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REVIEW OF THE CONFLICT OF INTEREST ACT

Report of the Standing Committee on Access to Information, Privacy and Ethics

John Brassard, Chair

APRIL 2026
45th PARLIAMENT, 1st SESSION

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NOTICE TO READER

Reports from committees presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

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THE STANDING COMMITTEE ON ACCESS TO INFORMATION, PRIVACY AND ETHICS

has the honour to present its

FIFTH REPORT

Pursuant to its mandate under Standing Order 108(3)(h) and the order of reference of Tuesday, October 28, 2025, the committee has reviewed the Conflict of Interest Act and has agreed to report the following:

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SUMMARY

The *Conflict of Interest Act* (COI Act) was enacted 20 years ago. Several witnesses praised its merits, noting that Canada's federal conflict of interest regime is recognized as one of the strongest in the world. Others, however, expressed the view that the COI Act does not fully achieve its objectives. The Conflict of Interest and Ethics Commissioner and most witnesses acknowledged that the COI Act could be improved. Their testimony enabled the Committee to identify specific shortcomings in the COI Act and potential measures to address them. The Committee also examined the application of the COI Act to the Prime Minister of Canada, the Right Honourable Mark Carney, particularly with respect to the obligation of reporting public office holders to divest controlled assets and the establishment of a conflict of interest screen.

In light of the testimony heard, the Committee makes recommendations intended to ensure the effective management of public office holders (POHs)' conflicts of interest. Among other changes, the Committee recommends amending the purpose of the COI Act, by eliminating paragraphs d) and e) of its section 3, and the definition of "private interest", to effectively minimize the possibility of conflicts arising between the private interests and public duties of reporting POHs, such as ministers and the prime minister. It also recommends adding to the COI Act a prohibition on POHs finding themselves in a situation of apparent conflict of interest, as well as powers for the Conflict of Interest and Ethics Commissioner to impose sanctions in the event of a breach of the substantive provisions of the COI Act. Furthermore, the Committee recommends imposing stricter obligations on reporting POHs, and the position of prime minister in particular, given that individuals with greater decision-making authority should be held to higher standards. The Committee also recommends designating the leaders of political parties, including those who are not members of Parliament, as reporting POHs under the COI Act.

LIST OF RECOMMENDATIONS

As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

Recommendation 1

That the Government of Canada amend the *Conflict of Interest Act* to remove objectives d) and e) from section 3. **20**

Recommendation 2

That the Government of Canada amend the definition of "private interest" in section 2 of the *Conflict of Interest Act* to narrow the exclusion of a decision or matter of general application or affecting a public office holder as one of a broad class of persons for reporting public office holders who hold the position of prime minister, minister or parliamentary secretary, so that such a decision or matter is included in the definition of "private interest" when their financial interests are so extensive that a reasonably foreseeable and material benefit may result from a decision, even if it is economy-wide; and that the Act provide limited enumerated exceptions, such as decisions relating to routine taxation measures, to preserve governability. **23**

Recommendation 3

That the Government of Canada amend the *Conflict of Interest Act* to include a definition of apparent conflict of interest and a corresponding obligation for every public office holder to arrange their private affairs and the state's affairs in a manner that will prevent the public office holder from being in a real or apparent conflict of interest. **27**

Recommendation 4

That the Government of Canada, in addition to expressly incorporating the concept of an apparent conflict of interest into the *Conflict of Interest Act*, amend the Act to:

- **explicitly authorize the Conflict of Interest and Ethics Commissioner to initiate an examination or investigation where there exists an apparent conflict of interest, based on an objective reasonable-person standard;**

- **establish that the threshold for such examination shall be the reasonable appearance of a conflict of interest, rather than proof of a real conflict of interest; and**

- **provide the Conflict of Interest and Ethics Commissioner with clear authority to impose graduated, non-criminal remedial measures in cases of apparent conflicts of interest, including but not limited to enhanced public disclosure requirements, mandatory recusal reporting logs, redesign or strengthening of conflict-of-interest screens, and divestment orders for defined high-risk assets, with penalties proportionate and less severe than those applicable to real conflicts of interest, but sufficient to ensure meaningful accountability.** **27**

Recommendation 5

That the Government of Canada amend section 17 of the *Conflict of Interest Act* so that it applies to controlled assets held both directly and indirectly, including through beneficial ownership, corporations, partnerships, trusts, holding companies, or similar structures. **29**

Recommendation 6

That the Government of Canada amend section 20 of the *Conflict of Interest Act* to allow the Governor in Council, by order and on the recommendation of the Conflict of Interest and Ethics Commissioner, to designate any asset or class of assets as an exempt asset under the Act that, in the opinion of the Commissioner, does not constitute any risk of a conflict of interest. **29**

Recommendation 7

That the Government of Canada amend the *Conflict of Interest Act* to ensure that reporting public office holders who are ministers and party leaders are required to divest fully from tax havens and disclose assets to the Conflict of Interest and Ethics Commissioner, with penalties for non-compliance. **36**

Recommendation 14

That the Government of Canada amend the *Conflict of Interest Act* to impose the following requirements on ministers and the prime minister, as reporting public office holders under the Act, with respect to the use of conflict of interest screens or to require the issuance, by the Conflict of Interest and Ethics Commissioner, of binding directives relating to these screens:

- **a written, auditable log of screened matters (dates, subject category, and the official/alternate decision-maker);**
- **a requirement that administrators of the screen be non-partisan public servants (not political staff);**
- **mandatory public disclosure of a screen's scope and categories, plus a standardized public reporting format; and**
- **a requirement that a mechanism for public reporting of instances where a screen is applied be established.** **45**

Recommendation 15

That the Government of Canada amend the *Conflict of Interest Act* to establish separate rules for the person who holds the position of prime minister, recognizing that individuals with greater decision-making authority should be held to higher standards. **52**

Recommendation 16

That the Government of Canada amend the *Conflict of Interest Act* in order to:

- **Establish a sliding scale for penalties and other sanctions meant to be proportionate to the seriousness of the violation, that includes, at least:**
  - **A benefit-disgorgement (repayment of gains linked to the breach);**
  - **A percentage-based administrative penalties tied to the public office holder's level of authority and the seriousness of the breach; and**

- **Serious sanctions for non-compliance by a reporting public office holder with divestment requirements under the Act.**

- **Provide the Conflict of Interest and Ethics Commissioner with discretionary authority to impose these penalties and sanctions for violations of the substantive provisions of the Act; and**

- **Require the publication of issued penalties and sanctions in a public registry, with the Conflict of Interest and Ethics Commissioner's reasons.** **55**

Recommendation 17

That the Government of Canada amend section 15 of the *Conflict of Interest Act* to grant the Conflict of Interest and Ethics Commissioner discretion to authorize reporting public office holders to engage in outside activities such as teaching, non-profit or charitable activities, where the Commissioner determines that no conflict of interest would arise. **56**

