

**Eskom Pension and Provident Fund**

## Code of Ethics Policy for External Service Providers

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Policy Owner	Chief Investment Officer
Signature	Ndabezinhle Mkhize
Policy Sponsor	Chief Executive / Principal Officer
Signature	Linda Mateza
Date Approved	31.03.2021

### Key Stakeholders in Implementing the Policy

Stakeholders Department	Designation	Approval Signature	Date
Executive Management	Chief Executive / Principal Officer	Linda Mateza	31.03.2021
Investments	Chief Investment Officer	Ndabezinhle Mkhize	30.03.2021
Risk and Compliance Management	Risk and Compliance Officer	Ayanda Gaqa	30.03.2021
Legal and Corporate Secretariat	Legal and Corporate Secretariat Manager	Thelma Melk	30.03.2021
Finance	Chief Financial Officer	Shafeeq Abrahams	31.03.2021

**Recommended by Policy Owner**

I hereby acknowledge that this policy has been reviewed and is not duplicated or in conflict with any other policies.

<b>Role</b>	<b>Designation</b>	<b>Approval Signature</b>	<b>Date</b>
Policy Owner	Chief Investment Officer	Ndabezinhle Mkhize	30.03.2021

**Final Approval**

<b>Role</b>	<b>Designation</b>	<b>Approval Signature</b>	<b>Date</b>
Policy Sponsor	Chief Executive/Principal Officer	Linda Mateza	31.03.2021
Strategic Investment Committee	Chairman of Strategic Investment Committee	Mabatho Seeiso	12.04.2021
Board of Fund	Chairman of the Board of Fund	Caroline Henry	12.04.2021

Summary of Version Control

Version Number	Effective Date	Reason for Changes	Summary of Changes
Version 1.0	1 November 2020	Drafting of policies to align with Investment Policy Statement	New policy

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## INTRODUCTION

- 1.1. The Eskom Pension and Provident Fund with fund registration number 564 (the “**Fund**”) is an approved pension and provident fund registered in terms of the Pension Funds Act 24 of 1956 (the “**Act**”).
- 1.2. The core businesses of the Fund are retirement fund operations and investment management.
- 1.3. The assets of the Fund are managed on a core-satellite basis with some assets being managed in-house and others externally, on a multi-manager approach. Due to the significant value of the assets under the management of the Fund and the Fund’s extensive membership (and due to certain regulatory requirements) the Fund engages the services of local and foreign service providers (the “**Service Providers**”) from time to time, such as:
  - 1.3.1. Asset managers, private equity fund managers, general partners of *en commandite* partnerships or other private equity offerings and other investment-related service providers (“**ISPs**”);
  - 1.3.2. Investment consultants;
  - 1.3.3. Brokers (including brokers rendering stockbroking services related to direct brokerage in internally managed assets, externally managed assets and assets undergoing transition management);
  - 1.3.4. Employee benefit consultants;
  - 1.3.5. Administrators;
  - 1.3.6. Actuaries and valuers;
  - 1.3.7. Accountants and auditors;
  - 1.3.8. Lawyers;
  - 1.3.9. Custodians; and
  - 1.3.10. Other advisors and consultants of the Fund.
- 1.4. The Board of the Fund (the “**Board**”) recognizes that the ultimate responsibility on the management of the assets of the Fund and the Fund’s governance rests with the Board. To ensure the efficient governance of the Fund and its assets, and compliance

with the regulatory framework within which it operates, the Board, from time to time, appoints external Service Providers. The Fund is currently self-administered.

## **2. PURPOSE AND APPLICATION OF THE POLICY**

2.1. In light of the above, the Board has decided to develop and implement this Code of Ethics Policy for External Service Providers (the “**Policy**”) in order to:

2.1.1. Ensure that services are rendered to the Fund by Service Providers who conduct themselves in a manner which aligns with the Fund's ethical framework; and

2.1.2. Provide the Board with guidance on the ethical considerations applicable to the appointment, management, oversight, termination and rehabilitation of Service Providers.

2.2. This Policy applies to all Service Providers.

### 3. DEFINITIONS

<b>Term</b>	<b>Definition</b>
<b>Act</b>	Pension Funds Act 24 of 1956
<b>Applicable Laws</b>	Laws applicable to all service providers
<b>Authorities</b>	Domestic or foreign regulatory body created by or acting in terms of any Applicable Law, courts or analogous bodies
<b>B-BBEE</b>	Broad-Based Black Economic Empowerment
<b>Board of Fund</b>	Board
<b>Communication 47</b>	FSCA Communication 47 of 2020 (RF): "Prohibition on the Acceptance of Gratification: The Role and Independence of Principal Officers"
<b>Directive 8</b>	FSCA Directive PF No. 8: "Prohibition on Acceptance of Gratification"
<b>EPPF</b>	Eskom Pension and Provident Fund
<b>FAIS</b>	Financial Advisory and Intermediary Services Act 37 of 2002
<b>FICA</b>	Financial Intelligence Centre Act 38 of 2001
<b>Financial Institutions Act</b>	Financial Institutions (Protection of Funds) Act No 28 of 2001
<b>Former Officials</b>	Previous officials on the Fund whose formal relationship with the Fund has come to an end
<b>FSCA</b>	Financial Sector Conduct Authority
<b>FSRA</b>	Financial Sector Regulation Act 9 of 2017
<b>Fund</b>	Eskom Pension and Provident Fund
<b>IIC</b>	Internal Investment Committee of the Fund
<b>IMU</b>	Investment Management Unit of the Fund
<b>IPS</b>	Investment Policy Statement
<b>ISP</b>	Investment-related Service Providers
<b>PCCAA</b>	Prevention and Combating of Corrupt Activities Act 12 of 2004
<b>Policy</b>	Code of Ethics Policy for External Service Providers
<b>POPIA</b>	Protection of Personal Information Act 4 of 2013



