



Guernsey Financial
Services Commission

Conflicts of Interest – Investment

Thematic Review – 2025



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Glossary of Terms

Term	Description
Bailiwick	Bailiwick of Guernsey
CMP	Compliance Monitoring Programme
COB Rules	The Licensees (Conduct of Business) Rules and Guidance, 2021
Code of Corporate Governance	The Finance Sector Code of Corporate Governance
Commission	The Guernsey Financial Services Commission
Conflicts	Conflicts of Interest
IOSCO	The International Organization of Securities Commissions
POI Law	The Protection of Investors (Bailiwick of Guernsey) Law, 2020
Principles of Conduct	The Principles of Conduct of Finance Business
Prospectus Rules	The Prospectus Rules and Guidance, 2025
RIEO Rules	The Regulated Investment Exchange Operator Rules and Guidance, 2024

Executive Summary

In the first half of 2025, the Commission reviewed a selection of investment and fiduciary licensees to understand the types of conflicts of interest they encountered, as well as considering the controls used by licensees to identify and manage conflicts of interest. The Commission recognises that conflicts often arise as part of licensees doing business, particularly in a relatively small jurisdiction. This report sets out the thematic review findings for investment licensees.

The Commission's findings indicate that licensees on the whole, have adequate controls in place to meet the required regulatory standards. The review highlighted a number of examples of good practice, and some areas that licensees should consider when next enhancing their policies, procedures and controls.

What did the Commission find?

A) Licensees reported a wide variety of types of conflicts of interest

The potential for conflicts of interest to arise within the investment sector is high due to the nature of client relationships and services provided to those clients. It was therefore unsurprising that licensees communicated a broad range of conflicts that they have encountered, or may encounter, which reflects the inherent risk of conflicts of interest within the sector.

A non-exhaustive list of the types of conflicts reported by licensees during the review has been included at the Appendix for licensees to consider.

B) Licensees took appropriate steps to identify and manage conflicts of interest

Most licensees were aware of the importance of identifying circumstances contributing to, or potentially giving rise to, conflicts of interest involving their business, clients and/or staff. The Commission noted that some licensees appeared to be overly focussed on conflicts involving the board of directors, and would encourage firms to consider conflicts that exist throughout the business.

When conflicts are identified, the Commission stresses the importance of licensees implementing appropriate controls to manage and monitor those conflicts.

C) Licensees used different approaches to recording conflicts of interest

In addition to identifying and managing conflicts of interest, an important area for licensees to consider is how they record conflicts. The Commission found that licensees generally recorded conflicts that had already arisen, or that may arise, in an appropriately detailed conflicts register. However, not all licensees appropriately recorded the specific controls that had been implemented to manage each conflict within their conflicts of interest registers.

D) Overall, licensees had implemented a control framework to ensure conflicts of interest are identified and managed

The Commission found that licensees generally have policies that are proportionate to the nature, scale and complexity of their businesses. Licensees tend to embed their conflicts of interest policies and procedures through periodic training and establishing a healthy compliance culture.

Most licensees also include specific tests within their compliance monitoring programme ("CMP") to monitor the effectiveness of their control framework for conflicts of interest.

Background

Thematic reviews are used by the Commission as a tool to gather information on specific aspects of the Bailiwick's financial services industry. A thematic review also provides a means by which the Commission can share observations with industry on good practice and areas to consider, and engage with a wide selection of regulated entities.

Conflict of interests can be straightforward and apparent, such as when an individual has a close personal relationship with a supplier, or where an individual is acting in multiple roles with conflicting duties, but they can also be intricate, involving multiple, overlapping issues stemming from a firm's business model, client base and the interests of individuals within the firm.

The Commission recognises that conflicts often arise as part of licensees doing business, particularly in a relatively small jurisdiction. Licensees must therefore be aware of risks concerning conflicts of interest and have sufficient controls to identify and manage conflicts. When conflicts of interest are not effectively identified and managed, it can lead to significant harm.

Current legislation and international standards

IOSCO updated its Objectives and Principles of Securities Regulation in 2017. Below is a summary of the parts of IOSCO's key principles relevant to this thematic review.

Principle 8 sets out the role securities regulators should have in focussing on conflicts of interest and the misalignment of incentives. Further principles then set out expectations for robust controls and procedures for the identification, avoidance, elimination or management and disclosure of conflicts of interest, by Self-Regulatory Organisations (Principle 9), entities offering analytical or evaluation services (Principle 23), operators or entities marketing collective investment schemes (Principle 24 and 28) and market intermediaries (Principle 29 and 31).

These principles are embedded into the Commission's regulatory regime through the Protection of Investors (Bailiwick of Guernsey) Law, 2020, the Principles of Conduct of Finance Business (the "Principles of Conduct"), the Finance Sector Code of Corporate Governance (the "Code of Corporate Governance"), the Licensees (Conduct of Business) Rules and Guidance, 2021 (the "COB Rules"), the Regulated Investment Exchange Operator Rules and Guidance, 2024, the Prospectus Rules and Guidance, 2025 and the individual sets of rules pertaining to collective investment schemes.