Recommendation 18

That the Government of Canada amend the *Conflict of Interest Act* to require annual meetings between public office holders and representatives of the Office of the Conflict of Interest and Ethics Commissioner. **58**

Recommendation 19

That the Government of Canada amend the *Conflict of Interest Act* to ensure that political party leaders, including party leaders who are not members of Parliament, be designated as reporting public office holders for the purposes of the application of the Act. **59**

Recommendation 20

That the Government of Canada amend subsection 81(1) of the *Parliament of Canada Act* to provide for the appointment of the Conflict of Interest and Ethics Commissioner by a motion, jointly moved by the Government and the official opposition, and which must be approved by a two-thirds vote of the members of the House of Commons. **62**

REVIEW OF THE *CONFLICT OF INTEREST ACT*

INTRODUCTION

Background

Section 67 of the *Conflict of Interest Act* (COI Act), which came into force in 2007, requires a parliamentary committee to conduct a comprehensive review of the COI Act within five years of that section's coming into force.

The House of Commons Standing Committee on Access to Information, Privacy and Ethics (the Committee) conducted the statutory review required under this provision in 2013 and presented its report to the House of Commons in February 2014. This review did not result in reforms to the COI Act.[1] Since its adoption, the COI Act has been modified by only "a few minor amendments to address specific matters."[2]

On 15 September 2025, the Conflict of Interest and Ethics Commissioner, Konrad von Finckenstein (the Commissioner), appeared before the Committee for a briefing. During this appearance, the Commissioner discussed the *2024–2025 Annual Report on the Conflict of Interest Act* of the Office of the Conflict of Interest and Ethics Commissioner (the Office). In that report, the Office proposes five amendments to the COI Act and one amendment to the *Parliament of Canada Act* that, according to the Commissioner, "could help [the *Conflict of Interest Act*] function more effectively and administer the act more efficiently." The proposed amendments, which will be discussed further in chapters two and three, can be summarized as follows:

- appointing an interim commissioner (addition of new section 82(3) to the *Parliament of Canada Act*);
- adding apparent conflicts of interest (addition of new section 4(2) and amendment to section 5 of the COI Act);

1 House of Commons Standing Committee on Access to Information, Privacy and Ethics [ETHI], *Statutory Review of the Conflict of Interest Act*, February 2014, 41st Parliament, 2nd Session.

2 ETHI, *Evidence*, Konrad von Finckenstein (Conflict of Interest and Ethics Commissioner, Office of the Conflict of Interest and Ethics Commissioner).

- reviewing exempt and controlled assets (addition of new section 20.1 to the COI Act);
- harmonizing the definitions of "private interest" in the COI Act and the *Conflict of Interest Code for Members of the House of Commons* (amendment to the definition of "private interest" in section 2(1) of the COI Act);
- expanding allowed outside activities (addition of new section 15(3.1) to the COI Act); and
- increasing administrative monetary penalties (amendment to section 52 of the COI Act).[3]

On 17 September 2025, the Committee adopted the following motion:

> That the Committee:
>
> (a) report the following recommendations to the House at the first opportunity:
>
> (i) that the Conflict of Interest Act, including the conflict of interest rules, disclosure mechanisms and compliance measures set out in it, be reviewed;
>
> (ii) that the Standing Committee on Access to Information, Privacy and Ethics be designated to undertake the review;
>
> (iii) that it be an instruction to the Committee to consider, as part of its review, whether the Act should be amended or expanded with a view to enhancing transparency, preventing conflicts of interest, avoiding potential or apparent conflicts of interest, regulating public office holders' ownership of assets in tax havens, limiting the availability of blind trusts as a compliance measure, extending the Act's provisions to political party leaders and leadership candidates, and increasing penalties for non-compliance; and

3 Office of the Conflict of Interest and Ethics Commissioner [OCIEC], *2024–2025 Annual Report on the Conflict of Interest Act*, [OCIEC 2024–2025 Annual Report], pp. 8–10.

> (iv) that, at the conclusion of the review, the Committee report its findings and recommendations to the House; and
>
> (b) in the time between when these recommendations are reported to the House and the House dispenses with them, begin hearing witness testimony on the subject matter referenced in recommendation (i) and (iii), and the parties be directed to provide the names of their proposed witnesses to the Clerk of the Committee within two weeks of the adoption of this motion.

A report from the Committee containing these recommendations was presented to the House of Commons on 22 September 2025. On 28 October 2025, the House of Commons adopted the following motion in relation to that report:

> That the third report of the Standing Committee on Access to Information, Privacy and Ethics, presented on Monday, September 22, 2025, be not now concurred in, but that it be recommitted to the committee for further consideration, with a view to assessing whether the scope of the review of the Conflict of Interest Act proposed by the committee should be amended in order to address better the concerns posed by the unprecedented extent of the Prime Minister's corporate and shareholding interests, provided that, for the purposes of this order of reference:
>
> (a) the following be ordered to appear as witnesses, separately, for at least two hours each, at dates and times to be fixed by the Chair of the committee, but no later than Friday, November 21, 2025,
>
> i) Michael Sabia, Clerk of the Privy Council and an administrator of the Prime Minister's conflict of interest screen,
>
> ii) Marc-André Blanchard, Chief of Staff to the Prime Minister and an administrator of the Prime Minister's conflict of interest screen,
>
> iii) Bruce Flatt, Chief Executive Officer of Brookfield Corporation and the Prime Minister's immediate successor as Chair of the Board of Directors of Brookfield Asset Management Inc.,
>
> iv) Connor Teskey, President of Brookfield Asset Management Inc. and Chief Executive Officer of Brookfield Renewable Partners L.P.; and

(b) it be an instruction that the committee report back to the House by Friday, November 28, 2025.

