National Asset Management Agency

Code of Practice - Conduct of Officers of NAMA

This Code of Practice was approved by the Minister for Finance on the 20th day of July 2011.

NATIONAL ASSET MANAGEMENT AGENCY

Code of Practice and Professional Conduct – Officers of NAMA

This Code of Practice applies to all employees of the National Treasury Management Agency ("NTMA") who are assigned by the NTMA to, and become officers of, the National Asset Management Agency ("NAMA") from time to time.

All Parts of this Code of Practice and Conduct (the "Code") should be read carefully. Officers of NAMA are also obliged to be fully conversant with the National Asset Management Agency Act, 2009 (the "NAMA Act") and their obligations under that Act. If there is anything you do not understand, please contact the Compliance Officer of the NTMA.

In this Code references to the "Agency" means NAMA unless the context otherwise clearly requires.

In this Code references to "Officers" means employees of the NTMA who are assigned by the NTMA to and become officers of NAMA from time to time; and cognate words shall be construed accordingly.

This Code applies to Officers of NAMA in addition to (and not to the exclusion of) other codes of practice, codes of conduct, rules and regulations that apply generally to employees of the NTMA from time to time. It should also be noted that Officers of NAMA are also required to comply with and adhere to such additional codes of practice as NAMA may issue from time to time.

For the avoidance of doubt, all Officers of NAMA are employees of the NTMA (and are not employed at any time by NAMA) and their terms and conditions of employment are those agreed and confirmed in writing by the NTMA.

The Code also sets out the "best practice" standards of principles and practice in relation to confidentiality, conflicts of interest, insider dealing, market manipulation, prohibition of wrongful penalisation, disclosure of personal interests, personal account transactions and other matters in respect of which NAMA is required by statute to have a Code of Practice.

The Code underscores NAMA's commitment to the highest standards of conduct and has been prepared to assist its Officers in understanding their duties, rights and obligations. Officers are required to be familiar with its contents.

While it is not possible for a set of rules or guidelines to provide for all situations that may arise, Officers are expected to ensure that all their activities are governed by the ethical standards reflected in this Code. If an Officer is in any doubt with regard to this Code or its application in any given situation, the precise circumstances of the situation should be notified immediately to the Chief Executive Officer of NAMA or the Compliance Officer of the NTMA before any action is taken that could breach this Code.

Officers should note that any breach of this Code is misconduct which will be investigated and dealt with in accordance with NAMA procedures as set out in this Code and/or the disciplinary procedures set out in the NTMA Staff Handbook as appropriate. Serious breaches of this Code may constitute gross misconduct which could result in disciplinary action up to and including summary dismissal.

PART I: CONFIDENTIALITY

1.1 Legal and Fiduciary Obligations of Confidentiality

Each employee of the NTMA and each officer of NAMA has legal obligations of confidentiality in respect of information obtained while carrying out his or her duties whether for the NTMA itself or on behalf of NAMA. There are a number of specific legislative provisions prohibiting officers of NAMA from disclosing information obtained in the course of their work without proper consent. However, Officers of NAMA should note that, quite apart from their statutory duty to maintain confidentiality, they each owe a common law duty of fidelity which includes an obligation to maintain confidentiality, as well as a fiduciary obligation not to use confidential information other than for the purpose for which it was intended and not to use the information for their own personal benefit or gain.

The specific legislative provisions that Officers should be aware of in respect of their duties are:

1.1.1. National Treasury Management Agency Act, 1990

All employees of the NTMA are subject to section 14(1) of the National Treasury Management Agency Act, 1990 which imposes a statutory duty not, without the consent of the NTMA, to disclose any information obtained while carrying out their duties as employees of the NTMA. Contravention of Section 14 constitutes a criminal offence.

For the purpose of the "consent of the NTMA" exception, the NTMA has adopted broadly the same test as that contained in the Official Secrets Act, 1963 (see Section 1.1.3) and therefore permitted disclosures of information are those which are made in the course of and in accordance with an Officer's duties as an employee of the NTMA. In cases of doubt Officers should consult with their business unit head or the Compliance Officer of NTMA.

1.1.2 The NAMA Act

Employees of the NTMA assigned to NAMA for the performance of duties on behalf of NAMA are subject to section 202 of the NAMA Act and, except as provided or authorised by that section, an Officer shall not disclose information that he or she knows or ought reasonably to have known is confidential information, or use, to the

direct or indirect advantage of himself or herself or of another person (other than NAMA, a NAMA group entity or NTMA), confidential information that he or she obtained while an Officer of NAMA. Contravention of Section 202 constitutes a criminal offence.

