

**Guidelines on conflict of interest of members and chairmen of the Takeovers and Mergers Panel (“Panel”) and the Takeovers Appeal Committee (“Appeal Committee”)  
(collectively referred to as the “Panels”)**

7. The question of whether an “*apparent conflict of interest*” exists is a matter for the Chairman to determine. Before he applies the test outlined in paragraph 6, the Chairman will ascertain the relevant facts and, if necessary, make enquiries of that member. The member’s explanation is merely one matter to be considered by the Chairman to determine from the view-point of the fair-minded observer whether an “*apparent conflict of interest*” exists. The facts to be considered may include, but are not limited to, the following:
  - (a) the existence, significance and value of any financial interest of the member’s spouse, family members or any company controlled by any of them in the outcome of the proceedings;
  - (b) the existence of a professional, business or close personal relationship between the member or his firm and any person appearing before the Panels and whether that relationship is relevant to the subject matter of the proceedings; or
  - (c) the existence, significance and value of any financial interest of the member’s firm or employer in the outcome of the proceedings.

### **Conflict of interest procedures for members and parties**

8. If a member has an interest or relationship which can arguably be said to give rise to a “*presumed conflict of interest*” or an “*apparent conflict of interest*” in relation to proceedings to which he is assigned, he must inform the Chairman and Secretary at the earliest possible opportunity.
9. A member’s duty of disclosure is a continuing obligation throughout the proceedings. A member should make further disclosure if new circumstances arise after his previous disclosure.
10. If a party to proceedings has any conflict of interest concern relating to the participation of a member or the Chairman, he must inform the Secretary at the earliest possible opportunity and provide the Secretary with details of the potential conflict. The Secretary will pass all relevant information to the Chairman for his consideration.
11. Where the conflict of interest concern relates to the Chairman, the procedures in paragraphs 17 to 20 below will be followed.
12. When he considers any conflict of interest concern, the Chairman may make any enquiries he considers necessary and consult members participating in the proceedings.
13. Where conflict concerns have been raised or facts disclosed pursuant to paragraphs 8 to 10, the Chairman will either (i) direct the member to cease participating with immediate effect and the Secretary will inform the parties and members accordingly; or (ii) disclose the concerns or relevant facts to the parties and enquire whether they object to the member’s participation.
14. If, in the case of paragraph 13(ii), all the parties confirm in writing that they do not object to the member’s participation, the member may continue to participate in the proceedings.
15. In any case where the Chairman has disclosed the concerns or relevant facts to the parties and objections have been raised, the Chairman will proceed to determine

whether there is a “*presumed conflict of interest*” or an “*apparent conflict of interest*”. He will take the objections raised into consideration when making the determination.

16. If, pursuant to paragraph 15, the Chairman determines there is no “*presumed conflict of interest*” or that an exception in paragraph 5 applies and/or that there is no “*apparent conflict of interest*”, the member may continue to participate. If the Chairman determines there is a “*presumed conflict of interest*” or an “*apparent conflict of interest*”, the Chairman will direct the member to cease participating with immediate effect. The Secretary will notify the members and parties of the Chairman’s determination.

#### **Conflict of interest procedures for Chairman**

17. Where conflict concerns have been raised or facts disclosed regarding the Chairman pursuant to paragraphs 8 to 10, the Chairman will either (i) cease participating with immediate effect; or (ii) direct the Secretary to disclose the concerns or relevant facts to the parties and enquire whether they object to the Chairman’s participation.
18. If, in the case of paragraph 17(ii), all the parties confirm in writing that they do not object to the Chairman’s participation, he may continue to participate in the proceedings.
19. In any case where the Secretary has disclosed the concerns or relevant facts to the parties and objections have been raised, a member of the Disciplinary Chair Committee (“**DCC Member**”) will proceed to determine whether there is a “*presumed conflict of interest*” or an “*apparent conflict of interest*”. The DCC Member will take the objections raised into consideration when making the determination. The DCC Member may make any enquiries he considers necessary and may consult members participating in the proceedings.
20. If, pursuant to paragraph 19, the DCC Member determines there is no “*presumed conflict of interest*” or that an exception in paragraph 5 applies and/or that there is no “*apparent conflict of interest*”, the Chairman may continue to participate. If the DCC Member determines there is a “*presumed conflict of interest*” or an “*apparent conflict of interest*”, he will direct the Chairman to cease participating with immediate effect. The Secretary will notify the members and the parties of the DCC Member’s determination.

#### **Conflict of interest procedures for the DCC Member who is determining whether the Chairman has a conflict**

21. If the DCC Member has an interest or relationship which can reasonably be said to give rise to a “*presumed conflict of interest*” or an “*apparent conflict of interest*” in determining whether the Chairman has a conflict he will either (i) cease participating

