



## Conflict of Interest Management Policy

### CCP 12J Fund Limited

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## Definitions

**Associate:** means –

- a) in relation to a natural person, means –
  - i) a person who is recognised in law or the tenets of religion as the spouse, life partner, or civil union partner of that person;
  - ii) a child of that person, including a stepchild, adopted child and a child born out of wedlock;
  - iii) a parent or stepparent of that person;
  - iv) a person in respect of which that person is recognised in law or appointed by a court as the person legally responsible for managing the affairs of or meeting the daily care needs of the first mentioned person;
  - v) a person who is the spouse, life partner or civil union partner of a person referred to in (ii), (iii) and (iv);
  - vi) a person who is in a commercial partnership with that person.
- b) in relation to a juristic person,
  - i) which is a company, means any subsidiary or holding company of that company, any other subsidiary of that holding company and any other company of which that holding company is a subsidiary.
  - ii) which is a closed corporation registered under the Close Corporations Act, means any member thereof as defined in section 1 of that Act.
  - iii) which is not a company or a closed corporation, means another juristic person which would have been a subsidiary or holding company of the first-mentioned juristic person:
    - had such first-mentioned juristic person been a company; or
    - in the case where that other person, too, is not a company, had both the first-mentioned juristic person and that other juristic person been a company.
  - iv) means any person in accordance with whose directions or instructions the board of directors of or, in the case where such juristic person is not a company, the governing body of such juristic person is accustomed to act.
- c) in relation to any person,
  - i) means any juristic person of which the board of directors or, in the case where such juristic person is not a company, of which the governing body is accustomed to act in

accordance with the directions or instructions of the person first-mentioned in this paragraph.

- ii) includes any trust controlled or administered by that person.

**Board:** means the board of directors of a company.

**Conflict of interest:** means any situation in which a provider or a representative has an actual or potential interest that may, in rendering a financial service to a client:

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

**Director:** means a member of the board of a company, or an alternate director of a company and includes any person occupying the position of a director or alternate director, by whatever name designated.

**Distribution channel:** means –

- a) any arrangement between a product supplier or any of its associates and one or more providers or any of its associates in terms of which arrangement any support or service is provided to the provider or providers in rendering a financial service to a client.
- b) any arrangement between two or more providers or any of their associates, which arrangement facilitates, supports or enhances a relationship between the provider or providers and a product supplier.
- c) any arrangement between two or more product suppliers or any of their associates, which arrangement facilitates, supports or enhances a relationship between a provider or providers and a product supplier.

**Financial interest:** means any cash, cash equivalent, voucher, gift, service, advantage, benefit, discount, domestic or foreign travel, hospitality, accommodation, sponsorship, other incentive or valuable consideration, other than:

- a) an ownership interest;
- b) training, that is not exclusively available to a selected group of providers or representatives, on
  - i) products and legal matters relating to those products;
  - ii) general financial and industry information;

- iii) specialised technological systems of a third party necessary for the rendering of a financial service; but excluding travel and accommodations associated with that training.

**Ownership interest:** means-

- a) 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
- b) includes any dividend, profit share or similar benefit derived from that equity or ownership interest.

**Third party:** means –

- a) a product supplier;
- b) another provider;
- c) an associate of a product supplier or a provider;
- d) a distribution channel;
- e) any person who in terms of an agreement or arrangement with a person referred to in paragraphs (a) to (d) above provides a financial interest to a provider or its representatives.

## 1. Introduction

- 1.1 In terms of the FAIS General Code of Conduct a provider and a representative must avoid, and where this is not possible, mitigate any conflict of interest between the provider and a client or the representative and a client.
- 1.2 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, as part of the financial services business of the FSP.
- 1.3 The conflict of interest management policy contains the following provisions:
  - 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;
  - The processes, procedures and internal controls to facilitate compliance with the policy;
  - Consequences of non-compliance with the policy by the provider's employees;
  - The basis on which the Key Individual will qualify for a financial interest;
  - A list of all the FSP's associates;
  - A list of all parties in which the FSP holds an ownership interest;
  - A list of all third parties that holds an ownership interest in the FSP.

## 2. Management Process

### 2.1 Identification

- 2.1.1 In terms of Section 3A(2)(b)(i)(aa) of the General Code of Conduct, a conflict of interest management policy must provide mechanisms for the identification of conflicts of interest.
- 2.1.2 Due to the intangible nature of an actual or potential conflict of interest, any such manifestation will only be identified once the subjective realisation of its presence has been acknowledged by an individual. The legal duty to avoid whenever possible an actual or potential conflict of interest is therefore, to a large extent, dependent on whether a particular individual believes or perceives a conflict of interest. It is for this

reason that Key Individuals must apply honest judgement whenever confronted with a situation that may give rise to an actual or potential conflict of interest.

