

# PINDAN CAPITAL CONFLICTS OF INTEREST AND RELATED PARTY TRANSACTIONS POLICY

This policy has been adopted by Pindan Capital Pty Ltd (ABN 78 139 599 652, AFSL No. 342911) (**Pindan Capital**) as responsible entity of the Otan Property Fund (**Fund**) in relation to the Fund, each project of the Fund (**Project**) and all other projects for which Pindan Capital acts as responsible entity.

This policy is referred to as the **Conflicts of Interest and Related Party Transactions Policy** or **Policy**.

This Conflicts of Interest and Related Party Transactions Policy provides guidance and explanation in relation to related party transactions, including assessment and approval processes for such transactions and arrangements to manage conflicts of interest of the Fund (if applicable) and each Project.

To the extent that there is any inconsistency between this Policy and as may be prescribed by law, regulation or the constituent documents of Pindan Capital, the Fund and each Project, such prescribed requirements shall prevail.

This version of this Policy is effective as at 30 March 2017.

## 1. **Conflicts of Interest Policy**

### 1.1 **Objectives and Definition**

#### (a) **Objectives**

The objectives of this part of the Conflicts of Interest and Related Party Transactions Policy are to:

- identify conflict management obligations;
- identify legislative and common law obligations relating to conflicts of interest; and
- prescribe policy for the disclosure, dealing and monitoring of conflicts of interest.

#### (b) **Conflicts of Interest Definition**

For the purposes of this Policy, conflicts of interest are circumstances where some or all of the interests of people (clients - also referred to in this Policy as investors, members or Unit holders) to whom Pindan Capital provides financial services are inconsistent with, or diverge from, some or all of the interests of Pindan Capital or its related entities. This includes actual, apparent and potential conflicts of interest.

For example: Pindan Capital derives income by acquiring assets on behalf of a managed investment scheme it manages (i.e. the Fund), and could acquire assets in excess of that required to provide a risk/return suitable to the members of the scheme in order to obtain a financial gain. For other examples of conflicts of interest, see Appendix A.

## 1.2 Legislative and Regulatory Requirements

### (a) ASIC Regulatory Guide 181

ASIC Regulatory Guide 181 (*Licensing: Managing conflicts of interest*) requires AFS Licensees to develop a conflicts of interest policy and to implement appropriate procedures for the management, monitoring and controlling of conflicts of interest.

### (b) Corporations Act 2001

*Chapter 2D - Duties of directors, other officers and employees of companies*

Directors, officers and employees have a duty to:

- act in good faith in the best interests of the company and for a proper purpose, and not recklessly or in an intentionally dishonest way;
- not to improperly use their position or information they obtain as a result of their position to gain an advantage for themselves or someone else or to cause detriment to the company; and
- generally disclose any material personal interest in a matter that relates to the affairs of the company.

*Chapter 7 – Financial Services Licensing*

There are a number of obligations of Pindan Capital, as an AFS Licensee, which deal with or relate to conduct potentially affected by conflicts of interest, including:

- doing all things necessary to ensure that financial services are provided efficiently, honestly and fairly (s912A(1)(a));
- have in place adequate arrangements for the management of conflicts of interest that may arise wholly, or partially, in relation to activities undertaken by Pindan Capital or its representatives in the provision of financial services as part of Pindan Capital's financial services business. (s912A(1)(aa));
- having adequate risk management systems (s912A(1)(h));
- complying with financial services laws and to take reasonable steps to ensure representatives do likewise (s912A(1)(c) and (ca));
- having adequate compliance arrangements in place (reg. 7.6.03(g));
- if applicable, disclosing all benefits and relationships in a Financial Services Guide before providing services to a retail client (s941A and 941B);
- if applicable, disclosing benefits and relationships in a Statement of Advice when providing financial product advice to a retail client (s946A);
- not engaging in misleading or deceptive conduct, dishonest conduct, unconscionable conduct and insider trading (s1041A-H);
- the duties of Pindan Capital as responsible entity of the Fund, including duties to act in the best interests of the members of the Fund and, if there is a conflict between the members' interest and its own interests, to give priority to the members' interest (s601FC).

Chapters 2E, as modified by Chapter 5C.7, relating to related party transactions is also relevant to conflicts of interest and is dealt with under section 2 of this Policy.

