



**Ontario Racing
Board of Directors Conflict of Interest Policy**

Purpose

All directors of Ontario Racing Association (the “Corporation”) have a duty to ensure that the integrity of the decision-making processes of the board of directors of the Corporation (the “Board”) are maintained by ensuring that they and other directors are free from conflict or potential conflict in their decision-making. It is inherent in a director's fiduciary duty that conflicts of interest be avoided. It is important that all directors and officers understand their obligations when a conflict of interest or potential conflict of interest arises.

This Conflict of Interest Policy supplements the Director Code of Conduct.

Application

Applies to all directors, [officers and all non-director members of committees.]

“Officers” means officers appointed by the Board including the chair, president, vice-chair, a vice president, secretary or assistant secretary, treasurer or assistant treasurer, general manager and other persons in senior roles who perform functions for the Corporation similar to those normally performed by senior officers.

Policy

Directors, officers and non-director committee members shall avoid situations in which they may be in a position of conflict of interest or potential conflict of interest. The by-laws contain provisions with respect to conflict of interest that must be strictly adhered to.

In addition to the by-laws, the process set out in this policy shall be followed when a conflict or potential conflict arises.

Description of Conflict of Interest

A conflict of interest arises in any situation where a director's duty to act solely in the best interests of the Corporation and to adhere to his or her fiduciary duties is compromised or

impeded by any other interest, relationship or duty of the director. A conflict of interest also includes circumstances where the director's duties to the Corporation are in conflict with other duties owed by the director such that the director is not able to fully discharge the fiduciary duties owed to the Corporation.

The situations in which potential conflict of interest may arise cannot be exhaustively set out. Conflicts generally arise in the following situations:

1. Transacting with the Corporation

- When a director transacts with the Corporation, directly or indirectly.
- When a director has a material direct or indirect interest in a transaction or contract with the Corporation.

2. Interest of a Relative

When the Corporation conducts business with suppliers of goods or services or any other party of which a relative or member of the household of a director is a principal, officer or representative.

3. Gifts

When a director or a member of the director's household or any other person or entity designated by the director, accepts gifts, payments, services or anything else of more than a token or nominal value from a party with whom the Corporation may transact business (including a supplier of goods or services) for the purposes of (or that may be perceived to be for the purposes of) influencing an act or decision of the Board.

4. Acting for an Improper Purpose

When directors exercise their powers motivated by self-interest or other improper purposes. Directors must act solely in the best interest of the Corporation. Directors who are nominees of a particular group must act in the best interest of the Corporation even if this conflicts with the interests of the nominating party.

5. Appropriation of Corporate Opportunity

When a director diverts to his or her own use, an opportunity or advantage that belongs to the Corporation.

6. Duty to Disclose Information of Value to the Corporation

When directors fail to disclose information that is relevant to a vital aspect of the Corporation's affairs.

7. **Serving on Other Corporations**

A director may be in a position where there is a conflict of “duty and duty”. This may arise where the director serves as a director of two corporations that are competing or transacting with one another. It may also arise where a director has an association or relationship with another entity. For example, if two corporations are both seeking to take advantage of the same opportunity, a director may be in possession of confidential information received in one boardroom or related to the matter that is of importance to a decision being made in the other boardroom or at the other entity. This is a common problem with directors of member associations like the Corporation and the directors need to be very vigilant. The director cannot discharge the duty to maintain such information in confidence while at the same time discharging the duty to make disclosure. The director cannot act to advance any interests other than those of the Corporation.

Process for Resolution of Conflicts and Addressing Breaches of Duty

- **Disclosure of Conflicts**

A director, officer or non-director committee member who is in a position of conflict or potential conflict shall immediately disclose such conflict to the Board by notification to the chair (or the vice-chair of the Board). Where the chair has a conflict, notice shall be given to the vice-chair. The disclosure shall be sufficient to disclose the nature and extent of the interest. Disclosure shall be made at the earliest possible time and, where possible, prior to any discussion and vote on the matter, and shall be appropriately recorded in meeting minutes.