1.1.3 Official Secrets Act, 1963

As an employee of the NTMA, Officers of NAMA hold a "public office" within the meaning of the Official Secrets Act, 1963 (the "Official Secrets Act"), the expression "public office" for this purpose being exceptionally wide.

Section 4 of the Official Secrets Act prohibits holders of a "public office" from communicating any "official information" to anyone unless authorised to do so or in the course of and in accordance with their duties as a holder of public office and are obliged to take reasonable care to avoid any such communication.

"Official information" includes any document or information in virtually any form (extending to film, tapes or any other recording medium) which is secret or confidential or is expressed to be either.

Contravention of the Official Secrets Act is a criminal offence. The prohibition against any communication of official information applies in perpetuity (including when Officers are no longer employed by the NTMA).

1.1.4 The Data Protection Acts 1988 and 2003 (the "DPA")

The DPA deal with privacy issues arising from the collection and maintenance of personal automated data (i.e. information held on computers and other electronic formats and personal data contained in manual records). The purpose of the DPA is to protect personal information about individuals and to impose standards in relation to the obtaining and processing of personal data. Personal data is "data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information".

The NTMA is required to comply with the DPA, including its provisions regarding the processing and handling of personal data. Relevant provisions include the requirements that personal data be used only for the purpose for which it was collected, be kept securely and must not be disclosed to third parties who have no right of access to it. Officers are likely to be handling and processing personal data.

Queries regarding the statutory requirements may be raised with the Compliance Officer of the NTMA.

It should be noted that pursuant to section 201 of the NAMA Act an obligation on any person to disclose information to NAMA, a NAMA group entity or the NTMA extends to personal information within the meaning of the DPA.

1.2 **Disclosure of Information – Practical Guidance**

The nature of the NAMA's activities may result in Officers becoming privy to confidential information or commercially sensitive information (whether or not amounting to "official information" as defined under the Official Secrets Act or "confidential information" as defined under the NAMA Act) either from documents or through verbal communication.

Officers shall treat all information obtained through their employment with the NTMA and/or their assignment to 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 (including without limitation information relating to transactions, dealings, financial, budgetary or commercial matters), whether or not such information relates directly to NAMA, to which Officers become privy by virtue of their assignment to NAMA and which is not in the public domain is to be treated as confidential.

Officers must only use confidential information for the lawful and proper performance of their duties. Confidential information may only be communicated to other persons within NAMA who understand that it is to be kept confidential and on a "need to know" basis in order for them to perform their duties and should never be discussed outside NAMA. Officers may not, without authorisation, release information in respect of any aspect of NAMA's activities to any third party, including news media. Approval of the Chief Executive Officer of NAMA must be sought prior to publishing any information, articles, books or letters or giving any lectures or interviews relating to or potentially relating to the activities of NAMA. Officers are expected to act professionally and exercise due care at all times in the storage of mail, documents, and the disposal of records, whether electronic or paper.

Confidential information belonging to or in the possession of NAMA must never be used by an Officer of NAMA for personal benefit or gain or to advance any personal

or private interests or be communicated for any such purpose to any person within or outside NAMA.

PART II: CONFLICTS OF INTEREST

In order to maintain public confidence, Officers of NAMA 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 Officers act, and be seen to act, objectively and independently. To this end, Officers should ensure that they comply with their statutory obligations with regard to actual and potential conflicts and to the principles set out in this Part. In addition, Officers should comply with any policies, procedures and guidance issued by the Agency with regard to conflicts of interest.

2.1 Legal and Fiduciary Obligations

Each Officer of NAMA has a fiduciary obligation not to put himself or herself in a position in which his or her personal interest would conflict with, or appear to conflict with, his or her duty to the Agency. For example a possible conflict situation could arise if an Officer, or a member of his or her family, had interests or received personal benefits that made it difficult to perform his or her duties objectively and impartially.

In particular, Officers are subject to specific legislative provisions in relation to conflicts of interest as follows:

2.1.1 The Ethics in Public Office Act 1995 and the Standards in Public Office Act 2001 (collectively, the "Ethics Acts")

The obligations contained in the Ethics Acts for persons who hold "designated directorships", as defined therein, apply to the members of the NAMA Board, members of any NAMA committee established under section 32(1) or 33(1) of the NAMA Act, and directors of any NAMA group entity as defined under section 4 of the NAMA Act. The obligations under the Ethics Acts for persons who hold a "designated position of employment", as defined therein, apply to the Chief Executive Officer of NAMA and all positions of employment, in respect of which the remuneration is not less than the maximum salary of a higher executive officer (general service grade, class B PRSI) in the Civil Service, assigned by the NTMA to NAMA under section 42 of the NAMA Act.