Term	Definition
<b>Prohibited Service Provider</b>	A service provider who is prohibited from providing services to the Fund as per paragraph 8.4 of this policy
<b>Related Fund Policies</b>	Policies of the Fund
<b>Service Providers</b>	Local and Foreign Service Providers
<b>SIC</b>	Strategic Investment Committee of the Fund
<b>Third Party</b>	Party that a service provider is related/inter-related through shareholding (as defined in the Companies Act 71 of 2008), affiliated or has a stake or a financial interest

#### 4. FUND VALUES AND CULTURE

4.1. Integral to the successful operation of the Fund are its core values, which include, for the purposes of this Policy:

- 4.1.1. Integrity, honesty and respect;
- 4.1.2. Compliance and sound governance;
- 4.1.3. Outstanding customer service; and
- 4.1.4. Proactivity and strong leadership and management.

4.2. This Policy, together with the other policies of the Fund referred to in paragraph 5.1 (*Related Fund Policies*) below, constitute tools for the furthering of the above values and this Policy must be read and implemented with the above values in mind. All officers of the Fund, Board members and employees are also subject to Code of Ethics and Board and Committee Member Code of Conduct, the contents of which are incorporated into this Policy by reference.

#### 5. RESPONSIBILITY FOR IMPLEMENTING THE POLICY: THE INVESTMENT MANAGEMENT UNIT

5.1. The Investment Management Unit of the Fund (the “**IMU**”) is the unit responsible for the implementation of the Policy. The key responsibility of the IMU is to provide collective oversight over the duties and responsibilities delegated by the IIC (as

defined below) to the Chief Executive / Principal Officer of the Fund in relation to investment decisions.

- 5.2. The body which oversees the IMU, and to which matters may be escalated by the IMU in terms of this Policy for investigation and/or determination, is the Internal Investment Committee of the Fund (the “**IIC**”), which is charged with the responsibility of attending to the investment-related affairs of the Fund and ensuring statutory compliance by the Fund.
- 5.3. The IIC may, in turn, refer matters related to this Policy to the Strategic Investment Committee of the fund (the “**SIC**”) which reports to the Board and is responsible for such matters as are stipulated in its terms of reference.
- 5.4. The IMU shall be responsible for all matters related to this Policy, including but not limited to ensuring that there is adherence to this Policy when:
  - 5.4.1. The SIC approves and recommends to the Board the appointment, management and termination of the services of Service Providers to the Fund;
  - 5.4.2. Reviewing, amending and concluding contracts with Service Providers;
  - 5.4.3. Monitoring, reviewing and reporting compliance or non-compliance by Service Providers where required in terms of this Policy;
  - 5.4.4. Carrying out or initiating and overseeing investigations, either internally, or with the assistance of an external service provider, into allegations or concerns related to any unethical conduct of Service Providers where ethical or unethical concerns arise, hearing representations and escalation of such investigations to the IIC where appropriate or making recommendations to the Board;
  - 5.4.5. Receiving any reports or notices required to be given by Service Providers in terms of this Policy; and
  - 5.4.6. Reviewing the Policy as contemplated in paragraph 9 (*Policy Review Cycle*) below.
- 5.5. The IIC shall be responsible for:

- 5.5.1. Making recommendations to the SIC in relation to the appointment, termination and review of Service Providers in line with the policies of the Fund;
  - 5.5.2. Carrying out investigations where the IMU refers such matters to the IIC, and generally handling any issues of non-compliance by Service providers of the Policy;
  - 5.5.3. Referring investigations to the SIC or to an external investigator where necessary;
  - 5.5.4. Where necessary, appointing investment consultants to provide independent assessment of investment proposals to the SIC;
  - 5.5.5. Hearing representations and presentations from Service Providers in relation to matters pertaining to ethical or unethical conduct and adjudicating and making determinations in respect of such representations or presentations; and
  - 5.5.6. Other duties as set out in the Terms of Reference for the Internal Investment Committee referred to in paragraph 6.1.11 below.
- 5.6. The SIC shall be responsible for:
- 5.6.1. Approving the appointment, termination and review of Service Providers in line with the policies of the Fund; and
  - 5.6.2. Making recommendations to the Board based on the results of such investigations/administration of non-compliance.

