

# **OFFICE OF THE SENATE ETHICS OFFICER**



**Annual Report 2014-2015**

Annual Report of the Senate Ethics Officer 2014-2015

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June 18, 2015

The Honourable Leo Housakos  
Speaker of the Senate  
280-F, Centre Block  
Parliament Buildings  
Ottawa, Ontario  
K1A 0A4

Dear Mr. Speaker:

It is my honour and pleasure to submit to you the tenth Annual Report of the Senate Ethics Officer, pursuant to section 20.7 of the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, as am. by S.C. 2004, c.7; S.C. 2006, c.9. It covers the period from April 1, 2014 to March 31, 2015.

Yours sincerely,

Lyse Ricard

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## MESSAGE FROM THE SENATE ETHICS OFFICER

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The expectations of Canadians with respect to the conduct of public officials are increasing with time. There is a growing knowledge and awareness of conflict of interest and ethics matters and an understanding that there is a need to ensure that any such issues are addressed sooner rather than later. And in the context of public officials and the institutions which they represent, when such issues arise, they not only affect the reputation of the official at the center of the conflict. They oftentimes also affect the reputation of the institution of which the official forms a part, all the while tainting the reputation of each and every member thereof. The damage in which they result can impact on many and this erodes the public trust in the organization itself, which in turn results in cynicism and doubt about our public institutions. For this reason, it is important to work to prevent questionable ethical conduct and conflicts of interest and to deal with any potential issues before they become real issues.

In June 2014, the *Ethics and Conflict of Interest Code for Senators* (the *Code*) was amended after a series of amendments had already been adopted by the Senate in both May 2012 as well as April 2014. The changes in June 2014 were in large measure adopted to address ethics issues that are not strictly conflicts of interest. In other words, while the previous version of the *Code* governed conflicts of interest alone, this last series of amendments broadened its scope to include issues that raise ethical concerns but that may not be conflicts of interest. The amendments also brought more clarity to some of the provisions that had existed previously and reduced the timeframes provided to senators for filing information in certain cases.

These latest amendments are discussed in greater detail later on in this report.

The Standing Committee on Conflict of Interest for Senators (the Committee) provided me with a welcomed opportunity to make submissions concerning possible changes to the *Code*, as it has done in the past when it has considered amendments to the *Code*.

Of particular note this year, the office completed its first inquiry since the office was established. This inquiry was conducted under the 2012 version of the *Code* given that the request for an inquiry was made thereunder. However, any future inquiries will be subject to the new inquiry process that was adopted by the Senate in April 2014.

The office human resources remain unchanged to date. I continue to work with three full-time staff and two part-time staff.

In this third year of my term, and as I look to the future, I would be remiss if I did not acknowledge the cooperation and assistance I have received from many, and I would, as in past years, like to take the opportunity to recognize them.

First, I would like to express my sincere appreciation to the Committee for its continued leadership in the area of ethics and conflict of interest.

Next, I would like to thank senators and their staff for their continued cooperation throughout the year.

As always, I am grateful to my small but hardworking team for their commitment and dedication to the office and for the support and assistance on which I have always been able to count.

I also would like to express my continued appreciation to the Senate Administration for the quality services they provide to my office on a cost recovery basis in the areas of security, finance, information technology and human resources, pursuant to a written agreement. This arrangement is efficient, practical and works well, and I look forward to continue drawing on these services in the coming years.

Finally, I would like to note that the change to expand the scope of the *Code* to include matters of ethics, rather than to limit the rules strictly to matters conflict of interest, is one which, in my view, enhances the ethics regime in the Senate and will serve to build more confidence in the system. A former conflict of interest commissioner in British Columbia, The Honorable Ted Hughes, once stated that “conflict of interest is a matter of ethics but not all matters of ethics relate to conflict of interest.” If codes and laws are limited to conflicts of interest alone, there is no recourse when the conduct of a member of a legislative body may be questionable in terms of ethics but does not necessarily result in a conflict of interest. I am pleased that the Senate has gone further on matters of ethics and look forward to continuing to work with the Committee in building on the significant changes that were made to the *Code* in the last few years, particularly because I firmly believe that ethics and conflict of interest rules have to continue to evolve with the changing needs of the legislature and the expectations of the general public.

## **I. MANDATE OF THE SENATE ETHICS OFFICER**

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The Office of the Senate Ethics Officer was established under the *Parliament of Canada Act*. The Senate Ethics Officer is responsible for the interpretation, administration and application of the *Ethics and Conflict of Interest Code for Senators* (the *Code*). The *Code* was adopted by the Senate in May 2005 and, after a comprehensive review of its provisions, which is required under the *Code*, it was revised in May 2008. It was also amended in May 2012, in April 2014, and again in June 2014. The *Code* is a document that is distinct from, but of equal standing to, the *Rules of the Senate*.

### **A. Three Major Functions**

The Senate Ethics Officer's mandate may be broken down into three major functions: (i) providing opinions and advice to senators; (ii) administering the disclosure process; and (iii) conducting inquiries.

#### *(i) Opinions and Advice*

The Senate Ethics Officer's primary function is to provide advice and guidance to senators with respect to the *Code* and, in particular, to assist them in understanding their obligations thereunder and to identify conflicts of interest – real, potential and apparent -- that could be relevant to their circumstances.

Under subsection 42(4) of the *Code*, written opinions and advice are required to be kept confidential but they may be made public by the senators to whom they relate, or by the Senate Ethics Officer with the particular senator's written consent. Some opinions related to contracts with the federal government must be made public under section 31 of the *Code*.

Along with many other Canadian conflict of interest commissioners in Canada, I recognize that the advisory function is essential to the success of a conflict of interest regime. It provides a means by which legislators are better able to understand how the conflict of interest rules apply to their individual circumstances given that, while the application of the rules may be clear in some situations, in other cases, it may not be so clear. This is where the advisory function is most useful.

Senators are encouraged to seek advice before acting. By availing themselves of the advisory services of the office, they are effectively avoiding conflicts of interest. This approach best serves the public interest because it avoids costly and time-consuming inquiries. It ensures that the system is preventative, not punitive. In other words, the focus is not on addressing conflicts once they have already arisen, but rather on preventing them from arising. Prevention is preferable to cure.

(ii) *The Annual Disclosure Process*

The Office of the Senate Ethics Officer is also responsible for administering the annual disclosure process, which begins in the fall of each year. This is a lengthy process that is also regarded as an essential feature of any conflict of interest regime. It ensures a measure of transparency and accountability which, in turn, inspires public confidence in the system.

Under subsection 27(1) of the *Code*, senators are required to file, on an annual basis, a confidential disclosure statement on a date that is established by me with the approval of the Standing Committee on Conflict of Interest for Senators [subsection 27(2)]. Newly appointed senators must file their statements within 120 days after being summoned to the Senate [subsection 27(3)].

These statements include information concerning senators' activities outside their parliamentary duties and functions, their assets and liabilities over \$10,000, their sources of income over \$2,000, federal government contracts, as well as the activities and financial interests of their spouses or common-law partners. Subsection 28(1) sets out the list of interests that senators are required to report confidentially to the Senate Ethics Officer.

Once these statements have been filed, I provide each senator with a letter, which draws attention to any relevant provisions of the *Code* and identifies potential conflicts of interest that are relevant to his or her circumstances, while also providing advice on how these may be prevented. Of course, where senators have specific questions about a particular situation, they are expected to raise the matter with me and relay the information necessary to be able to provide helpful advice to them.

The Office of the Senate Ethics Officer then prepares a public disclosure summary for each senator based on the information that was provided in each senator's confidential disclosure statement. Section 31 of the *Code* sets out the list of interests that must be publicly disclosed. Again, this list includes senators' activities outside their parliamentary duties and functions, as well as their income over \$2,000, and their assets and liabilities valued at over \$10,000.

After the public disclosure summaries are prepared, senators are required to review, sign and return them to the Office of the Senate Ethics Officer. These summaries are then placed in both a paper public registry located at the office premises, as well as in an online public registry, which is available on my office's website. This registry contains all the information concerning senators that is required to be made public under the *Code*.

In addition, senators are also required to file, on an annual basis, pursuant to subsection 45(1) of the *Code*, a statement of compliance confirming that they have read the *Code* within the last 30 days and that, to their knowledge and belief, they are in compliance with the *Code* as of the day the statement is filed.



Even after all senators' confidential disclosure statements have been filed and all senators' public disclosure summaries and statements of compliance are available to the public, the annual disclosure process is an ongoing process that continues throughout the year. Senators are required to ensure that their confidential disclosure statements are kept up-to-date throughout the year by filing material change forms with my office within 30 days after any material changes occur in their circumstances [subsection 28(6)]. These forms are included within each senator's public disclosure file if the information contained therein is required to be made public under section 31 of the *Code*.

In addition, when a senator receives a gift or benefit as a normal expression of courtesy or protocol, or that is within the customary standards of hospitality that normally accompany the senator's position, the fact of its receipt must be reported in a statement which forms part of a senator's public disclosure file, in accordance with paragraph 31(1)(k), if the value of the gift or benefit (or the cumulative value of all such gifts or benefits received from one source in a 12-month period) exceeds \$500.00.

It should be noted that courtesy gifts are exceptions to the general prohibition in subsection 17(1) concerning senators receiving gifts and benefits that could reasonably be considered to relate to a senator's position [subsection 17(2)].

As in the case of gifts and other benefits, sponsored travel that falls under subsection 18(1) must be reported in a statement which forms part of a senator's public disclosure file, again under paragraph 31(1)(k), if the travel costs exceed \$500.00.

Finally, throughout the year, senators must publicly declare any private interests that they have that may be affected by any matter before the Senate, or a committee of the Senate of which they are members. These public declarations are also placed in the public disclosure files of the senators to whom the declarations relate. This is required under paragraph 31(1)(j) of the *Code*.

### (iii) *Inquiries*

One of the necessary functions of the Senate Ethics Officer is to conduct inquiries where there are allegations of misconduct in order to determine whether a senator has complied with his or her obligations under the *Code*.

Under subsection 48(2) of the *Code*, the Senate Ethics Officer must conduct an inquiry in either of the following circumstances: (a) where the Senate Ethics Officer determines that an inquiry is warranted after conducting a preliminary review; or (b) where the senator who was the subject of a preliminary review requests that an inquiry be conducted because the Senate Ethics Officer has made a finding that an obligation under the *Code* may have been breached but has determined that an inquiry is not warranted.

The Senate Ethics Officer must conduct a preliminary review under subsection 47(2) of the *Code* if he or she (a) has reasonable grounds to believe that a senator has not complied with his or her obligations under the *Code*; or (b) receives a request to conduct

an inquiry from a senator who has reasonable grounds to believe that another senator has not complied with his or her obligations under the *Code*.

