

# Policy

## of managing conflicts of interest in OANDA TMS Brokers S.A.

### Article 1

Terms used in these Policy shall be always understood as:

- 1) **Policy** — *Policy of managing conflicts of interest in OANDA TMS Brokers S.A.*;
- 2) **TMS Brokers** – OANDA TMS Brokers S.A. with its registered office in Warsaw;
- 3) **Act** — the Act on Trading in Financial Instruments of 29 July 2005;
- 4) **Relevant Person** — in relation to TMS Brokers shall mean any of the following:
  - a) a director, shareholder of TMS Brokers, manager of TMS Brokers, including a member of the Management Board of TMS Brokers or TMS Brokers agent;
  - b) a director, partner or equivalent, or manager of any agent of TMS Brokers;
  - c) An employee of TMS Brokers or of an agent of TMS Brokers as well as any other natural person whose services are placed at the disposal and under the control of TMS Brokers or an agent of TMS Brokers and who is involved in the provision of services and activities of TMS Brokers;
  - d) a natural person who is directly involved in the provision of services to TMS Brokers or to its agent under the agreement referred to in Article 81a clause 1 of the Act, in connection with the provision by TMS Brokers of services and activities;
- 5) **Employee** — is a person who is in an employment relationship, commission relationship or other legal relationship of a similar nature with TMS Brokers;
- 6) **Conflict of Interest** — circumstances known to TMS Brokers that may give rise to a conflict between the interest of TMS Brokers, a Relevant Person and the duty of TMS Brokers to act fairly taking into account the best interests of the Client as well as circumstances known to TMS Brokers that may give rise to a conflict between interests of several clients of TMS Brokers;
- 7) **Conflicts Register** — register of these types of services provided by or on behalf of TMS Brokers in respect of which a Conflict of Interest arose or may arise (in the case of services and activities in progress), combined with a risk to the interests of one or more Clients, a specimen of which constitutes **Appendix No. 1** to the Policy;
- 8) **Durable Medium** — an instrument which enables a user to store information addressed personally to that user in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored;
- 9) **Client** — a natural person, legal person or organisational unit without legal personality which concluded with TMS Brokers an agreement for the provision of services on its behalf or with which TMS Brokers intends to conclude such an agreement.

### Article 2

1. The Policy apply to the brokerage activities provided by TMS Brokers and the operation of TMS Brokers as a National Payment Institution and to any other business activity provided by TMS Brokers to the clients.
2. A conflict between the interests of two parties exists when the benefit of one of the parties involves or may have an adverse effect on the interests of the other party.
3. A Conflict of Interest may apply to the relationship between:
  - a) the interest of TMS Brokers or a Relevant Person and the duty of TMS Brokers to act fairly, taking into account the best interests of the Client;
  - b) TMS Brokers or a Relevant Person and the interests of the Client or Clients;
  - c) the interests of at least two Clients or the interests of a group of Clients;
  - d) the interests of TMS Brokers and the interests of the Relevant Person.