A person holding a "designated directorship" or occupying a "designated position of employment" is required *inter alia* to furnish annually a statement of his or her own registrable interests, and those interests of which the person has actual knowledge of his or her spouse, child or child of his or her spouse, which could materially

influence the person in or in relation to the performance of the functions of the directorship or position by reason of the fact that such performance could so affect those interests as to confer on or withhold from the person or the spouse or child a substantial benefit. Where no registrable interests exist, a nil statement is required. For those holding a designated directorship the statements are furnished to the Chairperson of the NAMA Board and to the Standards in Public Office Commission. For those holding a designated position of employment the statements are furnished to the Chief Executive Officer of NAMA.

Additionally, persons holding a designated directorship or a designated position of employment are required to furnish a statement in writing of the facts in which an official function falls to be performed and the person has actual knowledge that he or she or a connected person (as defined in the Ethics Acts) has a material interest in a matter to which the function relates. A material interest is defined in the Ethics Acts to include a situation where the consequence or effect of the performance by or a decision made by the person in exercise of a function of his or his directorship or position may be to confer on or withhold from the person or a connected person a significant benefit without also conferring it on or withholding it from persons in general or a class of persons which is of significant size having regard to all the circumstances and of which the person or the connected person is a member.

The statement of a material interest must be provided to the other directors (if the person holds designated directorship) or to the Chief Executive Officer (if the person holds a designated position of employment). In such cases where a material interest does arise, the function must not be performed unless there are compelling reasons to do so. If this is the case, a statement of those compelling reasons must be provided, in the case of a person holding a designated directorship to the other persons holding a designated directorship and to the Standards in Public Office Commission, and by those holding a designated position of employment to the Chief Executive Officer. This requirement applies whether or not the interest has already been disclosed in a statement of registrable interests.

There is deemed to be included in the terms of employment under which a person holds a designated directorship or a designated position of employment a requirement that the person shall comply with the appropriate sections of the Ethics Acts.

2.1.2 NAMA Act

Section 30 of the NAMA Act applies to Officers of NAMA who are also members of the Board of NAMA, members of a NAMA Board committee or directors of a NAMA group entity. This section provides that where a member of the NAMA Board, a NAMA Board committee or a director of a NAMA group entity has a pecuniary interest or other beneficial interest in, and material to, any matter which falls to be considered by either the Board, Board Committee or NAMA group entity, he or she must:

a. disclose to the other members of the NAMA Board, the relevant NAMA Committee members, or the directors of the relevant NAMA group entity the nature of his or her interest in advance of any consideration of the matter;

b. neither influence nor seek to influence a decision to be made in relation to the matter;

c. take no part in any consideration of the matter;

d. absent himself or herself from the meeting or that part of the meeting during which the matter is discussed; and

e. not vote on a decision relating to the matter.

Section 30 (7) provides that the Board shall issue guidelines as to what constitutes an "interest" for the purpose of Section 30 having regard to the definitions in the Ethics in Public Office Act, 1995. The Board adopted such guidelines defining an interest as each of the interests on the list of registrable interests contained in the Second Schedule to the Ethics in Public Office Act, 1995.

Section 42 of the NAMA Act requires each NTMA employee, prior to his or her assignment to NAMA, to provide a statement of his or her interests, assets and liabilities to the Chief Executive Officer of NAMA and the Chief Executive of the NTMA. Section 31 provides that certain Officers may be required to provide an annual statement of registrable interests (within the meaning of the Ethics Acts). Irrespective of whether an Officer has been directed by the Board to provide an annual statement referred to under section 31, he or she is obliged to notify the Chief

Executive Officer of NAMA of any material change to the statement of interests, assets and liabilities submitted in accordance with section 42.

2.2 Disclosure of Conflicts of Interest – General Obligations

In addition to the particular legislative provisions that apply to Officers, should an Officer find themselves in a position of actual or potential conflict of interest, where there may be a perception of bias or where their impartiality in carrying out their duties may be potentially affected, they should immediately disclose the existence of the conflict of interest in writing to their business unit head and to the Compliance Officer of NTMA. Persons to whom the Ethics Acts apply must in all situations comply with the provisions contained therein which deal with conflicts of material interests (see 2.1.1. above) and should note that compliance with the provisions of the NAMA Act which deal with conflicts of interests does not remove from the person his or her statutory duties under the Ethics Acts.