2.1.3 Throughout the process of rendering a financial service to a client, a Key Individual must apply his or her mind to answering the following questions:

- “Is there any situation that exists that influences the objective performance of my obligations to my client”?
- “Is there any situation that exists that prevents me from rendering an unbiased and fair financial service to my client”?
- “Is there any situation that exists that prevents me from acting in the interest of my client”?

2.1.4 If the answer to all of the questions above is “no” - No further action would be required. If the answer to any one of the questions above is “yes” - The following two questions must also be answered:

- “Is the situation caused by an actual or potential relationship with a 3rd party”?
- “Is the situation caused by an actual or potential financial or ownership interest”?

2.1.5 If the answer to any one of these questions is “yes” - an actual or potential conflict of interest has been identified which is not limited to a financial or ownership interest.

### **3. Guidance Notes on “Objective Performance”, “Unbiased and Fair” & “Financial Interest”**

3.1 The contextual definition of the terms “influences the objective performance” and “unbiased and fair financial services” are not to be found within legislation and its interpretive meaning must therefore be common law.

3.2 It is generally accepted that the word “objective” refers to a situation where an individual’s personal feelings or opinions are completely removed from the equation. The “objective performance” of an FSP’s obligations therefore implies a situation where financial services are rendered without the influence of unrelated feelings or opinions. Likewise, “unrelated feelings and opinions” denote separate, external persuasions or motivations where no causal link or connection can be found between the particular feeling or opinion and the financial service that is rendered within the best interests of the client. Put differently, if an unrelated feeling or opinion of an

individual, influences the performance of such said individual's obligations, it cannot be said to be an objective performance of that individual's obligation.

- 3.3 The word "bias" indicates an inclination or prejudice in favour of a particular person or viewpoint. Similarly, the word "fair" indicates a situation of just circumstances or treating people equally.
- 3.4 "Unbiased financial services" therefore imply financial services that do not lend itself to a particular preference towards a person or viewpoint, if an accompanying, reasonable justification for such preference cannot be found. Consequently, all unbiased financial services must necessarily comprise services that are capable of being motivated by readily discernible, logical reasons and explanations. "Fair" financial services on the other hand imply a situation where the same conclusion or outcome is consistently reached given the same exact set of circumstances. In other words, financial services cannot be said to be fair if a pattern of favouritism begin to present itself vis-à-vis a particular person or service. Any unexpected inconsistencies towards a group of clients and/or a particular client must therefore again, have to be motivated by logic reasons and explanations.
- 3.5 A provider or its representatives may only receive or offer the following financial interest from or to a third party:
- Fees for the rendering of financial services, provided that the client agreed to such fees in writing and the mandate may be cancelled at the discretion of the client.
  - 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.
  - An immaterial financial interest (i.e. a 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 provider who is a sole proprietor, or a representative for that representative's direct benefit, or a provider who for its benefit or that of some or all of its representatives, aggregates the immaterial financial interest paid to its representatives.)
  - A financial interest not referred to above, 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.

- 3.6 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.
  - Giving preference to a specific product supplier, where a representative may recommend more than one product supplier to a client.
  - 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.
- 3.7 The Board of Directors of a provider may not offer any financial interest to an employee or 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.
  - Giving preference to a specific product supplier, where a representative may recommend more than one product supplier to a client.
  - 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.

## 4. Mechanisms for Identification

- 4.1 The mechanisms implemented to identify actual or potential conflicts of interests for the FSP are:
- The Key Individual of the FSP conducts annual reviews on all contracts held with 3rd parties and re-examines whether this relationship influences the FSP's objective performance towards its clients.
  - The Key Individual of the FSP conducts annual reviews on all contracts held with 3rd parties and re-examines whether this relationship influences the FSP's ability to render fair and unbiased financial services towards its clients.
- 4.2 The Key Individual of the FSP conducts annual reviews on all contracts held with 3rd parties and re-examines whether this relationship influences the FSP's ability to act in the interest of the client.
- The Key Individual of the FSP conducts annual reviews on all relationships held with 3rd parties, where an ownership interest is present, and re-examines

whether this relationship influences the FSP's objective performance towards clients.

- The Key Individual of the FSP conducts annual reviews on all relationships held with 3rd parties where an ownership interest is present, and re-examine whether this relationship influences the FSP's ability to render fair and unbiased financial services towards its clients.
- Declarations are signed by the Key Individual confirming the presence or absence of any actual or potential conflict of interest on an annual basis.
- A list of all the FSP's associates is attached as an annexure hereto and is updated annually.
- A list of all parties in which the FSP holds an ownership interest is attached as an annexure hereto and is updated annually.
- A list of all third parties that holds an ownership interest in the FSP is attached as an annexure hereto and is updated annually.

4.3 All gifts received from 3rd parties, with an estimated value of R150 or more, are to be disclosed to the Compliance department and recorded in the FSP's gift register which is kept in the FSP's compliance file.