## 6. RELATED FUND POLICIES

- 6.1. The following policies of the Fund (the “**Related Fund Policies**”) are relevant to this Policy:
- 6.1.1. The Insider Trading Policy;
  - 6.1.2. The Manager Selection and Termination Policy;
  - 6.1.3. The Stockbroking Allocation Policy;
  - 6.1.4. The Asset Allocation and Rebalancing Policy;
  - 6.1.5. The EPPF Derivatives Policy;

- 6.1.6. The Code of Conduct and Business Ethics;
  - 6.1.7. The Board and Committee Member Code of Conduct;
  - 6.1.8. The Investment Policy Statement (the “**IPS**”);
  - 6.1.9. The Procurement Policy;
  - 6.1.10. The B-BBEE Policy for EPPF Investments;
  - 6.1.11. The Terms of Reference for the Internal Investment Committee;
  - 6.1.12. The Terms of Reference for the Strategic Investment Committee;
  - 6.1.13. The Personal Account Trading Policy;
  - 6.1.14. The Asset Allocation and Rebalancing Policy;
  - 6.1.15. The Derivatives Policy;
  - 6.1.16. The Proxy Voting Policy; and
  - 6.1.17. The Delegation of Authority by the Chief Executive to the Chief Investment Officer.
- 6.2. This Policy and the Related Fund Policies should be read and implemented in conjunction with one another and legislation.

## 7. **APPLICABLE LAWS**

- 7.1. The Service Providers are at all times, to the extent applicable, required to comply with the following (the “**Applicable Laws**”):
- 7.1.1. The Act and its regulations;
  - 7.1.2. The Financial Sector Regulation Act 9 of 2017 (the “**FSRA**”) and any ‘financial sector law’ as defined therein;
  - 7.1.3. The Financial Advisory and Intermediary Services Act 37 of 2002 (“**FAIS**”);
  - 7.1.4. The Protection of Personal Information Act 4 of 2013 (“**POPIA**”);
  - 7.1.5. The Financial Institutions (Protection of Funds) Act No 28 of 2001 (the “**Financial Institutions Act**”);

- 7.1.6. The Prevention and Combating of Corrupt Activities Act 12 of 2004 (“**PCCAA**”);
- 7.1.7. The Financial Intelligence Centre Act 38 of 2001 (“**FICA**”);
- 7.1.8. To the extent that it has come into force, the Conduct of Financial Institutions Act;
- 7.1.9. Any regulations, standards, circulars, directives and other delegated or subordinate legislation or regulations made pursuant to the above; and
- 7.1.10. Any foreign legislation to which a Service Provider is subject in any jurisdiction in which it is licensed or subject to regulation, including any standards, circulars, directives or other delegated or subordinate legislation or regulations made pursuant to such foreign legislation.

## 8. ETHICS FRAMEWORK AND PRINCIPLES

### Appointment of Service Providers

#### Appointment and Regulatory Considerations

- 8.1. Strict adherence to professional ethics to which a Service Provider is subject, including the rules set by professional bodies or associations governing the Service Provider or its employees or key persons, is an essential criterion for the selection and appointment, and continuous engagement of Service Providers.
- 8.2. Factors to be taken into account throughout the selection and appointment process and engagement with Service Providers include:
  - 8.2.1. The industry reputation of the Service Provider and any allegations against the Service Provider that reflect negatively on the ethical standards of the Service Provider, be it from proceedings before any domestic or foreign regulatory body created by or acting in terms of any Applicable Law, courts or analogous bodies (the “**Authorities**”) or any media reports. To the extent that the IIC has any concerns about the Service Provider or there are any allegations, whether made formally to Authorities or informally, against the Service Provider (and notwithstanding any investigations by the Authorities) the IIC may, in its own discretion (and without informing the Service Provider in question) investigate/ commission an external investigation/request that the SIC perform an investigation into such allegations or concerns in order to

determine the veracity of such allegations or concerns to incumbent Service Providers or before the Service Provider can be appointed;

- 8.2.2. Whether the Service Provider or a key person in the employ of the Service Provider has been, in the sole opinion of the IIC or other senior structure of the Fund, materially implicated in any commission of inquiry, including a commission of inquiry appointed by the State President, or any other competent Authority or investigation related to impropriety conducted by any Authority, whether or not the Service Provider or key person has made representations at that commission/investigation;
  - 8.2.3. Any regulatory enforcement actions (including enforceable undertakings) taken by the Authorities against the Service Provider;
  - 8.2.4. The track record of ethical behaviour and integrity (included as an appointment consideration in clause 5.1.2.7 of the Manager Selection and Termination Policy) as evidenced by testimonials, reports and accounts from other institutions or persons who have used the services of the Service Provider;
  - 8.2.5. The extent to which the mission and vision of the Service Provider embodies ethical standards, and the extent to which those standards align with those of the Fund as described at paragraph 3 (*Fund Values and Culture*) above; and
  - 8.2.6. The extent to which a key person employed or associated with a Service Provider is a Domestic Prominent Influential Person as that term is defined in Schedule 3A of the Financial Intelligence Centre Act 38 of 2001.
- 8.3. The IIC shall submit the selected Service Provider to the SIC for approval before the appointment is formalised. The SIC shall have sole discretion to approve or reject the proposed Service Provider.