Scope

The Commission sent questionnaires to 33 investment licensees, which represented approximately 25% of the total population of non-administered investment licensees. The firms analysed included licensees from the following sub-sectors: designated administrators, custodians, asset managers, brokers and registrars.

The Commission is pleased to note that there was a 100% response rate.

The Commission then met with a sample of the firms analysed to further discuss their approach to identifying and managing conflicts of interest.

Approach

The thematic review consisted of six stages:

1. The Commission considered international standards relevant to conflicts of interest; specifically, the IOSCO principles referenced in the Background section, as well as the Commission's rules, codes, guidance, and other documents in respect of conflicts of interest.
2. The Commission held meetings and roundtable discussions with industry representatives and other financial services regulators to gain a broad understanding of current practices pertaining to conflict risk management and the implications of the current regulatory regime.
3. Questionnaires were sent to a selection of licensees to gather initial information regarding conflict identification and management controls, and types of conflicts of interest that the licensees had identified.
4. A desk-based review of the information provided in response to the questionnaire was undertaken, which was used to inform discussions during the interview stage.
5. A selection of firms analysed were invited to attend an interview to discuss their responses to the questionnaire and wider issues regarding conflicts of interest.
6. The inspected firms provided their policies, procedures and registers relating to conflicts of interest, as well as relevant CMP tests, which were analysed by the Commission.

Analysis

1) Types of conflicts of interest

As part of the questionnaire, licensees were asked to report the different types of conflicts they had identified they may encounter, or had encountered, in their businesses. On average, the analysed firms reported five types of conflicts they had identified as impacting, or could potentially impact, their businesses.

Based on the data received during this thematic, the Commission has compiled a list of the types of conflicts reported by licensees (see Appendix) and identified the following general themes of conflicts that could be encountered by licensees.

- Role & duty – conflicts that arise when individuals or entities have competing loyalties. For example, where a director holds multiple roles across different firms to which they owe duties.
- Personal or financial incentive – conflicts that involve circumstances in which individuals or firms may benefit financially or personally (for example via gifts, retrocessions, or their vested interests) from decisions they make or influence in ways that conflict with their duties.
- Relational – conflicts that occur when personal relationships, either internal or external, could undermine objectivity or professional judgment.
- Client-related – conflicts that arise when the interests of different clients may be treated unequally and ultimately affect fair outcomes for all clients.
- Structural and governance – conflicts that stem from a firm's structure or ownership potentially influencing decisions improperly, or challenges arising from a firm's legal or regulatory environment.

When considering whether a conflict of interest exists from a set of circumstances, it is equally important for licensees to consider the perception of those circumstances to external parties. For example, a licensee should consider whether a conflict exists where an interest it has could be seen by an external party to influence its judgement or decision making, even if it does not.

As part of its supervisory and enforcement functions, the Commission has historically identified instances where licensees have not appropriately identified and/or managed a conflict of interest or did not have an effective control framework to mitigate conflicts of interest.

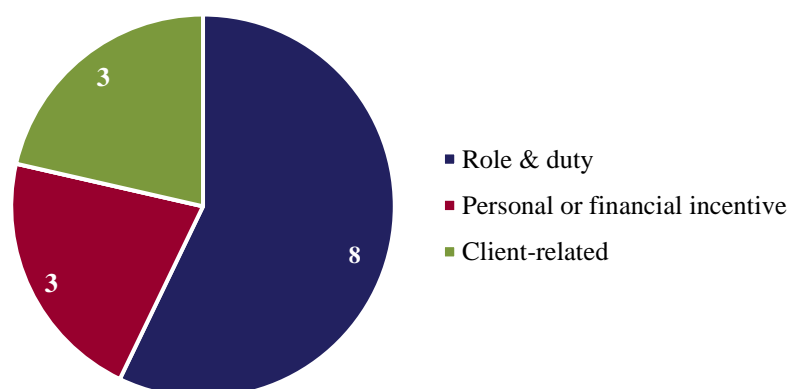


Figure 1 – Types of conflicts that have formed part of either an enforcement action or a Risk Mitigation Programme since 2019 for investment licensees.

Whilst the above graph shows the nature of conflicts that have formed part of recent enforcement actions or Risk Mitigation Programmes, the Commission also sought to understand from licensees directly which types of conflicts they considered posed the most material risk to their businesses. The following are the key conflicts reported by investment licensees.

Individuals from the licensee acting in roles within fund structures

The most commonly reported conflict related to individuals from a licensee also holding roles within client structures, which may result in an individual needing to consider the interests of both the licensee and the client.

In our interviews with licensees, the administrators demonstrated their awareness of the inherent conflict that exists when a director or employee of the administrator also acts as a director of a fund or general partner within a fund structure. It is recognised that such appointments are typically used by administrators in order to maintain sufficient oversight of a fund structure. The Commission was encouraged to learn that, in such circumstances, conflicted individuals would routinely abstain from board discussions or decisions relating to the administrator's performance or remuneration. In addition, administrators emphasised their awareness of the requirement to act in the interests of their clients in such circumstances, and the importance of composing a diverse board on the client entity, for example appointing a NED, in order to ensure independence.