Finally, in accordance with the motion adopted on 28 October 2025, the Committee presented the following report to the House of Commons on 28 November 2025:

> Pursuant to the order of reference adopted by the House of Commons on Tuesday, October 28, 2025, the committee has reviewed the third report of the Standing Committee on Access to Information, Privacy and Ethics, which was presented to the House of Commons on Monday, September 22, 2025.
>
> As provided by the order of reference, the committee considered whether the scope of the review of the Conflict of Interest Act as proposed by the committee in its third report should be amended in order "to address better the concerns posed by the unprecedented extent of the Prime Minister's corporate and shareholding interests."
>
> For the purposes of the above-noted order of reference, the committee heard the testimony of the following witnesses, separately, for two hours each:
>
> (i) Michael Sabia, Clerk of the Privy Council and an administrator of the Prime Minister's conflict of interest screen; and
>
> (ii) Marc-André Blanchard, Chief of Staff to the Prime Minister and an administrator of the Prime Minister's conflict of interest screen;
>
> The following individuals were also ordered to appear as witnesses pursuant to the order of reference, in person or virtually, separately, for at least two hours each:
>
> (iii) Bruce Flatt, Chief Executive Officer of Brookfield Corporation and the Prime Minister's immediate successor as Chair of the Board of Directors of Brookfield Asset Management Inc; and
>
> (iv) Connor Teskey, President of Brookfield Asset Management Inc. and Chief Executive Officer of Brookfield Renewable Partners L.P.
>
> The committee was not successful in having these two witnesses appear. In their response to the invitations to appear, the witnesses indicated that they were unavailable to appear in person or virtually due to their

> significant pre-existing travel and business commitments. More importantly, they noted that they both reside permanently outside of Canada and are therefore not on Canadian Soil. As such, they cannot be summoned. However, the committee heard Justin B. Beber, Chief Operating Officer, Brookfield Corporation, as suggested by Brookfield Corporation.
>
> In light of the testimony heard in relation to this order or reference, this committee recommends that:
>
> > i) that the Conflict of Interest Act, including the conflict of interest rules, disclosure mechanisms and compliance measures set out in it, be reviewed;
> >
> > ii) that the Standing Committee on Access to Information, Privacy and Ethics be designated to undertake the review;
> >
> > iii) that it be an instruction to the Committee to consider, as part of its review, whether the Act should be amended or expanded with a view to enhancing transparency, preventing conflicts of interest, avoiding potential or apparent conflicts of interest, regulating public office holders' ownership of assets in tax havens, limiting the availability of blind trusts as a compliance measure, extending the Act's provisions to political party leaders and leadership candidates, and increasing penalties for non-compliance; and
> >
> > iv) that, at the conclusion of the review, the Committee report its findings and recommendations to the House.

The report presented on 28 November 2025 is accompanied by a supplementary opinion from the Conservative Party of Canada and a dissenting opinion from the Liberal Party of Canada.

The above-noted reports and motions led the Committee to examine, among other matters, the specific situation of the Prime Minister of Canada, the Right Honourable Mark Carney. His case provided the Committee, as part of its review of the COI Act, with an opportunity to assess the soundness of the foundations of certain provisions of the Act, particularly those relating to the divestment of controlled assets and the Commissioner's authority to impose other compliance measures, such as conflict of interest screens.

The Commissioner appeared before the Committee on 8 December 2025, as the Committee was finalizing its review of the COI Act. At that time, he reiterated the amendments proposed in his office's annual report, noting that they are based not only on his experience as Commissioner over the preceding two years but also on the Office's experience in administering the COI Act for nearly 20 years.

Structure of the Report

To complete its review of the COI Act, the Committee held 13 public meetings between September and December 2025, during which it heard 23 witnesses. It also received two briefs. The Committee would like to thank all those who contributed to this review.

This report is divided into three chapters. The first provides an overview of the COI Act and its purpose. The second examines legislative amendments recommended by witnesses to improve the COI Act. The third considers other means of strengthening the conflict of interest regime identified by witnesses.

Based on the evidence heard, the Committee makes a number of recommendations which are set out in the relevant sections of the report.

CHAPTER 1—THE *CONFLICT OF INTEREST ACT*

Overview of the *Conflict of Interest Act*

The COI Act applies to public office holders (POHs), defined as including ministers, including the prime minister, ministers of state and parliamentary secretaries.[4] The definition of POH also includes individuals who are not elected, such as the Chief Electoral Officer, the Parliamentary Budget Officer, ministerial staff and advisors as well as certain Governor in Council appointees and ministerial appointees whose appointment is approved by the Governor in Council. It does not include members of Parliament who are not members of the executive, as they are subject to the *Conflict of Interest Code for Members of the House of Commons*, nor senators, who are subject to the *Ethics and Conflict of Interest Code for Senators*.

The COI Act imposes more stringent obligations and prohibitions on reporting POHs—who are also defined in the COI Act—and, in some cases, only on ministers, ministers of

4 The Library of Parliament publication *Conflict of Interest at the Federal Level: Legislative Framework* provides more information on the *Conflict of Interest Act* and the federal conflict of interest regime in general.

state and parliamentary secretaries. Among these obligations and prohibitions, the COI Act requires reporting POHs to comply with the following:

- a prohibition on certain activities (section 15 of the COI Act);
- a prohibition on holding controlled assets (section 17 of the COI Act);
- an obligation to provide a confidential report to the Commissioner within 60 days after the day on which they are appointed as a POH (section 22 of the COI Act);
- an obligation to make a public declaration if a reporting POH has recused themselves to avoid a conflict of interest within 60 days after the day on which the recusal took place (section 25 of the COI Act);
- an obligation to provide the Commissioner with a summary statement for each controlled asset and each asset that the Commissioner has ordered divested and for each matter in respect of which the Commissioner has ordered a reporting POH to recuse themselves within 120 days after the day on which they are appointed (section 26 of the COI Act);
- an obligation, within 120 days after the day on which they are appointed as a reporting POH and subject to the terms set out in section 27 of the COI Act, to divest each of their controlled assets by selling it in an arm's length transaction or by placing it in a blind trust; and
- with regard to the post-employment period, an obligation to comply with the rules for former reporting POHs (sections 35 to 38 of the COI Act), in addition to those for all former POHs (sections 33 and 34 of the COI Act).

The COI Act's purpose is to establish clear conflict of interest and post-employment rules for POHs. The Act does not regulate ethics writ large.

Strengths of Canada's Conflict of Interest Regime

According to the Commissioner, Canada has one of the best conflict of interest regimes in the world. Compared with other regimes, such as those of European countries or the United States, he said that "our system is fabulous." He added that the COI Act is

> generally regarded as being neutrally and objectively administered and we have remarkably few conflicts of interest in this country over issues of breaches. Other

> jurisdictions come and talk to us about how they can learn from us and adopt a law similar to ours.

In summary, the Commissioner stated that "[t]he act has been working quite well since it took effect in 2007, and [has] met the purposes set out in section 3." The purpose set out in section 3 of the COI Act is discussed in greater detail below.

Michael Wernick, Jarislowsky Chair in Public Sector Management, University of Ottawa, and a former Clerk of the Privy Council, referred to a comparative analysis of conflict of interest legislation in member countries of the Organisation for Economic Co−operation and Development (OECD) during his testimony.[5] While he noted that Canada is not the best, especially on issues of enforcement, it ranks near the top quartile.

In a similar vein, Michael Sabia, the current Clerk of the Privy Council and Secretary to the Cabinet, referred to assessments by the OECD and by Freedom House,[6] a not-for-profit organization, which found that Canada is doing very well in terms of the quality of its democracy relative to the rest of the world. He explained that fact to be due in part to a culture of integrity among POHs and the public service, a culture that is deeply rooted in Canadian society. According to him, the COI Act plays an important role in reinforcing that culture of integrity.