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### Article 3

1. For the purposes of identifying the types of Conflicts of Interest that arise in the course of providing services and whose existence may damage the interests of a Client (Conflict of Interest identification process), TMS Brokers shall assess in particular whether TMS Brokers, a Relevant Person, or a person directly or indirectly linked by control to TMS Brokers is in any of the following situations, whether as a result of providing services or otherwise:
  - a) TMS Brokers or that person is likely to make a financial gain, or avoid a financial loss, at the expense of the Client;
  - b) TMS Brokers or that person has an interest in the outcome of a service provided to the Client or of a transaction carried out on behalf of the Client, which is distinct from the Client's interest in that outcome;
  - c) TMS Brokers or that person has a financial or other incentive to favour the interest of another Client or group of Clients over the interests of the Client;
  - d) TMS Brokers or that person carries on the same business as the Client;
  - e) TMS Brokers or that person receives or will receive from a person other than the Client an inducement in relation to a service provided to the Client, in the form of monies, goods or services.
2. Circumstances that constitute or may cause a Conflict of Interest entailing a risk of damage to the interests of one or more Clients shall be, after their identification, entered in the Conflicts Register in the manner referred to in Article 9 and shall include as a minimum the following circumstances:
  - a) in the case of services consisting in receiving and transmitting as well executing orders to buy or sell financial instruments:
    - (i) dealing on own account by Relevant Persons performing activities involving the access to the information concerning Clients, including the information on positions held by Clients and transactions on Financial Instruments concluded for their account;
    - (ii) As part of the order execution service TMS Brokers offers to Clients the execution of specific orders by offsetting them with orders of other Clients or dealing on own account with the intention of making a financial gain from such a position;
  - b) in the case of investment advice service:
    - (i) recommending Clients to purchase specific financial instruments while simultaneously intending to sell these financial instruments as part of the provision of the portfolio management service;
    - (ii) issuing recommendations on financial instruments and referring the Client to trading platforms offered by TMS Brokers;
    - (iii) possibility of executing transactions that are not consistent with previously issued recommendations;
  - c) in the case of the service of the management of the financial instruments portfolio:
    - (i) when providing the portfolio management service TMS Brokers may favour orders of Clients of the portfolio management service over other Clients;
  - d) in the case of other services:
    - (ii) possibility of performing unpaid services to third parties, in particular by supporting these entities with technical activities, operating activities or providing them with solutions for which these entities would have to pay on the market;
  - e) for all services:
    - (i) financial or non-financial benefits received may affect the behaviour of a Relevant Person in a way that is in conflict with the interests of TMS Brokers Clients;
    - (ii) gifts or minor hospitalities, entertainment received from or given to the Client may influence the behaviour of TMS Brokers in any manner that is in conflict with the interests of TMS Brokers Clients.
3. The Conflict of Interest identification process covers all activities of TMS Brokers, with particular emphasis on:
  - a) the role of TMS Brokers as a market participant,
  - b) the role of TMS Brokers as an entity preparing recommendations,
  - c) the role of TMS Brokers as an entity executing Client orders concerning financial instruments,
  - d) the role of TMS Brokers as an entity providing investment advisory service,
  - e) the role of TMS Brokers as an entity providing services of the management of the financial instruments portfolio,
  - f) the role of TMS Brokers as an entity providing the service of keeping and recording financial instruments, including maintaining cash accounts,
  - g) the role of TMS Brokers as an entity providing currency exchange services,
  - h) the interest of the Client as a recipient of the advisory service,
  - i) the interest of the Client as an entity for which orders are executed,
  - j) the interest of the Client as a recipient of recommendations prepared by TMS Brokers,
  - k) the interest of the Client as an entity for the account of which TMS Brokers makes and implements investment decisions as part of funds or financial instruments placed at the disposal of TMS Brokers by the Client,
  - l) the interest of the Client as an entity for which the service of keeping and recording financial instruments, including maintaining cash accounts, is provided,

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m) the interest of the Client as an entity for which currency exchange service is provided.

#### **Article 4**

1. If a real or potential Conflict of Interest is identified, the Compliance Officer shall analyse the case and, if necessary inform Management Board together with the proposed methods for preventing or managing such conflict to the Management Board of TMS Brokers and make an entry in the Register of Conflicts.
2. A list of identified real or potential Conflicts of Interest along with the conflict prevention measures applied shall be contained in the Conflicts Register.
3. If a real Conflict of Interest is identified Compliance Officer shall analyse the case and, if necessary to disclose it to clients, notify the Management Board of TMS Brokers.
4. The Compliance Officer, in the form of a staff note, shall document the making of additional analyses of the circumstances that could give rise to a conflict of interest in terms of identifying the possible occurrence of a real or potential Conflict of Interest.
5. Notes referred to in clause 4 above are stored in a dedicated folder on the Compliance Officer's network drive.
6. If the analysis referred to in paragraph 4 shows that a circumstance giving rise to an actual conflict of interest, the Supervisor shall inform the immediate Member of the Management Board of this fact, with whom further proceedings shall be agreed on a case-by-case basis.

