MONEY FOUNDATION

**The Virgin Money Foundation (the "Foundation")**

**Policy for Dealing with Conflicts of Interest**

## 1. Introduction

The Trustees of the Foundation all have a legal duty to act only in the best interests of the Foundation. Conflicts of interest can lead to decisions that are not in the best interests of the Foundation, and which are invalid or open to challenge. They can also damage the Foundation's reputation. These harmful effects can be prevented if the Trustees can identify conflicts of interest, and the board of Trustees (the "Board") can act to prevent them from affecting their decision making.

The Foundation operates independently, but it does have a close association with Virgin Money because Clydesdale Bank PLC, the main trading company of the Virgin Money Group, is the Foundation's sole Member. When considering what is in the best interests of the Foundation, the Trustees must pay due regard to any conditions associated with: (i) the funding and operational support provided by Virgin Money; and (ii) the Foundation's use of the Virgin Money brand.

This policy applies to Trustees of the Foundation. It aims to ensure compliance with legal requirements and the requirements of the Foundation's key governing document, the Articles of Association (the "Articles"). It explains how to identify conflicts of interest, prevent them from affecting decision making, and the potential consequences of getting it wrong.

## 2. Identifying

<u>2.1 What is a conflict of interest?</u>

- A conflict of interest is any situation in which a Trustee's personal interests or loyalties could, or could be seen to, prevent them from making a decision only in the best interests of the Foundation. Even the perception that there is a conflict of interest can damage the Foundation.

- Conflicts of interest usually arise where either:

  - There is a potential financial or measurable benefit directly to a Trustee, or indirectly through a connected person; or
  - A Trustee's duty to the Foundation may compete with a duty or loyalty they owe to another organisation or person.

- Trustees can only benefit from the Foundation where there is an explicit authority in place before any decision conferring Trustee benefit is made. Examples of benefits to Trustees are where the Trustees decide to:

  - Sell, loan or lease Foundation assets to a Trustee; or

  - Pay a Trustee, or a person or company closely connected to a Trustee, for providing a service to the Foundation.

- Explicit authority will come from either:

  - The Foundation's Articles;
  - The law, i.e. the power in the Charities Act which allows charities, in some circumstances, to pay trustees for additional services they provide to the charity over and above normal trustee duties;
  - The Charity Commission or OSCR (as the case may be); or
  - The Court.

- Authority is required where there is a possibility of benefit. Therefore, Trustees must ensure that there is proper authority for any situations where Trustees could benefit, irrespective of whether there is any actual benefit. Even if the benefit is authorised, the resulting conflict of interest for the Trustee must be properly managed.

- The payment of reasonable out-of-pocket expenses to Trustees is not a trustee benefit, so it does not create a conflict of interest or require legal authorisation other than in accordance with any internal expenses policy.

- A conflict of loyalty is a particular type of conflict of interest, in which a Trustee's loyalty or duty to another person or organisation could prevent the Trustee from making a decision only in the best interests of the Foundation. For example, a Trustee's loyalty to the Foundation could conflict with their loyalty to:

  - The body that appointed them to the Foundation; or
  - Another charity of which they are a trustee.

- Conflicts of interest relate to a Trustee's personal interest and the interests of those connected to them. This means that there is a conflict of interest where there is a proposed transaction between the Foundation and a connected person, or there is a benefit or a potential benefit to a connected person.

- A connected person is basically a relative or business partner of a Trustee, as well as businesses in which a Trustee has an interest through ownership or influence. It includes a Trustee's spouse or unmarried or civil partner, children, siblings, grandchildren and grandparents, as well as businesses where a Trustee or family member holds at least one-fifth of the shareholding or voting rights. If in doubt about whether a person or business is a connected person please seek advice from the Company Secretary.

## 3. Preventing conflicts of interest from affecting decision making

3.1 Declaring

- Each Trustee's legal duty to act only in the best interests of the Foundation means in practice that Trustees who fail to declare any conflicts of interest will fail to comply with their Trustee duties.

- The Articles reflect this by expressly stating that every Trustee is obliged to avoid situations in which they have (or could have) a direct or indirect interest that conflicts (or could conflict) with the interests of the Foundation. Where a Trustee is unable to avoid such a situation, this obligation is not infringed if:

  - The situation could not reasonably be regarded as likely to give rise to a conflict of interest; or
  - The matter has been proposed and authorised by the Trustees in the manner set out in the Articles.

- The Foundation maintains a register of Trustee interests. By recording all of their other interests openly, any actual or potential conflicts of interest can be identified more easily. Potential Trustees are required to disclose their interests, so that any actual or potential conflicts of interest can be identified, as part of the nomination process.

- The Foundation has a standing agenda item at the beginning of each Trustee meeting to declare any actual or potential conflicts of interest.

- Trustees must declare any interest which they have in an item to be discussed, at the earliest possible opportunity and certainly before any discussion of the item itself.

- If a Trustee is uncertain whether or not they are conflicted, they should err on the side of openness, declaring the issue and discussing it with the other Trustees.

- If a Trustee is aware of an undeclared conflict of interest affecting another Trustee, they should notify the other Trustees or the Chair.

- A matter proposed to the Trustees, in relation to which a Trustee is conflicted, may only be authorised by the Trustees where:

  - There are enough Trustees present at the Board meeting to vote on the matter without counting the conflicted Trustee;
  - The matter is authorised without the Trustee in question voting on the matter (or would have been agreed to had their vote not been counted); and
  - The Trustee in question is absent from the Board meeting for that item unless expressly invited to remain to provide information.