Mr. Sabia further noted that, according to an OECD analysis, Canada ranks fourth out of 30 OECD members in terms of the quality of its democracy. He added that, according to Freedom House, the quality of Canada's democracy ranks first among G7 countries and fifth worldwide. Marc-André Blanchard, Chief of Staff to the Prime Minister, also stated that the ethical standards applicable to Prime Minister Carney are recognized by the OECD as among the most rigid in the world.

Guy Giorno, a lawyer and former chief of staff to then Prime Minister Stephen Harper, said that the COI Act is among the gold standards. The COI Act uses an opportunity-based test, which he thinks is one of the best. He observed that the federal public sector does not apply the same definition as the COI Act. In his view, the Treasury Board's *Policy on People Management* and *Directive on Conflict of Interest* rely on an inferior definition. Therefore, the COI Act represents the gold standard, according to Mr. Giorno.

According to Andrew Stark, a professor of political science at the University of Toronto, Canada's conflict of interest regime is solid. He nevertheless identified areas for improvement, including greater involvement by the Commissioner in monitoring conflict

5 Organisation for Economic Co-operation and Development, *Conflict of interest*.

6 Freedom House, *Canada*.

of interest screens and clearer guidance on how the Commissioner should deal with matters in which officials' decisions affect their own interests as members of a broad class. As discussed in Chapter 2, several other witnesses also identified shortcomings in the COI Act.

Legislation and Quasi-Legislation

The Committee also heard testimony illustrating the differences between certain approaches to regulating conflicts of interest in other jurisdictions and the approach under the COI Act.

For example, Daniel Greenberg, the Parliamentary Commissioner for Standards in the House of Commons of the United Kingdom (U.K.), explained that the U.K. does not have legislation equivalent to the COI Act. Instead, the House of Commons and the House of Lords each have their own code of conduct, while ministers are subject to a ministerial code. These are more akin to the codes of conduct that apply to members of Parliament and senators in Canada.

Mr. Greenberg emphasized the difference between legislation and quasi-legislation. He explained that legislation, by imposing obligations and conferring rights, cannot change behaviour or impose propriety, whereas quasi-legislative instruments, such as the *Code of Conduct for Members of Parliament* in the U.K., do not impose obligations or confer rights but can influence behaviour.

According to Mr. Greenberg, ethical standards should complement legislation. In his view, the legislative mechanism required in matters of ethics combines legislation, which provides certainty, and quasi-legislation, which provides flexibility and agility.[7]

Mr. Greenberg stated that he favours principles-based regulation, as in the U.K., because it forces members of Parliament and officials who are bound by the provisions of a code to concentrate on its purpose rather than on technical compliance. In his view, any attempt to rely on technical definitions obscures both the purpose and the principle and fails to achieve the intended outcome.

Ariane Mignolet, the Ethics Commissioner of Quebec, clarified that the *Code of Ethics and Conduct of the Members of the National Assembly of Quebec* (the Quebec Code) is a

7 ETHI, *Evidence*, Daniel Greenberg (Parliamentary Commissioner for Standards, House of Commons of the United Kingdom); Democracy Watch, Brief submitted to the Standing Committee on Access to Information, Privacy and Ethics, 45th Parliament, 1st Session, pp. 7–8 (Democracy Watch brief). According to Democracy Watch, the COI Act is a mix of principles and specific rules.

statute, notwithstanding its title. The Quebec Code applies to members of the National Assembly and contains specific rules applicable only to ministers.

According to Ms. Mignolet, one of the strengths of the Quebec Code also lies in the values and principles it sets out. She explained that the conduct of members and POHs is based as much on the values and principles that guide their behaviour as on the ethics rules set out in the Quebec Code, which differs from the federal model, under which detailed rules are set out in the COI Act. Ms. Mignolet added that, in Quebec, where no specific provision applies in a given situation, the Ethics Commissioner may rely on the Quebec Code's values and principles. In her view, this allows the Quebec Code to stay up to date in a context where ethics and professional conduct are constantly changing and to hold those who are subject to these rules accountable.

Ms. Mignolet further emphasized that these guiding values assist members and POHs in assessing appropriate conduct in a given situation and in interpreting applicable standards and rules. She noted that members and POHs should always strive to ensure that their conduct remains consistent with these values, even if their actions do not contravene the rules that apply to them.

Purpose of the *Conflict of Interest Act* (Section 3)

Section 3 of the COI Act provides that the purpose of the Act is to:

> (a) establish clear conflict of interest and post-employment rules for public office holders;
>
> (b) minimize the possibility of conflicts arising between the private interests and public duties of public office holders and provide for the resolution of those conflicts in the public interest should they arise;
>
> (c) provide the Conflict of Interest and Ethics Commissioner with the mandate to determine the measures necessary to avoid conflicts of interest and to determine whether a contravention of this Act has occurred;
>
> (d) encourage experienced and competent persons to seek and accept public office; and
>
> (e) facilitate interchange between the private and public sector.

With respect to the objectives of "encourag[ing] experienced and competent persons to seek and accept public office" and "facilitat[ing] interchange between the private and public sector," Mr. Wernick said that people from all workplaces should be encouraged to enter public life, whether through partisan politics or the public service. In his view, it is important not to put up barriers, because overly restrictive rules—such as an obligation

to abandon all economic and financial gains—could exclude people with private sector experience from public life.[8] He also acknowledged, however, that overly permissive rules could attract the wrong people to politics and that it is up to Parliament to find a balance.

In a similar vein, Mr. Sabia emphasized the importance of having a system that enables Canada, as a country and as a government, to continue encouraging competent individuals—whether from the private sector or elsewhere—to join the government to strengthen it, and to find a balance between this purpose and the responsibility to preserve the trust of Canadians. Mr. Sabia added that having access to the best talent this country has to offer seems to be an extremely important priority because "we have to get this country going and moving forward." Mr. Blanchard made similar comments, stating that this balance must be achieved by ensuring that Canada attracts the best political talents while having the highest possible ethical standards.

Ian Greene, professor emeritus at York University's School of Public Policy and Administration, similarly cautioned that unnecessarily strict rules would be counterproductive and discourage competent individuals from entering politics. In his view, having rules that are strong enough so that most Canadians think that the people getting involved in politics have high ethical standards would strike the right balance.

With respect to Prime Minister Carney's particular situation, Lori Turnbull, a professor in the Faculty of Management at Dalhousie University, said she does not believe there is a widespread sense that he is in office for the wrong reason. If he really cared about money all that much, she suspects he would have stayed in the private sector and that he is leaving money on the table by being in the role he is in.