(c) **ASIC Act - Conduct**

The *Australian Securities Investments Commission Act 2001* contains provisions relating to the conduct of financial service providers. The provisions principally relate to unconscionable conduct and consumer protection in relation to financial services provided by Pindan Capital.

**1.3 Common Law Obligations**

Common law obligations operate in addition to statutory requirements.

There are instances where Pindan Capital, as an AFS Licensee, will act in a fiduciary capacity and has an obligation to a client where the interest is not covered under a statutory obligation. An example of a common law obligation is where an AFS Licensee acts in a trustee capacity on behalf of a client.

**1.4 Identifying Conflicts of Interest**

(a) Pindan Capital requires that all directors, employees and contractors disclose any activities they or an associate engage in if these relate to:

- property acquisition and/or management; or
- the provision of goods or consulting services of any type to the public; and in the case of contractors, the provision of services to any individual or business undertaking property acquisition or management, or fund management activities.

(b) Such activities are considered potential areas for conflicts of interest to arise. Details of such services must be submitted to the board of Pindan Capital (**Board**) for approval prior to:

- the formal employment or engagement under contract with Pindan Capital or related entities; or
- the establishment by existing employees or contractors of any activities referred to here.

(c) It is at the Boards' sole discretion whether to approve such applications. Where application for approval is unsuccessful and the person does not undertake to not engage in the un-approved activity, then:

- for candidates for employment or engagement on contract, they will not be considered, or
- for persons already employed or engaged on contract, that employment or engagement may be terminated subject to that person's employment or engagement contract.

**1.5 Reporting Actual or Potential Conflicts of Interest**

(a) Parties that must not be a related party (as defined in s288 of the Act - see section 2.1(b) of this Policy for summary) of Pindan Capital or its associates include the following suppliers/providers:

- the auditor (financials);
- the auditor (of the compliance plan of the Fund);

- the person conducting the property valuation under the Pindan Capital Valuation Policy;
  - the tax advisor;
  - the legal advisor; and
  - the insurance provider.
- (b) All directors, responsible officers, Board members, authorised representatives, employees and contractors are required to report any actual or potential conflict of interest.
- (c) At the time of engagement by Pindan Capital, Pindan Capital may be required to provide a declaration that the above listed suppliers / providers are not related to the directors of Pindan Capital.
- (d) In the event that a supplier / provider is deemed to be a related entity prior to their engagement, this engagement will need to be approved by the Board.
- (e) Any director or officer of Pindan Capital is required to report any actual or potential conflict of interest at a board meeting if the director or officer has an interest in the matter being dealt with at that board meeting. The conflict will be recorded in the minutes of the relevant board meeting. If the directors consider it appropriate, they may request the consideration of the conflict of interest to be made by the Board in the absence of the director that has disclosed the conflict of interest. The remaining directors will determine how to deal with the disclosed conflict of interest in a manner that satisfies the interests of clients, the directors and Pindan Capital as the responsible entity, which may include a determination that disclosure of the conflict of interest be made to clients.
- (f) All employees and contractors are required to report any conflict of interest to the Pindan Capital Managing Director in the first instance. The Managing Director shall report and arrange for details to be submitted to the Board for consideration. The Board minutes shall record the result of the applications and the Managing Director will record the outcome in the Conflicts of Interest Register.
- (g) The onus is on a director to declare their interest in any transaction at the monthly Board meetings.
- (h) Where the Managing Director has a conflict of interest they shall report the conflict in writing to the chairman of the Board and record the conflict in the Conflicts of Interest Register.
- (i) Annually the directors will review the register of creditors to confirm that the parties who may not be related entities are not related entities and this will be documented in the Board minutes.
- (j) If the Board is unable to effectively determine the action to be taken in relation to any disclosed conflict of interest, the Board will refer the matter to Pindan Capital's external advisers for assistance.

## 1.6 Conflicts of Interest Register

- (a) The Managing Director/Compliance Manager will maintain a Conflict of Interest Register (**Conflicts Register**) and enter all conflicts of interest related to Pindan Capital into the Register.

- (b) The Conflicts Register shall record any special incentives that are offered to directors or representatives for the distribution of an Pindan Capital product, or a product of another AFS Licensee.
- (c) The Conflicts Register will also contain details of inter-company relationships that may provide a source of conflict, either now or in the future, for ongoing review.
- (d) Details of directors and any senior employee share or unit holdings in all Pindan Capital managed entities shall be reported to the Board.