4.4 The Compliance department can request the recipient of the gift to return a gift with an estimated value of R1000 or more if a conflict of interest is identified.

4.5 All employees must disclose in writing on an on-going basis, any conflicts of interest that they may become aware of, through written communication to the Compliance department.

4.6 All directors must disclose to the chairman of the board any conflict of interest including a situation in which the director is in a position to derive personal benefit from actions or decisions made in their official capacity.

## **5. Avoidance and Mitigation**

5.1 In terms of Section 3A(2)(b)(i)(bb) of the General Code of Conduct, a conflict of interest management policy must provide 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.

- 5.2 Once an actual or potential conflict of interest has been identified the following measures will be followed in order to determine whether the conflict of interest is avoidable:
- The Key Individual or chairman must review the actual or potential conflict of interest;
  - All information surrounding the actual or potential conflict of interest must be disclosed to all interested parties.
- 5.3 The following consequences must be considered during the review process:
- The consequences of both avoidance and unavailability as well as the subsequent negative impact it will have on clients;
  - The consequences of both avoidance and unavailability as well as the subsequent negative impact it will have on the integrity of the financial services industry;
  - The consequences of both avoidance and unavailability as well as the subsequent negative impact it will have on the FSP.
- 5.4 The Key Individual or chairman must apply his or her mind whether the FSP can obtain a more advantageous transaction, contract or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.
- 5.5 If a more advantageous transaction, contract or other arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Key Individual shall determine whether the transaction, contract or arrangement is in the best interest of the FSP and any affected client/s and accordingly make its decision as to whether to enter into the transaction, contract or arrangement in conformity with such determination.
- 5.6 If the Key Individual or chairman determines that the actual or potential conflict of interest is avoidable, the following processes must be adhered to:
- The Key Individual or chairman must approve the removal of the underlying cause of the actual or potential conflict of interest.
  - The underlying cause of the actual or potential conflict of interest must be removed as soon as reasonably possible.
  - Any negative impact on clients owing to the removal of the actual or potential conflict of interest must be kept to a minimum.
  - The reason(s) why the actual or potential conflict of interest was determined to be avoidable must be recorded.

- All determinations and interventions as it pertains to the avoidance of the conflict of interest must be documented and kept on the compliance file.
  - Similar situations that give rise to actual or potential conflicts of interests must be avoided in the future.
- 5.7 If the Key Individual or chairman determines that the actual or potential conflict of interest is unavoidable, the following mitigation processes must be adhered to:
- The Key Individual or chairman must review an appropriate mitigation process given the unavoidability of the particular set of circumstances.
  - The reason(s) why the actual or potential conflict of interest is considered to be unavoidable must be recorded and kept on the compliance file.
- 5.8 The mitigation process will include the adoption of the following measures:
- The actual or potential conflict of interest must remain only for as long as it is absolutely necessary given the unavoidability of the actual or potential conflict of interest.
  - Alternative arrangements to a proposed transaction, contract or arrangement that is the subject of the conflict of interest must be investigated on a continuous basis.
  - The rendering of financial services must at all times be conducted within the best interest of the client (in as far as this is possible, given the unavoidability of the actual or potential conflict of interest)
  - Full disclosure of the actual or potential conflict of interest must be made to the client at the earliest reasonable opportunity.
  - Full disclosure of the actual or potential conflict of interest must be made to the Financial Service Board during the FSP's annual compliance report.

## 6. Disclosure

- 6.1 In terms of Section 3A(2)(b)(i)(cc) of the General Code of Conduct, a conflict of interest management policy must provide measures for the disclosure of conflicts of interest.
- 6.2 The FSP must make appropriate disclosures to third parties including clients, as part of its arrangement to manage conflicts of interest. It is acknowledged that while disclosure alone will often not be enough, disclosure must be treated as an integral part of managing conflicts of interest. The FSP is therefore committed to ensure that

clients are adequately informed about any conflicts of interest that may affect the provision of financial services to them.

6.3 It is furthermore acknowledged that, whilst a clearly identified conflict of interest will not necessarily cause the provision of financial advice to a client to be significantly compromised, it should nonetheless be disclosed to the client. The client must be afforded the opportunity to decide for him/herself whether the conflict of interest is significant and to what extent he/she will rely on the advice or intermediary service.

