

# Policy guidelines for granting an exemption from the requirements of the Code of Conduct - Issued July 2002

## **Attachment 4C to Director and Employee Code of Conduct**

The Code of Conduct allows a Director or Employee to request an exemption from the provisions of the Code. The exemption procedure for Employees and Directors is set out in Attachments 4A and 4B respectively.

The purpose of this document is to provide guidelines for evaluation of requests for exemptions in an effort to provide principled, transparent and consistent decision-making.

It is not possible to provide guidelines to cover all circumstances where an exemption may be requested. Each circumstance must be considered on its own merits but this document will attempt to provide general principles to be taken into account.

As a general proposition, the exemption procedure, although expected to be utilized rarely, provides a means to address situations where to require compliance with a Code requirement may not be in the overall best interests of the Corporation. The exemption procedure is not intended to benefit Directors or Employees – it is intended to benefit the Corporation – to provide it with the opportunity to relieve a Director or Employee from complying with the Code in circumstances where it is in the best interests of the Corporation to do so.

Any individual who is requesting an exemption is responsible for making full disclosure of all relevant facts and circumstances – whether or not they appear to support the request being made. Full disclosure permits the Corporation to assess whether its best interests are being served by approving a request for an exemption. Failure to make full disclosure may result in denial of the request or in subsequent withdrawal of an approval given. If a Manager is aware that an Employee is considering requesting an exemption, the Manager should provide the Employee with a copy of these Policy Guidelines and suggest that the Employee contact the Code of Conduct Advisor for advice before making the request.

Determining the Corporation's best interests always requires consideration of specific facts. Consideration of relevant facts addressing the following issues should be included in an assessment of the Corporation's best interests:

1. operational requirements, including hiring and appointing qualified individuals and securing required services and products;
2. financial and economic considerations;
3. legal obligations;
4. corporate mission and values;
5. shareholder interests, including the public interest.

If approving an exemption from Code requirements would better serve the Corporation's interests than requiring compliance with the Code requirements, then it may be appropriate to approve an exemption.

The facts disclosed by a Director or Employee should be assessed taking into account the following considerations, where applicable. Other considerations may be relevant, depending upon the circumstances.

## **Materiality**

Is the subject matter of the prohibition material to the applicant and to the Corporation? If it is not material to either party, granting an exemption may be in the best interests of the Corporation. If it is material to one party and not to the other, caution should be exercised before granting an exemption. If it is material to both parties, an exemption is not likely to be in the best interests of the Corporation.

## **Proximity**

Are the applicant and the subject matter of the prohibition closely related? If yes, an exemption is not likely to be in the best interests of the Corporation. If the relationship is remote, granting an exemption may be in the best interests of the Corporation.

## **Conflict of interest**

Did the circumstances that are the subject matter of the prohibition arise/result from the applicant being in a potential conflict of interest? If yes, did the applicant disclose the potential conflict of interest fully and in a timely manner and take steps to avoid any involvement in the matter. If such disclosure was not made, an exemption is not likely to be in the best interests of the Corporation.

## **Costs of compliance**

Are the Corporation's interests adversely affected by requiring compliance? If, for example, the Corporation may lose valued personnel, access to required or scarce services/products, or may incur increased costs by requiring compliance, an exemption may be in the best interests of the Corporation.

On the other hand, are the Corporation's interests adversely affected by not requiring compliance? If, for example, the Corporation may suffer from low morale, public criticism or shareholder censure or incur legal liability by not requiring compliance, an exemption may not be in the best interests of the Corporation.

## **Timeliness of disclosure**

When and how was the subject matter of the prohibition disclosed to the Corporation? If it was disclosed fully and as soon as practically possible by the applicant, granting an exemption may be in the best interests of the Corporation. If the subject matter of the prohibition was not disclosed fully and as soon as practically possible by the applicant, an exemption may not be in the best interests of the Corporation.

## **Fair and reasonable**

Would granting the exemption meet community standards about fair dealing and be considered fair and reasonable in all of the circumstances?