Intragroup conflicts

Where a licensee is part of a group, it is required under the COB Rules to consider any circumstances in which a conflict may arise in relation to other members of the group. It was evident from the data collected that licensees had identified various circumstances in which such a conflict may arise, in particular the potential for undue influence from group, and where multiple services are provided to the same client by the licensee or wider group entities.



CASE STUDY

Conflict – Licensee A provides multiple services. As part of its business, it may engage with Client W for one service, and may provide another service to Client X in which it recommends Client X to engage services with Client W. The licensee identified that its recommendation of Client W is a conflict due to it already receiving fees from Client W.

Outcome – Licensee A segregated its multiple service offerings by establishing distinct companies with independent boards and restricting the sharing of information and office access between the two companies. Further, if Licensee A was to recommend Client X to engage the services of Client W, it ensures that Client X is aware of the conflict in that the licensee's group has an existing relationship with Client W.

Where licensees formed part of a larger, often multinational group, they had identified that group may lack understanding of the legal and regulatory regime within which the licensee operates, and group influence may impact the control and decision making of the licensee. The directors of such licensees considered that their interests generally aligned with group, however they had implemented a governance framework to ensure the local board has ultimate responsibility for the licensee, such as new business processes that require local sign off. The Commission also found that licensees relied on a diverse board that was comprised of local, experienced and independent members to manage any pressure from group, as well as the ability to implement local policies where appropriate.

Client-related conflicts

A recurring theme emerged in which licensees reported that they sometimes found it challenging to balance competing client interests. Licensees highlighted scenarios where the interests of two or more clients may be in direct opposition; examples included transactions between clients and the allocation of investment opportunities to different clients with similar strategies.



CASE STUDY

Conflict – Fund I and Fund II are both advised and managed by Licensee B. A transaction was proposed whereby an asset was to be sold from Fund I to Fund II. The asset had been valued by Licensee B. The proposed transaction was identified as a conflict by the licensee as it would effectively be on both sides of the transaction.

Outcome – Licensee B engaged a third party to provide an independent assessment of the valuation of the asset in order to ensure the transaction was completed on an arms-length basis.

Part 5.3 of the COB Rules relates to the conduct of business carried on by licensees, including provisions regarding the fair allocation of transactions amongst clients. Several investment licensees, particularly the asset managers, noted this as a key risk if not managed appropriately. In order to ensure that investment opportunities are allocated fairly amongst different clients, licensees reported implementing controls such as implementing a fair allocation policy and, where appropriate, establishing an allocation committee to make investment allocation recommendations.



CASE STUDY

Conflict – Licensee C acts as administrator to Fund III and was approached to act on behalf of Fund IV. Fund III and IV invested in the same sector and were direct competitors. The licensee identified this as a conflict given it would need to consider the interests of two directly competing clients.

Outcome – Licensee C first disclosed its conflict to both Fund III and IV. After taking on Fund IV, it allocated the administration of the funds to separate teams and implemented an ethical wall between the teams to ensure the control of sensitive information pertaining to the funds.

Personal or financial incentive

Several firms, particularly asset managers, reported inducements as a conflict that posed a material risk to their business if not managed appropriately. It was apparent that, in reality, licensees are avoiding taking retrocessions or any other forms of inducement, in order to avoid any perception of giving certain clients preferential treatment and to maintain impartiality.

As shown in Figure 1, enforcement cases in the past have highlighted instances where inducements and other forms of financial gain have led to conflicts of interest not being managed appropriately. One licensee noted they avoid such conflicts by charging their client a flat fee and ensuring that employees cannot claim bonuses for referring new business. Another licensee explained that its gifts and entertainment policy prohibits the acceptance of a gift/inducement where it could be perceived as providing an unfair benefit to the client, and this is subsequently declared to the board.

The inspected firms generally stated that it would be rare for an individual or the firm to receive a gift. Nevertheless, their policies specified the appropriate procedure that should be followed for the gift to be disclosed to the appropriate member in the compliance team of the licensee, who will then note the gift on the register and assess compliance with the licensee's policy. Many licensees also had a threshold above which a gift, offered or received during the course of business, of a certain value or higher must be approved by the board, before it can be accepted and logged into the firm's register.

Licensees also reported that conflicts arising from the opportunity for financial gain, such as the inappropriate use of sensitive information, were a key risk to their business. This could arise if employees buy or sell shares for their own benefit by using information gained through their employment. The conflict in this instance is the potential for employees to prioritise their own gains over the interests of their clients or licensee, which may also result in insider trading, market abuse, and other forms of market manipulation which could cause reputational damage to the licensee and damage investor confidence across the Bailiwick.



