



MS-PO-24: Directors’ Conflict of Interest Policy

Document approver	Board	Document developer	CFO
Authorisation date	Mar 2023	Review date	Mar 2025

Version History

Version	Date	Modification
1	Mar 2023	Original policy

Contents

1	Purpose	2
2	Scope.....	2
3	Background.....	3
4	Policy	4
5	Implementation	4
6	Monitoring and Audit.....	9

1 Purpose

Sugar Terminals Limited (STL) is a public Company limited by shares listed on the National Stock Exchange of Australia (NSX). It is governed in accordance with the *Corporations Act 2011* (Cth), the Company's Constitution and the NSX Listing Rules.

Directors of STL are required to act in the best interests of STL as a whole at all times and put their duty as a Director and Officer of STL above their own private interests or interests of organisations they may represent, or are associated with, when carrying out their official duties.

Conflicts of interest arise when a Director's personal interests (or the interests of their family, friends or organisations or associations in which they are involved) or duties to another organisation conflict with the Director's duties to STL and their responsibility to act in the best interests of STL as a whole, being a responsibility to act in the best interests of all grower shareholders and miller shareholders. Personal interests include direct interests as well as those of family, friends or organisations a person may be involved with or have an interest in (for example, as a shareholder or a material contractual relationship). A conflict of interest may be actual, potential or perceived and may be financial or non-financial.

These situations present the risk that a person will make a decision based on, or affected by, these influences, rather than in the best interests of STL and must be managed accordingly.

Conflicts of interest should be carefully managed because they have the potential to:

- damage the commercial standing or reputation of STL and the affected Director - noting that, once lost, reputation can be difficult to restore
- inhibit good decision-making by the Board particularly if Directors' interests mean that the Board doesn't feel that it can freely discuss issues or make objective decisions free of external pressures
- result in Board decisions which are open to challenge, and
- expose Directors to liability for breach of their duties to the Company.

Board members are members with numerous family, social and business relationships. As such, STL acknowledges that Directors cannot at all times completely avoid conflicts of interest. However, it is how those actual, potential and perceived conflicts are disclosed to the Board and managed that is important.

The purpose of this policy is to:

- assist Directors to understand and identify the types of interests that might pose a conflict
- detail the responsibilities of Directors in dealing with conflicts of interest, and
- detail procedures for managing and monitoring Directors' conflicts of interest.

2 Scope

This policy applies to all Directors of STL and is to be read in conjunction with the STL Constitution, Board Charter, Directors' Handbook, Code of Conduct and all other STL policies and protocols. To the extent that this policy is inconsistent with the Constitution, the Constitution prevails.

A member may nominate a person for election as a Director of STL in accordance with the STL's Constitution. Any Director who is nominated for election by a member of STL who is subsequently elected at a general meeting will be bound by the obligations and procedures set out in this policy. Similarly, a person appointed as a director by the Board or any person elected or appointed as a director in accordance with the STL Constitution will be bound by the obligations and procedures set out in this policy.

3 Background

A conflict of interest occurs when your personal interests conflict with your responsibility to act in the best interests of STL as a whole. The term 'personal interests' does not need to be your own interest, but may also arise from the interests of your family, friends or organisations you are involved with. It also includes a conflict between your duty to STL and another duty you have to another organisation.

Conflicts of interest consist of actual, potential and perceived conflicts, which are described as:

- actual conflicts of interest, that is, where a person has a conflict between their obligation to act in the best interests of STL and their own personal, professional, business or other relationships or interests which may compromise a director's objectivity, judgment, integrity and/or their ability to fulfil their responsibilities to STL;
- potential conflicts of interest, that is, where it can be reasonably expected that a person may in the future have a conflict between their obligation to act in the best interests of STL and their own personal, professional, business or other relationships or interests which would compromise a director's objectivity, judgment, integrity and/or their ability to fulfil their responsibilities to STL, and
- perceived conflicts of interest, that is, where it could be perceived or appear that a person has an actual or potential conflict whether or not this is in fact the case.

Conflicts might arise from direct or indirect interests and may relate to financial and non-financial matters including other interests in an opportunity from which STL may benefit, or which may be detrimental to STL.

