



## Controlled Assets

The [Conflict of Interest Act](#) prohibits reporting public office holders (RPOHs) from holding or acquiring certain kinds of assets, namely controlled assets (section 17). RPOHs must divest all controlled assets when they are appointed and are prohibited from acquiring them during their term of office.

With the growing range of investment options available, it may not always be clear which financial instruments constitute controlled assets and which ones do not. This document seeks to provide RPOHs with some guidance in understanding what assets are considered to be controlled assets, as well as their obligations in relation to controlled assets during their term of office.

This document is for information purposes only. RPOHs should obtain formal advice from their advisor at the Office of the Conflict of Interest and Ethics Commissioner before opening new accounts such as investment accounts, [Tax Free Savings Accounts](#), Registered Retirement Savings Plans or Registered Education Savings Plans. Upon appointment, RPOHs receive specific advice regarding their situation. During their term of office, advisors are available to help them determine if an asset they might be considering acquiring is a controlled asset under the Act.

### What assets are controlled assets?

Section 20 of the [Conflict of Interest Act](#) defines controlled assets as:

assets whose value could be directly or indirectly affected by government decisions or policy, including, but not limited to, the following:

- (a) publicly traded securities of corporations and foreign governments, whether held individually or in an investment portfolio account such as, but not limited to, stocks, bonds, stock market indices, trust units, closed-end mutual funds, commercial papers and medium-term notes;
- (b) self-administered registered retirement savings plans, self-administered registered education savings plans and registered retirement income funds composed of at least one asset that would be considered controlled if held outside the plan or fund;
- (c) commodities, futures and foreign currencies held or traded for speculative purposes;  
and

(d) stock options, warrants, rights and similar instruments.

This list is not exhaustive—controlled assets also include other similar investment products. Briefly, any financial instrument that is traded on any stock exchange or over the counter is considered a controlled asset.

### **What assets are NOT controlled assets?**

Controlled assets are one of three categories of assets that you need to be aware of in order to comply with the [Conflict of Interest Act](#). The others are exempt assets, which do not have to be divested or publicly declared, and declarable assets, which include those that would otherwise not be defined as exempt or controlled, such as an asset that generates income or revenue. (Please see [Information Notice on Categories of Assets](#).)

It can be difficult to determine whether certain assets, particularly financial investments, are controlled or exempt. The non-exhaustive list of exempt assets below can help you. Section 20 defines exempt assets as:

assets and interests in assets for the private use of public office holders and the members of their family and assets that are not of a commercial character, including the following:

- (a) primary and secondary residences, recreational property and farm land and buildings used or intended for use by public office holders or the members of their family;
- (b) household goods and personal effects;
- (c) works of art, antiques and collectibles;
- (d) automobiles and other personal means of transportation;
- (e) cash and deposits;
- (f) Canada Savings Bonds and other similar investments issued or guaranteed by any level of government in Canada or agencies of those governments;
- (g) registered retirement savings plans and registered education savings plans that are not self-administered or self-directed;
- (h) investments in open-ended mutual funds;
- (i) guaranteed investment certificates and similar financial instruments;
- (j) public sector debt financing not guaranteed by a level of government, such as university and hospital debt financing;
- (k) annuities and life insurance policies;
- (l) pension rights;
- (m) money owed by a previous employer, client or partner;
- (n) personal loans receivable from the public office holder's relatives, and personal loans of less than \$10,000 receivable from other persons if the public office holder has loaned the moneys receivable;
- (o) money owed under a mortgage or hypothec of less than \$10,000;

- (p) self-administered or self-directed registered retirement savings plans, registered education savings plans and registered retirement income funds composed exclusively of assets that would be considered exempt if held outside the plan or fund; and
- (q) investments in limited partnerships that are not traded publicly and whose assets are exempt assets.

You are permitted to hold or acquire exempt assets, but there are reporting requirements associated with them. You must describe these assets and provide an estimate of their value in the Confidential Report that you are required to file with the Conflict of Interest and Ethics Commissioner within 60 days after your appointment. You must also notify our Office within 30 days of any [material change](#) affecting them.

### **Are exchange-traded funds controlled assets?**

Yes, exchange-traded funds (ETFs) are considered controlled assets under the [Conflict of Interest Act](#) because they are traded on the stock exchange like closed-ended mutual funds. ETFs are often mistaken for open-ended mutual funds, which are exempt assets under the Act. However, ETFs differ from open-ended mutual funds in that their units are traded like any common stock on a market. This is what makes them controlled assets. Therefore, you cannot hold or acquire any ETFs during your term of office.

### **What do I do if I have controlled assets?**

Controlled assets must be divested, whether or not there is an actual or potential conflict of interest, except as indicated below.

If you are a newly appointed RPOH, your advisor in our Office will guide you regarding the divestment of any controlled assets you may hold on appointment.

First, you must list in your Confidential Report all assets that you hold, either directly or through any type of investment account. Statements of investment accounts are required.

Then, within 120 days after your appointment, you must divest any controlled assets that you hold. You can divest these either through sale to a third party at arm's length or through the establishment of a blind trust:

- A sale to a third party at arm's length is usually done through the financial markets, an investment advisor or a broker. Your spouse, dependants, relatives and friends cannot purchase your controlled assets.
- A blind trust agreement is a legal instrument by which you transfer all authority over your controlled assets to a third party, a trustee, who is at arm's length from you. Your spouse, dependants, relatives and friends cannot act as trustees of your blind trust. The trustee has

full control and powers over them and can sell and acquire others at his or her discretion. You relinquish all oversight over the assets and are not allowed, directly or indirectly, to receive any detailed information about them for the duration of your term of office. Your advisor can provide you with samples of blind trust agreements that meet the requirements of the Act.

You may be reimbursed for some or all of the administrative costs associated with divesting your controlled assets. Please consult our [Guideline on the Reimbursement of Costs Associated with Divestment of Assets and Withdrawal from Activities](#).

If the Conflict of Interest and Ethics Commissioner decides that the controlled assets that you hold upon appointment are of minimal value and do not constitute any risk of conflict of interest in relation to your duties, divestment is not required. The Commissioner makes such determinations on a case-by-case basis. Please note that the minimal value exemption does not apply to ministers or parliamentary secretaries.

### **What are my obligations during my term of office?**

During your term of office, you are strictly prohibited from acquiring any controlled assets. The only exception is if they are acquired by way of gift or testamentary disposition or in any other way over which you have no control, in which case divestment must take place within 120 days.

You should inform your broker or financial advisor of your obligations under the Act. If your broker added controlled assets to your investment portfolio, even without your knowledge, this would constitute a breach of the Act.

When considering any kind of investment in the financial markets, we encourage you to contact our Office for confidential advice on controlled assets and other matters related to the [Conflict of Interest Act](#). Please call (613) 995-0721 or e-mail [ciec-ccie@parl.gc.ca](mailto:ciec-ccie@parl.gc.ca).

*Ce document est également disponible en français.*