CASE STUDY

Conflict – Licensee D was the investment manager of Fund V and separately the investment advisor to Client Y. When providing its investment advice, Licensee D failed to recommend any options to Client Y other than investment in Fund V. Licensee D did not fully or adequately disclose the fact that it would receive fees from both Fund V and Client Y as a result of investments into Fund V.

Outcome – This matter formed part of an enforcement case where it was found that Licensee D had failed to avoid, manage or minimise conflicts of interest.

The Commission learned that licensees implement policies specific, but not limited, to insider dealing, market abuse, conduct risk, gifts and entertainment, bribery and corruption; with staff required to review the policies on an annual basis. Some licensees noted use of a restricted dealing list to identify investments that should be flagged as potentially subject to insider trading, requiring employees to obtain approval of personal dealing requests as part of the licensee's personal account dealing framework, alongside mandatory whistleblowing training provided to all employees.

Licensees also reported instances where conflicts may arise from a director or employee being directly involved and able to influence an undertaking with a client or service provider to the licensee, in order to personally benefit from that undertaking. For example, one licensee reported that some of its directors held interests in one of its clients. The licensee noted that independent approval was required before onboarding this client, with the conflicted director being recused from this decision. Any ongoing financial transactions involving the relevant client required board approval without the conflicted director.

The Commission further noted examples where licensees had engaged with service providers that were owned by an employee of the licensee. In such cases, licensees noted that they review multiple other vendors to obtain the best price for the service before granting approval to use the third-party service provider, and where appropriate the associated conflict should be disclosed to the client when the third-party service is used.

The Commission is also conscious that conflicts may arise where collective investment schemes approach the end of their life. In such circumstances, there is a risk that the licensee may be incentivised to prolong the life of the scheme and continue to charge fees.



CASE STUDY

Conflict – Licensee E identified that, as a fund administrator and investment manager, it may be swayed into prolonging the life of a fund in order to generate additional fees, which may not always be in the interest of the investors of the fund.

Outcome – Licensee E does not typically accrue management fees during the extension of the life of a fund. Therefore, Licensee E's interest in extending the life of a fund is limited to ensuring extensions are used only where it maximizes the returns generated by the fund. This mitigates the risk of prolonging the life of the fund when it is no longer economically viable, which better aligns its interests with those of the investors.



AREA TO CONSIDER

Licensees should be mindful of considering the viability of collective investment schemes, having regard to the value of the remaining assets and the best interests of investors.

Multiple supervised roles with a licensee or group

Another prevalent conflict reported by licensees was where an individual holds multiple supervised roles within a licensee or group, including but not limited to, shareholder, director, compliance officer (CO), money laundering compliance officer (MLCO) or money laundering reporting officer (MLRO).

The Commission acknowledges there may be inherent tension between the short-term commercial objectives of a shareholder or director, the independent oversight of compliance, and the reporting obligations of a MLRO, which can create complex circumstances that challenge an individual's ability to act impartially. It is recognised, particularly for smaller licensees, that the appointment of an individual to multiple roles may be necessary, and therefore it is important that adequate and effective controls are implemented.

During this review, the Commission commonly found that where an individual was acting as a director as well as CO/MLCO/MLRO, the individual had no client facing duties in order to manage any potential conflicts. While this alone can be an effective mitigation action, licensees are reminded to assess the conflict, consider the potential consequences, and determine the best approach to take in order to ensure the segregation of conflicting duties.



CASE STUDY

Conflict – Person A was a shareholder controller, director, CO and MLCO of Licensee F with client facing responsibilities. As part of an onsite visit by the Commission, it was identified that Licensee F did not have a CO or MLCO that was independent from the day-to-day management and operations of the business.

Outcome – Licensee F appointed a new CO and MLCO that was independent of the board and ownership of the licensee.

Personal relationships

Personal relationship conflicts, which may be romantic, familial, social, or financial in nature, were identified as another key conflict of interest risk experienced by a number of licensees. Such personal relationships may exist with third parties, for example, a friend or family member of an employee/director being a client or service provider. Other personal relationships may also exist within the licensee themselves, for example between colleagues.

Close personal relationships can, or could be perceived to, influence decisions that may not be in the best interests of the licensee and/or its clients, and may hinder the objectivity or independence of those individuals, particularly where one individual has managerial or supervisory responsibilities over the other.

Many firms have a section on internal disclosures within their conflicts of interest policy that obliges those with interpersonal relationships within the office to divulge that information if it could cause a conflict for the firm. For example, several licensees noted that the conflicted staff are placed in separate reporting lines or prevented from exclusively acting together in decision making. If reporting lines or roles of employees change within the firm, then it is imperative that controls are in place to allow for its identification, so that appropriate changes can be made to ensure conflict walls remain functioning.



CASE STUDY

Conflict – Licensee G provided discretionary investment management services to Client Z. A director of Licensee G was the ex-husband of Client Z. The director was in part responsible for managing Client Z's investments. This conflict was not properly documented or managed, and the director was permitted to make decisions on the client account.

Outcome – This matter formed part of an enforcement case where it was found that Licensee G had failed to avoid, manage or minimise conflicts of interest.