#### **Responsibilities of TMS Brokers organisational units**

##### **Article 5**

1. In all cases where a real or potential Conflict of Interest arises, TMS Brokers shall comply with the principles of acting duly and fairly in respect of its Clients, treating both their and its Employees with respect and honesty.
2. Employees of all organisational units of TMS Brokers shall:
  - a) comply with the provisions of these Policy,
  - b) identify circumstances that make up or may give rise to a Conflict of Interest,
  - c) in the event of a Conflict of Interest or a potential conflict situation — check in the Conflicts Register how they should behave in such a case, and in particular which of the regulations applicable in TMS Brokers will apply in such a case,
  - d) report the Conflict of Interest to the Compliance Officer for the purpose of entering it in the Conflicts Register as well as determining and undertaking appropriate management actions,
  - e) follow the recommendations of the Compliance Officer.
3. Managers of individual organisational units of TMS Brokers shall monitor and manage conflicts of interest on an ongoing basis within their areas of responsibility.
4. As part of his duties, the Compliance Office shall support all organisational units of TMS Brokers in the management of the Conflict of Interest.

#### **Conflict of Interest management**

##### **Article 6**

1. TMS Brokers shall manage Conflicts of Interest and prevent the occurrence of Conflicts of Interest through appropriate organisational and administrative measures established by TMS Brokers in order to prevent or manage Conflicts of Interest, consisting in particular in:
  - a) application of effective procedures to prevent or control the exchange of information between Relevant Persons engaged in activities involving a risk of a Conflict of Interest where the exchange of that information may harm the interests of one or more Clients;
  - b) application of regulations concerning inducements;
  - c) ensuring separate supervision over Relevant Persons whose principal functions involve carrying out activities on behalf of TMS Brokers or providing services to Clients whose interests may conflict, or who otherwise represent different interests that may conflict, including those of TMS Brokers;
  - d) the removal of any direct link between the remuneration of Relevant Persons principally engaged in one activity and the remuneration of, or revenues generated by, different Relevant Persons principally engaged in another activity, where a Conflict of Interest may arise in relation to those two types of activities;
  - e) preventing or limiting any person from exercising inappropriate influence over the way in which a Relevant Person carries out services;

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- f) preventing or controlling the simultaneous or sequential involvement of a Relevant Person in the provision of services where such involvement may impair the proper management of Conflicts of Interest.

#### **Article 7**

In order to prevent Conflicts of Interest, Relevant Persons shall comply with all relevant TMS Brokers policies and procedures, in particular:

- a) *Organisational Rules of OANDA TMS Brokers S.A.* specifying the division of duties between individual organisational units,
- b) *Rules of counteracting and disclosing cases of manipulation in OANDA TMS Brokers S.A.*,
- c) *Rules of protecting the flow of the inside information and trade secrets in OANDA TMS Brokers S.A.*
- d) *Rules of investing in financial instruments by Relevant Persons or on their behalf*, applicable in TMS Brokers.

#### **Article 8**

1. If TMS Brokers identifies a Conflict of Interest related to the provision of a given service to the Client, being the subject of an agreement for the provision of services and terms and conditions of the provision of a given service, where organisational and administrative measures applied by TMS Brokers are not sufficient to ensure with reasonable certainty that the risk of harming the interests of Clients does not occur:
  - a) prior to the conclusion of the agreement for the provision of given services TMS Brokers shall inform the Client in writing or in another Durable Medium about the general nature or source of Conflicts of Interest and steps undertaken to mitigate the risk, and the Client shall confirm a receipt of such information from TMS Brokers,
  - b) TMS Brokers shall make the conclusion of the agreement with the Client conditional upon a confirmation by the Client — in the form of a separate declaration or directly by signing the agreement on the provision of services — of the willingness to conclude the agreement despite the existence of the Conflict of Interest.
2. The disclosure referred to in clause 1 item a) above shall clearly state that organisational and administrative measures are not sufficient to ensure with reasonable certainty that the risk of harming the interests of Clients will not occur. The disclosure shall contain a detailed description of the Conflicts of Interest arising at the provision of services, taking into account the nature of the Client to whom the information is disclosed. The abovementioned description shall explain the general nature and sources of Conflicts of Interest and the risk to which the Client is exposed as a result of Conflicts of Interest as well as steps taken to reduce such risk, and it shall include sufficient detail to enable that Client to make an informed decision with respect to the service in the context of which the Conflicts of Interest arise.
3. The above rules of conduct shall also apply if the Conflict of Interest arises after concluding the agreement for the provision of services with the Client.
4. In particular, after the conclusion of the agreement with the Client, if the Conflict of Interest between the Client and TMS Brokers cannot be prevented and TMS Brokers does not receive from the Client the declaration referred to in clause 1 item b) above, TMS Brokers shall refrain from providing to the Client the service affected by the Conflict of Interest.
5. TMS Brokers shall resume the provision of the service referred to in clause 4 immediately upon receipt from the Client of the signed declaration referred to in clause 1 item b) above.
6. In the case of the Client referred to in clause 4, TMS Brokers shall inform the Client of the identified Conflict of Interest immediately after identification thereof.