A preliminary review is conducted confidentially under subsection 47(5) of the *Code* but where the Senate Ethics Officer determines that an inquiry is not warranted, the preliminary determination letter is made public (unless the matter is not in the public domain) when the Chair of the Standing Committee on Conflict of Interest for Senators tables it in the Senate, pursuant to subsection 47(17) of the *Code* [see subsections 47(16) and (17)]. If the Senate Ethics Officer determines that an inquiry is warranted, the matter remains confidential until the inquiry report of the Senate Ethics Officer is tabled in the Senate [subsections 48(17),(18) and (19)].

## **B. Other Rules and Laws**

It is important to note that the Senate Ethics Officer's jurisdiction is limited to the *Ethics and Conflict of Interest Code for Senators*. Having said that, the *Code* is not the only set of rules that governs the conduct of senators. There are a number of other rules and laws to which senators are subject. However, these additional rules and laws are outside the purview of my office.

For example, the *Senate Administrative Rules* and other Senate policies and directives relate to the proper allocation and use of Senate resources. These rules, policies and directives are within the jurisdiction of the Standing Senate Committee on Internal Economy, Budgets and Administration.

In addition, section 16 of the *Parliament of Canada Act* prohibits senators from receiving or agreeing to receive outside compensation, whether directly or indirectly, for services rendered or to be rendered to any person, either by the senator or another person, in relation to any matter before the Senate or the House of Commons or any of their committees, or for the purpose of influencing or attempting to influence any member of either House.

Sections 119, 121 and 122 of the *Criminal Code* are other examples of laws that relate to the misuse of a public office. Section 119 deals with offences that relate to bribery. Section 121 concerns frauds on the government and is aimed in part at influence peddling. Section 122 creates offences relating to fraud and breach of trust.

## **C. Independence of the Senate Ethics Officer**

The Senate Ethics Officer is an independent, non-partisan Officer of the Senate. This independence is essential in order to ensure public confidence and credibility in the Senate conflict of interest regime. A number of provisions of the *Parliament of Canada Act* (the Act) and the *Code* confer this status of independence and autonomy on the Senate Ethics Officer, including the provisions in the Act concerning the appointment process, the security of tenure, financial autonomy, and the management of the office of the Senate Ethics Officer.

For example, subsection 20.4(1) of the Act ensures that the Senate Ethics Officer alone has “the control and management of the office”. Subsection 20.4(7) provides that the Senate Ethics Officer is responsible for preparing the estimate of the budget for the office. This estimate is separate and apart from the estimates of the Senate as a whole. Under subsection 20.4(8), the estimate of the Senate Ethics Officer is provided to the Speaker of the Senate who, after considering it, transmits it to the President of the Treasury Board who, in turn, lays it before the House of Commons with the estimates of the Government for the fiscal year.

My independence concerning the opinions and advice I provide to individual senators is also clear and is expressly provided for in subsection 41(2) of the *Code*. I am also independent concerning any inquiries I conduct under subsection 48(2) of the *Code* and any inquiry reports I prepare under subsection 48(12).

These, and other provisions, ensure that I am able to carry out my functions – providing considered advice to senators and conducting, where necessary, investigations and inquiries – in an impartial manner, free from any outside influence or coercion.

## **Provisions of the *Parliament of Canada Act* that secure the independence of the Senate Ethics Officer**

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- The Officer is appointed by the Governor in Council, by Commission under the Great Seal, after consultation with the leader of every party in the Senate and after approval of the appointment by resolution of the Senate. This is to ensure that the appointment has the broadest support of the Senate irrespective of political party line.
- The Officer is appointed for a term of seven years as an Officer of the Senate and may be removed from his or her office only for cause, by the Governor in Council, on address of the Senate. These provisions again confer on the Officer a status of independence and autonomy rarely recognized to Government officials and they provide an effective shield against improper or inappropriate influence.
- The Officer has the rank of a deputy head of a department of the Government of Canada and has the control and the management of the office, which he or she runs independently from the Senate and its Internal Economy Committee. The Officer hires his or her own staff.
- The Officer has the responsibility for preparing the estimate of the sums required to pay the charges and expenses of the office. This estimate is separate from the estimates of the Senate. The Speaker of the Senate, after considering the estimate, transmits it to the President of the Treasury Board who lays it before the House of Commons with the estimates of the Government for the fiscal year. The Senate reviews the Officer's proposed budget as a part of the annual review of the Main Estimates. This procedure ensures the independence of the Officer and places the responsibility for the estimate of the office on the Senate Ethics Officer. It also emphasizes the direct relationship that Parliament has established between the Officer and the Senate itself, to which the Officer ultimately reports.
- The Officer is required, within three months after the end of each fiscal year, to submit a report of his or her activities to the Speaker of the Senate, who must table the report in the Senate.

## II. THE YEAR IN REVIEW: 2014-15

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### A. Amendments to the *Conflict of Interest Code for Senators*

On June 16, 2014, the Senate adopted the Fifth Report of the Standing Committee on Conflict of Interest for Senators (the Committee), which recommended amendments to the *Ethics and Conflict of Interest Code for Senators* (the *Code*). A copy of the Committee's report is included in Appendix B to this report and a copy of the revised *Code* is included in Appendix C.

As always, I was provided with an opportunity to make submissions to the Committee concerning possible amendments to the *Code* and I appreciated the opportunity to do so.

One of the more significant changes, in my view, was to amend the title of the *Code* to include the word 'ethics'. The Committee described this change as better reflecting the obligations with which senators must comply under the *Code* and the provisions of the *Parliament of Canada Act* that establish the position of Senate Ethics Officer. Effectively, the change ensures that the *Code* goes beyond conflicts of interest alone and encompasses broader ethics issues.

In addition to this new title, new provisions were added to reflect this expansion of the *Code*. One of these provisions provides that senators' conduct shall uphold the highest standards of dignity inherent to the position of senator [subsection 7.1(1)]. A second states that senators must refrain from acting in a way that could reflect adversely on the position of senator or the institution of the Senate [subsection 7.1(2)].

Lastly, a new section 7.2 explicitly states that senators must perform their parliamentary duties and functions with dignity, honour and integrity. The Committee described this amendment as reasserting the commitment of the Senate and each senator to the highest standards of conduct.

These new provisions prescribe additional rules of conduct that are more general in nature, in addition to the more specific rules of conduct on which the previous version of the *Code* was largely focused.

A further amendment was made to explicitly assert, as one of the principles of the *Code*, that a senator's parliamentary duties and functions must take precedence over any other obligation they have and outside activity in which they are engaged. The previous version of the *Code* was silent on this matter.

Other amendments were aimed at clarifying certain provisions of the *Code*. One of these concerned the disclosure of trusts. The amendment clarified that senators are required to disclose any trusts from which they could derive a direct or indirect benefit, either at

present or in the future. This disclosure would be both confidential to the Senate Ethics Officer, as well as public as part of each senator's public disclosure summary.

Another such clarification concerned assets and liabilities. The previous version of the *Code* provided a list of assets and liabilities that were not required to be disclosed to the Senate Ethics Officer as part of a senator's confidential disclosure statement either because these related solely to the ordinary day-to-day personal life of a senator or because the interests in question could not conceivably create an apparent or real conflict of interest. One of the exemptions from disclosure to the Senate Ethics Officer was referred to as "deposits with a financial institution." However, the scope of this particular exemption was not clear. For this reason, this phrase was replaced by the phrase "cash on hand or on deposit with a financial institution".

Other provisions dealing with allotted timelines were amended in order to reduce them. One of these concerns errors and omissions in a senator's confidential disclosure statement. Under the previous version of the *Code*, if the Senate Ethics Officer believed that a senator's confidential disclosure statement contained an error or omission, he or she could request that the senator provide the relevant information within 60 days. This timeline for providing the required information was reduced to 30 days. The purpose of this change is to ensure a more timely disclosure of information to the Senate Ethics Officer, which in turn will lead to more timely advice to the senator to whom the statement relates and a more timely disclosure of information to the public.

Another change in timeframe concerns material changes to the confidential disclosure statements of senators. Under the previous version of the *Code*, any such change had to be made within 60 days after the change. The timeframe for reporting such matters has been reduced to 30 days. Again, this ensures more timely advice to the senator to whom the change relates, as well as more timely public disclosure of the change in question.

Lastly, a 30-day deadline for senators to review and return their public disclosure summaries to the Senate Ethics Officer was added; previously, there was no such deadline. In addition, the practice of the office to require each senator to sign his or her public disclosure summary before making it available for public inspection was made explicit in the *Code*. This amendment ensures that the public disclosure summaries of senators are made available to the public in a timely fashion.

## **B. Opinions and Advice**

The opinions and advice I provide to senators upon their request continues to be the most important function that I carry out and it is the role that takes up the majority of my time. This function is critical because it provides senators with a means by which they may raise questions and concerns about potential conflicts in order to avoid real and apparent conflicts. It provides them with the opportunity to be proactive and to ensure that any course of action that they are contemplating will not lead to allegations of impropriety. This approach recognizes that conflicts, both real and apparent, may be avoided by asking before acting.

The opinions and advice I provide are required to be kept confidential under subsection 42(4) of the *Code*, unless the senator to whom the advice or opinion was provided gives his or her written consent that it be made public by the Senate Ethics Officer or unless the senator undertakes to make it public.

The goal of the office in this area is to provide sound and pragmatic opinions and advice and to respond to requests in a timely manner, though the timeframe for responding will of course depend upon the nature and complexity of the request.

In addition to providing opinions and advice in response to specific requests, the office also provides general information to senators concerning their obligations under the *Code*.

### **C. Annual Disclosure Process**

Under subsections 27(1) and (2) of the *Code*, senators are required to file an annual disclosure statement that contains the information set out in subsection 28(1) of the *Code*. This information includes any employment, profession or business in which a senator or his or her spouse or common-law partner participates; any positions that a senator or his or her spouse or common-law partner hold in corporations, income trusts and trade unions; the nature of any income over \$2,000 that a senator or the senator's spouse or common-law partner has received in the last 12 months and is likely to receive in the next 12 months; and the nature of any assets and liabilities of a senator or the senator's spouse or common-law partner valued at over \$10,000. This lengthy list also includes an obligation to disclose any additional information that is not included in the list but that the senator believes to be relevant to the *Code*.

Based on this information, the Senate Ethics Officer then prepares a public disclosure summary for each senator that contains the information set out in subsection 31(1) of the *Code*. These summaries are then posted on the office's website in the Public Registry.

In addition, and as already noted earlier in this report, senators must also file a statement of compliance with their confidential disclosure statements confirming that they have read the *Code* within the last 30 days and that they are in compliance with it to the best of their knowledge and belief. These statements are also posted on the office's website in the Public Registry.