While some conflicts may be obvious, there are others that might only have the potential to influence you, or others may perceive to influence you. Perception is as important as your intention because it affects your reputation and that of STL. Examples of situations that might constitute a conflict of interest include the following:

- where a Director holds a position on the board or committee of another organisation, or is an employee of another organisation, which may give rise to a conflict between the duty owed to STL and the duty owed to the other organisation;
- where a Director, whether directly or indirectly, stands to gain financially from any business dealings, programs or services provided to STL
- where a Director, whether directly or indirectly, is in any way interested in a contract or proposed contract with STL
- where the Director is a supplier/service provider to STL where hospitality or other gifts are provided to a Director by a potential supplier,
- where a Director seeks to advocate the interests of a third party or any other organisation of which they are a member or with which they are associated or with which they have or has had a significant business, financial or professional relationship,
- where a Director has or has had a significant business, financial or professional relationship with another company, which is or becomes or ceases to be a material supplier, service provider or other contractual counterparty of STL. Such relationships could include for example a material shareholding, contractual counterparty relationship and/or Board representation on a company in which the Director has a material interest;
- where a Director (or an Associate) is a significant shareholder of another organisation (ie holder of more than 5%), or another organisation is a significant shareholder in a company in which the Director (or an Associate) has a material interest or holds an Executive role;
- where a Director represents, is a director of, or is employed by, or has a material commercial relationship with, a significant shareholder of STL;
- where an affiliate of the Director benefits, or has the potential to benefit, in some way from the Director's position on the Board; or
- where a Director uses confidential information received by them in their capacity as a Director for their personal benefit.

A conflict of interest can also arise indirectly where a close relative, or friend or business associate of a Director or an organisation they are involved in benefits from that person's position on STL Board.

A conflict of *duty* arises where a Director's duty to STL conflicts with a *duty* that Director also has to another organisation, including a member entity.

4 Policy

Directors have a responsibility to put their duty as a Director of STL above their own private interests and that of any other organisation or group when carrying out their duties as a Director. Directors must avoid actual, potential or perceived conflicts of interest arising between their duties as a member of the STL Board and their personal interests or any other legal duty owed to another third party, as outlined above.

STL is committed to ensuring that all Directors' actual, potential and perceived conflicts of interest are:

- identified, disclosed and recorded, and
- where they cannot be avoided, managed in an appropriate and transparent manner.

Directors are required to take personal responsibility for identifying, disclosing and managing conflicts of interest.

Directors are required to disclose any actual, potential or perceived conflicts to the Company Secretary in accordance with this policy.

The board is responsible for:

- establishing a system for identifying, disclosing and managing conflicts of interest for STL;
- monitoring compliance with this policy and respond to any breaches; and
- reviewing this policy on an annual basis to ensure that the policy is operating effectively.

5 Implementation

The Board has adopted the following procedures to assist Directors to comply with their obligations regarding conflicts of interest.

Conflict of Interests Register

A Conflict of Interests Register (MS-RE-10) will be maintained by the Company Secretary comprising declarations of interest made by Directors. The register must be open for inspection by any Director.

The Company Secretary shall keep the Board informed of all entries to the Register. The Company Secretary and Directors must treat all personal information contained in the Register as confidential and must not disclose information in the register except to the extent necessary to implement this policy.

Disclosure obligations

Disclosure of a conflict is the first step in managing potential conflicts and can be regarded as the baseline in enabling other directors to make an informed decisions with regards to managing conflicts. In addition, a failure to disclose may itself constitute a breach of the duty to act in good faith in the interests of STL and for a proper purpose.

Although the extent of the required disclosure will be dependent on the circumstances, disclosure must generally be of the nature and extent of the interest and be sufficient to enable the other directors to give (or withhold) informed consent to the Director's continued involvement in decision making about a particular matter.

Conflicts of interest are judged objectively - that is the test is not whether you consider yourself to have a conflict but whether a reasonable person would consider that there is a real or substantial possibility that an interest would affect your decision making. In this regard, STL Directors may wish to ask themselves whether a reasonable person, properly informed about the nature of their personal interests, would believe they might be influenced by their personal interests when making decisions on behalf of STL. Directors are encouraged to act conservatively when making this assessment because this will both assist Directors in discharging their legal obligations and ensure that the Board is kept fully informed with respect to considering and managing conflicts.

Directors should also bear in mind disclosure does not negate or reduce the duty to act in good faith in the interests of STL and for proper purposes.

In addition to the common law, Directors of STL are also required to comply with sections 191 and 195 of the Corporations Act. These statutory provisions operate in addition to, and not in derogation of, the general law duty to avoid conflicts.¹

Sections 191-195 of the *Corporations Act* set out detailed provisions requiring the disclosure and management of "Material Personal Interests" and the NSX Listing Rules contain provision relating to "Material Interests". The terms "Material Personal Interest" and "Material Interests" are not defined in the Corporations Act or NSX Listing Rules but can be interpreted to mean an interest that has the capacity to influence the actions taken or decisions made by a Director in respect of the Company. The interest does not necessarily need to be of a financial or pecuniary nature.