An example was reported where the shareholder directors of a licensee were closely related. The licensee identified that the related individuals were, or could be perceived to be, insufficiently independent of each other and could unduly influence the licensee's decision making to the detriment of the interests of other stakeholders. The licensee managed this risk by having multiple directors on the board, therefore requiring majority board agreement for approval for key decisions. Members of the board who are non-executive can help apply a continued degree of independence in decision-making. Suitable policies and terms of reference may also define what certain individuals are or are not permitted to do within the business, especially for the more influential individuals of a licensee.

It may also be appropriate to disclose to new employees the material conflicts that are present within the business, such as the conflict outlined in this example. Such controls can be monitored by compliance teams, which highlights the importance of disclosing these relationships in the first instance. To encourage disclosure, many licensees also implemented a section within their policies detailing the consequences that may arise if an employee fails to disclose a conflict.

2) Identification, management and record keeping

It is clear from the above section that there is a wide variety of types of conflicts that licensees could encounter. It is therefore important that licensees implement appropriate controls to be able to adequately identify, manage and record conflicts as and when they arise.

Identification

The Commission found that licensees considered conflicts of interest at the time of client onboarding, as part of ongoing reviews and upon trigger events. The inspected firms noted that on occasion they had been pre-warned of potential conflicts by clients ahead of a particular transaction, for example, which indicates that conflicts of interest are a core consideration by all parties within investment structures.

It was also evident that licensees ordinarily seek to identify conflicts of interest arising from their employees, both at the start of employment and also on an ongoing basis via annual declarations, or ad hoc declarations when an employee's circumstances change. In some cases, licensees would also undertake proactive screening checks to verify interests that had already been declared and identify potentially undisclosed conflicts.

It appeared that some licensees had not considered all conflicts that may reasonably impact their businesses. Some licensees focussed solely on director-specific conflicts and had not considered firm-specific conflicts, such as conflicts that may arise from being part of a group, or conflicts involving other members of staff. The Commission recognises that conflicts of interest exist throughout a licensee's business, for example close personal relationships of junior staff members, and are not exclusive to board members.



AREA TO CONSIDER

Licensees are encouraged to consider all types of conflicts of interest reported via the review (as per Appendix) to the extent that they may impact their businesses.

Management

Licensees should either avoid conflicts of interest altogether or, where conflicts do arise, manage them appropriately to ensure fair treatment of all clients. The below graph shows the most common controls that licensees reported as having used to avoid or manage conflicts.

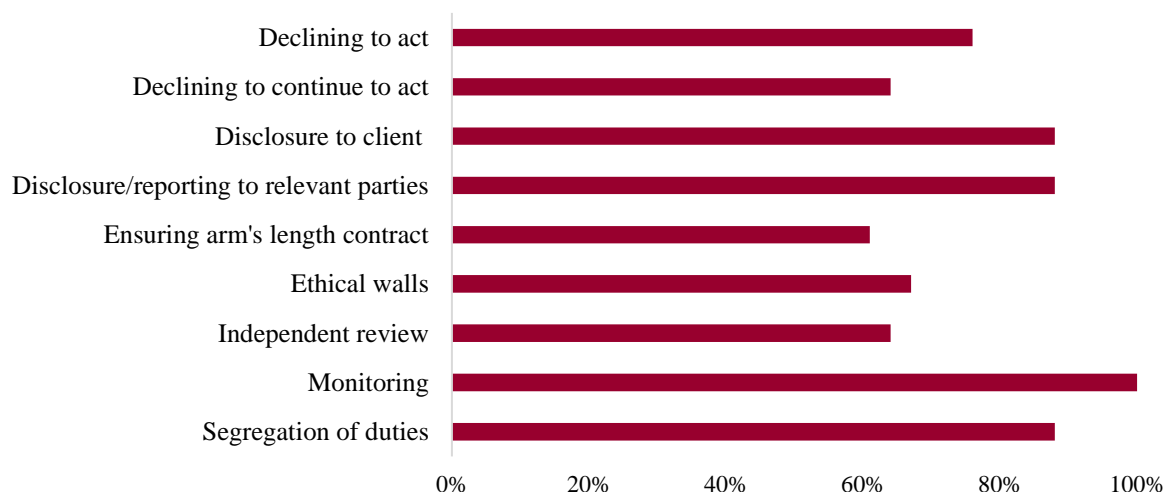


Figure 2 – Percentage of licensees that reported using various controls to manage conflicts of interest.

In accordance with the COB Rules, where a licensee's procedures cannot adequately manage conflicts of interest to protect client interests, they must clearly disclose the nature and sources of those conflicts

to the client before proceeding. The disclosure must be detailed enough – considering the client’s circumstances – to allow the client to make an informed decision. The Commission observed appropriate examples of disclosure to clients by the firms it inspected, most commonly via declarations at the start of meetings on client boards.

The Commission noted that some licensees used controls within their information security frameworks to manage certain conflicts, such as the configuration of user access controls or network segregation to enforce information barriers to safeguard confidential information.