### **D. Inquiries**

The office conducted its first inquiry since its establishment. The inquiry report was published on June 25, 2014 and is available on the office's website: <http://sen.parl.gc.ca/seo-cse/PDF/InquiryReport2014-e.pdf>. This inquiry was carried out under the 2012 version of the *Code*; this was the *Code* that was in force at the time the request for an inquiry was made. However, the inquiry provisions of the *Code* were largely revised in April 2014 when the Senate adopted a number of amendments

recommended by the Standing Committee on Conflict of Interest for Senators. These changes, in my view, significantly enhanced the inquiry process by making it more transparent and clear. They also increased the Senate Ethics Officer's independence in the process. Any future requests for an inquiry will be based on these new provisions. A more detailed description of these changes is provided in the office's annual report for last year: 2013-14.

The office did not undertake any further inquiries to date.

### **E. Outreach and External Activities**

In the course of the year, the office responds to requests for general information from senators, senators' staff, the media and the general public. These are opportunities to educate and inform about the nature and work of the office. However, in addition to these individual requests for information, the office also participates in seminars, conferences and events in which ethics and conflict of interest issues are at the fore.

On July 10, 2014, I met with a delegation of senators from Cambodia who were visiting Canada in order to provide them with information about the ethics and conflict of interest regime applicable to Canadian senators.

This year, as in past years, the office also participated in the annual conference of the Canadian Conflict of Interest Network (CCOIN), which took place in Winnipeg, Manitoba from September 3 to 5, 2014. CCOIN is a key organization in the area of ethics and conflict of interest concerning members of legislative bodies. It is comprised of the various ethics and conflict of interest commissioners across the country at the federal, provincial and territorial levels of government -- those who have jurisdiction over members of legislative bodies. It meets on an annual basis to discuss issues of common interest and to share perspectives and thoughts in this area. This important network not only provides a useful resource for sharing information and practices on an annual basis, but it is also a key resource throughout the year whereby ethics and conflict of interest commissioners are provided with the opportunity to seek members' views on an ongoing basis.

In addition, on November 27, 2014, I met with a South African Delegation comprised of the members of the Privileges and Ethics Standing Committee of the Gauteng Provincial Legislature in order to provide the delegates with information concerning the ethics and conflict of interest regime in the Senate.

Finally, both on May 16, 2014 and again on February 24, 2015, I addressed two different groups participating in the Parliamentary Officers' Study Program. This program is designed to provide opportunities for senior parliamentary staff from other Canadian legislatures and foreign legislatures to learn about the Canadian Parliament, and to discuss and exchange views with senior Canadian parliamentary officials on the various procedural, administrative and research services provided to parliamentarians. The



program involves the Senate, the House of Commons and the Library of Parliament and takes place in Ottawa.

In addition to sharing information about the Senate ethics and conflict of interest regime through the office's participation in conferences and seminars, the office website is also a tool for providing information to those who are interested in this area and to the general public concerning the mandate and work of the Senate Ethics Officer. Over the years, the office has received a fairly large number of visits to the website and this year was no exception with 17 413 visits. We appreciate the interest that Canadians continue to express in the work of the office, as well as the opportunity to inform them about the *Code*, my mandate, and my office.

### **F. Budget**

For the year 2014-2015, the Office's total authorities were \$1,166,750. Actual expenditures were \$703,221.

The office's financial statements for the year 2014-2015 are being audited by the firm Ernst and Young LLP. The results of this report as well as the financial statements will be posted on the office's website once the audit is completed.

# APPENDICES

# **APPENDIX A**

Relevant Excerpts from the *Parliament of Canada Act*

**Relevant Excerpts from the Parliament of Canada Act, R.S.C.  
1985, c. P-1, as am. by S.C. 2004, c.7; S.C. 2006, c. 9, sections  
20.1 to 20.7**

SENATE ETHICS OFFICER

Appointment	<b>20.1</b> The Governor in Council shall, by commission under the Great Seal, appoint a Senate Ethics Officer after consultation with the leader of every recognized party in the Senate and after approval of the appointment by resolution of the Senate.
Tenure	<b>20.2</b> (1) The Senate Ethics Officer holds office during good behaviour for a term of seven years and may be removed for cause by the Governor in Council on address of the Senate. He or she may be reappointed for one or more terms of up to seven years each.
Interim appointment	(2) In the event of the absence or incapacity of the Senate Ethics Officer, or if that office is vacant, the Governor in Council may appoint any qualified person to hold that office in the interim for a term not exceeding six months, and that person shall, while holding office, be paid the salary or other remuneration and expenses that may be fixed by the Governor in Council.
Remuneration	<b>20.3</b> (1) The Senate Ethics Officer shall be paid the remuneration set by the Governor in Council.
Expenses	(2) The Senate Ethics Officer is entitled to be paid reasonable travel and living expenses incurred in the performance of his or her duties or functions while absent from his or her ordinary place of residence, in the case of a part-time appointment, and ordinary place of work, in the case of a full-time appointment.
Functions - part-time	(3) In the case of a part-time appointment, the Senate Ethics Officer may not accept or hold any office or employment - or carry on any activity - inconsistent with his or her duties and functions under this Act.
Functions - full-	(4) In the case of a full-time appointment, the Senate Ethics Officer

time	shall engage exclusively in the duties and functions of the Senate Ethics Officer and may not hold any other office under Her Majesty or engage in any other employment for reward.
Deputy head	<b>20.4</b> (1) The Senate Ethics Officer has the rank of a deputy head of a department of the Government of Canada and has the control and management of the office of the Senate Ethics Officer.
Powers to contract	(2) The Senate Ethics Officer may, in carrying out the work of the office of the Senate Ethics Officer, enter into contracts, memoranda of understanding or other arrangements.
Staff	(3) The Senate Ethics Officer may employ any officers and employees and may engage the services of any agents, advisers and consultants that the Senate Ethics Officer considers necessary for the proper conduct of the work of the office of the Senate Ethics Officer.
Authorization	(4) The Senate Ethics Officer may, subject to the conditions he or she sets, authorize any person to exercise any powers under subsection (2) or (3) on behalf of the Senate Ethics Officer that he or she may determine.
Salaries	(5) The salaries of the officers and employees of the office of the Senate Ethics Officer shall be fixed according to the scale provided by law.
Payment	(6) The salaries of the officers and employees of the office of the Senate Ethics Officer, and any casual expenses connected with the office, shall be paid out of moneys provided by Parliament for that purpose.
Estimates to be prepared	(7) Prior to each fiscal year, the Senate Ethics Officer shall cause to be prepared an estimate of the sums that will be required to pay the charges and expenses of the office of the Senate Ethics Officer during the fiscal year.
Inclusion in Government estimates	(8) The estimate referred to in subsection (7) shall be considered by the Speaker of the Senate and then transmitted to the President of the Treasury Board, who shall lay it before the House of Commons with the estimates of the government for the fiscal year.
Duties and functions	<b>20.5</b> (1) The Senate Ethics Officer shall perform the duties and functions assigned by the Senate for governing the conduct of members of the Senate when carrying out the duties and functions of their office as members of the Senate.

Privileges and immunities	(2) The duties and functions of the Senate Ethics Officer are carried out within the institution of the Senate. The Senate Ethics Officer enjoys the privileges and immunities of the Senate and its members when carrying out those duties and functions.
General direction of committee	(3) The Senate Ethics Officer shall carry out those duties and functions under the general direction of any committee of the Senate that may be designated or established by the Senate for that purpose.
<i>Conflict of Interest Act</i>	(4) For greater certainty, the administration of the <i>Conflict of Interest Act</i> in respect of public office holders who are ministers of the Crown, ministers of state or parliamentary secretaries is not part of the duties and functions of the Senate Ethics Officer or the committee.
Clarification - powers, etc., of the Senate	(5) For greater certainty, this section shall not be interpreted as limiting in any way the powers, privileges, rights and immunities of the Senate or its members.
No summons	<b>20.6</b> (1) The Senate Ethics Officer, or any person acting on behalf or under the direction of the Senate Ethics Officer, is not a competent or compellable witness in respect of any matter coming to his or her knowledge as a result of exercising any powers or performing any duties or functions of the Senate Ethics Officer under this Act.
Protection	(2) No criminal or civil proceedings lie against the Senate Ethics Officer, or any person acting on behalf or under the direction of the Senate Ethics Officer, for anything done, reported or said in good faith in the exercise or purported exercise of any power, or the performance or purported performance of any duty or function, of the Senate Ethics Officer under this Act.
Clarification	(3) The protection provided under subsections (1) and (2) does not limit any powers, privileges, rights and immunities that the Senate Ethics Officer may otherwise enjoy.
Annual report	<b>20.7</b> (1) The Senate Ethics Officer shall, within three months after the end of each fiscal year, submit a report on his or her activities under section 20.5 for that year to the Speaker of the Senate, who shall table the report in the Senate.
Confidentiality	(2) The Senate Ethics Officer may not include in the annual report any information that he or she is required to keep confidential.

# **APPENDIX B**

Fifth Report of the Standing Committee on Conflict of Interest  
for Senators, Friday, June 13, 2014 (proposed amendments to the  
Conflict of Interest Code for Senators)

## REPORT OF THE COMMITTEE

Friday, June 13, 2014

The Standing Committee on Conflict of Interest for Senators has the honour to present its

### FIFTH REPORT

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Your Committee, which is responsible on its own initiative for all matters relating to the Conflict of Interest Code for Senators, pursuant to rule 12-7(16) of the Rules of the Senate, has undertaken a study on the provisions of the Code and reports as follows:

#### **Introduction**

The Conflict of Interest Code for Senators was adopted on 18 May 2005, when the Senate concurred in the Third Report of the Standing Committee on Rules, Procedures and the Rights of Parliament. In this report, the Rules Committee emphasized that the Code is a “work in progress,” and that only time and experience would tell if the choices made at the time were the best that were possible. As an evolving document, the Code may at any time be amended to adapt its provisions to contemporary realities and to enhance public confidence and trust in the Senate and Senators. In that regard, your Committee was granted authority to self-initiate a study at any time and recommend amendments to the Code. The Code also mandates your Committee to conduct a comprehensive review of its provisions and operation once every five years. The Committee has always exercised diligently its general and constant oversight role to ensure that the provisions of the Code are clear and current. Amendments to the Code were made in 2008, 2012 and earlier this year, based on recommendations and after careful consideration by your Committee. The amendments the Committee is now proposing are in the spirit of the Code as a living document and are consistent with the work already accomplished by your Committee. The proposed amendments rest on principles already embodied in Code. They reassert the commitment of the Senate and each individual Senator to the highest standards of conduct.