Scott Thurlow, a lawyer, expressed a similar view, emphasizing that the goal is to encourage the best and the brightest to become parliamentarians and put their names forward to seek public office so that Canadians can benefit from their wealth of experience. Mr. Blanchard stated that the public did not elect Mr. Carney in spite of his vast private sector experience but precisely because of it. He argued that this experience is not optional; it is essential.

In this regard, the Commissioner stated:

> Therefore, the fact that the Prime Minister was a very successful businessman, a former international banker, a former governor of the Bank of Canada and the Bank of England, those are positives. That's a competent person. That's what I'm supposed to make sure of. I also have to make sure that he has no conflict.

8 ETHI, *Evidence*, Wernick.

> Therefore, the more experienced and the more talented somebody is, the more difficult it becomes to apply the act. That doesn't mean we won't do it or that we discourage good people from entering. It's just the opposite. We want the best people to enter the public service.

Mr. Stark agreed that a well-run conflict of interest regime should not exclude people of wealth or people who have done well in business from entering politics. In his view, mechanisms such as blind trusts and recusals offer these individuals the opportunity to participate in politics without suffering financially, and the disclosure mechanism allows them to hold on to their wealth.

By contrast, Duff Conacher, co-founder, board member and chair of the Government Ethics Coalition at Democracy Watch, argued that the final two objectives set out in section 3 of the COI Act should be removed. In his view, these objectives are inconsistent with the title of the Act itself. According to him, "if you need to facilitate people getting into the business other ways, do it, but never in a way that sacrifices preventing, prohibiting and penalizing conflicts of interest."

From a U.K. perspective, Mr. Greenberg said that someone who has acquired knowledge in the private sector should be able to apply that knowledge in the public service. He cautioned, however, that such knowledge should not be used to advance private interests or those of persons with whom the individual is connected.

According to Ms. Mignolet, conflict of interest rules are not intended to deter individuals from participating in public life, but rather to put everyone on an equal footing and ensure that the rules of the game are the same for all. In her view, the state benefits from having people with diverse backgrounds working for the common good.

The Committee makes the following recommendation:

Recommendation 1

That the Government of Canada amend the *Conflict of Interest Act* to remove objectives d) and e) from section 3.

Committee Observations

The evidence shows that, notwithstanding the strengths of the COI Act identified by several witnesses, "[t]here is … room for improvement," as noted by the Commissioner. The Committee is of the view that the COI Act can be strengthened. The Committee is of the view that the COI Act should serve to protect the interest of Canadian citizens by enforcing ethics and preventing apparent or real conflicts of interest among POHs. It is

with these considerations in mind that the Committee examines the various recommendations for amendments to the COI Act put forward by witnesses. These recommendations are analyzed in the following chapter.

CHAPTER 2—STRENGTHENING THE *CONFLICT OF INTEREST ACT*

Definition of Private Interest (section 2)

Section 2 of the COI Act defines "private interest" by specifying what it does not include, namely an interest in a decision or matter that is of general application; that affects a POH as one of a broad class of persons; or that concerns the remuneration or benefits received by virtue of being a POH. This definition is significant, as it affects the application of the other provisions of the COI Act.

The Commissioner recommended harmonizing the definition of private interest in the COI Act and the *Conflict of Interest Code for Members of the House of Commons*. Under the Code, a member is not considered to be furthering a private interest if the matter in question affects them "or any other person as one of a broad class of the public." Such an amendment would allow a POH to participate in matters involving the private interests of friends or relatives where those interests are shared by other members of the same broad class.[9] Mr. Greene supported this recommendation, while Mr. Conacher strongly opposed it.[10]

In fact, M. Conacher argued that the definition of private interest in section 2 of the COI Act means that 99% of the decisions made by the prime minister, ministers and senior officials are considered to be of general application. In other words, he is of the view that the Act "only applies 1% of the time, to very specific decisions." As a result, he contended that it is almost impossible to be in a conflict of interest under the COI Act.

For example, Mr. Conacher stated that, because of the definition of private interest, the current prime minister is in a conflict of interest every time he makes a decision that affects businesses, which is permitted under the COI Act. "He is taking part in all sorts of decisions that affect Brookfield and other companies he's invested in."[11] Mr. Conacher recommended prohibiting POHs from participating in any decision-making process in which they have a financial interest, even where the decision is of general application or

9 OCIEC 2024–2025 Annual Report, p. 9.

10 Democracy Watch brief, pp. 7–8.

11 ETHI, *Evidence*, Duff Conacher (Co-founder, board member and chair of the Government Ethics Coalition, Democracy Watch)

affects a broad class of persons. Limited and clearly defined exceptions, such as matters relating to taxation, could apply.[12]

With respect to the rationale underlying the current definition of personal interest under the COI Act, Mr. Stark explained that the idea of excluding decisions of general application or those affecting a broad class of persons originated in the U.S. and was subsequently adopted in Canada to allow lawmakers to participate in votes where their interests are not disproportionate. He questioned the legitimacy of applying this concept to members of Cabinet, while acknowledging the practical argument that a prime minister who is unable to address matters of general application would be unable to govern effectively.

Other witnesses expressed similar views. Mr. Thurlow stated:

> I think the rule of general application is one where it is very easy for people of means who are sitting in Parliament to get an even greater benefit. I will make up an example. Let's say someone who has a $1-billion wealth fund votes on a capital gains tax that would apply to everyone, and that change drew the tax liability down. That would be a very material advantage, but it applies to everyone. The problem with the position you're advancing is that, if we don't have a general application rule, will parliamentarians ever be able to vote on anything? Where do we draw the line with something in front of Parliament that is important for the country to keep going? We could get into the CUSMA or the USMCA, depending on what you call it. There are so many other things that an individual's past performance or past experience is going to have an impact on. It's very difficult to narrow the rule of general application.

Ian Stedman, an associate professor at York University, stated that the general application rule does not "eliminate the very fact of a conflict of interest. It is a decision that lawmakers have made with respect to where they want to draw the line of best fit between eliminating conflicts and not disincentivizing public service." Gregory Levine, a lawyer, ethics consultant and social scientist, noted that excluding decisions of general application from the definition of private interest is not uncommon and appears in several provincial statutes. Michael Aquilino, legal counsel for the Office, stated that "the general application exemption is found in all ethics regimes in Canada. It's an almost uniform provision in all provinces."[13]

Ms. Mignolet, for her part, noted that the Quebec Code does not refer explicitly to decisions of general application. Instead, it emphasizes the need to ensure that private

12 Democracy Watch brief, p. 8.

13 See, for example: *Members' Integrity Act*, S.O. 1994 (Ontario); *Members' Conflict of Interest Act*, RSBC 1996, c. 287 (British Columbia); *Conflicts of Interest Act*, RSA 2000, c C-23 (Alberta); *The Conflict of Interest (Members and Ministers) Act*, CCSM c C171 (Manitoba).

interests do not compromise independent judgment.[14] The question is not whether a law or measure affects a broad class of persons, but whether the individual's independent judgment could be influenced. The Commissioner stated that he shared Ms. Mignolet's perspective. The language of the Quebec Code, however, differs from that of the COI Act.