#### Prohibited Service Providers

- 8.4. The Fund is prohibited from engaging the services of any Service Provider (each Service Provider in respect of whom the below applies, (a “**Prohibited Service Provider**”):
- 8.4.1. Which has been found guilty of any offence in terms of South African law, including any applicable law or foreign law as detailed in paragraph 6.1.10 above;

- 8.4.2. Where a key person in the current employ of the Service Provider:
- 8.4.2.1. Has been prohibited to be a director or is declared delinquent in terms of the Companies Act 71 of 2008;
  - 8.4.2.2. Has been removed from an office of trust on grounds of misconduct involving dishonesty; or
  - 8.4.2.3. Has been convicted of an offence in terms of any Applicable Law or has been sequestered or placed under curatorship or is an un-rehabilitated insolvent;
- 8.4.3. Which is the subject of an adverse directive or market warning issued by the Financial Sector Conduct Authority (“**FSCA**”) in terms of the FSRA or any other authority (the “**Authority**”);
- 8.4.4. Against which any enforcement action has been taken by the FSCA in terms of the FSRA or by any other Authorities in terms of Applicable Law, including the suspension of any license held by a Service Provider in terms of any Applicable Laws;
- 8.4.5. Which is in breach of an enforceable undertaking entered into with the FSCA or any foreign regulator;
- 8.4.6. Which is, at the time of the appointment:
- 8.4.6.1. Under curatorship in terms of FAIS or any Applicable Law; or
  - 8.4.6.2. In business rescue or similar proceedings under Applicable Law, or in respect of whom an application or order or any other steps have been made or taken for the winding up or liquidation of the Service Provider;
- 8.4.7. Against which any Authority has made any adverse finding in terms of any Applicable Law;
- 8.4.8. The appointment of which would constitute a breach of any Related Fund Policies; and/or

8.4.9. Which, in the sole discretion of the IIC or other senior structure of the Fund, may otherwise pose a material risk to the reputation of the Fund by association,

and if the matter involves circumstances which are capable of remedy, the person or Service Provider (as the case may be) has not, in the opinion of the Fund:

8.4.10. Taken concrete steps to remedy such state of unlawfulness;

8.4.11. Put in place adequate measures to ensure that the offence or finding or unethical conduct cannot and will not occur again in the future; and

8.4.12. Provided the Fund with sufficient information to satisfy the Fund that the Fund's reputation will not, through its association with the Service Provider, be jeopardised in the future.

8.5. None of the IMU, the IIC or the SIC shall have the discretion to appoint, recommend for appointment or continue to engage the services of a Prohibited Service Provider.

8.6. The IMU and/or the IIC shall, in accordance with the internal governance rules of the Fund, have the discretion to refuse to appoint a Service Provider or to continue to engage the services of a Service Provider where it comes to the attention of the Fund and/or the IMU and/or the IIC that there is a report or multiple reports by reputable media or other public source containing material allegations of unethical conduct on the part of a Service Provider or a potential Service Provider, or any key persons or employees of the Service Provider, and the Service Provider has been given opportunity to make written and/or verbal representations to the IMU and/or the IIC but has not provided evidence to the satisfaction of the IMU and/or the IIC that such allegations are unfounded.

8.7. The Risk and Compliance Division of the Fund shall maintain a register of all Prohibited Service Providers, which register shall be reviewed each time a Prohibited Service Provider is designated as such or is declared rehabilitated in accordance with paragraph 7.8 below, but at least annually, and made available:

8.7.1. To the IMU, IIC and SIC automatically each time the register is updated; and

8.7.2. To the Board and the participating employer of the Fund upon written request.



- 8.8. The IMU shall review, on an annual basis, the register of Prohibited Service Providers and shall, provided that a minimum of five years has passed since the most recent registration of the Service Provider as a Prohibited Service Provider, have the discretion to make a recommendation to the IIC that the IIC determine that a Prohibited Service Provider shall be removed from the register described above at paragraph 8.7 and shall be eligible to be engaged by the Fund.
- 8.9. The IIC and/or SIC may determine that a Prohibited Service Provider shall be removed from the register of Prohibited Service Providers prior to the expiry of the five year period as contemplated in paragraph 8.8 above, regardless of the recommendation by the IMU and subject to the IIC and/or SIC being satisfied that:
- 8.9.1. The circumstances listed above in paragraph 8.4 above are not continuing;
  - 8.9.2. The Service Provider has taken steps to put mechanisms in place which will further prevent further transgressions by that Service Provider;
  - 8.9.3. The Service Provider, if ever engaged by the Fund to perform services of any nature, will be subject to scrutiny and ongoing monitoring for strict compliance with the provisions of this Policy and other Related Fund Policies;
  - 8.9.4. Exceptional circumstances warranting the early removal exist;
  - 8.9.5. The individual(s) to whom the wrongdoing is attributed has/have permanently and completely left the employ of the Service Provider; and
  - 8.9.6. The IIC/SIC has given full consideration to the gravity of the impropriety, as well as any potential reputational harm to the Fund which may result from resumption of association with the Service Provider.
- 8.10. The IIC shall notify the SIC of any determination made by it in terms of paragraph 8.9 above, within 5 business days of making its determination and shall afford the SIC a period of 2 months in which to confirm or override the IIC's determination to remove the Service Provider from the list of Prohibited Service Providers before the expiration of the five year period provided that the SIC is satisfied that the factors listed in paragraph 8.9 have been met or considered (as the case may be) by the SIC.
- 8.11. A Service Provider shall not have the automatic right to demand an audience or hearing with the IMU, IIC or SIC (as the case may be) for removal from the Prohibited Service Provider. The IMU, IIC or SIC (as the case may be) may further, in accordance with the internal governance rules of the Fund, use its discretion to allow

the Service Provider to make representations to the IMU, IIC or SIC (as the case may be) motivating for its removal from the register of Prohibited Service Providers.