The *Corporations Act* and NSX Listing Rule requirements are reflected to a large extent in this Policy and Article 21 of the Constitution.

Directors are required to familiarise themselves with their obligations under the *Corporations Act 2001* (Cth), the STL Constitution, the NSX Listing Rules and STL's policies and protocols, including this policy. In particular, Directors should be aware that:

- Section 191 imposes a duty on a Director who has a Material Personal Interest in a matter that relates to the affairs of STL to give the other Directors notice of the interest;
- Contravention of section 191 may result in a fine or imprisonment (but does not affect the validity of any act, transaction, agreement, resolution of other thing)²;
- Section 192 allows a Director to give the other Directors 'standing notice' about an interest, which must be tabled at the next Board meeting if not given at a Board meeting in the first instance;
- Interests disclosed under ss 191 and 192 must be recorded in the Board minutes - and the STL Conflicts of Interest Register;
- Article 21.3 provides that a Director who has an interest in a matter that is being considered at a meeting of Directors, may, despite that interest, vote, be present and be counted in a quorum at that meeting, unless that is prohibited by the Corporations Act (particularly noting section 195 Corporations Act);
- Section 195 of the Corporations Act provide that a Director of a listed company (such as STL) must not be present, and is not entitled to vote, at a Board meeting when the Board considers a matter in which that Director has a Material Personal Interest unless the non-conflicted Directors have passed a resolution that they are satisfied that the interest should not disqualify the director from voting or being present; and
- NSX LR 6.46 provides that a director must not vote on any contract or arrangement or any other proposal in which they have a material interest.

Declarations of Interests

¹ Section 193 Corporations Act.

² Section 191(4) Corporations Act

Prior to commencing with STL, each Director is required to complete the Directors Application Form (MS-FO-27). This Form includes a section for the declaration of conflicts of interest.

The Company Secretary will, on a biennial basis (in conjunction with the review of this Policy) request each Director to review their declared conflict of interests.

While not an exhaustive list, types of interests that Directors should consider when completing the Declaration include:

- the examples set out above in paragraph 3 of this policy;
- other directorships - past, current and future;
- employed roles (including previous roles and future prospects);
- financial interests including:
 - o shares, debentures, rights of options and other securities (excluding shareholdings of less than 5% in listed companies);
 - o unit trusts, leasing schemes and other managed investments;
- interests as a trustee or beneficiary of a trust;
- interests in any real property, contracts or business ventures that may be relevant to STL;
- being the recipient of gifts, discounts, concessions or hospitality from a person or entity who may have dealings with STL;
- relationships with affiliates who have an interest (including as a director, officeholder, employee or significant investor) in an entity which has or may have dealings with STL (except where the interest is a shareholding of less than 5% in a listed company);
- prejudice based on friendship, animosity or personal involvement with another person or group of persons, including through membership of or participation in professional, sporting, social, industrial, religious or cultural organisations.

Directors must honestly assess whether any interest could affect, or appear to affect judgment, objectivity or independence. Any such interests must be disclosed in the declaration.

The types of interests which Directors do not need to disclose include interests which:

- arise in relation to a Director's remuneration as a director of the Company;
- arise because a Director is a guarantor or has given an indemnity or security for all or part of a loan, or proposed loan, to the Company or has a right of subrogation in relation to such a guarantee or indemnity;
- relate to a contract that insures, or would insure, a Director against liabilities the Director incurs as an officer of the Company (but only if the contract does not make the Company the insurer);
- relate to any payment by the Company in respect of an indemnity permitted under section 199A of the Corporations Act or any contract relating to such an indemnity.

In addition, Directors must disclose any actual, potential or perceived interest in a contract or arrangement, or proposed contract or arrangement, with STL as soon as reasonably practicable after the Director has identified the interest. Disclosure may be made at a meeting of the Board or by written notice to the Company Secretary.

Where a director has a material personal interest in an issue arising in the course of their duties, they must immediately inform the Chair of the interest in writing and must not deal with the issue except under the Chair's written direction.

Standing agenda item

"Director conflict of interest disclosures" shall be a standard agenda item at the beginning of each Board and Committee meeting.

Directors are required to advise of the fact, nature, character and extent of any conflicts of interest or duties regarding agenda items at this point and before discussion of any substantive agenda items. If during the course of discussion on an agenda item, a Director becomes aware of a conflict then they are to declare the conflict at that time.