During discussions with the inspected firms, it was noted that licensees which were part of a large group occasionally leveraged group resource to address specific conflict-related issues, for example by engaging with internal audit or in-house counsel to provide independent viewpoints, or sought external counsel for specific transactions. The Commission found that some smaller firms took comfort from engaging compliance service providers as an independent party to provide assurance regarding conflict matters.

Record keeping

Licensees are required to keep a record of conflicts of interest that present, or may present, a material risk of damage to the interests of one or more client. It was pleasing to note that all assessed firms reported that they maintained both a conflicts of interest register and a gifts and hospitality register. The registers were most commonly maintained by a senior member of the compliance department.

The below graph shows the most common items that licensees recorded on their conflict registers.

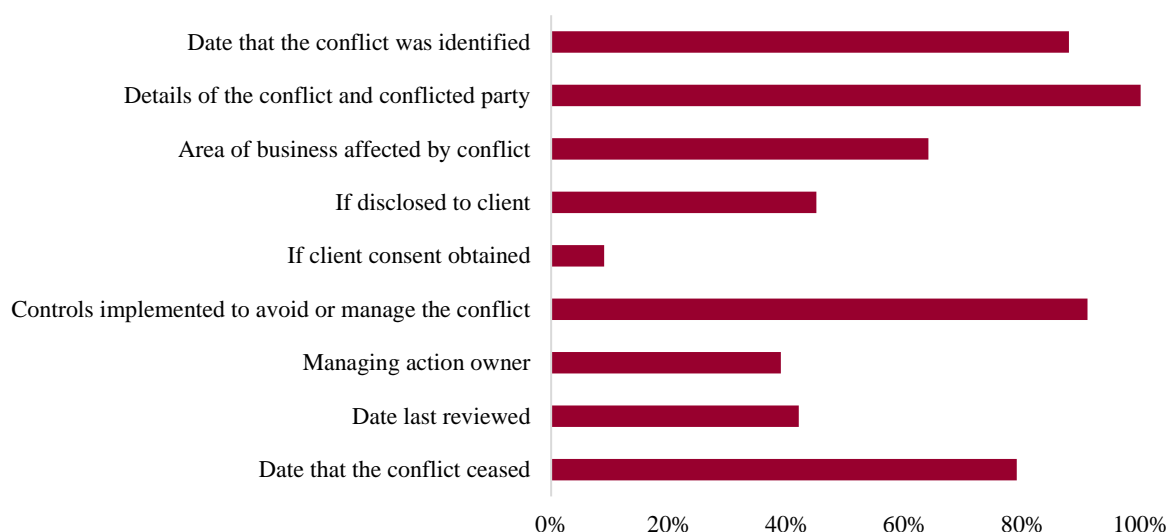


Figure 3 – Percentage of licensees that reported having the above items on their conflicts registers.

The Commission was encouraged to find that conflicts of interest registers generally contained adequate information. Some licensees recorded whether the conflict had been disclosed to clients and/or whether client consent had been obtained as a means to document their consideration of the disclosure requirements within the COB Rules.



GOOD PRACTICE

Some licensees documented the specific controls that they had implemented to manage each conflict that was recorded within their conflicts of interest register.

In addition to a conflicts of interest register, the Commission found that all licensees also maintained separate registers of interests (such as, but not limited to, close personal relationships, significant financial interests, and company directorships) for their directors and employees. Licensees recognised that some of these interests had the potential to influence future decisions, but this was not always reflected in their conflicts of interest register.



AREA TO CONSIDER

Licensees should determine whether any interests recorded in separate registers constitute a conflict of interest and if so, whether these should be documented in their conflicts of interest register to provide greater oversight.

3) Governance and oversight

Control framework

As per the COB Rules, licensees are expected to implement conflicts of interest policies and procedures that are appropriate to the nature, scale and complexity of their businesses. It was encouraging to note that all firms analysed had formal policies and procedures in place in relation to conflicts of interest.

For the majority of the firms analysed, responsibility for the conflicts of interest policy and procedure sits with the board of the licensee, however the day-to-day operation of the policy is overseen by the compliance department. The vast majority of licensees review the conflicts of interest policy at least annually. This aligns with the Commission's expectations that licensees review their written compliance procedures at least annually as set out in the COB Rules.

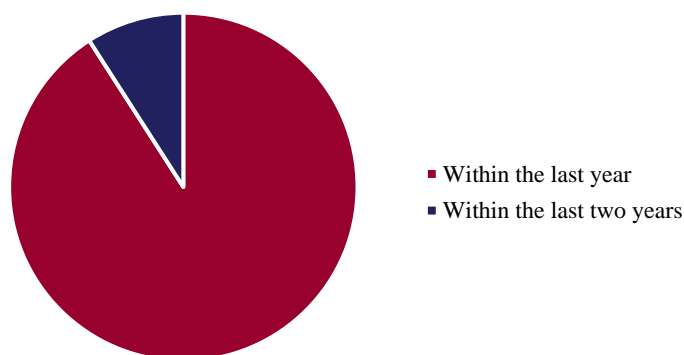


Figure 4 – Timeframe in which licensees reported having last reviewed their conflicts policy.