#### **Conflicts Register**

#### **Article 9**

1. The Compliance Officer shall keep the Conflicts Register.
2. Employees shall familiarise themselves with the list of Conflicts of Interest identified and methods of managing these conflicts.
3. An entry in the Conflicts Register shall be by decision of the Compliance Officer.
4. If a new Conflict of Interest is disclosed or a potential Conflict of Interest is identified, the Compliance Officer shall request its entry in the register together with the recommended procedure aimed at managing this conflict and shall inform TMS Brokers' Board of Directors whenever it intends to disclose a new or perceived potential Conflict of Interest in the Conflicts Register.
5. The Compliance Officer shall submit at least once a year to the Management Board, the Supervisory Board and persons in charge of positions or organisational units of TMS Brokers who are not Members of the Management Board and report to the individual Management Board members, in written or electronic form reports concerning the register and events entered in the register.
6. The Conflicts Register is not disclosed to Clients.
7. The Conflict Register shall be maintained in electronic form in the internal Backoffice system.

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8. If changes are made to the Conflict Register, the Compliance Officer shall inform all TMS Brokers employees of this fact, indicating in an email the link to the Backoffice system where the Conflict Register has been placed.

### **Final provisions**

#### **Article 10**

1. Employees shall submit their comments on the procedures applicable in TMS Brokers if they identify any shortcomings thereof.
2. The employee shall sign the statement containing confirmation of reading the Policy after initial training conducted by the Control and Regulatory Support Department.

#### **Article 11**

1. Compliance with the Policy shall be monitored by the Compliance Officer.
2. To verify if the obligations set out in the Policy are correctly performed and if the provisions of the Policy are complied with generally applicable laws, TMS Brokers at least once a year alternates between internal control, internal audit and supervision of compliance with the law.

#### **Article 12**

1. Compliance Officer shall review these Policy periodically, at least once a year, and shall take appropriate measures to eliminate any deficiencies, including, in particular, s deficiency consisting in excessive relying on the disclosure of Conflicts of Interest.
2. As a result of the review referred to in clause 1 above, the Compliance Officer prepares a notes with the date and signature of the reviewer. The note is stored in the reference archive of the Compliance Officer and in a dedicated folder on the Compliance Officer 's network drive.
3. In order to verify the correctness of the performance of the obligations set out in the Policy and the compliance of the Policy with the generally applicable provisions of law, TMS Brokers shall made, at least once a year, alternate internal control, internal audit and control of compliance with the law.
4. The Policy in this wording are effective as from 1 September 2021.

**Appendix No. 1 to the Policy — Specimen Register of Conflicts of Interest**

**Register of Conflicts of Interest in OANDA TMS Brokers S.A.**

Conflict of Interest are circumstances known to TMS Brokers that may give rise to a conflict between the interest of TMS Brokers, a Relevant Person and the duty of TMS Brokers to act fairly taking into account the best interests of the Client as well as circumstances known to TMS Brokers that may give rise to a conflict between interests of several clients of TMS Brokers;

	<b>NAME</b>	<b>DESCRIPTION OF A POTENTIAL CONFLICT OF INTEREST</b>	<b>DESCRIPTION OF THE REAL CONFLICT OF INTEREST</b>	<b>MEASURES AND PROCEDURES FOR THE PREVENTION OR MANAGEMENT OF CONFLICTS OF INTEREST</b>
<b>1</b>				
<b>2</b>				