#### **Principles**

##### *Current Provisions*

The first duty of a Senator is the performance of his or her parliamentary duties and functions. Senators’ summonses to the Senate expressly state the precedence of parliamentary obligations over all others. The Code, however, is silent on this subject.

##### *Proposed Amendment*



The precedence of Senators' parliamentary duties and functions would be explicitly stated as one of the principles of the Code.

*Rationale*

This amendment would assert explicitly the precedence of Senators' parliamentary duties and functions over Senators' other obligations and outside activities.

**Rules of Conduct**

*Current Provisions*

The Code prescribes specific rules of conduct with a particular emphasis on conflict of interest. It does not, however, explicitly provide for general rules of conduct.

*Proposed Amendment*

The Code would state that Senators' conduct shall uphold the highest standards of dignity inherent to the position of Senator, and that Senators should refrain from acting in a way that could reflect adversely on the position of Senator or the institution of the Senate.

The Code would also state explicitly that Senators must perform their parliamentary duties and functions with dignity, honour and integrity.

*Rationale*

This amendment would reassert the commitment of the Senate and each Senator to the highest standards of conduct.

**Disclosure – Trusts**

*Current Provisions*

The Code is unclear on the disclosure of trusts.

*Proposed Amendment*

Senators would be required to disclose trusts from which they could derive a direct or indirect benefit either at present or in the future. This disclosure would be both confidentially to the Senate Ethics Officer (SEO), and publicly as part of each Senator's public summary.

*Rationale*

This amendment would clarify the confidential and public disclosure requirements of Senators.

**Disclosure - Clarification of "deposits with a financial institution"**

*Current Provisions*

The Code lists assets and liabilities that need not be disclosed confidentially to the SEO because they relate to the ordinary course of a Senator's personal life or could not conceivably create an apparent or real conflict of interest. One of those listed exemptions relates to "deposits with a financial institution."

*Proposed Amendment*

The exemption for "deposits with a financial institution" would be replaced by an exemption for "cash on hand or on deposit with a financial institution."

*Rationale*

This amendment would clarify the disclosure requirements of Senators.

**Disclosure – Errors or Omissions**

*Current Provisions*

If he or she believes a Senator's confidential disclosure statement contains an error or omission, the SEO may request that the Senator provide the relevant information within 60 days.

*Proposed Amendment*

The delay to provide the relevant information would be reduced to 30 days.

*Rationale*

This amendment would streamline the disclosure process and ensure timely disclosure.

**Disclosure – Material Change**

*Current Provisions*

Senators must disclose to the SEO material change to the information contained in their confidential disclosure statements within 60 days.

*Proposed Amendment*

The delay to disclose material change would be reduced to 30 days.

*Rationale*

This amendment would streamline the disclosure process and ensure timely disclosure.

**Disclosure – Review of the Public Disclosure Summary**

*Current Provisions*

After the SEO has prepared a Senator's public disclosure summary, he or she submits it to the Senator for review. The practice of the SEO is to require each Senator to sign his or her public disclosure summary before making it available for public inspection. The Code, however, imposes no deadline on Senators for the review and signature of the public disclosure summary.

*Proposed Amendment*

Senators would have 30 days to review the public disclosure summary, and return it to the SEO with either their signed approval or proposed changes.

*Rationale*

This amendment would streamline the disclosure process and ensure timely disclosure.

**Title of the Code**

*Current Provisions*

The Code is currently entitled the Conflict of Interest Code for Senators.

*Proposed Amendment*

The Code would be renamed the Ethics and Conflict of Interest Code for Senators.

*Rationale*

The title would better reflect Senators' obligations under the Code and the provisions of the Parliament of Canada Act establishing the position of Senate Ethics Officer.

**Recommendations and Coming into Force**

These proposed amendments lead to changes to various sections of the Code. The Code, with the recommended amendments integrated into it, is attached as an [Appendix to this report](#). Your Committee recommends that these proposed amendments be adopted. It is further recommended that the new Code come into force upon the adoption of this report, provided that new confidential and public disclosure requirements are made applicable to the next annual disclosure, and that new subsections 27(6) and 28(6) come into force 30 days after the adoption of this report.

These amendments to the Code would require consequential amendments to the Rules of the Senate. Your Committee therefore recommends that the Standing Committee on Rules, Procedures and the Rights of Parliament undertake a study with the view to recommend the appropriate consequential amendments to the Rules of the Senate.

Respectfully submitted,

RAYNELL ANDREYCHUK

*Chair*

# **APPENDIX C**

*Ethics and Conflict of Interest Code for Senators*

## ETHICS AND CONFLICT OF INTEREST CODE FOR SENATORS

### PURPOSES

#### Purposes

1. The purposes of this Code are to
  - (a) maintain and enhance public confidence and trust in the integrity of Senators and the Senate;
  - (b) provide for greater certainty and guidance for Senators when dealing with issues that may present foreseeable real or apparent conflicts of interest; and
  - (c) establish clear standards and a transparent system by which questions relating to proper conduct may be addressed by an independent, non-partisan adviser.

### PRINCIPLES

#### Precedence to parliamentary duties and functions

2. (1) Senators shall give precedence to their parliamentary duties and functions over any other duty or activity, consistent with their summons to the Senate, which commands them to lay aside all difficulties and excuses to perform their parliamentary duties and functions.

#### Principles

(2) Given that service in Parliament is a public trust, the Senate recognizes and declares that Senators are expected

- (a) to remain members of their communities and regions and to continue their activities in those communities and regions while serving the public interest and those they represent to the best of their abilities;
- (b) to fulfil their public duties while upholding the highest standards so as to avoid conflicts of interest and maintain and enhance public confidence and trust in the integrity of each Senator and in the Senate; and
- (c) to arrange their private affairs so that foreseeable real or apparent conflicts of interest may be prevented from arising, but if such a conflict does arise, to resolve it in a way that protects the public interest.

#### Privacy

(3) The Senate further declares that this Code shall be interpreted and administered so that Senators and their families shall be afforded a reasonable expectation of privacy.

### INTERPRETATION

#### Definitions

3. (1) The following definitions apply in this Code.

“Committee”

« *Comité* »

“Committee” means the Committee designated or established under section 35.

“common-law partner”

« *conjoint de fait* »

“common-law partner” means a person who is cohabiting with a Senator in a conjugal relationship, having so cohabited for at least one year.

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“Intersessional Authority”

« *autorité intersessionnelle* »

“Intersessional Authority on Ethics and Conflict of Interest for Senators” means the committee established by section 38.

“parliamentary duties and functions”

« *fonctions parlementaires* »

“parliamentary duties and functions” means duties and activities related to the position of Senator, wherever performed, and includes public and official business and partisan matters.

“Senate Ethics Officer”

« *conseiller sénatorial en éthique* »

“Senate Ethics Officer” means the Senate Ethics Officer appointed under section 20.1 of the *Parliament of Canada Act*.

“spouse”

« *époux* »

“spouse” means a person to whom a Senator is married but does not include a person from whom the Senator is separated where all support obligations and family property have been dealt with by a separation agreement or by a court order.

#### **Family members**

(2) The following are the family members of a Senator for the purposes of this Code:

(a) a Senator’s spouse or common-law partner; and

(b) a child of a Senator, a child of a Senator’s spouse or common-law partner, or a person whom a Senator treats as a child of the family, who

(i) has not reached the age of 18 years, or

(ii) has reached that age but is primarily dependent on a Senator or a Senator’s spouse or common-law partner for financial support.

#### **For greater certainty**

(3) For greater certainty, a Senator who is on leave of absence, suspended or absent due to illness is required to comply with all requirements and obligations under the Code.

### **ACTIVITIES AND JURISDICTION PRESERVED**

#### **Assisting the public**

4. Senators are encouraged to continue to assist members of the public as long as their actions are consistent with their obligations under this Code.

#### **Carrying on activities**

5. Senators who are not ministers of the Crown may participate in any outside activities, including the following, as long as they are able to comply with the principles of the Code and fulfil their obligations under it:

(a) engaging in employment or in the practice of a profession;

(b) carrying on a business;

(c) being a director or officer in a corporation, association, trade union or not-for-profit organization; and

(d) being a partner in a partnership.

### **Existing committee jurisdiction**

6. Nothing in this Code affects the jurisdiction of the Standing Senate Committee on Internal Economy, Budgets and Administration.

### **Role of the Speaker**

7. Procedural matters referred to in this Code that are expressly provided for in the *Rules of the Senate* are under the jurisdiction and authority of the Speaker rather than the Senate Ethics Officer.

## **RULES OF CONDUCT**

### **General conduct**

7.1 (1) A Senator's conduct shall uphold the highest standards of dignity inherent to the position of Senator.

### **Idem**

(2) A Senator shall refrain from acting in a way that could reflect adversely on the position of Senator or the institution of the Senate.

### **Conduct: parliamentary duties and functions**

7.2 A Senator shall perform his or her parliamentary duties and functions with dignity, honour and integrity.

### **Furthering private interests**

8. When performing parliamentary duties and functions, a Senator shall not act or attempt to act in any way to further his or her private interests or those of a family member, or to improperly further another person's or entity's private interests.

### **Use of influence**

9. A Senator shall not use or attempt to use his or her position as a Senator to influence a decision of another person so as to further the Senator's private interests or those of a family member, or to improperly further another person's or entity's private interests.

### **Use of information**

10. (1) If, as a result of his or her position, a Senator obtains information that is not generally available to the public, the Senator shall not use or attempt to use the information to further the Senator's private interests or those of a family member, or to improperly further another person's or entity's private interests.

### **Conveying information**

(2) A Senator shall not convey or attempt to convey information referred to in subsection (1) to another person if the Senator knows, or reasonably ought to know, that the information may be used to further the Senator's private interests, or those of a family member, or to improperly further another person's or entity's private interests.

### **Clarification: furthering private interests**

11. (1) In sections 8 to 10, furthering private interests of a person or entity, including the Senator's own private interests, means actions taken by a Senator for the purpose of achieving, directly or indirectly, any of the following:

- (a) an increase in, or the preservation of, the value of the person's or entity's assets;
- (b) the elimination or a reduction in the amount of the person's or entity's liabilities;
- (c) the acquisition of a financial interest by the person or entity;
- (d) an increase in the person's or entity's income from a contract, a business or a profession;

- (e) an increase in the person's income from employment;
- (f) the person becoming a director or officer in a corporation, association, trade union or not-for-profit organization; or
- (g) the person becoming a partner in a partnership.

**Clarification: not furthering private interests**

(2) A Senator is not considered to further his or her own private interests or the private interests of another person or entity if the matter in question

- (a) is of general application;
- (b) affects the Senator or the other person or entity as one of a broad class of the public; or
- (c) concerns the remuneration or benefits of the Senator as provided under an Act of Parliament or a resolution of the Senate or of a Senate committee.