Appropriate action where an actual or potential conflict of interest arises may include a requirement that Officers cease wholly or in part to be involved in the matter giving rise to such conflict. Examples of matters that should be disclosed include:

(a) Any conflict, or potential conflict of interest arising by virtue of any interest, shareholding, business or professional or other business relationship or other possible conflict of interest an Officer has with any individual, firm, company or other entity with which NAMA engages in transactions of any nature or description or with which NAMA has any negotiations an/or dealings of whatsoever nature or description; and

(b) Any interest of an Officer's immediate family which could involve such a conflict of interest.

2.3 Political Activities and Company Directorships

The terms and conditions of each Officer's contract of employment provide that he or she must not engage in any activity that could give rise to a conflict of interest or that may be detrimental to the activities or the reputation of the NTMA or NAMA. Similarly, for these reasons Officers may not be a member of, or otherwise involved with, a political party or other political organisations or movements.

The primary duty of loyalty of Officers is to the NTMA and NAMA and any activities that conflict with this duty are prohibited. Any company directorships which Officers now hold or are invited to hold at a future date must be disclosed to their business unit head who will in turn advise the NTMA Human Resources Unit. The holding of all such directorships is subject to the consent of the Chief Executive Officer of NAMA. The Chief Executive Officer of NAMA has the discretion to decide which directorships whilst an Officer may be allowed on an individual basis. However, as a broad yardstick, it should be anticipated that requests for consent will be declined, particularly in the case of directorships of companies engaged in the financial services, property development or investment or the construction industry or in any related activities. The position with respect to partnerships, joint ventures, business relationships or other similar roles will be the same as for company directorships.

2.4 **Personal Benefits**

Officers may not directly or indirectly solicit or accept gifts, sponsorship, invitations or other benefits if it might influence, or appear to influence or compromise their objectivity in carrying out their duties or otherwise negatively affect their position or any business decision of NAMA.

Officers are **not** permitted to accept **any** hospitality from any person, client, firm, company or other legal entity with whom NAMA has dealings of whatsoever nature or description.

There are no de minimus exceptions to these prohibitions.

2.5 **Conflicts of Interests between Business Units**

The previous sections focussed on personal conflicts (i.e. between Officers' own personal interests and the duties they owe to NAMA). This section addresses another type of conflict situation that could arise in the performance of the duties and obligations of Officers.

A conflict of interest could arise where NAMA has potentially conflicting duties to two or more parties. In this instance all parties with whom NAMA is dealing must be treated fairly and professionally and on no account must confidential information relating to one party be disclosed to or used for the benefit of another party or for any personal gain on the part of any Officer(s) or NAMA.

Due to the range of NAMA's activities it is possible that potential conflicts of interest may arise. It is the responsibility of the Chief Executive Officer of NAMA and senior officers within NAMA to ensure that actual or potential conflicts of interest that arise are kept under review on an ongoing basis and that appropriate controls are in place to identify and manage such conflicts.

2.5.1 Chinese Walls

Where there is potential for this type of conflict of interest to arise it is important that steps are taken to avoid them where possible and where conflicts cannot be avoided to put arrangements in place to manage those conflicts. One such arrangement is a "Chinese Wall", which involves the implementation of policies and security procedures to manage a conflict of interest by instigating controls on and restricting access to sensitive information between different business areas or within a specific business area.

2.5.2 Controls on Information

In order to safeguard confidential information and, where relevant, personal data, all Officers should comply with the following best practice irrespective of whether the Chinese Wall referred to in 2.5.1 applies directly to the Officer:

(a) All commercially sensitive or confidential documents should be locked in desks or filing cabinets when not being actively used and they should not be left on desks overnight;

(b) Access to such documents should be restricted to essential personnel;

(c) Access to confidential information maintained on NAMA's databases or computer systems should be restricted to essential personnel;

(d) The number of copies made of any such documents should be kept to the minimum required for the business purpose and circulated only as essential on "strictly private and confidential" terms. When no longer required, additional copies should be shredded;

(e) Confidential documents that are to be destroyed must be shredded;

(f) Code names should be used for highly sensitive transactions; and

(g) Caution should be exercised in conversations (however informal) to avoid the inadvertent disclosure of information. In particular, care should be taken in public places such as pubs, restaurants, lifts and on public transport.

2.6 **Restricted Units**

From time to time NAMA may designate an area or certain facilities as a restricted unit which will be limited to named officers working in that area. Unless expressly and specifically named by the Chief Executive Officer of NAMA as a person entitled to access, Officers are prohibited from accessing a restricted unit for any purpose.

PART III: MARKET ABUSE

The NTMA has established rules, codes of practice and procedures to prevent market abuse including without limitation "insider dealing" and market manipulation, and all Officers of NAMA are bound by these.

