

DIVESTMENT OF ASSETS AND BLIND TRUSTS

PDF VERSION

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This document is intended to provide general information about your obligations under the Conflict of Interest Act. It must be read in conjunction with our information notices on complying with the Act, categories of assets, reimbursement of costs associated with divestment of assets and withdrawal from activities, as well as the summary of rules for reporting public office holders. Public office holders are encouraged to contact the Office for confidential advice about their individual situation. Please call 613-995-0721 or send us an email.

Source: Section 17, section 27, section 30 and section 31 of the Conflict of Interest Act

1. WHAT IS REQUIRED BY THE CONFLICT OF INTEREST ACT?

As a reporting public office holder, you are prohibited from holding controlled assets and must divest yourself of these assets. Controlled assets means assets whose value could be directly or indirectly affected by government decisions or policy, including items such as publicly traded securities, self-administered registered funds or plans, commodities, and stock options.

The Commissioner may also order a public office holder and a reporting office holder to divest themselves of certain assets that give rise to a conflict of interest. In addition to divestment, the Commissioner may also determine other appropriate measures.

2. HOW WILL I KNOW WHICH ASSETS TO DIVEST?

The Office will review the Confidential Report that you are required to submit within 60 days after your appointment and will direct you on which assets to divest.

If you are a minister of the Crown, minister of state or parliamentary secretary, you must divest yourself of all controlled assets unless the Commissioner approves otherwise because they are given as security to a lending institution. For other reporting public office holders, in addition to the same exception previously mentioned, the Commissioner may exempt certain controlled assets from divestment upon determining that the assets are of such minimal value that they do not constitute any risk of conflict of interest in relation to your official duties and functions. The practice of the Office has set this minimal value exemption at \$60,000.

3. WHAT ARE THE ACCEPTABLE METHODS OF DIVESTMENT?

You must divest your controlled assets either by selling them in an arm's-length transaction (that is to say, to someone other than a relative, friend or business associate), or by placing them in a blind trust within 120 days after your appointment. Failure to do so may result in an administrative monetary penalty of up to \$500 which is made public on the public registry. The blind trust must be maintained for as long as you remain in public office or until the trust assets have been depleted.

The Act requires you to submit proof of divestment to the Commissioner.

4. WHAT IS A BLIND TRUST?

A blind trust is a type of trust (a property interest held by one person for the benefit of another) in which the trustee holds legal title to the assets—unless the assets are in a registered account—and is empowered to administer the assets of the trust without any input from the trust's reporting public office holder. The trustee may not provide the reporting public office holder with any information about the day-to-day operations of the trust.

When you divest your assets through a blind trust, the terms and conditions of the agreement to be signed must meet the requirements set out in the Act. The Office will provide you with a list of sample clauses that this agreement should contain.

5. WHO CAN SERVE AS A TRUSTEE?

The trustee must be:

- a public trustee;
- a public company, including a trust company or investment company that is known to be qualified to perform the duties of a trustee; or
- an individual who may perform trustee duties in the normal course of their work.

The Commissioner must be satisfied that an arm's-length relationship exists between you and your trustee.

6. RESTRICTIONS ON SHARING INFORMATION

You are restricted in terms of the instructions you can provide to your trustee. General investment instructions may be included in a blind trust agreement, but must be submitted in writing for the prior approval of the Commissioner. For example, instructions may provide for proportions to be invested in various categories of risk but may not be industry-specific, except in cases where there are legislative restrictions on the types of assets that you may own.

Your trustee is also restricted from sharing information with you. They cannot:

- disclose to you (or to anyone else on your behalf) the composition, nature or details of the trust assets;
- seek or accept instruction, direction or advice from you (or anyone else on your behalf) with respect to the trust assets, including the investment, disposition, administration and management of those assets.

However, there are limited exceptions to these restrictions. Your trustee may provide the following:

- periodic reports regarding the trust's overall net worth and any decrease or increase in its value. This must be done without disclosing the specific investments in the trust, or the nature of transactions which the trustee has made or is contemplating;

- information regarding the capital gains or losses and income of trust assets, as may be required for you to prepare applicable tax returns, along with other similar returns required by law.

7. SUBSTITUTING TRUSTEES

The substitution of a trustee may be done only with the prior approval of the Commissioner. Once approved, the trust assets must be transferred in a manner that preserves the confidentiality of the trust assets.

8. REPORTING

For those trusts established before November 20, 2019, the trustee must file a written report to the Office covering the preceding calendar year no later than March 31 of each year. For those trusts established after this date, trustees must file this written report to the Office on every anniversary of the establishment of the trust. The report must confirm the nature and market value of the trust, a reconciliation of the trust property, the net income of the trust for the preceding year and the trustee's fees.

9. TERMINATING BLIND TRUSTS

When the Office is informed of your last day in public office as a reporting public office holder, the Commissioner will send you a letter outlining your post-employment obligations under the Act and authorizing you to begin dismantling your blind trust.

You may dismantle your blind trust by giving your trustee written instructions on the day after your last day in public office to terminate the trust and transfer title and control of the assets back to you. You may wish to provide your trustee with a copy of the Commissioner's letter confirming you are no longer required to maintain a blind trust for the purposes of the Act.

The Commissioner may order the dismantling of a trust if the assets have been depleted or the trust no longer contains controlled assets.

10. REIMBURSEMENT OF COSTS ASSOCIATED WITH DIVESTMENT

Reasonable legal, accounting and administrative costs associated with establishing, maintaining and terminating blind trusts may be reimbursed. Commission fees for selling assets in an arm's-length transaction may also be reimbursed.

You may be interested in reading our information notices on the reimbursement of costs associated with divestment of assets and withdrawal from activities, complying with the Act, and categories of assets.

- [Contact Us](#)
- [Proactive Disclosure](#)

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INFORMATION

- [Important Notices](#)
- [Accessibility](#)

REGIMES

- Read the Act
- Read the Code