**Declaration of a private interest: Senate or committee**

12. (1) If a Senator has reasonable grounds to believe that he or she, or a family member, has a private interest that might be affected by a matter that is before the Senate or a committee of which the Senator is a member, the Senator shall make a declaration regarding the general nature of the private interest. The declaration can be made orally on the record or in writing to the Clerk of the Senate or the clerk of the committee, as the case may be, but shall be made no later than the first occasion at which the Senator is present during consideration of the matter. The Speaker of the Senate shall cause the declaration to be recorded in the *Journals of the Senate* and the Chair of the committee shall, subject to subsection (4), cause the declaration to be recorded in the Minutes of Proceedings of the committee.

**Subsequent declaration**

(2) If a Senator becomes aware at a later date of a private interest that should have been declared under subsection (1), the Senator shall make the required declaration forthwith.

**Declaration recorded**

(3) The Clerk of the Senate or the clerk of the committee, as the case may be, shall send the declaration to the Senate Ethics Officer who, subject to subsection (4) and paragraph 31(1)(j), shall file it with the Senator's public disclosure summary.

**Where declaration *in camera***

(4) In any case in which the declaration was made during an *in camera* meeting, the Chair of the committee and Senate Ethics Officer shall obtain the consent of the subcommittee on agenda and procedure of the committee concerned before causing the declaration to be recorded in the Minutes of Proceedings of the committee or filing it with the Senator's public disclosure summary, as the case may be.

**Further declaration**

(5) A declaration made *in camera* that, in compliance with subsection (4), has been neither recorded nor filed with the Senator's public disclosure summary is only valid in respect of the proceeding during which the declaration was made or the matter that the declaration concerned was discussed, and the Senator shall make a further declaration at the first possible opportunity.

**Declaration of a private interest: other circumstances**

(6) In any circumstances other than those in subsection (1) that involve the Senator's parliamentary duties and functions, a Senator who has reasonable grounds to believe that he or she, or a family member, has a private interest that might be affected shall make an oral declaration regarding the general nature of the private interest at the first opportunity.

**Declaration of retraction**

(7) A Senator may, by declaration made under this section, retract a previous declaration, in which case the Senator may participate in debate or other deliberations and vote on the matter in respect of



which the previous declaration was made.

#### **Debate in the Senate**

**13.** (1) A Senator who has made a declaration under section 12 regarding a matter that is before the Senate may not participate in debate or any other deliberations in the Senate with respect to that matter.

#### **Debate in committee where Senator is member**

(2) A Senator who has made a declaration under section 12 regarding a matter that is before a committee of the Senate of which the Senator is a member may not participate in debate or any other deliberations in the committee on the matter, and must withdraw from the committee for the duration of those proceedings, but the Senator need not resign from the committee.

#### **Debate in committee where Senator is not member**

(3) A Senator who has reasonable grounds to believe that he or she, or a family member, has a private interest that might be affected by a matter that is before a committee of the Senate of which the Senator is not a member may not participate in debate or any other deliberations in the committee on the matter, and must withdraw from the committee for the duration of those proceedings.

#### **Debate where Senator has not yet declared**

(4) A Senator who is required by section 12 to make a declaration but has not yet done so may not participate in debate or any other deliberations on the matter and, in the case of committee proceedings, the Senator must withdraw from the committee for the duration of those proceedings.

#### **Prohibition on voting**

**14.** A Senator who has made a declaration under section 12, or a Senator who is required to make such a declaration but has not yet done so, may not vote on the matter but may abstain.

#### **Procedure**

**15.** If a Senator reasonably believes that another Senator has failed to make a declaration of a private interest as required by section 12 or has failed to comply with section 13 or 14, the matter may be raised with the Senate Ethics Officer.

#### **Clarification: having a private interest**

**16.** For the purpose of sections 12 to 14, “private interest” means those interests that can be furthered in subsection 11(1), but does not include the matters listed in subsection 11(2).

#### **Prohibition: gifts and other benefits**

**17.** (1) Neither a Senator, nor a family member, shall accept, directly or indirectly, any gift or other benefit, except compensation authorized by law, that could reasonably be considered to relate to the Senator’s position.

#### **Exception**

(2) A Senator, and a family member, may, however, accept gifts or other benefits received as a normal expression of courtesy or protocol, or within the customary standards of hospitality that normally accompany the Senator’s position.

#### **Statement: gift or other benefit**

(3) If a gift or other benefit that is accepted under subsection (2) by a Senator or his or her family member exceeds \$500 in value, or if the total value of all such gifts or benefits received from one source in a 12-month period exceeds \$500, the Senator shall, within 30 days after the gift or benefit is received or after that total value is exceeded, as the case may be, file with the Senate Ethics Officer a statement disclosing the nature and value of the gifts or other benefits, their source and the circumstances under which they were given.

#### **Statement: sponsored travel**

**18.** (1) Notwithstanding subsection 17(1), a Senator may accept, for the Senator and guests of the Senator,

sponsored travel that arises from or relates to the Senator's position. If the travel costs of a Senator or any guest exceed \$500 and are not paid personally by the Senator or the guest, and the travel is not paid through the programs for international and interparliamentary affairs of the Parliament of Canada, by the Senate, the Government of Canada or the Senator's political party, the Senator shall, within 30 days after the end of the trip, file a statement with the Senate Ethics Officer.

#### **Contents of statement**

(2) The statement shall disclose the name of the person or organization paying for the trip, the destination or destinations, the purpose and length of the trip, whether or not any guest was also sponsored, and the general nature of the benefits received.

#### **Duplication**

(3) Any disclosure made in relation to sponsored travel does not need to be disclosed as a gift or other benefit.

#### **Consent of Senate**

**19.** Gifts, other benefits and sponsored travel accepted in compliance with the requirements of sections 17 and 18 are deemed to have received the consent of the Senate thereto for all purposes.

#### **Government contracts**

**20.** A Senator shall not knowingly be a party, directly or through a subcontract, to a contract or other business arrangement with the Government of Canada or any federal agency or body under which the Senator receives a benefit unless the Senate Ethics Officer provides a written opinion that

- (a) due to special circumstances the contract or other business arrangement is in the public interest; or
- (b) the contract or other business arrangement is unlikely to affect the Senator's obligations under this Code.

#### **Public corporations**

**21.** (1) A Senator may own securities in a public corporation that contracts with the Government of Canada or any federal agency or body unless the holdings are so significant that the Senate Ethics Officer provides a written opinion that they are likely to affect the Senator's obligations under this Code.

#### **Public interest**

(2) A contract between a public corporation and the Government of Canada or any federal agency or body that, in the Senate Ethics Officer's opinion, is in the public interest due to special circumstances, shall not preclude a Senator from holding securities in that public corporation.

#### **Government programs**

(3) For the purpose of subsection (1), a public corporation shall not be considered to contract with the Government of Canada or any federal agency or body merely because the corporation participates in a government program that meets the criteria described in section 23.

#### **Trust**

(4) If the Senate Ethics Officer is of the opinion that the Senator's obligations under this Code are likely to be affected under the circumstances of subsection (1), the Senator may comply with the Code by placing the securities in a trust under such terms as the Senate Ethics Officer considers appropriate.

#### **Partnerships and private corporations**

**22.** A Senator shall not have an interest in a partnership or in a private corporation that is a party, directly or through a subcontract, to a contract or other business arrangement with the Government of Canada or any federal agency or body under which the partnership or corporation receives a benefit unless the Senate Ethics Officer provides a written opinion that

- (a) due to special circumstances the contract or other business arrangement is in the public interest; or
- (b) the contract or other business arrangement is unlikely to affect the Senator's obligations under

this Code.

**Clarification: government programs**

23. For the purposes of sections 20 and 22, it is not prohibited to participate in a program operated or funded, in whole or in part, by the Government of Canada or any federal agency or body under which a Senator, or a partnership or private corporation in which a Senator has an interest, receives a benefit if

- (a) the eligibility requirements of the program are met;
- (b) the program is of general application or is available to a broad class of the public;
- (c) there is no preferential treatment with respect to the application; and
- (d) no special benefits are received that are not available to other participants in the program.

**Trust**

24. Section 22 does not apply if the Senator has entrusted his or her interest in a partnership or private corporation to one or more trustees on all of the following terms:

- (a) the provisions of the trust have been approved by the Senate Ethics Officer;
- (b) the trustees are at arm's length from the Senator and have been approved by the Senate Ethics Officer;
- (c) except as provided in paragraph (d), the trustees may not consult with the Senator with respect to managing the trust, but they may consult with the Senate Ethics Officer;
- (d) the trustees may consult with the Senator, with the approval of the Senate Ethics Officer and in his or her presence, if an extraordinary event is likely to materially affect the trust property;
- (e) in the case of an interest in a corporation, the Senator resigns any position of director or officer in the corporation;
- (f) the trustees provide the Senate Ethics Officer annually with a written report setting out the nature of the trust property, the value of that property, the trust's net income for the preceding year and the trustees' fees, if any; and
- (g) the trustees give the Senator sufficient information to permit the Senator to submit returns as required by the *Income Tax Act* and give the same information to the appropriate taxation authorities.

**Pre-existing contracts**

25. The rules in sections 20, 21 and 22 do not apply to a contract or other business arrangement that existed before a Senator's appointment to the Senate, but they do apply to its renewal or extension.

**Interest acquired by inheritance**

26. The rules in sections 20, 21 and 22 do not apply to an interest acquired by inheritance until the first anniversary date of the transfer of legal and beneficial ownership. In special circumstances, the Senate Ethics Officer may extend this time period.

**DUTY TO DISCLOSE**

**Confidential disclosure statement: sitting Senators**

27. (1) Every Senator shall file annually, on or before the date applicable to the Senator as established by the Senate Ethics Officer under subsection (2), a confidential statement disclosing the information required by section 28.

**Filing date**

(2) The date or dates on or before which the annual confidential disclosure statements are required to be filed shall be established by the Senate Ethics Officer following approval by the Committee.

**Confidential disclosure statement: new Senators**

(3) Within 120 days after being summoned to the Senate, a Senator shall file a confidential statement disclosing the information required by section 28.

### **Submission to Committee**

(4) Thirty days after the date established under subsection (2), the Senate Ethics Officer shall submit to the Committee the name of any Senator who has not complied with his or her duty to file a confidential disclosure statement.

### **Errors or omissions**

(5) If, at any time after the date established under subsection (2), the Senate Ethics Officer has reason to believe that a Senator's confidential disclosure statement contains an error or omission, the Senate Ethics Officer shall notify the Senator concerned and request that the Senator provide the relevant information.

