INSERT MSA NAME HERE

**CODE OF CONDUCT AND CONFLICT OF INTEREST POLICY**

**Date of Policy**

[Insert date]

**Intent of Policy**

The purpose of this Code of Conduct (the Code) is to provide guidance to executives and non-executive members of committees of the MSA (including Working Group members) about their obligations concerning conflicts of interest and confidentiality.

This Code is not exhaustive. It is acknowledged that no articulation of policies, guidelines, and procedures can anticipate all situations.

**Background**

To ensure MSA members understand what is expected of them, both morally and legally, this Code of Conduct and Conflict of Interest Policy outlines their responsibilities, expectations, and obligations.

Members are expected to be committed to ethical, businesslike, and lawful conduct; contribute to fair and effective decision making; and speak with one voice. They are expected to “exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.”[[1]](#footnote-1) This responsibility is significant yet ambiguous; different people have different conceptions of what these things mean in practice. What might be ethical to one member may be considered unethical by another. Similarly, conflicts of interest, both real and perceived, may be unavoidable but need not prevent an individual from serving as a member.

**Policy**

1. **Scope**

This Code applies to all executive and non-executive members of committees of the MSA (including Working Group members). For the purposes of this Code, “executives” refers to all these individuals unless otherwise expressly indicated.

The provisions of the Code are in addition to, and not a substitute for, any executive’s obligation to the MSA imposed by common law, equity, or statute. An executive who requires clarification on any provision of this Code should seek the advice of the president.

This Code:

1. Reviews executives’ duties.
2. Provides guidance to executives on matters of conflict of interest and confidentiality.
3. Provides a Form of Declaration for executives to sign annually to confirm their agreement to comply with the Code.
4. **Definitions**

In this Code:

1. “Private interest” means a pecuniary or economic interest or advantage and includes any real or tangible benefit that personally benefits the executive or any of his or her associates.
2. “Associate” means:
	1. An executive’s close relative, including the executive’s spouse, son or daughter, or any other relative who shares the same home as the executive.
	2. An executive’s employer.
	3. An individual with whom an executive is connected by frequent or close association.
	4. A corporation of which the executive beneficially owns, directly or indirectly, more than 20% of the voting rights attached to all outstanding voting securities of the corporation.
	5. A trust or estate in which the executive has a substantial beneficial interest or for which the executive serves as trustee.
	6. Other entities where the executive serves on the Board.
	7. Other community organizations in which the executive participates.

1. **Duties**

Executives’ duties include the following:

**Duty of Loyalty** – Executives must “act honestly and in good faith with a view to the best interests of the MSA.”[[2]](#footnote-2) In placing the interests of the MSA ahead of their own personal or business interests, executives must:

1. Be honest in their dealings with the MSA and with others on behalf of the MSA.
2. Avoid situations where they could profit at the expense of the MSA, appropriate a business opportunity of the MSA, or otherwise put themselves in a position of conflict between their own private interests and the best interests of the MSA.
3. Avoid speaking against or undermining any decision of the Board, regardless of whether the executive agrees with or voted for that decision.
4. Avoid engaging in an activity or speaking publicly on matters where this could be perceived as an official act or representation of the MSA unless specifically authorized to do so by the MSA.

**Duty of Care** – Executives owe a duty of care to the MSA and must exercise the degree of diligence and skill of a reasonably prudent person.[[3]](#footnote-3)

**Duty of Confidentiality** – Executives must not divulge confidential information that they receive as an executive to anyone other than persons who are authorized to receive the information. The duty to maintain information in confidence continues after an executive ceases to be an executive.

**Duty to Disclose** – Executives have a duty of continuous disclosure.4 Executives who become aware of a matter that has a duty to disclose or report under this Code must advise the Board chair as soon as is reasonably practicable. Executives have a duty to disclose to the president or other officer any real, potential, or perceived conflict of interest that they are aware of between any other executive, member, and the MSA.

**Duty of Compliance** – Executives shall comply with all applicable laws and regulations and with the MSA’s bylaws and policies adopted by the Board from time to time, including this Code. No executive shall commit or condone an illegal act or instruct another executive to do so. All executives are expected to follow the spirit as well as the letter of the law.

**Duty of Knowledge** – Executives must familiarize themselves with the relevant legislation applicable to the MSA and to executives and satisfy themselves that appropriate safeguards are in place to ensure compliance with that legislation.

1. **Conflict of Interest**

A **conflict of interest** is a situation in which the private interests of an executive conflict, potentially conflict, or appear to conflict directly or indirectly with his or her duties to the MSA, including his or her duty to act in the best interests of the MSA.

An **actual conflict of interest** exists where an executive exercises an official power or performs an official duty at the same time knowing that in so doing there is the opportunity to further a private interest.

A **potential conflict of interest** exists where there is some private interest that could influence the performance of an executive’s duty or function or the exercise of power, provided that the executive has not yet exercised that duty or function.

A **perceived conflict of interest** exists where an informed individual might reasonably believe that a conflict of interest exists on the part of the executive.

The strongest defense against a conflict of interest is a strategy of avoidance. By creating systems and processes that, as a matter of practice, avoid actual, potential, or perceived conflicts of interest, the MSA can most effectively reduce the risks associated with conflicts of interest.

Each executive has a responsibility first and foremost for the welfare of the MSA. Every executive should avoid any situation in which there is an actual, potential, or perceived conflict of interest that could interfere with the executive’s judgment in making decisions in the MSA’s best interests.

1. **Protocol for Addressing Conflicts of Interest**

An executive has an obligation to declare a conflict of interest at the earliest possible time before the issue is discussed or any decision is made. Once a conflict is declared, the person recording the meeting’s proceedings notes the declaration and the executive must:

1. Abstain from voting or consenting on the matter in question.
2. Remove him- or herself from the proceedings during discussion or voting on that matter, contract, or arrangement.
3. Refrain from participating further in any activities involved with the matter and from any action intended to influence the discussion or vote.

If an executive is unsure about being in conflict, that executive should raise the potential conflict with the Board, which then determines whether a conflict of interest exists. The executive may give the Board a statement on his or her opinion of whether a conflict exists, and the Board may ask the executive questions that would clarify matters pertaining to the potential conflict.

An executive who perceives another executive to be in conflict should identify the potential conflict to the Board at the first opportunity. The Board determines by majority vote whether a conflict exists, and the person with the potential conflict follows the process outlined above.

Where a conflict of interest is discovered after a matter has been considered, the conflict must be declared to the Board and appropriately recorded at the first opportunity. If the Board determines that the executive’s involvement has influenced, or could be perceived to have influenced, the decision, the Board must re-examine the matter and may rescind, vary, or confirm its decision.

1. **Confidential Information**

Confidential information is information that if disclosed might prejudice the interests of the MSA or the privacy rights of its members or stakeholders.

Executives should always maintain the confidentiality of all confidential information and all records of the MSA and must not make use of or reveal such information or records except while performing their duties or unless the documents or information become a matter of public knowledge.

All information generated within the MSA is confidential in the sense that it is for the sole purpose of the business of the MSA.

Executives may not use confidential information obtained through their association with the PMSA to further their private interests or the private interests of their associates.

1. See Section 53 (1)(b) of the Societies Act (British Columbia). [↑](#footnote-ref-1)
2. Section 53 (1)(a), Societies Act [↑](#footnote-ref-2)
3. Section 53 (1)(b), Societies Act

4 Section 56, Societies Act [↑](#footnote-ref-3)