The Company Secretary will be responsible for recording all conflict of interest disclosures in the Board meeting minutes.

Receipt of Board papers

Where a Director has a Conflict of Interest, the Director should not receive Board materials relating to the matter in which the Director has a Conflict and may need to be provided with redacted materials. This could include both:

- agendas and Board papers relating to a matter in which the Director has a Conflict of Interest;
- minutes of Board meetings to the extent that a Director was absent from the meeting due to a Conflict of Interest.

The conflicted Director may request, or the Chair of the Board may determine, that the Company Secretary should not provide the relevant material to the Director. The Company Secretary should consult the Chair as to which material the conflicted Directors should receive (or consult collectively with the remaining Independent Directors where the Chair of the Board is the conflicted Director).

If a STL Director receives any information in their capacity as a STL Director and subsequently identifies that they have a Conflict of Interest in relation to that matter the STL Director must:

- return any such materials relating to the information which have already been circulated; and
- immediately notify the Chair.

In the event that the conflicted Director objects to the withholding of information, the matter should be discussed and determined by the Board without the presence of the conflicted Director.

Where any withheld information becomes publicly available or, in the opinion of the Chair (or Deputy Chair, if applicable), the potential for any actual, potential or perceived conflict of interest has passed, the Chair may provide a briefing to the conflicted Director as to the status of matter and particulars of any decision of the Board in respect of that matter.

Participation in discussion and decision-making

A Director who has a conflict of interest, a material personal interest or material interest in a matter that is being considered at a meeting of Directors:

- must not be counted in a quorum
- must not vote on the matter, and
- must not be present while the matter is being considered at the meeting.

However, the Director may be present and vote if the Directors who do not have a material personal interest have passed a resolution that they are satisfied that the interest should not disqualify the director from voting or being present.

Minutes

Where a Director has declared a conflict of interest, the following matters should be recorded in the minutes:

- the nature and extent of the personal interest

- the relation of the interest to the affairs of STL
- whether a conflict of interest exists and why, and
- the board's decision as to how the conflict is to be managed and the reasons for that decision,
- along with any arising action items.

The minutes should also record whenever Director enters or exits the boardroom as a result of a conflict at the point in proceedings where the Director exited and entered the meeting room.

Use of information

A common situation in which a conflict may arise is where a director acquires information as a result of their position as a director of STL that the director knows will be of interest to another company or organisation that they represent. The conflict in this situation includes:

- a duty of confidentiality owed to STL; and
- a commercial desire to communicate knowledge acquired to the company or organisation they represent.

As a basic principle, the duty of confidentiality owed to STL is greater than any duty owed to the company or organisation they represent.

Consequently, as a general rule, if a director acquires any information in his or her capacity as director of STL (which is not otherwise publicly available), the director cannot communicate that information to the company or organisation they represent, have dealings with, or are associated with, without the consent of the Board. To do so would potentially breach a number of directors' duties, including the common law duties to act honestly and to avoid conflicts of interest, and the statutory duties to act in good faith, not to misuse position, and not to misuse information (refer to sections 181 to 184 of the *Corporations Act*).

Consider position

If a Director is unwilling or unable to manage a conflict of interest, and that conflict interferes with the effectiveness of their performance of their duties to STL, then the Chair may request the Director to consider whether their ongoing position with STL is sustainable. If an agreeable position cannot be reached, the issue shall be put to the non-interested Directors for determination.

Seek advice

If a Director is concerned that they might have a conflict of interest, they are encouraged to assume that a conflict exists and seek advice from the Chair as to the most appropriate manner for handling the situation.

The Chair will consider how the matter is to be handled to protect the interests of STL including the arrangement of appropriate independent advice if considered necessary.

Undeclared conflicts

Where the Company Secretary or a Director believes that another director has an undeclared conflict of interest or duty, they should notify the Chair accordingly (or another Director where the concern relates to the Chair).

The Chair must then discuss the matter with the allegedly conflicted Director and determine how the matter is to be managed. If the Chair considers it necessary, they shall put the issue to the non-interested Directors for determination.

If the undeclared conflict relates to the Chair, then the Board shall appoint another director to act as Chair to deal with this matter.

Compliance with this Policy

If the Board has a reason to believe a person subject to this policy has failed to comply with it, it will investigate the circumstances.

If it is found that this person has failed to disclose an actual, potential or perceived conflict of interest, the Board may take action against them, subject to the preceding paragraph.

6 Monitoring and Audit

The requirements of this Policy may be subject to audit. Any audit findings will be reviewed by the Safety, Risk & Sustainability Committee.