in the client's interests

- An integral part of the FSP's duties and obligations is conflict detection, management and limiting their impact

- It is not the FSP's aim to avoid ALL potential conflicts because they are inherent in any business, the aim is RATHER to take step to ID and manage Conflicts to ensure that clients are not unduly prejudiced

CONTROL OF CONFLICTS OF INTEREST

The following documentation should be implemented to effectively manage and control Conflicts –

- Conflict of Interest and Gifts Register

Conflicts Register:

The master conflicts register should include details of -

- Any material Financial Interests
- Ownership Interests

Questionnaire:

The Key Individual should complete the questionnaire at least once a year to ensure that all conflicts are managed and no new ones have arisen

Staff Declarations:

Each staff member should declare the following –

- Receipt of gifts
- Immaterial Financial Interests
- Ownerships interests

Gifts Register

The purpose of the register is to record the flow of inbound/outgoing gifts and other gratifications within the FSP.

The details that need to be included are:

- Details of recipient
- Details of the person offering the interest
- Nature of Gift or Item received and Monetary value
- Dates: when offered and received
- Reason for the interest
- Responses and Comments