- 8.12. The Board may in its sole discretion refuse to entertain any representations by a Prohibited Service Provider to remove the designation of Prohibited Service Provider, particularly if in the opinion of the Board, the breach which led to the designation is of such a serious nature that any subsequent engagement with the Service Provider would bring the Fund into disrepute or cause reputational harm to the Fund.

### **Contract Terms for Service Providers**

- 8.13. All contracts entered into between the Fund and the Service Provider must comply with the requirements in the King Code IV on Corporate Governance and Circular PF No. 130: “Good Governance of Retirement Funds”.

- 8.14. By signing a copy of this Fund Policy each Service Provider undertakes:

- 8.14.1. to inform the IMU immediately in writing in the event that any of the following circumstances occur (each a “**Notifiable Event**”):

8.14.1.1. An investigation into the Service Provider or key person of the Service Provider is instituted by any Authority;

8.14.1.2. The Service Provider is found guilty of any offence in terms of South African law, including any Applicable Law;

8.14.1.3. A key person in the current employ of the Service Provider is convicted of an offence in terms of any Applicable Law, has been sequestered or placed under curatorship;

8.14.1.4. The FSCA or another Authority issues a directive to the Service Provider in terms of the FSRA or any Applicable Law;

8.14.1.5. The FSCA or another Authority takes any enforcement action (including the conclusion of an enforceable undertaking or suspension or withdrawal of a license) against the Service

Provider in terms of the FSRA or any Applicable Law;

- 8.14.1.6. The Service Provider is or is found to be in breach of an enforceable undertaking entered into with the FSCA or any other Authority;
  - 8.14.1.7. The Service Provider is placed under curatorship by the FSCA or any Authority in terms of FAIS or any other Applicable Law;
  - 8.14.1.8. Any Authority makes any adverse finding in terms of any Applicable Law;
  - 8.14.1.9. There has been contravention of the internal conflict of interest policy of the Service Provider or of this Policy or
  - 8.14.1.10. The entities (or any of the entities) in which the Service Provider has invested in connection with the Fund's contract with the Service Provider (such as, for example, a portfolio company or trust in an *en commandite* partnership structure or other private equity offering) incur fines or penalties or settles claims against such entities (or entity as the case may be) which are of such a nature as to indirectly cause reputational harm to the Fund or which are, in aggregate, of over R500,000 or in excess of 10% of the entity's annual turnover;
- 8.14.2. To abide by the conflicts of interest provisions as described at 8.18 to 8.33 (*Conflicts of Interest*) below; and
- 8.14.3. To immediately disclose in writing to the Fund any instances involving undue influence, pressure or solicitation exerted by any party which may interfere with the Service Provider's duties in terms of this Policy or contract concluded or to be concluded with the Fund.

## Monitoring and Termination of Service Providers

- 8.15. The IMU shall monitor the Service Providers on an ongoing basis, but at least annually, in order to determine continued adherence by the Service Provider to the ethical standards of the Fund as set out in this Policy. The following (non-exhaustive) factors could lead to a review of the Service Provider's appointment by the IIC following a referral of the matter by the IMU:
- 8.15.1. Any violations of this Policy;
  - 8.15.2. Any situation that has the potential to impact the professionalism, financial position or integrity of the Fund;
  - 8.15.3. The occurrence of any Notifiable Event as defined at paragraph 8.14.1 above; or
  - 8.15.4. Any other facts coming to the attention of the Fund that call into question the ethical standards of the Service Provider.
- 8.16. It shall be grounds for immediate termination of the contract where it is found by the IMU that a Service Provider has contravened the Fund's policy on conflicts of interest, as contained in paragraph 8.18 to 8.33 (*Conflicts of Interest*) below.
- 8.17. The following summarises the responsibilities per stakeholder group related to the application and monitoring of compliance to this Policy:

Stakeholder	Responsibility
<b>IMU</b>	<p>Monitor Service Providers on an ongoing basis.</p> <p>Review the Policy and recommend it for approval to the Board.</p> <p>Seek the advice or assistance of external service providers to execute its duties where required.</p>
<b>IIC</b>	<p>Evaluate Service Providers and make recommendations to the Fund on Service Provider appointments/terminations.</p> <p>Take on referrals from the IMU in relation to breaches by Service Providers of this Policy.</p>

