



**National Asset  
Management Agency**

# **Code of Conduct for Members of the National Asset Management Agency Board and its Committees**

# **NATIONAL ASSET MANAGEMENT AGENCY**

## **CODE OF CONDUCT FOR MEMBERS OF THE NATIONAL ASSET MANAGEMENT AGENCY BOARD AND ITS COMMITTEES**

**ADOPTED BY NAMA BOARD AT ITS MEETING ON 20 DECEMBER 2010**

### **1. INTRODUCTION**

This Code of Conduct (“Code”) applies to all members of the National Asset Management Agency Board (“Board”) and its committees. It was adopted by the Board at its meeting held on 20 December 2010. The Code underscores the Board’s commitment to the highest standards of ethical conduct.

While it is not possible for a set of rules or guidelines to provide for all situations that may arise, Board/Committee members are expected to ensure that all their activities are governed by the ethical standards reflected in this Code in letter and in spirit.

### **2. OBJECTIVES**

The objectives of this Code of Conduct are as follows:

- The establishment of an agreed set of ethical principles;
- The promotion and maintenance of confidence and trust including the protection of the good name of the National Asset Management Agency (“NAMA”);
- The prevention of the development or the acceptance of unethical practices.

### **3. GENERAL CONDUCT**

Board/Committee members must always be guided in their actions by the provisions of the National Asset Management Agency Act, 2009 (“NAMA Act 2009”) as well as by their general responsibilities to act lawfully, faithfully, competently and in the best interests of NAMA.

Board/Committee members should use their reasonable endeavours to attend all Board/Committee meetings.

Board/Committee members are required to discharge their duties and responsibilities with the highest standards of integrity, including:

- disclosure of outside employment/business interests in conflict with or in potential conflict with the business of NAMA;
- avoidance of the giving or receiving of corporate gifts, hospitality, preferential treatment or benefits of any kind which might affect or appear to affect the ability of the donor or the recipient to make independent judgement on business transactions or which might be harmful to the reputation of NAMA;
- ensuring a culture of claiming expenses only as appropriate to business needs and in accordance with good practice in the public sector generally;

- avoidance of use of confidential information for personal gain or for the benefit of persons/organisations unconnected with NAMA or its activities;
- commitment not to acquire information or business secrets by improper means.

#### **4. OBLIGATIONS**

Board/Committee members must at all time act in utmost good faith with care, skill and diligence in the performance of their functions<sup>1</sup>. In this regard, Board/Committee members should take all reasonable steps to ensure that:

- all regulatory and statutory obligations imposed on NAMA are fulfilled;
- all applicable tendering and purchasing procedures are complied with;
- there are adequate controls in place to prevent fraud;
- that NAMA's accounts/reports accurately reflect its performance and are not misleading or designed to be misleading.

#### **5. CONFIDENTIALITY**

Board/Committee members should take all reasonable steps to ensure that information is handled responsibly, including:

- supporting the provision of access to general, non-commercially sensitive information relating to NAMA's activities in a way that is open and enhances its accountability to the general public;
- respecting the confidentiality of sensitive information held by NAMA;
- taking particular care to safeguard adequately all NAMA documents;
- observing appropriate prior consultation procedures with third parties where, exceptionally, it is proposed to release sensitive information in the public interest;
- complying with relevant statutory provisions.

In relation to the latter, the attention of Board/Committee members is drawn to their obligations under the NAMA Act 2009, the Data Protection Acts 1988 and 2003 and the Market Abuse (Directive 2003/6/EC) Regulations 2005.

Board/Committee members must treat all information obtained in the course of performing their duties on behalf of NAMA as strictly confidential unless there is clear and unambiguous evidence, instruction or indication to the contrary. Specifically, information relating to NAMA, the NTMA, the State or any organs of the State or State bodies, whether or not such information relates directly to NAMA, to which Board/Committee members become privy and which is not in the public domain, is to be treated as confidential.

Board/Committee members should be aware that the non-disclosure obligation in respect of privileged or confidential information does not cease when their membership of the Board/ its committees has ended<sup>2</sup>.

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<sup>1</sup> Section 18(3) provides that "in performing its function, the Board shall act in utmost good faith with care, skill and diligence."

<sup>2</sup> Section 5.5 of the Code of Practice for the Governance of State bodies and Section 202(2) of the NAMA Act 2009.

## 6. CONFLICTS OF INTEREST AND DISCLOSURES OF INTERESTS

In order to maintain public confidence, Board/Committee members must be seen at all times to be beyond reproach in the area of actual, potential or perceived conflict of interest situations. It is also important that Board/Committee members act, and be seen to act, objectively and independently. To this end, Board/Committee members should ensure that they comply with their statutory obligations with regard to actual and potential conflicts.

The statutory obligations of Board/Committee members in respect of conflicts of interest derive from the Ethics in Public Office Act 1995 as amended by the Standards in Public Office Act 2001 and Sections 30 and 31 of the NAMA Act, 2009. In addition, Section 6 of the Code of Practice for the Governance of State Bodies contains a number of supplementary obligations in relation to conflicts of interest.