### 1.7 Disclosure of Conflicts of Interest

- (a) Where Pindan Capital determines that a conflict exists but can be managed through appropriate disclosure to clients, Pindan Capital must ensure that adequate disclosure is made. This requires providing a clear, concise and effective form of disclosure to allow clients to make an informed decision about how the conflict may effect the service being provided to them.
- (b) Typically, the disclosure would be made in the offer document for the relevant financial product. However, where appropriate, disclosure can be made by a specific communication to clients on the Pindan Capital website ([www.Pindan Capital.com](http://www.Pindan Capital.com)) or by letter.
- (c) Pindan Capital must ensure that disclosure about a conflict of interest:
  - is timely, prominent, specific and meaningful to the client;
  - occurs before or when the relevant financial service is provided, but in any case at a time that allows the client a reasonable time to assess its effect; and
  - refers to the specific service to which the conflict relates.
- (d) In situations in which a conflict of interest arises that is confidential, Pindan Capital must assess whether any disclosure can be given and whether the conflict can be adequately managed through other mechanisms. In such circumstances, it may be appropriate that the conflict be avoided altogether.

### 1.8 Controlling Conflicts of Interest

- (a) The Board will:
  - identify conflicts of interest relating to the business of Pindan Capital;
  - assess and evaluate those conflicts of interest; and
  - decide upon, and implement an appropriate response to those conflicts of interest.
- (b) Depending on the circumstances and the nature of any conflicts of interest, it may be appropriate to:
  - disclose the conflict of interest;
  - provide an alternative source of service to a client or member;
  - decline to provide services to the client; or
  - initiate internal disciplinary action.
- (c) In considering Pindan Capital's obligations in response to any actual or potential conflict, Pindan Capital should consider, amongst other things, the following questions:

- Is Pindan Capital providing its financial service in a manner that unfairly puts the interests of Pindan Capital or any of its directors or representatives ahead of the clients?
- Is Pindan Capital providing financial services in a way that unfairly puts the interests of one client ahead of the interests of other clients?
- Is Pindan Capital using knowledge about its clients in a way that is likely to advance Pindan Capital's own interests without sufficient disclosure to affected clients?

## 1.9 **Monitoring Conflicts of Interest**

- (a) The Managing Director/Compliance Manager will monitor all conflicts of interest and maintain the Conflicts Register.
- (b) Where a conflict of interest has not been adequately disclosed it will be referred to the Board for discussion. Such discussion may relate to changes to the procedures set out in this Policy to avoid any further instances of non-compliance.

## 2. Related Party Transactions Policy

### 2.1 Objectives and Definition

#### (a) Objectives

The objectives of this part of the Conflicts of Interest and Related Party Transactions Policy are to ensure a financial benefit is not given to Pindan Capital, as responsible entity of the Fund, or a related party unless approved by the Board and disclosed to Unit holders.

#### (b) Related Party Transaction and Financial Benefit Definitions

For the purposes of this Policy, related party transactions are transactions where a financial benefit is given to a related party of Pindan Capital (as a public company and responsible entity of a registered managed investment scheme). Related parties are defined by section 228 of the *Corporations Act 2001* (Cth).

Examples of related parties include:

- a parent company and its subsidiaries, associates and affiliates;
- subsidiaries, associates or affiliates of a common parent;
- a director of Pindan Capital, their spouses, de facto spouses, parents or children;
- entities controlled by a director of Pindan Capital, their spouses, de facto spouses, parents or children; and
- an entity that was a related party of Pindan Capital at any time within the previous 6 months or Pindan Capital believes or has reasonable grounds to believe that it is likely to become a related party of Pindan Capital at any time in the future.

The definition of a financial benefit is broad. A financial benefit includes giving a financial benefit indirectly through an interposed entity, making an informal, oral or non-binding agreement to give the benefit, and giving a benefit that does not involve paying money.

For example:

- giving or providing the related party finance or property;
- buying an asset from or selling an asset to the related party;
- leasing an asset from or to the related party;
- supplying services to or receiving services from the related party;
- issuing securities or granting an option to the related party; and
- taking up or releasing an obligation of the related party.

### 2.2 Legislative and Regulatory Requirements

#### (a) ASIC Regulatory Guide 46

Regulatory Guide 46 (*Unlisted Property Schemes: Improving Disclosure for Retail Investors*) requires responsible entities of unlisted property schemes to disclose whether they meet the benchmark of maintaining and complying with a related party transactions policy on an "if not why not" basis and requires the disclosure of Related Party Transactions in offer documents and on an ongoing basis. Pindan Capital complies with this disclosure.