<b>Stakeholder</b>	<b>Responsibility</b>
	Refer matters and make recommendations to the SIC.
<b>SIC</b>	<p>Approve appointment and termination of Service Providers.</p> <p>Refer matters and make recommendations to the Board.</p>
<b>Board of Fund</b>	Approve the Policy.
<b>Policy Sponsor/Chief Executive/Principal Officer</b>	<p>Ensure that the Policy is implemented.</p> <p>Accountable for the application of the Policy within EPPF.</p> <p>Approve deviations from the Policy together with the Board.</p>
<b>Policy Owner (Chief Investment Officer)</b>	<p>Implement the Policy.</p> <p>Ensure adherence to the Policy.</p> <p>Ensure that the Policy is kept current through the regular review of the Policy.</p> <p>Ensure that the Policy is made available/communicated to the relevant stakeholders.</p> <p>Make recommendations to the SIC on manager appointments/terminations.</p>
<b>Legal and Corporate Secretariat</b>	Review legal documents and investment contracts to ensure suitability and appropriateness.
<b>Risk and Compliance</b>	<p>Monitor compliance with the Policy.</p> <p>Ensure that deviations from this Policy are documented and sent to the Policy Sponsor.</p>
<b>Finance</b>	Implement operational aspects of the Service Provider selection and termination process of the Policy.
<b>Audit (Internal and External)</b>	Audit according to the approved Policy.

## Conflicts of Interest

- 8.18. The Board acknowledges that, given the nature of provision of financial and other services tendered by Service Providers, there is the potential for conflicts of interest or perceived conflicts of interest to arise which may tarnish the reputation of the Fund. A conflict of interest may occur where the interests of a Service Provider or of its employees conflict with the interests of the client (the Fund), or where fulfilment of duties to the Fund by a Service Provider cause fulfilment of duties by the same Service Provider to another client to become difficult.
- 8.19. The Fund also acknowledges that conflicts of interest may arise particularly in relation to procurement processes run by the Fund, and that the provisions of the Procurement Policy must specifically be applied in the appointment process as set out in paragraphs 8.1 to 8.12 above.
- 8.20. King Code IV places a direct responsibility on the Board to lead ethically and to proactively ensure the establishment of an ethical culture within the Fund. Circular PF 130 requires that the Board, as part of its fiduciary duty to the Fund, ensures that conflicts of interest are, where possible, avoided entirely. Where conflicts cannot be avoided, including in respect of Service Providers, such conflicts must be resolved transparently and defensibly.
- 8.21. The Board is particularly concerned with circumstances where a Service Provider is related/inter-related through shareholding (as defined in the Companies Act 71 of 2008), affiliated or has a stake or a financial interest in another entity (a “**Third Party**”) which the Service Provider may:
- 8.21.1. Recommend to the Fund;
  - 8.21.2. Use to provide a service to the Fund on an outsourced/subcontracted basis (such as brokerage firms); or
  - 8.21.3. Include, connect or use to provide any assets or instruments or transactions underlying the investments, either directly or indirectly, to the Fund (for example, insurers issuing linked policies, an entity (including a trust) connected to an *en commandite* partnership structure or other private equity offering).
- 8.22. A Service Provider may not avoid, limit or circumvent or attempt to avoid, limit or circumvent compliance with its duty to avoid conflicts of interest through a Third Party or an arrangement involving a Third Party.

- 8.23. A Service Provider is prohibited from using its relationship with, or appointment by, the Fund to exert undue influence on any third parties with whom it may engage to provide services to the Fund. Such undue influence may be exercised by a Service Provider offering or making an arrangement for the third party to provide services to the Fund conditional or dependent on the fact that the third party must also enter into, or conclude, an arrangement which is beneficial to the Service Provider (the “**Side Arrangement**”).
- 8.24. A Service Provider or prospective Service Provider which is approached by any person with an offer to enter into any Side Arrangement as contemplated in the paragraph 8.23 above must refuse such an offer and must immediately report the offer to the Fund in writing, and failure to do so will be treated as an instance of a material fraudulent non-disclosure, entitling the Fund to terminate any contract concluded with the Service Provider.
- 8.25. Each Service Provider shall be required to, upon appointment, provide the Fund with a copy of its own internal conflict of interest policy, which conflict management policy must:
- 8.25.1. Identify the different risks of conflicts of interest pertaining to the Service Provider, as well as the ways in which such conflicts may arise;
  - 8.25.2. Put in place mechanisms to deal with conflicts when they do arise; and
  - 8.25.3. Ensure compliance with any other conflicts of interest-related requirements contained in any Applicable Law.
- 8.26. Each Service Provider who outsources or subcontracts any services shall also be required to, upon appointment, provide to the Fund a copy of its own internal procurement policy, which policy (a) may not be in conflict with any of the provisions of this Policy and (b) must align with the Procurement Policy of the Fund.
- 8.27. Where the Fund invests in pooled funds, ISPs are required specifically to ensure that the interests of the Fund are treated fairly in relation to the co-investment vehicles and parallel funds. To the extent that a Service Provider is an FSP, the conflict of interest policy must comply with the requirements set out in section 3A of the FSP General Code of Conduct. To the extent that the Financial Institutions Act applies to the Service Provider, the Service Provider/key person of the Service Provider is required to comply with the declaration of interest provisions contained in section 3 of the Financial Institutions Act.

