Related Party and Conflicts of Interest Policy

Murray Goulburn Co-operative Co. Limited
ACN 004 277 089

 Adopted by the Board on 23 April 2014
Related Party and Conflicts of Interest Policy

1 Related Party Transactions

1.1 Overview

The Corporations Act provides that public companies must not give a financial benefit to a related party without shareholder approval unless the terms of the transaction are at arm’s length or fall within one of the exceptions listed in the legislation. Accordingly the Company’s policy is that:

a. all related party transactions and payments should be conducted on an arm’s length basis;
b. the process surrounding those transactions must be transparent and fully documented; and
c. Board approval must be obtained for all related party transactions and payments recognising that the Board can delegate this approval in respect of a class of transactions and on such terms and conditions as the Board sees fit.

1.2 Who is a related party?

For the purposes of this Policy, the following persons are considered related parties of the Company:

a. a member of the Key Management Personnel, including each director of the Company (“KMP”) and the spouse, defacto spouse, parents and children of KMP; and
b. entities controlled by a member of the KMP, their spouses, defacto spouses, parents or children.

A person or entity is also a related party of the Company at a particular time if the person or entity:

- was a related party at any time within the previous 6 months; or
- the entity believes or has reasonable grounds to believe that it is likely to become a related party of the Company at any time in the future.

1.3 What is a financial benefit?

The Corporations Act definition of the term ‘financial benefit’ is broad. A non-exhaustive list of examples of the giving of a financial benefit to a related party include:

a. a party providing finance or property to a related party;
b. buying or leasing an asset from or selling an asset to a related party;
c. supplying or receiving services from the related party;
d. issuing securities or granting options to the related party; and
e. taking up or releasing an obligation of the related party.

A financial benefit includes giving a financial benefit indirectly through an interposed entity and does not require the payment of money.

For the purposes of this Policy, reasonable remuneration within parameters approved by the Remuneration and Nominations Committee of the Board or otherwise specifically approved by that Committee or the Board itself will be excluded from the definition of “financial benefit”.

1.4 What makes a transaction “at arm’s length”?

The Company will be excepted from the need for shareholder approval if the related party transaction is conducted on terms that would be reasonable in the circumstances if the parties were dealing at arm’s length.

The Corporations Act does not define “arm’s length”, but the courts have considered on a number of occasions what constitutes arm’s length terms.
A transaction is at arm’s length if the relevant parties have dealt with each other as parties normally do when they are not related, so that the outcome of their dealing is a matter of genuine bargaining, and although not necessarily technically an open market price, the terms might reasonably have been agreed between arm’s length parties.

1.5 Process to monitor and approve related party transactions

Where the Company proposes to enter into a transaction which may be considered to confer a financial benefit on a related party, the following procedure applies:

- the relevant responsible officer must inform the Company Secretary/General Counsel about the proposed transaction, including the proposed parties and how they are related, details of the proposed transaction and where arm’s length terms may be evidenced;
- the Company Secretary/General Counsel will review the transaction, and may take external legal advice where appropriate in considering the transaction;
- the Company Secretary/General Counsel will inform and advise the Board of the proposed transaction and obtain the Board’s approval for the Company to undertake the transaction or approval in respect of a class of transactions. Where the transaction is considered not to be ‘arm’s length’ and does not fall within any statutory exception, the Board will determine whether to proceed with the transaction and, together with the Company Secretary/General Counsel, ensure that if the transaction is proceeded with, it is carried out in a manner that is compliant with the Corporations Act (including obtaining shareholder approval);
- a register of all Board approvals in respect of related party transactions shall be maintained under the supervision of the Company Secretary/General Counsel and it shall include details of the nature of the transaction, the date of the approval and any key conditions to which the approval is subject;
- where Board approval is obtained, the transaction must proceed in accordance with any procedures and conditions outlined by the Board.

At least annually, the Compliance Committee will assess the adequacy of the processes to identify and manage related party transactions and report to the Company Secretary/General Counsel and the Board.

2 Conflicts of Interest

2.1 Overview

Under the Corporations Act and general law, Directors and senior officers must avoid situations where their interests and the interests of the Company conflict.