- Where a Trustee or connected person has a direct or indirect interest in any proposed transaction or arrangement with the Foundation, the Trustee must:

- Declare the nature and extent of that interest either at a Board meeting or by written notice before the Foundation enters into the transaction or arrangement;
- Be absent from the Board meeting for that item unless expressly invited to remain in order to provide information;
- Not be counted when the Chair calculates whether there are sufficient Trustees present for that part of the meeting; and
- Be absent during any vote and have no vote on the matter.

- A Trustee who is interested in a proposed transaction or arrangement with the Foundation may participate in the decision-making process and count towards the votes for that part of the Board meeting if the proposed transaction or arrangement is a "permitted cause". The Articles contain a list of "permitted causes", which includes:

    - Any transaction or arrangement with a charity of which a Trustee is a charity trustee or with which they are otherwise connected and which is in furtherance of the objects of the Foundation and which does not confer a personal benefit on the Trustee;
    - Any transaction or arrangement with Virgin Money, where a Trustee is also an employee, director, or officer of Virgin Money and the transaction or arrangement confers no personal benefit on the Trustee. This means that a Trustee will not be regarded as conflicted by merely only of the fact that he is a director, employee or officer of Virgin Money; and
    - Where the benefit is so negligible or minimal that it could not reasonably be regarded as giving rise to a conflict of interest.

<u>3.2 Considering and Removing</u>

- Trustees must consider the conflict of interest so that any potential effect on decision making is eliminated. In cases of serious conflicts of interest the Trustees may decide that removing the conflict of interest is the most effective way of preventing it from affecting their decision making and demonstrating that they have acted in the best interests of the Foundation.

- Serious conflicts of interest include those which:

    - Are so acute or extensive that the Trustees are unable to make their decisions in the best interests of the Foundation, or could be seen to be unable to do so; and
    - Are present in significant or high risk decisions of the Trustees

- In practice removing the conflict of interest is likely to mean:

    - Not pursuing the course of action;

- Proceeding with the issue in a different way so that a conflict of interest does not arise. This could exceptionally mean seeking the Charity Commission's or OSCR's prior authority to a continuing and widespread conflict of interest;
- Securing the resignation of a Trustee affected by a conflict of interests; or
- Not making Trustee appointments which will introduce a conflict of interests.

- The Trustees may need to seek permission from the Charity Commission and OSCR before making a decision affected by a serious conflict of interest.

3.3 Recording

- The Company Secretary will keep written records of any conflicts of interest and how the Trustees have dealt with them. The decisions that the Trustees make in relation to conflicts of interest will be recorded in the minutes of their meetings and in the Foundation's register of conflicts. The records will show:

  - The nature of the conflict;
  - Which Trustees were affected;
  - Whether any conflicts of interest were declared in advance;
  - An outline of the discussion;
  - Whether anyone withdrew from the discussion; and
  - How the Trustees took the decision in the best interests of the Foundation.

- The Foundation's Annual Report & Accounts, which will be filed with the Charity Commission and OSCR, will include details of payments and other benefits to Trustees and connected persons. The Report & Accounts will also explain under what legal authority the payments or benefits have been made, together with the reason for them.

## 4. Potential consequences of getting it wrong

4.1 Legal

- Failure to act properly where there is a conflict of interest is a breach of the Trustees' legal responsibilities.

- A transaction affected by a conflict of interest, where the Trustees have not acted properly, could be challenged by the Charity Commission, OSCR or by an interested party. The transaction may be unsafe and capable of being invalidated or, in the worst case, might be void from the start.

- If the Trustees have not acted properly they may have to repay any sums paid by the Foundation, whether they result from an unauthorised Trustee benefit or another breach of duty. This can be the case even if the Foundation has benefited from the arrangement. If the Foundation has also suffered a loss the Trustees may have to compensate the Foundation for it.

4.2 Regulatory

- The regulatory consequences of making a decision which is subject to a conflict of interest largely depend on the nature and severity of the conflict, its impact on the Foundation, and the ability of the Trustees to remedy the situation and operate in line with their duties.

- The Charity Commission and/or OSCR will intervene where it has concerns about Trustee misconduct or mismanagement, or if there is a risk to Foundation property.

4.3 Reputational

- Conflicts of interest can have significant negative effects on the Foundation's reputation and on public trust and confidence generally.

- When dealing with conflicts of interest Trustees should be aware of how the situation may appear to someone from outside the Foundation.

## 5. Using Information

- Trustees must not use, or disclose, information obtained at the Foundation for their own benefit, or that of another organisation, if it has been obtained in confidence or has special value such as commercial sensitivity.

- Similarly Trustees will not be expected to disclose information to the Foundation in relation to a third party where they obtained such information under an obligation of confidence. If this causes a conflict of interest for the Trustee, they should follow the provisions of this policy.

## 6. Policy Owner

- The owner of this policy is the Company Secretary.

- The ultimate owner of this policy is the Board. Changes to this policy require prior approval from the Board.

## 7. Responsibilities

To ensure that the standards set out above are achieved responsibilities are as follows:

7.1 The Board

The Board should approve this Conflicts of Interest policy and ensure that there are appropriate procedures in place to deal with and authorise conflicts of interest.

7.2 Company Secretary

Review this policy on at least a biennial basis, minute all authorisations of Trustees' Conflicts of Interest and maintain a register of interests for each Trustee and a register of conflicts of interest.

7.3 Trustees

Trustees must be aware of this policy and adhere to it.

## 8. Contact Details

- If a Trustee is in doubt as to whether there is a risk of breaching their duties they should consult the Company Secretary.

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