

Policy and Guidelines on Director Conflict of Interest

1. Introduction

This Conflict of Interest Policy and Guidelines (hereinafter referred to as the “Document”) has been developed to provide a framework for all Directors of St. Lucia Electricity Services Limited its affiliated and subsidiary companies (hereinafter jointly and severally referred to as the “Group”) to disclose actual and/or perceived conflicts of interest.

Directors have a duty to act in the best interests of the Group and shall ensure that this duty is not impaired in any way. The personal interests of a Director or persons associated with the Director shall not be allowed to prevail over the interests of the Group. Personal interests includes the interests:

1. of a Family Member of the Director or
2. in any company, corporation, partnership, trust or other entity owned or controlled by the Director, or in which the Director has substantial personal interest.

Directors owe certain fiduciary duties to the Group, including the duties of loyalty, diligence and confidentiality. The common law rule against conflict of interest requires that a director avoid situations in which there is a “real and sensible” possibility of conflict between a director’s fiduciary duties to the Group and other duties or interests.

In order to protect the reputation of both the Director and the Group, Directors shall as far as possible also avoid situations which might reasonably appear to be conflicts of interest and could result in an appearance of impropriety.

This document provides guidance on what constitutes a conflict of interest and how it will be managed.

2. Definitions:

“Associate”^[1] when used to indicate a relationship with any person means—

- (a) a company or body corporate of which that person beneficially owns or controls, directly or indirectly, shares or debentures convertible into shares, that carry more than 10% of the voting rights—
 - (i) under all circumstances,
 - (ii) by reason of the occurrence of an event that has occurred and is continuing, or

- (iii) by reason of a currently exercisable option or right to purchase those shares or those convertible debentures;
- (b) a partner of that person acting on behalf of the partnership of which they are partners;
- (c) a trust or estate in which that person has a substantial beneficial interest or in respect of which he or she serves as a trustee or in a similar capacity;
- (d) a spouse of that person within the meaning of subsections (2) and (3);
- (e) a legitimate or an illegitimate child, a step-child or an adopted child of that person; and
- (f) a relative of that person or of his or her spouse if that relative has the same residence as that person;

“Family Member” means:

in relation to a person, means the person’s father, mother, brother, sister, child, grandchild, husband or wife.”[\[2\]](#)

“Interest” includes any matter that may reasonably be expected to affect the independent judgment or undivided loyalty of the Director towards the best interests of the Group.

“Substantial personal interest” means:

1. Ownership, either alone or with a Family Member or associate or other person, of 10% or more of the voting rights of a company;
2. Direction or control over, whether directly or indirectly or alone or with a Family Member or associate or other person, the election of Directors or the business affairs of a company;
3. Entitlements to the benefits of ownership of a company, security or other form of real or personal property;
4. Pecuniary interest in any company, entity, security, share or stock, real or personal property or person (including Family Members).”

3. Policy Statement

A Director shall not, without the Group's consent, place himself in a position where there is a conflict, or possible conflict, either directly or indirectly, between the duties he owes the Group and either his personal interests or other duties or allegiances he owes to a third party.

4. What is a conflict of Interest?

Clause 5.2.2 of the LUCELEC’s Code of Ethics defines Conflict of Interest as:

A “conflict of interest” occurs when an individual’s private interest interferes, or has the potential to interfere or provides fair reason to believe that it will interfere with the interests of the Company as a whole. A conflict situation can arise when a Director, employee, officer or agent takes actions or has interests that may make it difficult to perform his or her Company work objectively, effectively and in an ethical manner. It is not a

question of whether or not specific persons may act inappropriately, only that they are in a situation in which conflict is made possible or is apparent.

5. Disclosing conflicts of interest

1. A Director shall immediately make known to the relevant Board or Committee any conflict of interest that has occurred or may possibly occur as soon as the Director is aware of a conflict or the possibility of a conflict.
2. Directors shall make such disclosure at the first Board or Committee meeting after he or she became aware of the conflict or potential conflict, providing details of the interest and the nature of the conflict, or by giving notice to the Company Secretary, who will disseminate the information to the Board as soon as is practicable.
3. Directors shall be transparent in any disclosure of their interests, disclosing the nature and extent of the conflicting interests in line with the procedures or processes as may from time to time be prescribed by the relevant Board or Committee for such disclosure.
4. If in doubt as to whether a particular interest might conflict with the interests of the Group, Directors shall err on the side of caution and disclose the potential conflict to the Board, Committee or the Company Secretary as long as there is even the slightest possibility of a potential conflict.
5. In particular, Directors are required to make the following disclosures to its Board or Committee:
 1. Annual disclosure of the following interests in the prescribed standard form:
 1. List of other directorships
 2. List of any contracts or business arrangements with the Group
 2. Disclosure of any appointment other than in I a) above which has the potential to conflict with an interest of the Group.
 3. Disclosures of any changes in the interests declared by the Director under (i) above as soon as the Director is aware of such change; and
 4. Disclosures of any actual or potential conflict of interest that may arise as soon as the Director is aware of the conflict.

6. Regular review

Directors shall regularly review and update any interests disclosed. Any changes to a Director's interests must be promptly disclosed to the Board or the Company Secretary who will record, as soon as practicable, any changes in the first set of minutes following the disclosure on the change.

7. Agenda Item

1. 'Conflicts' shall be a standing item at the beginning of each Board or Committee agenda. During this item any Director must raise a conflict or potential conflict in relation to an agenda item.
2. The conflicted Director shall physically leave the Board or Committee meeting while the Board or Committee considers the conflict. If a conflict is identified and agreed by the Board or Committee that Director will not be physically present or vote on the matter, unless the Board or Committee determines (in the absence of the conflicted director) otherwise. Any conflicts declared or action taken by the Board or Committee will be minuted by the Company Secretary.