In summary, these obligations require Board/Committee members to:

1. On appointment as a Board member, provide a list of potential conflicts of interest as defined in the Code of Practice for the Governance of State Bodies and provide annual/material updates thereafter;
2. Provide an annual statement of interests to the Standards in Public Office Commission and the chairperson of NAMA Board (the chief executive officer of NAMA in the case of the chairperson)<sup>3</sup>;
3. By 31 January each year give notice to NAMA of his/her registrable interests (within the meaning of the Ethics in Public Office Act 1995)<sup>4</sup>;
4. On an ongoing basis, disclose material interests to fellow Board/Committee members in respect of any matter that falls to be considered by the Board/Committee.

Procedures have been put in place to assist Board/Committee members in meeting their disclosure of interest obligations. Board/Committees members are required to comply with these procedures.

In respect of these procedures Board/Committee members should note the following:

- NAMA is required to ensure that a Register of Members' Interests is maintained in respect of interests disclosed by Board members under Section 31 of the NAMA Act 2009. In addition, potential conflicts of interest disclosed by Board/Committee members under the Code of Practice for the Governance of State bodies are required to be recorded in a register and updated annually;
- The ongoing obligation to disclose conflicts of interests as they arise applies even though the potential conflict may have been already disclosed in the annual statement of interests;
- Disclosures of conflicts of interest to fellow Board/Committee members must be in writing;
- The Chairperson of the meeting has a determining role where an issue in regard to a conflict of interest arises. Where the interest relates to the chairperson, he/she must retire from the chair and the issue will be determined by the majority vote of the remaining Board/Committee members;
- If a Board/Committee member is deemed to have a conflict of interest, he/she must cease to be involved in any consideration/decision in relation to the matter and to

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<sup>3</sup> This obligation applies to members of the Board and Committees established under Section 32(1) or 33(1) of the NAMA Act 2009.

<sup>4</sup> Applies to Board members only under Section 31 of the NAMA Act. This section does not apply to Committee members who are not members of the Board.

absent him/herself from the meeting or that part of a meeting during which the matter is discussed.

Board/Committee members should take particular care when dealing with third parties not to suggest or to imply that they are prepared to intervene with NAMA on their behalf in any unusual or abnormal fashion. Section 221(1) of the NAMA Act 2009 makes it an offence (subject to the exceptions provided for in Sections 221(3) and 221(4)) for a person to lobby NAMA “*with the intention of influencing the making of a decision in relation to the performance of the functions of NAMA or the NAMA group entity.*” Furthermore, it is an offence for a person, who believes that he/she has been communicated with in contravention of 221(1), not to make a report, as soon as may be, to the Gardaí.

As a general principle Board/Committee members should avoid the giving or receiving of corporate gifts, hospitality, preferential treatment or benefits which might affect, or appear to affect, the ability of the donor or the recipient to make an independent judgment on business transactions. Under Section 16 of the NAMA Act 2009 Board members are subject to the provisions of the Prevention of Corruption Acts 1889 to 2001. In particular, Board members should note that, where it is shown in proceedings for an offence under the Public Bodies Corrupt Practices Act, 1889 or the Prevention of Corruption Act, 1906, that any gift, consideration or advantage has been given to or received by a person performing a function for NAMA from a debtor or an associated debtor in relation to an eligible bank asset, the gift shall be taken, unless the contrary is proved, to have been given and received corruptly.

Former Board/Committee members should give due consideration before taking up any position or role, as to whether it might give rise to a conflict of interest in respect of their continuing obligation to respect the confidentiality of information obtained as a member of the NAMA Board/Committee and in particular, whether a sufficient amount of time has elapsed so as to remove any perception of such conflict of interest.

## **7. INSIDE INFORMATION AND MARKET ABUSE LEGISLATION**

Board/Committees members may potentially have access from time to time to “*inside*” or “*confidential*” information regarding financial instruments and the issuers of such instruments. As such, Board/Committees members should be aware that it is a criminal offence for a person who is in possession of “inside information” to:

- (a) deal or try to deal in the financial instruments concerned or their related derivative instruments;
- (b) disclose inside information to any other person; or
- (c) recommend or induce another person to deal in such financial instrument

where “*inside information*” is defined as information of a precise nature concerning a financial instrument which has not been made public, and which, if it were made public, would be likely to have a significant effect on the price of the financial instrument or on the price of related derivative financial instruments. The relevant legislation is the Market Abuse (Directive 2003/6/EC) Regulations 2005 (the “Market Abuse Regulations”).

The Board has approved a Personal Account (PA) Transaction Policy for its members, which contains rules and procedures aimed at protecting them from contravening the Market Abuse Regulations in respect of any inside information that comes into their possession in the course of performing their duties on behalf of NAMA. The Policy is also intended to assist Board

members in adhering to high ethical standards in relation to personal account transactions and to preserve the good reputation of NAMA.

Committee members, who are not also Board members, should note that, while the specific security prohibitions contained in the PA Transaction policy do not apply to them, they are expected to comply with the spirit of the policy. In particular, they must not deal, or recommend or induce anyone else to deal, in the shares or other securities of any company or their derivative products if they possess inside information concerning that company.

On a general basis, Board/Committee members should not engage in personal account dealing, which might in any way endanger or adversely affect the business or the reputation of NAMA or which might conflict with or interfere with the performance of their duties on behalf of NAMA.

## **8. REVIEW**

This Code will be reviewed annually by the NAMA Board.