### **Response within 30 days**

(6) Upon receipt of a request under subsection (5), the Senator shall provide the information within 30 days.

### **Family members**

(7) In addition to any information required to be disclosed under subsection 28(1), a Senator may file with the Senate Ethics Officer a confidential disclosure statement relating to one or more of the Senator's family members so that the Senator may discuss their interests in relation to the Senator's obligations under this Code and receive advice in that regard.

### **Confidentiality**

(8) The Senate Ethics Officer and all officers, employees, agents, advisers and consultants that may be employed or engaged by the Senate Ethics Officer shall keep all disclosure statements confidential.

### **Initial meeting with Senate Ethics Officer**

(9) Senators, and in particular newly summoned Senators, who may have questions regarding their confidential disclosure duties should make every effort to meet with the Senate Ethics Officer before submitting their confidential disclosure statement.

### **Contents of confidential disclosure statement**

**28.** (1) Subject to subsection (4), regarding excluded matters, and any guidelines published by the Senate Ethics Officer under section 43, the confidential disclosure statement shall list:

- (a) any employment, profession or business in which the Senator or the Senator's spouse or common-law partner participates, including a description of the activities of the Senator, spouse or common-law partner;
- (b) any corporations, income trusts and trade unions in which the Senator or the Senator's spouse or common-law partner is a director or officer, and any partnerships in which the Senator or the Senator's spouse or common-law partner is a partner, including a description of the activities of each entity;
- (c) any associations and not-for-profit organizations in which the Senator or the Senator's spouse or common-law partner is a director, officer, or patron, including memberships on advisory boards and any honorary positions;
- (d) the nature but not the amount of any source of income over \$2,000 that the Senator or the Senator's spouse or common-law partner has received in the preceding 12 months and is likely to receive during the next 12 months; for this purpose,
  - (i) a source of income from employment is the employer,
  - (ii) a source of income from a contract is a party with whom the contract is made,
  - (iii) a source of income arising from a business or profession is that business or profession, and
  - (iv) a source of income arising from an investment is that investment;
- (e) the source, nature and value of any contracts or other business arrangements with the Government of Canada or a federal agency or body that the Senator has directly, or through a subcontract;
- (f) the source, nature and value of any contracts, subcontracts or other business arrangements with the

Government of Canada or a federal agency or body that the Senator has by virtue of a partnership or a significant interest in a private corporation that the Senator is able to ascertain by making reasonable inquiries;

(g) the source, nature and value of any contracts or other business arrangements with the Government of Canada or a federal agency or body that a member of the Senator's family has, directly or through a subcontract, or by virtue of a partnership or a significant interest in a private corporation;

(h) information regarding the nature but not the value of any assets and liabilities of the Senator or the Senator's spouse or common-law partner over \$10,000;

(i) any trust from which the Senator could, currently or in the future, either directly or indirectly, derive an income or other benefit; and

(j) any additional information that the Senator believes to be relevant to this Code.

#### **Limitation**

(2) For the purposes of subsection (1), a Senator is only required to disclose such information concerning the affairs of a spouse or common-law partner or other family member as the Senator is able to ascertain by making reasonable inquiries or of which the Senator has knowledge.

#### **Standard of disclosure**

(3) Where a Senator is required under this section or subsection 31(1) to disclose such information as the Senator is able to ascertain by making reasonable inquiries, the Senator's disclosure shall be to the best of the Senator's knowledge, information and belief.

#### **Excluded matters**

(4) For the purpose of subsection (1), it is not required to disclose properties used by the Senator or family members as residences; mortgages or hypothecs on such residences; household goods; personal effects; cash on hand or on deposit with a financial institution; guaranteed investment certificates; financial instruments issued by any Canadian government or agency; and obligations incurred for living expenses that will be discharged in the ordinary course of the Senator's affairs.

#### **Additional excluded matters**

(5) The Senate Ethics Officer may, with the approval of the Committee, establish additional matters not required to be disclosed on the basis that they present no potential to interfere with the obligations of a Senator under this Code.

#### **Material change**

(6) A Senator shall report in writing any material change to the information relating to the confidential disclosure statement to the Senate Ethics Officer within 30 days after the change.

#### **Meeting with Senate Ethics Officer**

**29.** (1) After reviewing a Senator's confidential disclosure statement, the Senate Ethics Officer may request to meet with the Senator to discuss the statement and the Senator's obligations under this Code.

#### **Necessary meeting**

(2) If, pursuant to a request made under subsection (1), the Senate Ethics Officer advises the Senator that the meeting is necessary in order for the Senate Ethics Officer to carry out his or her duties and functions under the Code, the Senator shall meet with the Senate Ethics Officer.

#### **Public disclosure summary**

**30.** (1) The Senate Ethics Officer shall prepare a public disclosure summary based on each Senator's confidential disclosure statement and submit it to the Senator for review.

#### **Review**

(2) The Senator shall, within 30 days of receipt of the public disclosure summary, review and return it to

the Senate Ethics Officer with either his or her signed approval or proposed changes.

### **Contents of public disclosure summary**

**31.** (1) The public disclosure summary shall list

- (a) any employment, profession and business in which the Senator participates, including a description of the activities of the Senator;
- (b) any corporations, income trusts and trade unions in which the Senator is a director or officer and any partnerships in which the Senator is a partner, including a description of the activities of each entity;
- (c) any associations and not-for-profit organizations in which the Senator is a director, officer or patron, including memberships on advisory boards and any honorary positions;
- (d) the source and nature but not the amount of any income over \$2,000 that the Senator has received in the preceding 12 months and is likely to receive in the next 12 months;
- (e) the source and nature but not the value of any contracts or other business arrangements with the Government of Canada or a federal agency or body that the Senator has, directly or through a subcontract, including the Senate Ethics Officer's written opinion authorizing them;
- (f) the source and nature but not the value of any contracts, subcontracts or other business arrangements with the Government of Canada or a federal agency or body that the Senator has by virtue of a partnership or a significant interest in a private corporation that the Senator is able to ascertain by making reasonable inquiries, including the Senate Ethics Officer's written opinion authorizing them;
- (g) the source and nature but not the value of any contracts or other business arrangements with the Government of Canada or a federal agency or body that a member of the Senator's family has, directly or through a subcontract, or by virtue of a partnership or a significant interest in a private corporation, that the Senator is able to ascertain by making reasonable inquiries;
- (h) information regarding the nature but not the value of any assets and liabilities of the Senator over \$10,000;
- (i) any trust from which the Senator could, currently or in the future, either directly or indirectly, derive an income or other benefit;
- (j) any declarations of a private interest under section 12, unless the Senator has since retracted the declaration;
- (k) any statements filed under sections 17 and 18 in relation to gifts and sponsored travel; and
- (l) any statements of material change that pertain to the contents of this summary.

### **Discretion**

(2) The Senate Ethics Officer need not include in the public disclosure summary information that he or she determines should not be disclosed because

- (a) the information is not relevant to the purposes of this Code or is inconsequential, or
- (b) a departure from the general principle of public disclosure is justified in the circumstances.

### **Disagreement**

**32.** In cases of disagreement between a Senator and the Senate Ethics Officer regarding the contents of the public disclosure summary, the Senate Ethics Officer shall refer the disputed matter to the Committee for decision.

### **Public inspection**

**33.** (1) Each public disclosure summary is to be placed on file at the office of the Senate Ethics Officer and made available for public inspection.

### **Removal of file from registry**

(2) A public disclosure file shall be removed from the public registry at the time that the Senator concerned ceases to be a Senator.

### **Online access**

(3) Every public disclosure summary available for public inspection under this section shall also be made available online on the website of the Senate Ethics Officer.

### **Evasion**

34. A Senator shall not take any action that has as its purpose the evasion of the Senator's obligations under this Code.

## **COMMITTEE**

### **Designation or establishment**

35. (1) At the beginning of each session, a Committee of the Senate shall be designated or established for the purposes of this Code.

### **Membership**

(2) The Committee shall be composed of five members, three of whom shall constitute a quorum.

### **No *ex officio* members**

(3) The Committee shall have no *ex officio* members.

### **Election of members**

(4) Two of the Committee members shall be elected by secret ballot in the caucus of Government Senators at the opening of the session; two of the Committee members shall be elected by secret ballot in the caucus of Opposition Senators at the opening of the session; the fifth member shall be elected by the majority of the other four members after the election of the last of the other four members.

### **Presentation and adoption of motion**

(5) The Leader of the Government in the Senate, seconded by the Leader of the Opposition in the Senate, shall present a motion on the full membership of the Committee to the Senate, which motion shall be deemed adopted without any debate or vote.

### **Chair**

(6) The Chair of the Committee shall be elected by four or more members.

### **Removal**

(7) A member is deemed removed from the Committee as of the time that

(a) the Senate Ethics Officer informs the Committee that a request for an inquiry made by the Senator is warranted; or

(b) the Senator becomes the subject of an inquiry under the Code.

### **Substitutions**

(8) When a vacancy occurs in the membership of the Committee, the replacement member shall be elected by the same method as the former member being replaced.

### **Meetings *in camera***

36. (1) Subject to subsection (2), meetings of the Committee shall be held *in camera*.

### **Meetings in public**

(2) Where an inquiry report from the Senate Ethics Officer is being considered, the Committee may hold meetings in public at the request of the Senator who is the subject of the inquiry report.

### **Attendance**

(3) Subject to subsection (4), the Committee may limit attendance at its meetings.

### **Affected Senator**

(4) The Committee shall give to a Senator who is the subject of an inquiry report from the Senate Ethics Officer notice of all meetings at which the report is being considered, and shall admit the Senator to those meetings, but the Committee may exclude that Senator from those meetings or portions of meetings at which the Committee is considering a draft agenda or a draft report.

### **Withdrawal**

(5) A member of the Committee who is the subject of a matter being considered by the Committee relating to that specific Senator shall withdraw from the Committee during its deliberations.

### **Jurisdiction**

**37.** (1) Subject to subsection 41(2) and to the general jurisdiction of the Senate, the Committee is responsible for all matters relating to this Code, including all forms involving Senators that are used in its administration.

### **General directives**

(2) The Committee may, after consultation with the Senate Ethics Officer, give general directives to the Senate Ethics Officer concerning the interpretation, application and administration of the Code, but not concerning its interpretation and application as it relates to an individual Senator's particular circumstances.

## **INTERSESSIONAL AUTHORITY**

### **Intersessional Authority created**

38. During a period of prorogation or dissolution of Parliament and until the members of a successor Committee are appointed by the Senate, there shall be a committee known as the Intersessional Authority on Ethics and Conflict of Interest for Senators.

### **Composition**

39. The Intersessional Authority on Ethics and Conflict of Interest for Senators shall be composed of the members of the Committee.