The following is a summary of the legal framework which applies to transactions and activities involving financial instruments, including the conduct of market abuse. The laws which govern behaviour in relation to the buying and selling of financial instruments apply to all persons, however, Officers who have access to "inside" or "confidential" information regarding financial instruments and the issuers of such instruments are particularly affected and must be aware of the rules that apply.

A breach of the laws or rules against market abuse are separate from the NTMA rules pertaining to personal account transactions and may result in the imposition of criminal and civil penalties separate from those that may be imposed as a result of a disciplinary or other proceeding conducted by the NTMA or NAMA as appropriate.

3.1 Regulatory Framework

The Market Abuse Directives were transposed into Irish law by the Market Abuse (Directive 2003/6/EC) Regulations 2005 (the "2005 Market Abuse Regulations") and Part 4 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005 (collectively the "Market Abuse Rules"). The Market Abuse Rules apply to financial instruments admitted to trading on a regulated market or those where a request for admission to trading has been made. The main purpose of this legislation is to increase standards for market integrity in the securities market. The scope of the offence of "insider dealing" was expanded and a new offence of "market manipulation" was introduced. Insider dealing with respect to financial instruments not covered by the Market Abuse Rules continues to be governed by Part V of the Companies Act 1990 (e.g. securities listed on unregulated markets such as the Irish Enterprise Exchange (IEX)).

"Insider dealing" is defined as the use of "inside information" to buy or sell financial instruments to which the information relates. It also covers the disclosure of "inside information" to any other person, unless the disclosure is done in the normal course of the exercise of the person's employment, profession or duties. The offence of "market manipulation" includes the carrying out of certain abnormal transactions that give false or misleading signals to the market or artificially fixing pricing. Other

elements of the offence include transactions or orders to trade using fictitious devices and spreading information (including rumours) that give false or misleading signals.

This Part summarises the main legal obligations that arise in respect of market abuse (insider dealing and market manipulation).

3.2 Summary of Legal Obligations in respect of Insider Dealing

In broad terms, the 2005 Market Abuse Regulations make it a criminal offence for a person who is in possession of "inside information" to:

(a) deal or try to deal in such financial instruments (Regulation 5(1));

(b) disclose inside information to any other person (Regulation 5(2)(a)); or

(c) recommend or induce another person to deal in such financial instrument (Regulation 5(2)(b)),

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.

Officers should note that the 2005 Market Abuse Regulations apply to "financial instruments" which are traded on a regulated exchange (or those where a request for admission to trade has been made). The definition of "financial instruments" includes a very broad range of securities and not just company shares as might commonly be thought to be the case. "Financial Instruments", as defined in Regulation 2(1) of the 2005 Market Abuse Regulations, include:

(a) transferable securities ;

(b) units in collective investment undertakings;

(c) money-market instruments;

(d) financial futures contracts, including equivalent cash-settled instruments;

(e) forward interest rate agreements;

(f) interest-rate, currency and equity swaps;

(g) derivatives on commodities;

(h) any other instrument admitted to trading on a regulated market in a Member State or for which a request for admission to trading on such a market has been made; and

(i) options to acquire or dispose of any instrument falling into any of paragraphs (a) to (h) of this definition, including equivalent cash-settled instruments in particular options on currency and on interest rates.

3.3 Summary of Legal Obligations in respect of Market Manipulation

Regulation 6(1) of the 2005 Market Abuse Regulations provides that "a person shall not engage in market manipulation", where market manipulation means:

(a) transactions or orders to trade –

(i) which give, or are likely to give, false or misleading signals as to the supply of, demand for or price of financial instruments; or

(ii) which secure, by a person, or persons acting in collaboration, the price of one or several financial instruments at an abnormal or artificial level,

unless the person who entered into the transactions or issued the orders to trade establishes that the person's reasons for so doing are legitimate and the transactions or orders to trade, as the case may be, conform to accepted market practices on the regulated market concerned;

(b) transactions or orders to trade which employ fictitious devices or any other form of deception or contrivance; or

(c) dissemination of information through the media, including the Internet, or by any other means, which gives, or is likely to give, false or misleading signals as to financial instruments, including the dissemination of rumours and false or misleading news, where the

person who made the dissemination knew, or ought to have known, that the information was false or misleading.

3.4 Persons to whom the 2005 Market Abuse Regulations Apply

The 2005 Market Abuse Regulations apply to Officers. The specific regulatory references are as follows:

(a) Regulation 5(3)(a) the 2005 Market Abuse Regulations applies to any person who possesses inside information by virtue of:

(i) the person's membership of the administrative, management or supervisory bodies of the issuer of the financial instrument; or

(ii) having access to the information through the exercise of the person's employment, profession or duties.