The Commission found that most licensees defined conflicts of interest clearly and provided examples of conflicts within their policies. Some licensees emphasised, within their policies, the importance of how circumstances may be perceived to be a conflict of interest.

Licensees are required to disclose conflicts of interest to clients where they are not able to sufficiently mitigate the conflict in accordance with the COB Rules. Most licensees included within their policy a non-exhaustive list of possible circumstances in which they deemed that a conflict of interest should be disclosed to a client.



GOOD PRACTICE

The Commission considers it proper for licensees to integrate client disclosure considerations into their policies and procedures to ensure sufficient transparency with clients, where appropriate.

It was evident that most policies set out the reporting process for conflicts, including the relevant individual at the licensee to receive conflict disclosures, and the consequences for an employee failing to disclose a conflict as required in the Code of Corporate Governance. Based on the discussions with licensees, it was noted that formal disciplinary procedures would likely be instigated in such situations, however this would be assessed on a case-by-case basis depending on the materiality of the conflict.

The Commission was reassured to note that all analysed firms confirmed that the conflicts of interest policy applied to all employees of the licensee, i.e. there were no individuals that were exempted from declaring any conflicts.

All licensees further confirmed that they had a specific gifts and hospitality policy, which was either a separate policy or part of a wider policy such as the licensee's anti-bribery and corruption policy. The median minimum value of gift or hospitality to be declared was approximately GBP100, which included several licensees that had set no minimum value.

The Commission found that boards of licensees had varying levels of oversight of conflicts of interest. Most licensees reported that boards approved the conflicts of interest policies; in some cases, this was delegated to a sub-committee which appeared appropriate to the nature, scale and complexity of those licensees. It was clear that boards would routinely review registers and receive management information, predominantly regarding CMP results, pertaining to conflicts of interest at periodic board meetings.

Embedding

The Commission sought to understand how licensees embed their conflicts of interest policies and procedures. Licensees explained that staff training, often at induction and then annually, was fundamental in ensuring staff awareness of the licensee's policy and procedures. Where annual training was not provided by licensees, a risk-based approach was taken, and training was provided on a less frequent basis or not at all.



AREA TO CONSIDER

Licensees should consider the content and frequency of staff training on conflicts of interest in line with the nature, scale and complexity of their businesses.

Some licensees also reported that more frequent and/or enhanced training was provided to the board to reflect their decision-making authority and higher risk of exposure to conflicts. The Commission understands that enhanced training tended to focus on the legal requirements for directors in relation to managing conflicts of interest, for example directors' duties and the disclosure of interests.

All licensees confirmed that policies and procedures regarding conflicts were easily accessible to all employees should they need to be referred to. The inspected firms also indicated that the importance of establishing the right culture in effectively embedding the policy, particularly in relation to staff being able to confidently report potential conflicts of interest.

Testing

The vast majority of licensees reported having specific tests of conflicts of interest controls in the CMP. Such tests were commonly carried out on an annual basis, however there was a variety of responses as shown in the below graph.

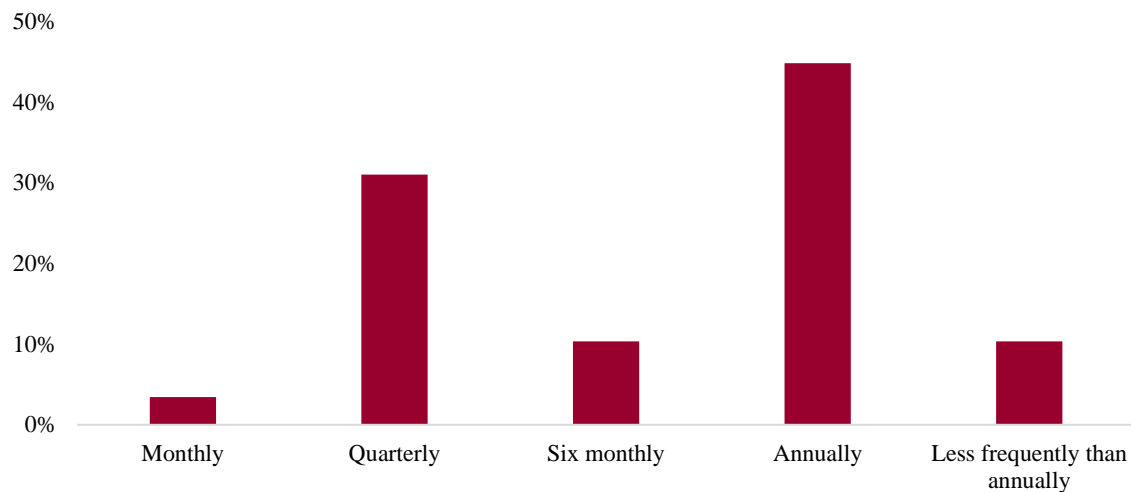


Figure 5 – Frequency of CMP tests that relate to conflicts of interest as reported by licensees.