Where (i) a director is not present at a meeting where a matter in which the director has a conflict is first discussed and/or voted upon, or (ii) a conflict arises for a director after a matter has been discussed but not yet voted upon by the Board, or (iii) a director becomes conflicted after a matter has been approved, the director shall make the declaration of the conflict to the chair or vice-chair as soon as possible and at the next meeting of the Board.

If an officer becomes interested in a contract or transaction after it is made or entered into, the disclosure shall be made as soon as possible after the officer becomes so interested.

A director or officer may make a general declaration of the director's relationships and interests in entities or persons that give rise to conflicts.

- **Abstain from Discussions**

The director or officer who has declared a conflict shall not be present during the discussion and shall not vote in respect of the matter in which he or she has a conflict and shall not attempt in any way to influence the voting. The Board chair may, with the

consent of the meeting, permit a director with a conflict to address the Board for the purposes of providing information to the Board before the discussion and vote on the matter. The departure from the meeting of a conflicted director shall not impact quorum if quorum was otherwise present immediately prior to the business giving rise to the conflict.

Process for Proactively Managing Potential Conflicts of Interest

The Board chair shall ensure that all new directors are advised (prior to commencing their duties as a director) of their legal duties as they relate to confidentiality and conflicts of interest while serving as a director. In addition to the foregoing, each director shall be required to **[sign an Annual Director Declaration and Consent in the form approved by the Board from time to time]**.

Process for Resolution of Conflicts and Addressing Breaches of Duty

All directors shall comply with the requirements of the by-laws.

A director may be referred to the process outlined below in any of the following circumstances:

1. Circumstances for Referral

Where any director believes that he or she or another director:

- (a) Has breached his or her duties to the Corporation;
- (b) Is in a position where there is a potential breach of duty to the Corporation;
- (c) Is in a situation of actual or potential conflict of interest; or
- (d) Has behaved or is likely to behave in a manner that is not consistent with the highest standards of trust and integrity and such behaviour may have an adverse impact on the Corporation.

2. Process for Resolution

The matter shall be referred to the following process:

- (a) Refer matter to chair or where the issue may involve the chair, to any vice-chair, with notice to the chief executive officer.
- (b) Chair (or vice chair as the case may be) may either:
 - (i) attempt to resolve the matter informally, or
 - (ii) refer the matter to either the joint executive committee or to an ad hoc sub-committee of the Board established by the chair (or vice-chair, as the

case may be) attempt to resolve the matter and in each case the resolution may be reported to the Board, if determined to be advisable by the Chair, the director involved, or the director referring.

- (c) If the chair or vice chair elects to attempt to resolve the matter informally and the matter cannot be informally resolved to the satisfaction of each of: the chair (or vice-chair as the case may be), the director referring the matter and the director involved, then the chair or vice-chair shall refer the matter to the process in (b) (ii) above.
- (d) If a matter remains unresolved after the process described above has been undertaken, a decision of the Board by majority resolution shall be determinative of the matter.

It is recognized that if a conflict, or other matter referred cannot be resolved to the satisfaction of the Board (by simple majority resolution) or if a breach of duty has occurred, a director may be asked to resign or may be subject to removal pursuant to the by-laws and *Corporations Act*.

Perceived Conflicts

It is acknowledged that not all conflicts or potential conflicts may be satisfactorily resolved by strict compliance with the by-laws. There may be cases where the perception of a conflict of interest or breach of duty (even where no conflict exists or breach has occurred) may be harmful to the Corporation notwithstanding that there has been compliance with the by-laws. In such circumstances, the process set out in this policy for addressing conflicts and breaches of duty shall be followed.

It is recognized that the perception of conflict or breach of duty may be harmful to the Corporation even where no conflict exists or breach has occurred and it may be in the best interests of the Corporation that the director be asked to resign.

Amendment

This policy may be amended by the Board.

Approval Date: August 15, 2017

Last Review Date:

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