All employees of the NTMA are covered by (a) and (b) in respect of their potential access to inside information relating to the NTMA's role as an issuer of bonds and other debt instruments on behalf of the State. In addition, Officers involved in roles that provide them with potential access to inside information in respect of third party issuers are covered (e.g. Officers who have potential access to inside information in respect of other types of financial instruments, including company shares).

(ii) Officers are also covered by Part V of the Companies Act, 1990 in relation to securities listed on unregulated markets such as the IEX. Part V of the Companies Act, 1990 applies directly to a person appointed to, employed by or occupying a position within a body established by the Government or any Minister of the Government or by or under any statutory authority.

(iii) Regulation 5 (3) (c) of the 2005 Market Abuse Regulations applies to any "other person who possesses the inside information concerned while the person knows, or ought to have known, that it is inside information". The 2005 Market Abuse Regulations is very broadly drafted so as to capture any person who knowingly finds themselves in possession of inside information.

3.5 Personal Account Transactions

Officers must comply with NAMA or NTMA codes and rules on personal account transactions.

3.6 Penalties

Criminal Offence: Infringement of the 2005 Market Abuse Regulations constitutes a criminal offence punishable on conviction by a fine not exceeding €10m or up to 10 years imprisonment (or both) (Section 32 of the Investment Funds, Companies and Miscellaneous Provisions Act 2005).

Civil Liability: Civil liability may be imposed on any person found to have breached the 2005 Market Abuse Regulations in order to compensate any innocent party to the transaction for his or her losses and further to account to the company involved in the issue of the securities for any profit he or she made (Section 33(1) of the Investment Funds, Companies and Miscellaneous Provisions Act 2005).

Administrative Sanctions: The Financial Regulator has the power to impose administrative sanctions on any person who breaches the 2005 Market Abuse Regulations. The sanctions that may be imposed range from private and public cautions or reprimands, directions and monetary penalties up to €2,500,000 and the payment of costs of any investigation.

3.7 Enforcement

The Financial Regulator is responsible for enforcing the provisions of the 2005 Market Abuse Regulations. However, the Financial Regulator has delegated certain supervisory and investigative duties to the Irish Stock Exchange, which also continues to be the investigating authority for the purposes of Part V of the Companies Act 1990 in respect of unregulated markets. The Irish Stock Exchange monitors dealings and reports any suspected market abuse to the Financial Regulator. The 2005 Market Abuse Regulations also make provision for the exchange of information with similar authorities in respect of each regulated market on which the financial instruments are admitted to trading or are the subject of a request to be admitted to trading.

3.8 Queries

As these are relatively complex pieces of legislation, if Officers are in any doubt at all about their position, they should raise any questions they may have with the Compliance Officer of the NTMA.

PART IV: MISCONDUCT BY OFFICERS OF NAMA

4.1 General Duty

Officers of NAMA must always be guided in their actions by the provisions of the NAMA Act as it may be amended from time to time as well as by their statutory responsibility to act lawfully, faithfully, competently and in the best interests of NAMA, without being influenced in the course of their work by any personal, unethical and/or improper consideration.

4.2 Misconduct of Officers

For the purposes of Section 35 of the NAMA Act the following provisions shall apply with respect to the conduct of Officers of NAMA:-

4.2.1 Officers of NAMA must at all times act in the best interests of NAMA, act in good faith in the performance of their duties and responsibilities, conduct themselves in a professional manner and with propriety, be competent in their work, perform their job duties to the standards reasonably required by NAMA, be faithful to NAMA in the course of their work and discharge their duties and responsibilities with the highest standards of integrity. Without prejudice to the generality of the foregoing Officers must not at any time permit themselves to be lobbied or engage in lobbying on behalf of any organisation, association, person, firm, company or other legal entity with respect to any matter that NAMA has or may have an interest in or conduct themselves in a manner that is or may be inimical to the interests of NAMA.

4.2.2 If an Officer of NAMA is convicted at any time of an offence of the kind specified in Section 43 (a) of the NAMA Act, or is restricted or disqualified from acting as a director under the Companies Acts (as defined in the NAMA Act), or is not adequately performing his or her functions, whether because of incapacity through illness or injury or otherwise, or has committed misconduct in relation to his or her duties as an officer of NAMA, or if the Chief Executive Officer of NAMA is of opinion that a material conflict of interest in relation to his or her duties as an officer of NAMA has arisen in relation to the Officer concerned or that the Officer's suspension appears to the Chief Executive Officer of NAMA to be necessary or expedient for the effective performance by NAMA of its functions then in any such case or circumstance the Chief Executive Officer of NAMA, after consultation with the Chief Executive of the NTMA, may suspend, on such terms and conditions as he

or she thinks fit, such Officer of NAMA from his or her duties as an officer of NAMA.