8. Withheld papers

1. A Director who has disclosed a conflict of interest on any matter shall not receive a copy of any paper, or part of any paper which deals with a matter relating to the conflict, save and except where the Board or Committee has determined otherwise.
2. The removal of papers in these circumstances shall be made by the Company Secretary in consultation with the Managing Director and the Chairman. Where the conflict involves the Chairman of the Board, the decision to remove the papers shall be made in consultation with the Managing Director and the Chairman of the Governance Committee.
3. Where a member of the Group does not have the governance structure described at H2 above, decisions to withhold Board papers or Minutes shall be made by the Chairman of the Board of that entity.
4. Where a member of the Group does not have the governance structure described at H2 above, and the conflict involves the Chairman of the Board decisions to withhold Board papers or Minutes shall be made by the Board of that entity.
5. The Company Secretary shall disclose to the conflicted Director and the Board or the Committee the withholding of papers and the reason therefore.
6. Non conflicted Directors shall not disclose or share in any medium the content of the withheld papers or Minutes on the conflicted item or any part thereof with the conflicted Director.
7. The Board shall determine whether a conflicted Director shall receive an abbreviated copy of the Minutes of any meeting including Committee Minutes deleting that part which contains a record of the deliberation and decisions on a conflicted disclosure.
8. Where a disclosure on a conflict has been made at the Committee level the provisions of clauses H2 to H4 shall apply to whether the conflicted Director should receive a copy of abbreviated Minutes as set out in H7 above.
9. The Board or Committee may direct that conflicted issues shall not be included in any action list or matters arising sheet generated after a Board or Committee meeting, but shall be updated verbally at subsequent meetings.

9. Abstaining from participation in matters involving conflict

1. A Director shall not vote in respect of any contract, arrangement or any other proposal whatsoever in which he or she has disclosed a conflict of interest, directly or indirectly. In addition, the Director shall not be counted in the quorum at a meeting in relation to any resolution on which the Director is excluded from voting.
2. Directors shall physically leave the room or forum where discussions are taking place on the conflicted item and not participate via any medium in these discussions and shall abstain from voting on resolutions regarding a transaction or proposed transaction in which the Director has an interest or is conflicted. This includes discussions at all levels within the Group, including, but not limited to, any committees and sub-committees that are involved in the proposed transaction. This will prevent any risk of the Director acting in the interests of persons other than the Group, and will also prevent any appearance of impropriety on the part of the Group or the Director.
3. Further, where the conflicted Director is aware of certain facts which may be relevant to the

resolution to be approved at the meeting, and knows that the other Directors may not be privy to these facts, the interested or conflicted Director should, where it is lawful to do so, disclose these facts to the other Directors, especially where the disclosure of these facts would better equip the other Directors to safeguard the interests of the Group.

10. Compliance procedures

1. Directors shall communicate any suspected violations of this Policy promptly to the Chairman of the Board, the Chairman of the Governance Committee or the Company Secretary.
2. If the suspected violations involve the Chairman of the Board or the Chairman of the Governance Committee the breach shall be communicated to the Chairman of the Audit Committee or the Company Secretary.
3. Suspected violations shall be investigated by the Board or by a person(s) or committee designated by the Board and appropriate action shall be taken in the event it is determined that any violation of this document has occurred.
4. Notwithstanding any other provision in this document, where a non-conflicted Director is aware that another Director has a conflict of interest on any matter(s) and that Director has not made a disclosure, the non-conflicted Director shall be obliged to disclose the matter to either the Chairman of the Board or the Company Secretary.
5. 1 Where a Director has made a disclosure, the Board noting the disclosure, may determine that the interest is **remote or insignificant** as to not reasonably be regarded as capable of influencing the Director or benefitting the Director or disadvantaging the Group.

5.2 The Board may at any time reverse its decision at 5.1 above where:

- a) It has determined that the information provided by the Director at the time of disclosure was either false or inaccurate.
- b) Additional information has been disclosed to the Board which was not known to the Director at the date of initial disclosure to the Board.

6. Where the Board is uncertain as to whether a disclosure falls within the provisions of the document the disclosure shall be referred to the Governance Committee for consideration and recommendation. Pending the recommendation of the Governance Committee and the decision of the Board, the provisions of clause I 2 shall apply.
7. In circumstances where a Director has a significant, ongoing and irreconcilable conflict, and where such a conflict significantly affects the Director's ability to carry out his or her duties and responsibilities to the Group, resignation from the Board or removal from the area of conflict is advisable.
8. The duty to avoid a conflict of interest shall continue to apply after a person ceases to be a Director as regards the exploitation of any property, information or opportunity of which he became aware when he was a Director.
9. The Board may make recommendations to a conflicted Director on how to minimize or eliminate the conflict of interest.
10. This document shall apply to the respective Boards and Committees of the Group
11. A resolution in writing signed by all non-conflicted directors shall be considered unanimous notwithstanding the exclusion of the signature of the conflicted director.
12. In the event of any conflict between this Document and any other policy documents on this issue, the

provisions of this Document shall prevail to the extent of the inconsistency.
13. This Document shall be reviewed triennially to ensure its relevance to current practices and law.

[1] Section 551 – Companies Act Cap. 13:01 Revised Laws of Saint Lucia amended to reduce the shareholding from 20% to 10% to be consistent with the Company's Amended and Restated By Law No. 1

[2] Financial Services Regulatory Act of St. Lucia No. 13 of 2011

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