- 8.28. Directive PF No. 8: “Prohibition on Acceptance of Gratification” (“**Directive 8**”) provides that officers of retirement funds as well as service providers to those funds may not be involved in any conduct constituting corruption or corrupt activities. Any involvement will affect the entity’s fitness and propriety to hold office or to provide the service. Specific automatically prohibited forms of gratification are listed in Directive 8 as including:
- 8.28.1. Any gratification which, objectively viewed, creates a conflict of interest with the fiduciary duties of the person to the Fund;
  - 8.28.2. Token gifts exceeding the prescribed limit;
  - 8.28.3. Gratification related to local or international due diligence, such as travel expenses;
  - 8.28.4. Gratification related to local or international entertainment or sporting events; and
  - 8.28.5. Conferencing costs/Board of Fund expenses.
- 8.29. Service Providers who are aware of any involvement in corruption or corrupt activities or the existence of any of the above forms of impropriety are required to make a disclosure to the FSCA in the manner contained in Information Circular 1 of 2018.
- 8.30. If an employee of the Fund approaches a Service Provider to facilitate an investment in a financial product the Service Provider shall have a duty to disclose this to the Fund immediately upon becoming aware of the offer or approach by the employee.
- 8.31. The Board also takes note of PF Guidance Note 2: “Clarification on the Acceptance of Gratification”, which provides that, where a member of the Board or other retirement fund officer has an interest in a service provider and it is reasonably possible for the Fund to appoint an alternative service provider, the alternative should be appointed. Failure to do so will create an objective conflict of interest which is avoidable and will constitute a breach of Directive 8.
- 8.32. The Board also acknowledges FSCA Communication 47 of 2020 (RF): “Prohibition on the Acceptance of Gratification: The Role and Independence of Principal Officers” (“**Communication 47**”), which provides specifically that Principal Officers of funds may not simultaneously be in the employ of a service provider to the fund, as this constitutes a conflict of interest. The Principal Officer shall further be prohibited from being in the employ of any Third Party (as defined above at paragraph 8.21 above).



The prohibitions contained in this paragraph shall be subject to the period for compliance contained in Communication 47, which is 28 February 2021.

- 8.33. Where there is an actual, potential or perceived conflict of interest or suspicion of any other breach of paragraph 8.18 to 8.33 (*Conflicts of Interest*), a report must be made to the IMU immediately and in writing. Where the conflict of interest relates to any vote to be taken by an ISP, the ISP must act at all times in accordance with its own policy on voting as well as the voting policy of the Fund as contained in Appendix VIII of the IPS and must further consult with the IMU before taking such a vote.

### **Cooling-off period**

- 8.34. Officers of the Fund, such as Trustees, Principal Officers and Chairpersons appointed by the Fund from time to time owe a fiduciary duty to the Fund and may continue to have an influence on the Fund even after their formal relationship with the Fund has come to an end ("**Former Officials**"), through special access and inside connections or other relationships cultivated during their tenure with Board members and officers the Fund. Such influence may be brought to bear on the Fund even after the Former Officials have departed from the Fund.
- 8.35. To ensure that the Former Officials do not exercise or exert undue influence on the Fund, the Former Officials undertake not to, directly or indirectly, offer to provide or provide any services to the Fund for a period of one year.
- 8.36. If a Former Official is recruited by, or becomes associated with a Service Provider which, at the time of being recruited or associated, is rendering services to the Fund, the provisions of paragraphs 8.34 to 8.38 shall not apply to the Former Official or Service Provider, provided that the renewal or variation of the contract between the Service Provider and the Fund shall be done with expressed prior written consent of the IIC in accordance with paragraph 11 below.
- 8.37. Any Service Provider which employs, is associated or affiliated with a Former Official (through shareholding, material interest or any other arrangement) shall be required to disclose such association or affiliation to the Fund in writing, and the Fund may commence an investigation as further contemplated in paragraph 8.39 below.
- 8.38. Regardless of the one year cooling off period stipulated at paragraph 8.35 above, the provisions of the Procurement Policy of the Fund shall apply to all subsequent procurement processes of any Service Provider affiliated in any way with any Former Official.

## Investigation

- 8.39. The Fund is committed to ensuring that both the Fund and the Service Providers of the Fund manage conflicts of interest swiftly, effectively and consistently. Therefore, over and above the general powers of investigation of the IMU and the IIC provided for below at paragraph 8.44 to 8.47 (*Reporting*), an additional procedure shall apply in respect of conflicts of interest. Where there is an actual, potential or perceived conflict or other contravention of paragraphs 8.18 to 8.33 (*Conflicts of Interest*) reported to the IMU in terms of this paragraph, the IMU shall refer the matter to the IIC for consideration.
- 8.40. The IIC members shall decide, after considering written representations by the Service Provider concerned, on the basis of a simple majority vote, whether or not to take one or more of a number of actions, including but not limited to recommending to the SIC the termination of the contract of the Service Provider concerned with immediate effect (which right to terminate shall be included in the contract concluded between the Fund and the Service Provider) or further referral to the SIC for investigation and determination.
- 8.41. In the event of a recommendation by the IIC to the SIC for a termination of the contract or for further investigation by the SIC, the SIC may, subject to the internal governance rules of the Fund and after considering written representations by the Service Provider concerned, use its absolute and sole discretion to invite the Service Provider to make further verbal representations in respect of the findings of the IMU and/or IIC, or the relevant sanctions. The SIC may make recommendations to the Board in relation to its findings.
- 8.42. The IIC (and, if applicable, the SIC) shall also, subject to the internal governance of the Fund, have the absolute and sole discretion (but shall not be obligated) to allow for the Service Provider concerned to appear before it in person and make verbal and/or further written representations in relation to the contravention.
- 8.43. The IIC may decide, subject to the internal governance of the Fund, in its absolute and sole discretion and upon a two-thirds majority vote of the IIC, that a Service Provider who has contravened paragraphs 8.18 to 8.33 (*Conflicts of Interest*) of this Policy is capable of rehabilitation and may continue to provide services to the Fund, provided that the IIC is satisfied that:
- 8.43.1. The transgression has been remedied and any non-compliance with any Applicable Law, Fund Policy or other code or regulation is not continuing;

