



Risk Management Policy **Respecting Conflicts of Interest**

The purpose of the following suggested guidelines is to assist member firms to reduce the risks that may arise as a result of conflicts of interest.

The Risk Management Committee recommends that members' policies respecting conflicts of interest contain the following elements:

1. Each member firm should establish at a management level a committee to assist in the resolution of conflicts issues and to maintain a current perspective on emerging issues in the conflicts area.
2. Lawyers should comply with the conflict of interest rules published by the applicable provincial law society and any commentary thereto. Member firms should be mindful that different law society rules may apply where members of different law societies are working on the same matter or where a lawyer working on a material matter is a member of more than one law society. In addition, ideally, no lawyer should agree to act for more than one party with adverse or potentially adverse interests in respect of a matter without the concurrence of the member firm's management or conflicts committee.
3. Lawyers should comply with CLLAS' conflict of interest policy with respect to claims against another member firm.
4. A conflicts check should be performed on each new client, each new matter for a continuing client and each revived matter using a computerized conflict checking system that searches clients and matters on a firm-wide basis (including all offices), augmented, to the extent practical, by a search of material subsidiaries and affiliates.
5. If the member firm allows confidential files to be opened using code names, a database of such confidential files containing the names of the parties and a description of the matter should be maintained and all new clients and new or revived matters should be checked against this confidential database.
6. Information management restrictions to ensure the confidentiality of all information relating to each client (including Chinese walls, where permitted by the applicable provincial law society) should be put in place in respect of a) any lawyer or law clerk joining the member firm and all persons working on adverse matters; b) persons representing different clients in respect of the same matter ¹; and c) persons representing a client against a former client and the persons who represented the former client.

¹ The representation of different clients in respect of the same matter must be conducted in compliance with applicable provincial law society rules. For example, in Ontario, Rule 2.04(6) of the Law Society of Upper Canada's *Rules for Professional Conduct* provides, among other things, that where a lawyer accepts such a joint retainer "no information received in connection with the matter from one [client] can be treated as confidential so far as any of the [other clients] are concerned". This rule may prevent the use of a Chinese wall in such circumstances. Each CLLAS member firm will need to consider this issue and form its own conclusions as to whether a Chinese wall is permissible.