6.4 On the discovery and identification of a conflict of interest, and the subsequent determination of its unavoidability, the following disclosure processes will be implemented on behalf of the client:

- Full disclosure of the actual or potential must be made to the client at the earliest reasonable opportunity.
- The disclosure must be made before or when the financial service is provided, but in any case at a time that allows the client a reasonable time to assess its effect.
- The disclosure must be formulated in such a way as to be considered prominent, specific and meaningful to the client.
- The disclosure must be made in such a way as to allow the client to make an informed decision as to whether to continue with the financial services.
- The disclosure must indicate the nature of the relationship or arrangement with a 3rd party that gives rise to the conflict of interest.
- The disclosure must indicate whether the conflict of interest is based on a financial and/or ownership interest.
- The disclosure must indicate any ownership interest held with a product supplier in accordance with section 4(1)(d) of the General Code of Conduct.
- Where the disclosure is provided orally, the disclosure must be confirmed in writing within 30 days of such said disclosure.
- The written disclosure must be communicated by hardcopy or any appropriate electronic medium that is accurately and readily reducible to written or printed form.
- The written confirmation of the disclosure must be provided by means of standard forms or format, in a clear and readable print size, spacing and format.

- The reasons for the conflict of interest's unavoidability must be made available to the client on request.

## 7. Facilitation of Compliance with Policy

- 7.1 In terms of Section 3A(2)(b)(i)(dd) of the General Code of Conduct a conflict of interest management policy must provide processes, procedures and internal controls to facilitate compliance with the policy.
- 7.2 The processes associated with the implementation and continued compliance of the conflict of interest management policy must be performed by the Key Individual and the chairman of the FSP.
- 7.3 The policy will be:
- Overseen by the Key Individual who will carry the responsibility for the implementation, reviewing and updating of the policy's associated processes.
  - Reviewed at least annually, and where necessary, updated to ensure that the arrangements remain adequate to identify, assess, evaluate and successfully control conflicts of interest.

## 8. Consequences of Non-Compliance

- 8.1 In terms of Section 3A(2)(b)(i)(ee) of the General Code of Conduct a conflict of interest management policy must provide for the consequences of non-compliance with the policy by the FSP's employees and representatives.
- 8.2 If there is reason to believe that an employee or director has failed to disclose actual or possible conflicts of interest, the Key Individual or chairman shall afford that person the opportunity to explain the alleged failure to disclose.

If after hearing the response of the employee and making such further enquiries as may be warranted in the circumstances, and where the Key Individual determines that the employee has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

## Annexure A: Basis of Key Individual's Financial Interest:

In terms of Section 3A(2)(b)(ii) of the General Code of Conduct, a conflict of interest management policy must 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).

<b>The FSP's representatives qualify for the following types of financial interests</b>
<p><b><i>Fees or remuneration</i></b> for the rendering of a service to a third party, which fees or remuneration are reasonably commensurate to the service being rendered</p>
<p><b><i>An immaterial financial interest</i></b> (i.e. a 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 provider who is a sole proprietor, or a representative for that representative's direct benefit, or a provider who for its benefit or that of some or all of its representatives, aggregates the immaterial financial interest paid to its representatives.)</p>
<p><b><i>A financial interest not referred to above</i></b>, 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.</p>

## Annexure B: List of Associates

Below is a list of all the FSP's associates. In terms of Section 3A(2)(b)(iii) of the General Code of Conduct, a conflict of interest management policy must include a list of all the FSP's associates.

Associate's Name	Type of Relationship
CCP Managers 12J (Pty) Limited	<p>Ownership of the "A" Ordinary shares and the "B" Ordinary shares in the share capital of CCP 12J Fund Limited, which collectively have 50% of the votes, but none of the economic interests, in CCP 12J Fund Limited.</p> <p>CCP Managers 12J (Pty) Limited is 40% held by Concentrate Capital Partners (Pty) Ltd, a subsidiary of the DRA Group.</p> <p>CCP Managers 12J (Pty) Limited is 40% held by two offshore partnerships which are advised by Stockdale Street (Pty) Limited, and which in turn hold 45% of the DRA Group.</p> <p>CCP Managers 12J (Pty) Limited has entered into a management contract with CCP 12J Fund Limited.</p>

## Annexure C: Ownership Interest (FSP)

In terms of Section 3A(2)(b)(v) of the General Code of Conduct, a conflict of interest management policy must include the names of any third parties in which the provider hold an ownership interest.

<b>Name of 3<sup>rd</sup> party in which the FSP holds an ownership interest:</b>	<b>Nature and extent of ownership interest:</b>
N/A	N/A

## Annexure D: Ownership Interest (3rd Parties):

In terms of Section 3A(2)(b)(vii) of the General Code of Conduct, a conflict of interest management policy must include the names of any third parties that holds an ownership interest in the provider.

Refer back to the definition of “third party” & “ownership interest” and complete the form below.

<b>Name of 3<sup>rd</sup> party that holds an ownership interest in the FSP:</b>	<b>Nature and extent of ownership interest:</b>
DRA Projects (SA) Pty Limited and Minerals Operations Executive (Pty) Limited which are both control by the DRA Group	The two companies collectively hold 19.9% of CCP 12J Fund Limited, and have committed to keep their investment at that level up to a maximum capital contribution of R150m