Mr. Greenberg stated that the definition of private interest in section 2 of the COI Act may be overly prescriptive. In his view, private interest can, but need not always, exclude decisions of general application. However, he noted that, under the U.K. *Code of Conduct for Members*, members are not regarded as lobbying for a particular company if they are making an observation that is relevant to an industry as a whole.[15]

Mr. Wernick disagreed with expanding the concept of private interest in the COI Act to include decisions of general application. He recommended targeting cases where it is possible to identify a personal relationship between the decision-maker and someone outside the government. In his view, a lot of new policies and new legislation, including the federal budget, have broad implications.

The Committee makes the following recommendation:

Recommendation 2

That the Government of Canada amend the definition of "private interest" in section 2 of the *Conflict of Interest Act* to narrow the exclusion of a decision or matter of general application or affecting a public office holder as one of a broad class of persons for reporting public office holders who hold the position of prime minister, minister or parliamentary secretary, so that such a decision or matter is included in the definition of "private interest" when their financial interests are so extensive that a reasonably foreseeable and material benefit may result from a decision, even if it is economy-wide; and that the Act provide limited enumerated exceptions, such as decisions relating to routine taxation measures, to preserve governability.

14 *Code of ethics and conduct of the Members of the National Assembly*, C-23.1, section 15 (Quebec Code).

15 United Kingdom, *The Code of Conduct and the Guide to the Rules relating to the Conduct of Members*, p. 34, para. 4 (U.K. Code of Conduct); ETHI, *Evidence*, Greenberg (1145); Greenberg (1150).

Definition of Conflict of Interest and Corresponding Obligation (Sections 4 and 5)

Section 5 of the COI Act requires a POH to "arrange his or her private affairs in a manner that will prevent the public office holder from being in a conflict of interest." Section 4 of the COI Act defines conflict of interest for the purposes of the Act.

The Commissioner recommended that apparent conflicts of interest be added to the general duty set out in section 5 of the COI Act. To that end, he proposed adding the following definition of apparent conflict of interest to section 4:

> For the purposes of this Act, a public office holder is in an apparent conflict of interest if there is a reasonable perception, which a reasonably well-informed person could properly have, that the public office holder's ability to exercise an official power or perform an official duty or function must have been affected by the public office holder's private interest or the private interest of his or her relatives or friends.[16]

The Commissioner explained that this recommendation is consistent with the wording of the *Conflict of Interest Code for Members of the House of Commons* and the *Values and Ethics Code for the Public Sector*, both of which recognize real and apparent conflicts of interest.[17] He also noted that the appearance of conflict of interest is recognized in British Columbia legislation and in the conflict of interest regimes of England, Scotland and Ireland. He confirmed that the proposed amendment would provide him with an additional tool to administer the COI Act.

In support of this proposal, Mr. Conacher argued that the ethics requirements applicable to members of Parliament, senators and public servants are more stringent than those of the COI Act, notably because they recognize the appearance of conflicts of interest. He also noted that *Open and Accountable Government*, which sets out principles for ministers, also prohibits the appearance of conflicts of interest.[18]

As noted above, witnesses mentioned that the appearance of a conflict of interest is an established standard under British Columbia's *Members' Conflict of Interest Act*.[19] However, Mr. Levine emphasized that, for an apparent conflict of interest to exist, there

16 OCIEC 2024–2025 Annual Report, p. 8. The Commissioner used the definition of apparent conflict of interest from the 2010 report of the Oliphant Commission.

17 OCIEC 2024–2025 Annual Report, p. 8.; ETHI, *Evidence*, von Finckenstein.

18 Office of the Privy Council, *Open and Accountable Government*; Democracy Watch brief, p. 7.

19 See: ETHI, *Evidence*, Conacher; Gregory J. Levine (Lawyer, Ethics consultant and Social scientist, As an Individual).

must be an objective interest at stake; a mere perception is insufficient. Mr. Greene similarly reminded the Committee that a potential conflict of interest is distinct from a real or apparent conflict of interest.[20]

With respect to Quebec, Ms. Mignolet explained that the Quebec Code does not explicitly define real, potential or apparent conflicts of interest.[21] However, despite the absence of an explicit reference to the concept of apparent conflict of interest in the Quebec Code, it is, in her view, reflected in certain provisions.

Similarly, Mr. Greenberg explained that, in the U.K., a test of relevance is applied to determine whether a person's interests might reasonably be perceived by others as influencing their actions or words as a member of Parliament.[22] He clarified that the U.K. Code invites members to consider what is reasonably likely to be thought by others, and not merely the actuality of their interests.[23]

Several witnesses, however, opposed the Commissioner's recommendation to include the appearance of conflict of interest in the COI Act. According to Mr. Wernick, the Act is built on language that already includes the concept of perceived conflict of interest, which can be highly subjective.[24] He cautioned that expressly including apparent conflicts of interest in the COI Act would require determinations as to what constitutes such a conflict and what the appropriate remedies are. In his view, it would be difficult to legislate future perceived conflicts of interest with sufficient clarity. He nevertheless acknowledged that this could be a targeted solution for a prime minister.

Ms. Turnbull emphasized the importance of distinguishing between soft and hard approaches to ethics regulation. She described conflict of interest codes as "soft" instruments that are aspirational in nature and encourage the highest ethical standards, whereas legislation seeks to regulate conduct through enforceable rules. While acknowledging that the appearance of conflicts of interest can undermine public

20 ETHI, *Evidence*, Ian Greene (professor emeritus at York University, School of Public Policy and Administration, As an Individual)

21 ETHI, *Evidence*, Ariane Mignolet (Ethics Commissioner of Quebec)

22 U.K. Code of Conduct, p. 31, para. 6.

23 ETHI, *Evidence*, Greenberg.

24 ETHI, *Statutory Review of the Conflict of Interest Act*, Report, 41st Parliament, 2nd Session, February 2014, pp. 36–40. The Commissioner at the time of the review, Mary Dawson, indicated that it was not necessary to include a definition of the term "apparent conflict of interest" in the *Conflict of Interest Act*, as she believed that this type of conflict was already addressed in some of its provisions.

trust, she expressed concern that incorporating this concept into the COI Act would raise challenges in defining, adjudicating and certainly penalizing such situations.

Mr. Thurlow expressed similar concerns, stating that it is not necessary to include the appearance of a conflict of interest in the COI Act. He pointed to the difficulty of proving such an appearance objectively.[25] He also noted challenges, in such a context, with respect to the application of the relevant legal test, the reasonable person's test, to determine whether there is an appearance of conflict. In his view, including apparent conflicts of interest in the COI Act would create more problems than it would solve.