### **General authority**

40. (1) The Senate Ethics Officer shall carry out his or her duties and functions under the general direction of the Intersessional Authority on Ethics and Conflict of Interest for Senators.

### **Additional functions**

(2) Subject to the rules, direction and control of the Senate and of the Committee, the Intersessional Authority on Ethics and Conflict of Interest for Senators shall carry out such other of the Committee's duties and functions as the Committee gives to it by resolution.

## **SENATE ETHICS OFFICER**

### **Senate Ethics Officer**

**41.** (1) The Senate Ethics Officer is an independent officer who performs the duties and functions assigned by the Senate under this Code.

### **Independent status**

(2) The Senate Ethics Officer shall carry out his or her duties and functions under the general direction of the Committee, but is independent in interpreting and applying this Code as it relates to an individual Senator's particular circumstances.



## OPINIONS AND ADVICE

### Request for opinion

42. (1) In response to a request in writing from a Senator on any matter respecting the Senator's obligations under this Code, the Senate Ethics Officer shall provide the Senator with a written opinion containing any recommendations that the Senate Ethics Officer considers appropriate.

### Opinion binding

(2) An opinion given by the Senate Ethics Officer to a Senator is binding on the Senate Ethics Officer in relation to any subsequent consideration of the subject matter of the opinion as long as all the relevant facts that were known to the Senator were disclosed to the Senate Ethics Officer.

### Written advice binding

(3) Any written advice given by the Senate Ethics Officer to a Senator on any matter relating to this Code is binding on the Senate Ethics Officer in relation to any subsequent consideration of the subject matter of the advice as long as all the relevant facts that were known to the Senator were disclosed to the Senate Ethics Officer.

### Confidentiality

(4) A written opinion or advice is confidential and may be made public only by the Senator or with his or her written consent.

### Proof of compliance

(5) A written opinion or advice given by the Senate Ethics Officer to a Senator under this section and relied upon by that Senator is conclusive proof that the Senator has fully complied with the Senator's obligations under this Code, as long as all the relevant facts that were known to the Senator were disclosed to the Senate Ethics Officer.

### Publication

(6) Nothing in this section prevents the Senate Ethics Officer, subject to the approval of the Committee, from publishing opinions and advice for the guidance of Senators, provided that no details are included that could identify a Senator.

### Guidelines

43. Subject to the approval of the Committee, the Senate Ethics Officer may publish guidelines for the assistance of Senators on any matter concerning the interpretation of this Code that the Senate Ethics Officer considers advisable.

## ENFORCEMENT

### General

#### Privilege

44. (1) A breach of the Code by any one Senator affects all Senators and the ability of the Senate to carry out its functions, and may lead the Senate to impose sanctions or order remedial measures.

#### Enforcement process

- (2) To further compliance, the Code provides for a five-step enforcement process:
- (a) statements of compliance from Senators;
  - (b) preliminary review by the Senate Ethics Officer;
  - (c) inquiry by the Senate Ethics Officer;
  - (d) Committee study; and

(e) Senate decision.

### **Respect for process**

(3) Senators shall respect in all particulars the enforcement process established by the Code.

## **Preventive Enforcement**

### **Statement of compliance**

**45.** (1) Every Senator shall file annually, on or before the date applicable to the Senator as established by the Senate Ethics Officer under subsection (2), a written statement of compliance confirming that he or she has read the Code within the last 30 days and

(a) confirming that he or she is, to the best of his or her knowledge and belief, in compliance with the Code as of the day the statement is filed; or

(b) providing details of his or her non-compliance.

### **Filing date**

(2) The date or dates on or before which the annual statements of compliance are required to be filed shall be established by the Senate Ethics Officer following approval by the Committee.

### **Public inspection**

(3) Each statement of compliance is to be placed on file at the office of the Senate Ethics Officer and made available for public inspection.

### **Removal of statement from registry**

(4) A statement of compliance shall be removed from the public registry at the time the Senator concerned ceases to be a Senator.

### **Online access**

(5) Every statement of compliance available for public inspection under this section shall also be made available online on the website of the Senate Ethics Officer.

### **Additional information or clarification**

**46.** Nothing in this Code prevents the Senate Ethics Officer from asking for further information or clarification from a Senator on a matter that relates to the Senator's obligations under the Code.

## **Preliminary Review**

### **Nature of preliminary review**

**47.** (1) A preliminary review is conducted to decide if an inquiry is warranted to determine whether a Senator has not complied with his or her obligations under the Code.

### **Mandate**

(2) The Senate Ethics Officer shall conduct a preliminary review if he or she:

(a) has reasonable grounds to believe a Senator has not complied with his or her obligations under the Code; or

(b) receives a request to conduct an inquiry from a Senator who has reasonable grounds to believe another Senator has not complied with his or her obligations under the Code.

**Form of request**

(3) A request for an inquiry under paragraph (2)(b) shall be in writing and shall be signed by the initiating Senator, and it shall identify the alleged non-compliance and the reasonable grounds for the belief that the Code has not been complied with.

**Notice of preliminary review**

(4) The Senate Ethics Officer shall notify a Senator who is to be the subject of a preliminary review and shall provide the Senator with the following:

(a) in the case of a review initiated by the Senate Ethics Officer under paragraph (2)(a), a written notice stating the reasonable grounds for the belief that the Senator has not complied with the Code and identifying the obligations under the Code that would not have been complied with; or

(b) in the case of a review following a request for an inquiry received from a Senator under paragraph (2)(b), a copy of the request received from the initiating Senator.

**Confidential and prompt**

(5) The Senate Ethics Officer shall conduct a preliminary review confidentially and as promptly as circumstances permit.

**Cooperation**

(6) Any person participating in the preliminary review process is expected to respect its confidential nature and to cooperate with the Senate Ethics Officer.

**Opportunity to be heard**

(7) The Senate Ethics Officer shall afford the Senator who is the subject of a preliminary review an opportunity to respond within 15 days following the day on which the Senator is notified pursuant to subsection (4).

**Extension**

(8) The period provided under subsection (7) may be extended by the Senate Ethics Officer if the circumstances so warrant.

**Unsubstantiated evidence**

(9) Reasonable grounds to believe a Senator has not complied with his or her obligations under the Code may be based on an unsubstantiated oral or written statement for the purpose of initiating a preliminary review, but such a statement is not adequate proof of an alleged fact for the purpose of making a finding in a preliminary review.

**Preliminary determination**

(10) Following a preliminary review, the Senate Ethics Officer shall write a letter to the Senator who was the subject of the review, informing the Senator of his or her reasoned decision as to whether or not an inquiry is warranted.

**Findings regarding reasonable grounds**

(11) In the preliminary determination letter, the Senate Ethics Officer may make one of the following findings regarding reasonable grounds:

(a) that there are no reasonable grounds for concern that the Senator has breached his or her obligations under the Code;

(b) that there are insufficient reasonable grounds for concern that the Senator has breached his or her obligations under the Code; or

(c) that there are sufficient reasonable grounds for concern that the Senator may have breached his or her obligations under the Code.

### **Findings regarding breach**

(12) In the preliminary determination letter, the Senate Ethics Officer may make one or more of the following findings regarding a possible breach of the Code:

- (a) that an obligation under the Code may have been breached but that the non-compliance was trivial;
- (b) that an obligation under the Code may have been breached but that the non-compliance occurred through inadvertence or an error in judgment made in good faith;
- (c) that an obligation under the Code may have been breached but that all reasonable measures were taken to prevent the non-compliance; and
- (d) that an obligation under the Code may have been breached, but that the situation has been addressed and remedied to the satisfaction of the Senate Ethics Officer or the Senator has undertaken to address and remedy the situation to the satisfaction of the Senate Ethics Officer.

### **Frivolous request**

(13) In the preliminary determination letter, the Senate Ethics Officer may make a finding that the request for an inquiry was frivolous or vexatious or was not made in good faith, in which case he or she shall also determine whether an inquiry is warranted into the conduct of the Senator who made the request.

### **Delivery to subject Senator**

(14) The Senate Ethics Officer shall first deliver his or her preliminary determination letter, on a confidential basis, to the Senator who was the subject of the preliminary review.

### **Delivery to initiating Senator**

(15) In the case of a review initiated following the request of a Senator under paragraph (2)(b), the Senate Ethics Officer shall also deliver a copy of the preliminary determination letter, on a confidential basis, to the initiating Senator.

### **Delivery to Committee**

(16) Unless the matter has remained confidential, the Senate Ethics Officer shall also provide a copy of his or her preliminary determination letter, on a confidential basis, to the Committee when he or she has determined that an inquiry is not warranted.

### **Tabling**

(17) The Chair of the Committee shall cause a true copy of the preliminary determination letter received by the Committee under subsection (16) to be tabled in the Senate at the first possible opportunity; if the Senate is not sitting on the day on which the Committee receives the letter, or if Parliament is dissolved or prorogued, the Chair shall also cause a true copy of the letter to be deposited with the Clerk of the Senate at the first opportunity.

### **Public document**

(18) A copy of a preliminary determination letter deposited with the Clerk of the Senate pursuant to subsection (17) is a public document.

### **Committee**

(19) The Committee may ask the Senate Ethics Officer at any time whether a preliminary review about a particular Senator and matter is being or has been conducted, and the Senate Ethics Officer shall respond but shall not provide the Committee with any further information.

### **Preliminary review suspended**

(20) A preliminary review in respect of a Senator who ceases to be a Senator is permanently suspended unless the Committee decides otherwise.

### **Notice to Committee**

(21) For the purpose of subsection (20), when a matter has remained confidential, the Senate Ethics Officer shall inform the Committee of the preliminary review and of its status.

### **Representations**

(22) The Committee shall consider any representations from the former Senator, from any Senator who initiated the review and from the Senate Ethics Officer before making its decision under subsection (20).

## **Inquiry**

### **Nature of inquiry**

**48.** (1) An inquiry follows a preliminary review and is conducted to determine if a Senator has breached his or her obligations under the Code.

### **Mandate**

(2) The Senate Ethics Officer shall conduct an inquiry in either of the following circumstances:

(a) where the Senate Ethics Officer determines that an inquiry is warranted after conducting the preliminary review; or

(b) where the Senator who was the subject of a preliminary review requests that the Senate Ethics Officer conduct the inquiry because the Senate Ethics Officer has made a finding that an obligation under the Code may have been breached, but he or she has also determined that an inquiry is not warranted.

### **Limitation**

(3) A request under paragraph (2)(b) shall be made within seven days following the day on which the preliminary determination letter is delivered under subsection 47(14).