(b) **ASIC Regulatory Guide 76**

Regulatory Guide 76 (*Related Party Transactions*) provides guidance on entering into related party transactions and sets out procedures for handling and approving Related Party Transactions.

(c) **Corporations Act 2001**

Chapter 5C.7 (*sections 601LA to 601LE*) adapts parts of Chapter 2E (*sections 207 to 230*) of the Corporations Act, requiring that Unit holder approval be obtained for the provision of a financial benefit given by a scheme operated by Pindan Capital to a related party of Pindan Capital, subject to certain exceptions. Related party transactions may give rise to potential or actual conflicts of interest.

**2.3 Pindan Capital's Requirements in regard to Related Party Transactions**

- (a) All related party transactions must be reviewed and approved by the Pindan Capital Board;
- (b) No related party transactions can be approved or entered into unless they are on arms-length, commercial terms or are otherwise approved by the relevant Unit holders.
- (c) An ASIC Regulatory Guide 76 Checklist, a copy of which is set out in **Appendix B**, must be used to review any proposed related party transaction against the required regulatory requirements.
- (d) All related party transactions must be reviewed annually.
- (e) Related party transactions must be recorded in a related party transaction register. The Managing Director/Compliance Manager must ensure the register is kept up to date and that Pindan Capital staff are trained to consult it when working on transactions.
- (f) If the Managing Director or Financial Controller of Pindan Capital believes a transaction may constitute a related party transaction, then they must report this to the Compliance Officer.
- (g) The Compliance Officer must, in each Compliance Report, report on compliance with this Policy.
- (h) The Compliance Officer/Committee must assess compliance with these obligations and if appropriate, then report instances of non-compliance to the Board.

**2.4 Related Party Transactions with Pindan**

There are a number of related party transactions between each Project and Pindan (Pindan Pty Ltd and Pindan Realty Pty Ltd) in relation to the project management, construction and real estate sale aspects of each Project. These Pindan companies are related parties of Pindan Capital as David Pringle is a director of all three companies. These related party transactions are continually tested by Pindan Capital in relation to their arms-length commercial nature. It is anticipated that these related party transactions will continue and will be regularly monitored and disclosed in accordance with this Policy and relevant legislative and regulatory requirements.



### 3. **Review**

This Conflicts of Interest and Related Party Transactions Policy will be reviewed on an annual basis by management and approved by the Board. As appropriate, that review may be carried out with the assistance of external compliance advisers and/or the auditor of Pindan Capital.

Date of next review:                      March 2018

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## Appendix A

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### Examples of Conflict of Interest Activities and Relationships

The following activities illustrate types of potential or actual conflicts of interest that should be avoided and disclosed, as applicable, in accordance with this Policy. The list is not all inclusive and is intended to provide guidance only.

- **Conflicting duties:** Participating in decisions relating to another party that may conflict with the interests of Pindan Capital.
- **Self-benefit:** Using your position or relationship within Pindan Capital to promote your own interests or those of your family, including using confidential or privileged information gained in the course of your participation or employment at Pindan Capital for personal benefit or gain or for the personal gain or benefit of family members.
- **Conflicting relationships:** Where outcomes may benefit others rather than Pindan Capital.
- **Influence peddling:** Soliciting benefits for yourself or your family from outside organisations in exchange for using your influence to advance the interests of that organisation within Pindan Capital.
- **Other business relationships and dealings:** Approving contracts with organisations in which you or your family have a significant financial or other interest or relationship, particularly if you are in a position to influence major decisions, are responsible for review, negotiation and approval of contracts, or otherwise direct Pindan Capital' business dealings with that entity or business.
- **Intellectual Property:** Inappropriate or unauthorised use of resources/materials developed under the aegis of Pindan Capital or potential conflicts relating to the development and use of resources.
- **Outside commitments:** Participating in social or political activities is not restricted as long as you participate as an individual and not as a representative of Pindan Capital.
- **Business transactions:** Directly or indirectly leasing, renting, trading, or selling real or personal property to Pindan Capital.
- **Use of Pindan Capital property for personal advantage:** Using or taking Pindan Capital resources, including facilities, equipment, personnel, and supplies, for private use or other unauthorised non-Pindan Capital activities.
- **Recording or reporting false information:** Misrepresenting, withholding, or falsifying relevant information required to be reported to external parties, or used internally for decision making purposes, in order to derive personal benefits.
- **Gifts:** Personally accepting anything of value (unless nominal), including without limitation, payments, gifts, or loans from organisations or individuals that have dealings with Pindan Capital.
- Employees or their associates providing services to Pindan Capital.