By contrast, Mr. Giorno and Mr. Conacher argued that apparent conflict of interest and the reasonable-person test are well-established legal concepts.[26] Mr. Giorno believes that the Commissioner would be capable of applying these concepts.[27] He conceded that extending the application of the COI Act to the appearance of conflict of interest would make it harder to apply. While Mr. Conacher made similar comments, he added that, unless the definition of private interest in section 2 is amended, expressly including apparent conflicts of interest in the COI Act would have no practical effect.[28]

Other witnesses also supported the inclusion of apparent conflicts of interest in the COI Act.[29] Mr. Stedman suggested that the Commissioner should be empowered to investigate allegations of potential or apparent conflicts, while emphasizing that the COI Act would first need to be amended to clearly authorize the provision of advice on such matters. Mr. Greene noted that, although experts previously considered apparent conflicts of interest too vague to prohibit, perspectives on this issue have evolved.[30]

While supporting the inclusion of apparent conflicts of interest in the COI Act, Mr. Stark acknowledged that such a provision would necessarily be broad and that any associated penalties would need to be proportionate. Mr. Greene similarly noted that penalties for apparent conflicts of interest should be less severe than those applicable to real conflicts of interest.

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25 ETHI, *Evidence*, Scott Thurlow (Founder, Thurlow Law)

26 ETHI, *Evidence*, Guy Giorno (lawyer, As an Individual)

27 ETHI, *Evidence*, Giorno.

28 ETHI, *Evidence*, Conacher; Democracy Watch brief, p. 7.

29 See for example: ETHI, *Evidence*, Samuel Cooper (journalist, The Bureau, As an Individual); Andrew Stark (Professor, Political Science, University of Toronto, As an Individual).

30 ETHI, *Evidence*, Greene.

Mr. Stark further cautioned that, if apparent conflicts of interest were included in the COI Act, the Commissioner might be expected to rule on allegations circulated on social media by political opponents that create the appearance of conflicts where none exist. David McLaughlin observed that, if an apparent conflict of interest is the subject of political debate, the public needs to hear what is being said, but there will be a boomerang effect on public confidence if it is clearly manufactured.

However, with respect to the ability for the Commissioner to conclude that allegations of an apparent conflict of interest were politically motivated, he reminded the Committee that it is not his role to intervene in the political arena. In such as case, he would simply indicate in an investigation report that the allegations against a POH were not well-founded.

The Committee makes the following recommendations:

Recommendation 3

That the Government of Canada amend the *Conflict of Interest Act* to include a definition of apparent conflict of interest and a corresponding obligation for every public office holder to arrange their private affairs and the state's affairs in a manner that will prevent the public office holder from being in a real or apparent conflict of interest.

Recommendation 4

That the Government of Canada, in addition to expressly incorporating the concept of an apparent conflict of interest into the *Conflict of Interest Act*, amend the Act to:

- **explicitly authorize the Conflict of Interest and Ethics Commissioner to initiate an examination or investigation where there exists an apparent conflict of interest, based on an objective reasonable-person standard;**

- **establish that the threshold for such examination shall be the reasonable appearance of a conflict of interest, rather than proof of a real conflict of interest; and**

- **provide the Conflict of Interest and Ethics Commissioner with clear authority to impose graduated, non-criminal remedial measures in cases of apparent conflicts of interest, including but not limited to enhanced public disclosure requirements, mandatory recusal reporting logs, redesign or strengthening of conflict-of-interest screens, and divestment orders for defined high-risk assets, with penalties**

proportionate and less severe than those applicable to real conflicts of interest, but sufficient to ensure meaningful accountability.

Controlled Assets and Divestiture

Obligation to Divest (section 17)

Section 17 of Part 1 of the COI Act provides that "[n]o reporting public office holder shall, unless otherwise provided in Part 2, hold controlled assets as defined in that Part."[31]

During the parliamentary review of the COI Act in 2013, Conflict of Interest and Ethics Commissioner Mary Dawson recommended broadening the scope of section 17 to apply to controlled assets held directly and indirectly.[32] In 2018, her successor, Mario Dion, similarly made a recommendation to amend section 17 to clarify that controlled assets that are held indirectly, as well as those held directly, are caught by that provision.[33]

Referring to these earlier recommendations, Allison Christians, Full Professor and H. Heward Stikeman Chair in Tax Law at McGill University, suggested that, if Parliament considers the information disclosed by POHs under the COI Act insufficient, it could consider requiring the disclosure of indirect ownership, as is required of taxpayers under the *Income Tax Act* (ITA). In that case, she said that the COI Act should include a robust definition of indirect ownership.

In the same vein, Andres Knobel, Lead Researcher at the Tax Justice Network, recommended that the concept of "ownership" for the purposes of the COI Act be defined to include both legal and beneficial, or indirect, ownership. This would ensure that required disclosure captures not only assets held directly in an official's name but also those that are indirectly owned, controlled or enjoyed through companies or family members. In his view, that broader definition could help prevent the concealment of assets or conflicts of interest through nominees or complex ownership structures.

The Committee makes the following recommendation:

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31 Part 1 of the COI Act establishes conflict of interest rules and Part 2 sets out compliance measures. The definition of the term "controlled assets" found in section 20 of the Act is discussed in the next section of this chapter.

32 ETHI, *Statutory Review of the Conflict of Interest Act*, Report, 41st Parliament, 2nd Session, February 2014, p. 19.

33 ETHI, *Evidence*, Mario Dion (former Conflict of Interest and Ethics Commissioner). Section 20 of the COI Act defines "controlled asset."

Recommendation 5

That the Government of Canada amend section 17 of the *Conflict of Interest Act* so that it applies to controlled assets held both directly and indirectly, including through beneficial ownership, corporations, partnerships, trusts, holding companies, or similar structures.

Definition of Controlled Assets (section 20)

Section 20 of the COI Act defines "controlled assets" as "assets whose value could be directly or indirectly affected by government decisions or policy." This category includes, for example, publicly traded securities of corporations. The COI Act 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." Section 20 sets out a list of such assets. It includes, for example, a POH's primary residence.

The Commissioner recommended adding a new section 20.1 to the COI Act to give the Governor in Council the power, by order and on the recommendation of the Commissioner, to add assets that pose little risk of conflict of interest to the list of exempt assets in section 20. He cited exchange-traded funds (ETFs) as an example of an asset that did not exist when the COI Act was enacted and could be included in the list of exempt assets.[34] Mr. Conacher strongly opposed this recommendation,[35] stating that, in his view, investments in ETFs would create a conflict of interest.

The Committee makes the following recommendation:

Recommendation 6

That the Government of Canada amend section 20 of the *Conflict of Interest Act* to allow the Governor in Council, by order and on the recommendation of the Conflict of Interest and Ethics Commissioner, to designate any asset or class of assets as an exempt asset under the Act that, in the opinion of the Commissioner, does not constitute any risk of a conflict of interest.