- 8.43.2. The Service Provider has taken steps to put mechanisms in place which will prevent further transgressions by that Service Provider; and
- 8.43.3. The Service Provider will be required to report to the Board through the IMU regularly and in writing with regards to any rehabilitative procedures/enforceable undertakings in relation to any contravention of paragraphs 8.18 to 8.33 (*Conflicts of Interest*).

## **Reporting**

- 8.44. Where there has been any kind of contravention of this Policy by any Service Provider or by any key person of any Service Provider, the Service Provider is required to inform the IMU thereof immediately in writing, following which the IMU shall conduct a preliminary investigation and, if the IMU determines necessary, refer the matter to the IIC or to an external investigator.
- 8.45. Notwithstanding the investigative powers of the IMU and/or IIC in relation specifically to conflicts of interest as set out at paragraph 8.18 to 8.33 (*Conflicts of Interest*) above, the IIC must consider any allegations or reports of contraventions of this Policy submitted to it by the IMU in terms of paragraph 8.44 to 8.47 (*Reporting*). The IMU and/or the IIC shall carry out such investigations/commission external investigations as it deems necessary given the circumstances of the allegation and may decide, on the basis of a simple majority vote, whether or not to take one or more of a number of actions, including but not limited to recommendations to the IIC and/or SIC that the contract of the Service Provider be terminated, or that the Service Provider be subject to stringent and regular reporting to the IMU or the IIC in respect of steps taken to remedy any violations of, and ensure continued compliance with, the Policy.
- 8.46. The IMU, IIC and SIC shall carry out their investigative duties conferred on it in terms of this Policy thoroughly and without fear, favour or prejudice.
- 8.47. Where any reports are compiled relating to assessments of ethical standards of Service Providers as contemplated in this Policy, whether as a result of routine monitoring or a report/complaint/notice submitted to the IMU, IIC, SIC or Board in terms of this Policy, an 'apply and explain' approach as recommended by King Code IV must be applied. This entails the application of ethical principles as contained in Kind Code IV and a thorough explanation addressing which principles have been applied and how the objectives thereof have been achieved.

## **9. COMMUNICATION TO STAKEHOLDERS**

A copy of this Policy may be disclosed to the members of the Fund upon written request. This Policy will also be made available to stakeholders upon written request to the Fund, and an outline of this Policy will be included in the annual financial statements of the Fund.

## **10. POLICY REVIEW CYCLE**

10.1. The IMU will review this Policy regularly, and not less than every three years, unless circumstances require otherwise. Regardless of the required three-yearly reviews, the following events shall constitute grounds for review of the Policy:

- 10.1.1. A material amendment to the Act which does or may have an effect on the contents of this Policy;
- 10.1.2. A material amendment to any other Applicable Law which does or may have an effect on the contents of this Policy; or
- 10.1.3. A resolution by the Board requiring a review.

## **11. DEVIATION FROM POLICY**

No deviations from this Policy will be allowed without the express written approval of the IIC.

## **12. COMPLIANCE MONITORING**

The implementation of this Policy will be subject to the Fund's compliance monitoring principles.

## **13. BREACH OF POLICY**

- 13.1. Any breach or non-compliance with the provisions of this Policy will be treated as a serious matter by the Fund.
- 13.2. Breaches of this Policy will be subject to disciplinary action in terms of the applicable Fund disciplinary processes and procedures.
- 13.3. Once the Fund has established that a Service Provider has breached a provision on this Policy, apart from any remedies available to the Fund in law and in contract, and in addition to any other provision of this Policy, the Fund may:
  - 13.3.1. Impose a penalty as stipulated in the contract between the Fund and the Service Provider; and/or

- 13.3.2. Declare the Service Provider to be a Prohibited Service Provider for purposes of paragraph 8.4 above for such a period as the Fund deems necessary, subject to the review and hearing procedures described in paragraphs 8.8 to 8.10 above; and/or
- 13.3.3. Report the breach to the FSCA, any other Authority or any applicable local or foreign law enforcement agency for the taking of appropriate action.

#### **14. APPROVAL**

Approved and adopted by the Board as the Code of Ethics Policy for External Service Providers for the Eskom Pension and Provident Fund.

#### **15. ACKNOWLEDGEMENT AND DECLARATION BY SERVICE PROVIDERS**

The Service Providers of the Fund shall be required to acknowledge their adherence to the terms of this Policy, particularly the provisions of paragraph 8.14 above, by appending their signature to this Policy.

\_\_\_\_\_

Signatory:

Capacity:

Date: \_\_\_\_\_

\_\_\_\_\_

Signatory:

Capacity:

Date: \_\_\_\_\_

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