## Appendix B

**Pindan Capital Property Fund  
Related Party Transaction Compliance Checklist  
(ASIC Regulatory Guide 76)**

Related Party Transaction Details	
<b>Description of Transaction:</b>	
<b>Parties:</b>	
<b>Date:</b>	
<b>Completed by:</b>	

RG 76 ref	Guidance	Comment	Check
<b>76.61</b>	<p>Member approval is not needed to give a financial benefit, i.e. via a related party transaction, on terms that:</p> <ul style="list-style-type: none"> <li>(a) would be reasonable in the circumstances if the entity and the related party were dealing at arm's length; or</li> <li>(b) are less favourable to the related party than these terms.</li> </ul>		
<b>76.64</b>	<p>In determining the objective standards that would characterise arm's length terms, consideration should be given to the transaction terms that would result if:</p> <ul style="list-style-type: none"> <li>(a) the parties to the transaction were unrelated in any way (e.g. financially, or through ties of family, affection or dependence);</li> <li>(b) the parties were free from any undue influence, control or pressure;</li> <li>(c) through its relevant decision-makers, each party was sufficiently knowledgeable about the circumstances of the transaction, sufficiently experienced in business and sufficiently well advised to be able to form a sound judgment as to what was in its</li> </ul>		

	<p>interests; and</p> <p>(d) each party was concerned only to achieve the best available commercial result for itself in all the circumstances.</p>		
<b>76.65</b>	<p>In deciding whether the arm's length exception applies, the terms on which the financial benefit is given should be compared to the objective range of possible terms that unrelated, uninfluenced and self-interested parties would reasonably arrive at in the circumstances.</p>		
<b>76.62, 76.66</b>	<p>In determining the outcomes that hypothetical unrelated parties would reasonably achieve, consideration should be given to the following points:</p> <p>(a) commercial prudence should be applied and expert guidance may be required in considering the terms of the related party transaction and ascertaining common market practice; and</p> <p>(b) if the terms of the financial benefit are extraordinary or excessively generous, or do not include safeguards to manage conflicts of interest, it is less likely that the terms can be considered 'reasonable' and so may not be arm's length terms for the purposes of s210.</p>		
<b>76.67-69</b>	<p>For a related party transaction to be on 'arm's length' terms, its terms must be reasonable 'in the circumstances' if the entities were 'dealing at arm's length'.</p> <p>The 'circumstances' could include, but are not limited to:</p> <p>(a) whether there are alternative transactions open to the entity that are not with related parties (e.g. whether a related party is the only supplier of a certain component or suitable premises);</p> <p>(b) prevailing economic conditions and their impact on the parties and their relevant industries; and</p> <p>(c) any special value to the transaction (e.g. synergies available to the related party,</p>		

	<p>other than those arising because it is a related party, that may not be available to other unrelated parties).</p> <p>Generally, all circumstances of the related party transaction that have a bearing on determining the terms are relevant, except for the fact of their relationship.</p>		
<p><b>76.70, 76.75–76.79</b></p>	<p>At a minimum, all of the following factors should take into account when deciding whether to seek member approval or whether the arm's length exception in s210 applies:</p> <p>(a) <b>Comparable transactions:</b> how the terms of the overall transaction compare with those of any comparable transactions between parties dealing on an arm's length basis in similar circumstances. In particular:</p> <ul style="list-style-type: none"> <li>(i) entities should seek to establish contractual terms that prevail in the open market for similar transactions between unrelated parties;</li> <li>(ii) common experience and usual terms of trade can be taken as a guide;</li> <li>(iii) common sense and commercial prudence should be applied;</li> <li>(iv) consideration should be given as to whether any key provisions (e.g. consideration, warranties, indemnities, term and termination) are excessively onerous or generous, and therefore less likely to be 'reasonable' or comparable with terms achieved by other parties on the open market in similar circumstances;</li> <li>(v) terms that are extreme or unlikely should not be used in comparison because they may generally be unreasonable; and</li> <li>(vi) if there is no reliable data about comparable transactions between parties dealing at arm's length, it will be more difficult to determine with certainty the hypothetical</li> </ul>		