Roughly a quarter of firms analysed had identified issues from their CMP tests regarding their conflicts of interest controls. These issues generally involved minor instances where the existing register was not deemed sufficiently detailed, but also included situations where the conflict register had not been updated, or the policy had not been reviewed within the required timeframe. These findings illustrate the importance of CMP testing as a second line of defence in ensuring a licensee’s control framework is operating effectively.

There was a diverse set of responses from the inspected firms regarding the content of such CMP tests, ranging from a review of the conflicts of interest policy and its compliance with the relevant rules and reviewing the conflicts register for completeness and accuracy, to more detailed tests such as sampling board minutes to assess disclosure of interests and reviewing any instances of disclosure of conflicts to clients.

Of the licensees that submitted examples of their CMP tests regarding conflicts, the Commission found that the tests were relevant to the requirements of the COB Rules and that actions had been recorded to remediate any issues found.

Conclusions

The Commission was encouraged to find most licensees had considered a range of conflicts of interest that they had encountered, or may encounter, when carrying on investment business. The types of conflicts that investment licensees identified as posing the most material risk to their business included:

- employees from a licensee also acting in roles within fund structures;
- competing client interests – for example, conflicts arising between clients, specific transactions, or investment strategies;
- intragroup influence over the licensee’s business;
- where an individual holds multiple supervised roles within the licensee or group;
- personal or financial incentives – for example, staff or firm dealing, inappropriate use of sensitive information, or diversion of investment opportunities from clients; and
- personal relationships of employees with either internal or external parties that may hinder independent decision making.

The Commission has compiled a non-exhaustive list of types of conflicts of interests reported via this thematic review (see Appendix), which licensees can use to assess whether such conflicts may exist within their business.

Overall, the controls used by licensees to identify and manage conflicts of interest met the Commission’s expectations. It was apparent from the review that licensees are cognisant of the importance of identifying conflicts arising from clients and staff at an early stage, and are implementing appropriate measures to mitigate any conflicts to ensure that they are always acting in the best interest of their clients. Further, licensees were mindful of the requirement to disclose conflicts to clients in cases where the controls used to manage conflicts of interest are not sufficient to ensure that the risk of damage to client interests will be prevented.

All licensees that participated in the review had suitable conflict of interest and gift and hospitality registers. Whilst the Commission was pleased to find licensees were adequately recording conflicts of interest that have been identified, the Commission expects licensees to consider documenting the specific controls that they have implemented to manage each conflict of interest.

Licensees have generally established adequate policies and procedures that comply with the requirements of the COB Rules, the Principles of Conduct and the Code of Corporate Governance. Staff training was widely utilised to embed controls, and the effectiveness of such controls was tested via licensees’ CMPs.

The Commission expects licensees to consider the types of conflicts of interest in their business and the effectiveness of their management of them in light of the information in this report.

Appendix

The following is a list of the types of conflicts that licensees reported, as part of this thematic review, as having encountered or which they may encounter. It is not an exhaustive list of all types of conflicts and licensees should continue to consider all conflicts of interest as and when they may arise.

Role & Duty

- Individuals or corporate entities acting in roles within client structures
- An individual holding multiple supervised roles within a licensee or its group
- Multiple services provided to the same client (by licensee or group)
- Vested interest of director/employee in a competitor of the licensee
- External commitments (e.g. an individual holding directorships unrelated to a licensee or acting for industry bodies)
- Legal action brought against the licensee by a client
- Dual representation by a licensee in transactions (e.g. a representative of the licensee signing an agreement on behalf of the licensee and one of its clients)

Personal or Financial Incentive

- Vested interest of director/employee in a client
- Vested interest of director/employee in a service provider to the licensee
- Revenue generation:
 - Onboarding unsuitable clients
 - Prolonging the life of an unviable structure to continue to attract fees
 - "Churning"
- Financial gain:
 - "Personal account dealing" by an employee or the licensee
 - Inappropriate use of sensitive information by a licensee or employee
 - Diversion of investment opportunities from a client to a licensee or employee
 - Remuneration influencing decision-making (e.g. revenue-linked bonuses)
- Inducements:
 - Gifts or hospitality
 - Retrocessions

Relational

- Personal relationships with external third parties (e.g. service providers, clients or competitors)
- Personal relationships within the licensee (e.g. between colleagues)
- Personal relationships leading to access to private or sensitive information

Client-related

- Balancing the interests of clients that are invested in the same assets
- Competing client interests:
 - Clients that are competitors
 - Clients that are party to the same transaction
 - Clients that are in commercial or legal dispute with each other
- Prioritisation and allocation of investment opportunities and resources between clients

Structural and Governance

- Intragroup influence (e.g. parent company exerting pressure)
- Shareholder-director influence
- Conflicts arising from overlapping or conflicting legal and regulatory obligations