### **Powers of the Senate Ethics Officer**

(4) In carrying out an inquiry, the Senate Ethics Officer has the power to send for persons, papers, and records, which powers may be enforced by the Senate acting on the recommendation of the Committee following a request from the Senate Ethics Officer.

### **Notice of inquiry**

(5) The Senate Ethics Officer shall notify a Senator who is to be the subject of an inquiry when the inquiry will take place.

### **Confidential and prompt**

(6) The Senate Ethics Officer shall conduct an inquiry confidentially and as promptly as circumstances permit.

### **Cooperation: Senators**

(7) Senators shall cooperate without delay with the Senate Ethics Officer in respect of any inquiry.

### **Cooperation: any person**

(8) Any person participating in the inquiry process is expected to respect its confidential nature and to cooperate with the Senate Ethics Officer.

### **Fair hearing**

(9) The Senate Ethics Officer shall give the Senator who is the subject of an inquiry information concerning relevant facts, access to relevant documentation, such opportunity as the Senate Ethics Officer considers reasonable to make representations, whether in writing or in person, and such opportunity to be present in person, accompanied or alone, at other stages in the process, as the Senate Ethics Officer considers appropriate.

**Adviser**

(10) A counsel or other adviser who accompanies a Senator pursuant to subsection (9) may advise the Senator confidentially, but may only make representations on behalf of the Senator to the extent authorized by the Senate Ethics Officer.

**Standard of proof**

(11) The determination that a Senator has breached his or her obligations under the Code shall be made on the balance of probabilities.

**Report**

(12) Following an inquiry, the Senate Ethics Officer shall make a report in writing, with findings, reasons, recommendations and any supporting documentation that he or she determines essential; the Senate Ethics Officer may include in the report any recommendations arising from the matter that concern the Code and its interpretation.

**Mitigation**

(13) If the Senate Ethics Officer concludes that a Senator has not complied with his or her obligations under the Code but has taken all reasonable measures to prevent the non-compliance, or that the non-compliance was trivial or occurred through inadvertence or an error in judgment made in good faith, the Senate Ethics Officer shall so state in the report and may recommend that no sanction be imposed.

**Remedial measures**

(14) Where the Senate Ethics Officer makes a finding that the Senator breached his or her obligations under the Code, the Senate Ethics Officer shall also indicate whether remedial measures to the satisfaction of the Senate Ethics Officer have been agreed to by the Senator, whether the Senator did not agree to remedial measures that would have been to the satisfaction of the Senate Ethics Officer and what those measures were, or whether remedial measures were either not necessary or not available.

**Delivery to subject Senator**

(15) The Senate Ethics Officer shall first deliver his or her inquiry report, on a confidential basis, to the Senator who was the subject of the inquiry.

**Delivery to initiating Senator**

(16) In the case of an inquiry initiated following the request of a Senator under paragraph 47(2)(b), the Senate Ethics Officer shall also deliver a copy of his or her inquiry report, on a confidential basis, to the initiating Senator.

**Delivery to Committee**

(17) The Senate Ethics Officer shall also provide a copy of his or her report, on a confidential basis, to the Committee.

**Tabling**

(18) The Chair of the Committee shall cause a true copy of the report received by the Committee under subsection (17) to be tabled in the Senate at the first possible opportunity; if the Senate is not sitting on the day on which the Committee receives the report, or if Parliament is dissolved or prorogued, the Chair shall also cause a true copy of the report to be deposited with the Clerk of the Senate at the first opportunity.

**Public document**

(19) A copy of the report deposited with the Clerk of the Senate pursuant to subsection (18) is a public document.

**Committee**

(20) The Committee may ask the Senate Ethics Officer at any time when an inquiry about a particular Senator is likely to be completed, and the Senate Ethics Officer shall respond but shall not provide the

Committee with any further information.

### **Inquiry suspended**

(21) An inquiry in respect of a Senator who ceases to be a Senator is permanently suspended unless the Committee decides otherwise.

### **Representations**

(22) The Committee shall consider any representations from the former Senator, from any Senator who initiated the inquiry and from the Senate Ethics Officer before making its decision under subsection (21).

## **Committee Study**

### **Consideration of inquiry report**

49. (1) The Committee shall take into consideration an inquiry report from the Senate Ethics Officer as promptly as circumstances permit.

### **Right to be heard**

(2) When considering an inquiry report for the purpose of determining the appropriate remedial measures or sanctions, the Committee shall afford a Senator who is the subject of a report the opportunity to be heard by the Committee.

### **Powers**

(3) For greater certainty, the Committee has, in considering a report, all of the powers of a standing Senate committee.

### **Recommendations**

(4) Where the Senate Ethics Officer has determined that the Senator has breached his or her obligations under the Code, the Committee shall recommend, in a report to the Senate, the appropriate remedial measures or sanctions taking into account section 31 of the *Constitution Act, 1867*. The recommendations available to the Committee include, but are not limited to, the following:

- (a) the return of any gift or other benefit;
- (b) any remedial measure;
- (c) the reduction or removal of access to Senate resources;
- (d) the removal of assignments, duties or powers conferred by the Senate;
- (e) a limitation on the right to speak or vote;
- (f) an invitation or order to apologize;
- (g) a censure, admonition or reprimand; or
- (h) a suspension.

### **Study suspended**

(5) Consideration of an inquiry report in respect of a Senator who ceases to be a Senator is permanently suspended unless the Committee decides otherwise.

### **Representations**

(6) The Committee shall consider any representations from the former Senator, from any Senator who initiated the inquiry and from the Senate Ethics Officer before making its decision under subsection (5).

## **Senate Decision**

### **Tabling for information only**

**50.** An inquiry report of the Senate Ethics Officer is tabled in the Senate for information only, and no motion shall be moved in the Senate for its adoption.

### **Senator may speak**

**51.** (1) Despite any other provision of the Code, a Senator who is the subject of a Committee report may speak to any motion related to it.

### **Right of reply**

(2) The Senator who is the subject of a Committee report may exercise the right of final reply.

### **Former Senator**

(3) Where a motion is to adopt a Committee report concerning a former Senator, the former Senator shall be invited to speak to the report as a witness in Committee of the Whole before disposition of the motion.

### **Referral back**

(4) The Senate may refer a Committee report back to the Committee for further consideration.

### **No vote**

(5) For greater certainty, a Senator who is the subject of a Committee report may not vote on any motion related to it.

## **Suspension of Process**

### **Investigation**

**52.** (1) When the matter under review or inquiry by the Senate Ethics Officer or study by the Committee is a matter in respect of which an investigation is being conducted by proper authorities to determine if an offence under an Act of Parliament or of the legislature of a province or territory has been committed, the review, inquiry or study may be suspended by the Senate Ethics Officer or the Committee, as the case may be, if:

- (a) the Senate Ethics Officer or the Committee, as the case may be, believes that the review, inquiry or study could prejudice the investigation of the matter by the proper authorities; or
- (b) the proper authorities request, in writing, that the review, inquiry or study be suspended.

### **Charges**

(2) The Senate Ethics Officer shall suspend a preliminary review or an inquiry and the Committee shall suspend its study if the matter under review, inquiry or study is a matter in respect of which charges have been laid against the Senator under an Act of Parliament or of the legislature of a province or territory.

### **Resumption: investigation**

(3) The preliminary review, inquiry or study suspended pursuant to subsection (1) may be resumed at any time by the Senate Ethics Officer or the Committee unless charges have been laid in respect of the matter under review, inquiry or study.

### **Resumption: charges**

(4) A suspended procedure in respect of which charges have been laid against the Senator shall be resumed after the final disposition of the charges.



## **Notice**

(5) The Senate Ethics Officer or the Committee shall notify the proper authorities when there are reasonable grounds to believe the Senator may have committed an offence under an Act of Parliament or of the legislature of a province or territory.

## **PUBLIC COMMUNICATIONS**

### **General communications**

53. The Senate Ethics Officer may inform the public about the mandate, procedures and processes of the Office, about public decisions of the Office and about the Code, but shall not discuss the particular circumstances of an individual Senator except as expressly authorized by either a provision of the Code or the Committee.

### **Case communications**

54. Where a matter is of public interest, the Senate Ethics Officer may inform the public whether or not the matter is under preliminary review or inquiry or has already been reviewed, inquired into and reported on or tabled in the Senate or with the Clerk, but shall not provide any further information; when to inform the public is a matter of discretion for the Senate Ethics Officer, to be exercised on a case-by-case basis.

### **Online access**

55. Every preliminary determination letter, inquiry report, Committee report and decision of the Senate on any such Committee report shall be made available online at the website of the Senate Ethics Officer after it is made public by being tabled in or presented to the Senate or deposited with the Clerk of the Senate.

## **PRIVACY AND CONFIDENTIALITY**

### **Privacy to be minimally impaired**

56. In interpreting and administering this Code, reasonable expectations of privacy shall be impaired as minimally as possible.

### **Confidentiality**

57. (1) All information relating to the private interests of Senators and those of their family members received pursuant to this Code or created under it is to be kept confidential, except in accordance with this Code or as otherwise ordered by the Senate.

### **Inclusions**

(2) For greater certainty, the requirement set out in subsection (1) applies to documents and information received in the course of an inquiry that the Senate Ethics Officer has suspended in accordance with section 52, and to documents and information retained by the Senate Ethics Officer pursuant to section 58.

### **Confidentiality**

(3) The Senate Ethics Officer and all officers, employees, agents, advisers and consultants that may be employed or engaged by the Senate Ethics Officer shall keep confidential all matters required to be kept confidential under this Code. Failure to do so shall constitute behaviour sufficient to justify either or both of the following:

- (a) a resolution by the Senate under subsection 20.2(1) of the *Parliament of Canada Act* requesting the Governor in Council to remove the Senate Ethics Officer from office; or
- (b) dismissal of any officers, employees, agents, advisers or consultants involved.

### **Retention of documents**

58. (1) The Senate Ethics Officer shall retain all documents relating to a Senator for a period of 12 months after he or she ceases to be a Senator, after which, subject to subsections (2) to (4), the documents shall be destroyed.

**Ongoing proceedings**

(2) Where, at the time that a Senator ceases to be a Senator, there is an investigation or inquiry in progress concerning the Senator or a charge has been laid against the Senator, the destruction of documents that relate to the matter shall be postponed until 12 months after the day of the final disposition of all related proceedings.

**Return of confidential documents**

(3) At a Senator's request, confidential documents relating to a Senator may be returned to the Senator instead of being destroyed.

**Archiving of public documents**

(4) Public documents relating to a Senator shall be forwarded to the Senate archives.

**PERIODIC REVIEW****Committee review**

**59.** The Committee shall undertake a comprehensive review of this Code and its provisions and operation once every five years, and shall submit a report to the Senate thereon, including a statement of any changes the Committee recommends.