		reasonable arm's length terms that could be reasonable by unrelated parties.	
76.70, 76.80–76.85	(b)	<p><b>Bargaining Process:</b> the nature and content of the bargaining process, including whether the entity followed robust protocols to ensure that conflicts of interest were appropriately managed in negotiating and structuring the transaction. In particular:</p> <ul style="list-style-type: none"> <li>(i) how the transaction was initiated, structured, negotiated and disclosed to directors;</li> <li>(ii) if the parties have dealt with each other as unrelated parties would normally do, and engaged in a process of real bargaining;</li> <li>(iii) it is not necessary to show that the parties negotiated on an arm's length basis to decide whether the terms of the transaction are arm's length terms, but factors relating to how the parties conducted themselves in forming the terms of the transaction are relevant in assessing whether the outcome of their negotiations could reasonably have been achieved by uninfluenced, self-interested parties in the circumstances, including: <ul style="list-style-type: none"> <li>(A) whether the proposed transaction is contractual in nature, including whether it is adequately documented in binding form;</li> <li>(B) the involvement in the negotiations of professional advisers representing or advising each party; and</li> <li>(C) the nature of the negotiation process, including the length and sincerity, whether there was 'hard' or 'real' bargaining (e.g. disinterested bargaining process characteristic of strangers, who are each applying their independent separate wills) and whether</li> </ul> </li> </ul>	

	<p>any of the terms were negotiated at all;</p> <p>(iv) If a director has a material personal interest in the related party transaction and has participated in, or been privy to, negotiations with the related party, this aspect of the bargaining process and its potential impact on the terms of the transaction; and</p> <p>(v) the entity's bargaining position, determined not only by reference to the knowledge and experience the entity has, including through its advisers, and relevant circumstances in which the transaction is contemplated. Circumstances include the entity's desire and need to complete the transaction (e.g. if an entity is in financial distress).</p>		
<p><b>76.70, 76.86–76.88</b></p>	<p>(c) <b>Impact on Company and/or Scheme:</b> the impact of the transaction on the company or registered scheme (e.g. the impact of dealing on those terms on the financial position and performance of the company or registered scheme) and non-associated members. In particular:</p> <p>(i) short-term and long-term implications will be relevant;</p> <p>(ii) whether there is a negative effect on the company's or registered scheme's financial position or performance that is not sufficiently balanced by the positive effects;</p> <p>(iii) whether the transaction fits within the entity's business plan or affects whether the entity is able to pursue its business plan;</p> <p>(iv) whether the terms are fair, given the expected return on the relevant asset, the risks to which the asset is exposed and the relative liquidity of the asset; and</p> <p>(v) whether the contract or agreement adequately protects the interests of the entity giving the financial benefit.</p>		

<p><b>76.70, 76.89</b></p>	<p>(d) <b>Alternative Options:</b> any other options that may be available to the entity. In particular, if the related party transaction is one of a number of options open to the entity:</p> <ul style="list-style-type: none"> <li>(i) whether the terms of these options can provide a good comparison of the terms that can reasonably be obtained between unrelated parties in the circumstances; and</li> <li>(ii) if the terms of the proposed transaction are less favourable to the related party than the terms of these options, the arm's length exception is more likely to apply.</li> </ul>		
<p><b>76.70, 76.90–76.91</b></p>	<p>(e) <b>Expert Advice for Directors:</b> expert advice received by the entity on the transaction (if any). In particular:</p> <ul style="list-style-type: none"> <li>(i) the directors should ensure they have, or have access to, enough knowledge or expertise to assess all aspects of proposed related party transactions -where necessary, they should obtain appropriate professional and expert advice from any appropriately qualified person; and</li> <li>(ii) the directors will need to be satisfied that it is appropriate to rely on the expert advice, including that the opinion given by the expert is directly relevant to the decision at hand. However, directors relying on information, professional advice or expert advice provided by others must make their own independent assessment of the information or advice. Advice does not replace careful judgment by the directors.</li> </ul>		
<p><b>76.94-95</b></p>	<p>If after taking into account all the factors in RG 76.70 and any other relevant factors, it is not clear that the related party transaction falls within the arm's length exception (or any other exception in Ch 2E of the Act), member approval should be sought.</p> <p>Directors should only rely on the arm's length</p>		



	exception when they are persuaded that the exception does apply, rather than it being merely arguable that it applies.		
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