Each Director and Officer (which will include all senior officers in the Group whether or not they are KMP) has a duty to avoid conflicts of interest. Interests which give rise to a conflict include, without limitation:

- other directorships;
- potentially conflicting duties owed to other entities;
- outside investments of the Director or Officer and their related parties; and
- outside employment or engagements.

This policy has been developed and approved by the Board to provide guidance to Directors and Officers in complying with their obligations to take all reasonable steps to avoid actual, potential or perceived conflicts of interests.

2.2 Declaration of interests

Directors and Officers are required to comply with the Company’s Code of Conduct, which amongst other things imposes obligations in relation to conflicts of interest. In addition to those obligations, Directors and Officers must comply with the following requirements:

a. They must take all reasonable steps to avoid actual, potential or perceived conflicts of interests.
b. In accordance with the Corporations Act, Directors must disclose any conflicts of interest and, in certain circumstances, abstain from participating in any discussion or voting on matters in which they have a material personal interest.

c. In the event that a Director or Officer becomes aware of any current or potential conflicts of interest, the Director must immediately notify the Chair or the Company Secretary/General Counsel.

d. Directors may choose to submit standing notices of interest to all Board members, or must disclose his or her interest in a matter being considered by the Board at that time.

e. Directors and Officers are expected to be sensitive to actual and perceived conflicts of interest that may arise and give ongoing consideration to this in view of the changing nature of the Company’s business.

f. All related party transactions require prior approval from the Board in accordance with section 1 of this Policy.

g. Directors and Officers must obtain the Company’s consent before disclosing Company information to another company or third party.

2.3 Board procedures to manage conflicts of interest

Generally speaking, Directors:

a. must disclose to the Board any actual or potential conflicts of interest which may exist or might reasonably be thought to exist as soon as they arise;

b. cannot receive the relevant Board or Board Committee papers if the actual or potential conflict is recognised in advance of the distribution of the papers but may, at the discretion of the other Directors, be advised that certain papers have been excluded;

c. must absent themselves from the room when the Board or Board Committee discusses and votes on matters to which the conflict relates unless the other Directors resolve the Director in question may stay;

d. cannot vote on the matter unless the other Directors resolve that the Director in question can vote;

e. cannot have access to minutes of the Board or Board Committees in relation to the subject of interest; and

f. must, if deemed appropriate by the Board or the Director, take such other steps as are necessary and reasonable to resolve any conflict of interest within an appropriate period.

2.4 Board protocols for managing conflicts of interest in setting the milk price

The Board has the overall responsibility for the calculation and setting of the price of milk to be paid to suppliers (known as the Milk Price).

Due to the Constitutional requirement that all non-executive Directors (other than Special Directors) must be suppliers to the Company, most of the non-executive Directors will have a material personal interest in the price of milk and the calculation of the Milk Price. The Board recognises that the calculation of the Milk Price is of fundamental importance to the Company and should therefore appropriately be approved by the full Board.

To manage the inherent conflict of interest, the Directors have adopted the following protocols for setting the Milk Price:

a. Each Director must acknowledge that the interests of the Company as a whole by law must take priority over any personal interest they have in the Milk Price, and that they must not favour one group of suppliers over another group of suppliers unless to do so is fair and in the best interests of the Company as a whole.

b. Proposals for changes to the Milk Price are to be initiated and developed by management.

c. Management will submit proposals for changes to the Milk Price to the full Board for approval.

d. Such proposals may only be submitted to the Board for approval if management considers that the change is in the best interests of the Company as a whole (recognising the Co-operative objectives of the Company), and management must include the reasons supporting the change in any proposal.

e. Board discussion of a proposal to change the Milk Price will be chaired by a Special Director, and if there is an equality of votes on whether the change to the Milk Price should be adopted, that Special Director will have a casting vote.

f. To avoid perceived or actual interference by Directors in management’s initiation and development of Milk Price proposals:
1. Directors will refrain from discussing the Milk Price with management outside of the formal Board process; 
2. all queries from suppliers in relation to the Milk Price must be directed to the Shareholder Relations Officer; and 
3. Directors will not discuss with suppliers any proposals to change the Milk Price.