4.2.3 For the purposes of this Code the term "misconduct" means:

(a) Fraud or dishonesty of any nature or description;

(b) Theft or misappropriation of funds, property or other assets belonging to any other person, company or other legal entity;

(c) Falsification or misrepresentation of any records belonging to NAMA or any NAMA group entity or of any company or other legal entity or person with whom NAMA has or proposes to have dealings for the purposes of discharging any power, duty or function assigned to NAMA by the NAMA Act;

(d) Breach of confidentiality or violation of any non-disclosure obligation whether by using or disclosing confidential or commercially sensitive information in a manner prohibited by this Code, the provisions of the NAMA Act and/or otherwise;

(e) Misuse of NAMA and/or NTMA communications equipment, systems or networks or any attempt to gain unauthorised access to another persons' e-mail account or computer files or to any restricted area of NAMA's and/or NTMA's business systems or networks;

(f) Failing, refusing or neglecting to report evidence or reasonable suspicion of fraud, irregular practices, lack of integrity or dishonest behaviour of another Officer of NAMA or any person with whom NAMA has or proposes to have dealings for the purposes of discharging any power, duty or function assigned to NAMA by the NAMA Act;

(g) Wilful breach of duty including but not limited to breach of statutory duty;

(h) Incapacity due to alcohol or un-prescribed drugs while at work;

(i) Participating in, permitting or failing to report lobbying in breach of Section 221 of the NAMA Act or solicitation for unlawful or improper purposes of any company or other legal entity or of a person with whom NAMA or any NAMA group entity has or proposes to have dealings in the discharge of any power, duty or function assigned to NAMA by the NAMA Act ;

(j) Wilful violation or serious breach of this Code or any other Code of Practice and/or any Code of Conduct promulgated by NAMA or any code of practice or of conduct promulgated by the NTMA;

(k) Wilful or serious violation of NTMA or NAMA security guidelines, policies and/or procedures including without limitation any "Chinese Walls" procedures established by NAMA from time to time.;

(l) Wilful or gross negligence in the conduct of or in relation to NAMA's activities, business or affairs;

(m) Being convicted of any criminal offence other than a non-arrestable offence under road traffic legislation; and / or

(n) Any other activities or deliberate acts or omissions that are or could reasonably be considered by the Board of NAMA to be detrimental to NAMA' s functions, interests or reputation.

4.2.4 The following procedures shall apply to the investigation of an Officer of NAMA suspected of misconduct:-

(a) The Chief Executive Officer of NAMA shall appoint such one or more persons ("investigating officers") to carry out an investigation into any allegations, complaints or suspicions of misconduct;

(b) The investigating officers will make such initial enquiries as they deem fit and then convene a hearing with the Officer whose conduct is in question as well as with such other persons as the investigating officers deem necessary or appropriate with a view to establishing the facts;

(c) Prior to such hearing the Officer whose conduct is in question will be given details of and a summary of available evidence to support the allegations or complaints in respect of which the investigation is being conducted and a reasonable opportunity to respond;

(d) During the hearing the evidence in support of the allegations or complaints will be put to the Officer whose conduct is in question and he or she will be given the opportunity to call any counter-evidence, and to respond and make representations;

(e) The Officer of NAMA whose conduct is the subject of an investigation may be accompanied by a work colleague or a representative of his or her choice at the hearing;

(f) For the avoidance of doubt, natural justice will be afforded to an Officer of NAMA whose conduct is in question before any conclusion is reached, or a finding of misconduct is made against such Officer, with respect to the subject matter of the hearing.

(g) At the completion of the investigation the investigating officers will furnish their report on the investigation and its conclusions to the Chief Executive Officer of NAMA who may then, in consultation with the Chief Executive of the NTMA, suspend the officer concerned from his or her duties as an officer of NAMA on such terms and conditions as the Chief Executive Officer of NAMA thinks fit;

(h) The conduct of an investigation under this section will be deemed for all purposes to be an investigation by NTMA for the purposes of its disciplinary code and no further investigation will be required to be carried out by NTMA in order for NTMA to invoke its disciplinary procedures;

(i) For the avoidance of doubt, nothing contained in this Code shall affect or limit the right of the NTMA to terminate at any time the employment of any of its employees (including without limitation any employee of the NTMA assigned to NAMA) provided always that such termination is in accordance with any right conferred on the NTMA pursuant to statute, at law and/or under the applicable contract of employment.; and

(j) Notwithstanding these procedures, the Chief Executive Officer of NAMA may suspend an Officer at any time prior to or during an investigation.

4.3 **Reporting of Offences and Other Wrongdoing**

In the event that any NAMA Officer becomes aware that an offence under the Act or any other enactment has been or is being committed, or that any provision of the NAMA Act or any other enactment or rule of law has been or is being contravened, or that there has been other serious wrongdoing in relation to NAMA or a NAMA group entity, the Officer shall communicate this opinion to the Chairman of the Board or the Chairman of the Audit Committee or if the Officer so wishes, to his or her manager who shall be under an obligation to communicate the Officer's opinion to the Chairman of the Board or the Chairman of the Audit Committee. The Chairman of the Board or Chairman of the Audit Committee shall notify the relevant authority where appropriate.

If an officer is unsure about whether or not an offence or other serious wrongdoing has or is being committed, or if the officer is uncomfortable about reporting an issue, the NTMA's Good Faith Reporting Policy provides for a number of reporting options including making a report to the appointed external contact under the policy.

4.4 **Whistleblowing – section 222**

In the event that an Officer of NAMA communicates his or her opinion, whether in writing or otherwise, to a member of An Garda Síochána or to a member of the Board that an offence under the Act or any other enactment has been or is being committed, or that any provision of the NAMA Act or any other enactment or rule of law has been or is being contravened, or that there has been other serious wrongdoing in relation to NAMA or a NAMA group entity, then such Officer shall have protection from civil liability in accordance with and subject to the provisions of and limitations contained in Section 222 of the NAMA Act. It is an offence to make such a statement knowing it to be false.

4.5 **Complaints and Giving of Evidence – section 223**

Penalisation, within the meaning of Section 223 of the NAMA Act, of any Officer who complains to the Minister or An Garda Síochána or gives evidence in any proceedings is prohibited in accordance with and subject to the provisions of and limitations contained in Section 223.

4.6 **Suspension for Conflicts or Expediency**

The Chief Executive Officer of NAMA, after consultation with the Chief Executive of the NTMA, may suspend, on such terms and conditions as he or she thinks fit, an Officer of NAMA from his or her duties as an Officer if the Chief Executive Officer of NAMA is of opinion that a material conflict of interest in relation to his or her duties as an officer of NAMA has arisen in relation to the Officer concerned or that the Officer's suspension appears to the Chief Executive Officer of NAMA to be necessary or expedient for the effective performance by NAMA of its functions. For the avoidance of doubt a suspension by reason of the Chief Executive Officer of NAMA forming any such opinion shall not require compliance with or adherence to procedures of the kind specified in paragraph 4.2.4 of this Code; provided always that that Chief Executive Officer of NAMA shall, before imposing a suspension on the basis of his or her opinion as aforesaid, make such enquiries as he or she considers reasonable and shall also in all cases hear what the Officer has to say with respect to any suspected or stated conflict of interest, necessity or expediency before imposing a suspension under this sub-paragraph 4.5.

4.7 **Lobbying**

An Officer of NAMA shall not engage in lobbying or other such activities of the kind specified in Section 221 of the NAMA Act; and if he or she engages in any such lobbying or activities he or she shall be guilty of an offence and liable to suspension from duties in NAMA as well as criminal sanction on conviction.

Any Officer of NAMA who believes that he or she has been communicated with in contravention of section 221(1) shall report the following to the NTMA Compliance Officer;

(a) that the communication was made

(b) the details of the communication made, and
(c) the name of the person who communicated with him or her

The NTMA Compliance Officer shall maintain a register of all such communications (oral, written, electronic) and as soon as may be report it to An Garda Síochána.

4.8 Standards in Public Office Commission

Officers to whom the Ethics Acts apply should also note that they may be subject to investigation by the Standards in Public Office Commission, either following complaint or on the Commission's own initiative, for an infringement of any obligation imposed by the Ethics Acts.

PART V: MISCELLANEOUS

5.1 Right to Update

NAMA reserves the right to update, add to and/or amend the provisions of this Code, and introduce additional codes of practice, at any time.

5.2 Understanding the Code

Officers of NAMA are expected to ensure that they read and understand this Code and all updates, additions or amendments introduced from time to time.

5.3 Captions

Captions used in this Code are for ease of reference only and shall not affect the interpretation of its provisions.