34 OCIEC 2024–2025 Annual Report, p. 9 and p. 33.

35 Democracy Watch brief, p. 8–9.

Divestment and Blind Trusts (section 27)

Section 27 of the COI Act provides two mechanisms for a reporting POH to divest controlled assets: selling the asset in an arm's-length transaction or placing it in a blind trust that meets the requirements set out in subsection 27(4).

Mr. Giorno explained that a trustee cannot have any relationship of dependence with the POH, that the Commissioner has a say in the choice of trustee, and that the Commissioner will not approve an instrument setting up the trust if it does not provide for the proper separation between the POH and the trustee.[36] He also noted that the Crown pays the management fees for a blind trust.

According to Mr. Thurlow, the use of blind trusts should absolutely be permitted. He explained that for the purpose of the COI Act, once controlled assets are placed in such a trust, the POH no longer has legal control over those assets. Therefore, it is very difficult to tell POHs that they cannot make decisions because of something that is held outside of their legal control.[37]

Use of Blind Trusts in Other Regimes

Blind trusts are used in Quebec, Ontario and the U.K. Cathryn Motherwell, the Integrity Commissioner of Ontario, and Ms. Mignolet both noted that the decision to use a blind trust depends on the individual and their assets.

The Quebec Code allows assets to be sold or placed in a blind trust or blind management agreement.[38] At the time of her appearance, Ms. Mignolet said that five Quebec ministers had blind trusts in place.[39] With respect to the Commissioner's role in relation to a blind trust or blind management agreement, Ms. Mignolet emphasized that the Commissioner knows what is in them and receives relevant information from the trustee or independent mandatary to ensure that rules are being followed and to raise any problems. The trustee or mandatary and the person who established the blind trust or blind management agreement have no direct contact with each other.

In Ontario, the *Members' Integrity Act* permits ministers to place certain assets in a trust. At the time of her appearance, Ms. Motherwell said that eight Ontario ministers

36 ETHI, *Evidence*, Giorno.

37 ETHI, *Evidence*, Thurlow.

38 ETHI, *Evidence*, Mignolet; Quebec Code, section 45.

39 ETHI, *Evidence*, Mignolet.

had such trusts in place. She described trusts as essential tools and said that her experience with them so far has been positive. Before a trust is established, the Commissioner receives full disclosure of the assets.[40]

Regarding the appointment of trustees, Ms. Motherwell explained that she meets with the trustee proposed by the member before accepting or rejecting their appointment. A proposed trustee may be rejected, for example, if they are related to the member. Trustees are typically professional firms that already engage in this type of activity. Once a trustee is appointed, a trust agreement is drawn up, and once the trust is in place, the Integrity Commissioner receives the trust's financial statements. Only aggregated general information is provided to the minister, who may not communicate with the trustee. Ms. Motherwell emphasized that all communications relating to the trust must go through the Integrity Commissioner. For example, she must approve documents required for the minister's tax filings.[41]

Mr. Greenberg explained that, in the U.K., blind trusts are among the measures used to ensure the necessary separation between having a financial interest and being motivated by that interest in one's public behaviour. He said that blind trusts are particularly used with respect to ministers.

Effectiveness of Blind Trusts

Some witnesses questioned the effectiveness of blind trusts.

Mr. Conacher argued that "blind trusts are not blind at all" because the individual concerned selects the trustee and can give them initial instructions. He believes that the individual knows what has been placed in the blind trust and may receive regular updates from the trustee. For example, with respect to Prime Minister Carney, he stated:

> [T]he holdings are actually outside the blind trust. For the Brookfield conglomerate—the 103 companies—he knows that he owns them. He knows that he owns stock options in Brookfield until 2033. He knows he's in a financial conflict of interest, and there's nothing preventing, prohibiting or penalizing it.

The "initial instructions" referenced by Mr. Conacher are "general investment instructions" that may be included in a blind trust instrument under section 27(5) of the COI Act, but

40 ETHI, *Evidence*, Cathryn Motherwell (Integrity Commissioner of Ontario, Office of the Integrity Commissioner of Ontario).

41 ETHI, *Evidence*, Motherwell (1215); Motherwell (1215).

only with the prior approval of the Commissioner.[42] Mr. Giorno described such instructions as "general guidance … but not specific restrictions related to the act of managing the trust."[43]

With respect to communication between trustees and POHs, section 27(4)(g) of the COI Act provides that:

> The trustee shall not provide information about the trust, including its composition, to the reporting public office holder, except for information that is required by law to be filed by the reporting public office holder and periodic reports on the overall value of the trust.

Section 27(6) further states that "no oral investment instructions may be given with respect to a blind trust contract or instrument."[44]

Notwithstanding these safeguards, Mr. Conacher and Mr. Giorno noted that the Commissioner has acknowledged that the composition of assets in a blind trust does not change often. Both believe that reporting POHs are therefore aware of what is in their trusts. Mr. Conacher added that even if a trustee were to bring change to what is in a blind trust they are going to be investing in big businesses in Canada, and the reporting POH would know that.

The Commissioner acknowledged that the Prime Minister knows what assets were placed in his trust and that "decisions relating to companies in which he held assets could be profitable for him if those decisions led to an increase in the assets' value." He noted that this is one of the reasons why an additional measure, the conflict of interest screen, is in place. This compliance measure is discussed in the following section. He also noted that maybe the assets have changed or have since been sold since they were placed in the blind trust.

Jason Ward, principal analyst with the Centre for International Corporate Tax Accountability and Research, said it is still possible to profit from assets held in a blind

42 The instructions "may provide for proportions to be invested in various categories of risk, but may not be industry-specific, except if there are legislative restrictions on the type of assets that a public office holder may own."

43 ETHI, *Evidence*, Giorno.

44 See also: ETHI, *Evidence*, Giorno.

trust.[45] He acknowledged, however, that such assets remain subject to tax law. He also acknowledged that gains or losses can be recorded in such a trust.

Mr. Knobel also acknowledged that blind trusts can serve legitimate and useful purposes. However, he noted that his research has identified many cases where they have been misused for tax evasion, money laundering or sanctions evasion. He noted that the widespread use of blind trusts does not, in itself, ensure that they are safe or fair.

Financial Disclosure and Transparency

Some witnesses raised the possibility that blind trusts would allow reporting POHs to hold assets abroad in ways that facilitate tax avoidance. They recommended full public financial disclosure as a remedy. Other witnesses expressed reservations about such an approach.

First, it is important to distinguish between tax evasion, tax avoidance and tax abuse. Ms. Christians explained that tax evasion involves deliberately failing to comply with tax laws, hiding income, falsifying or destroying records or otherwise wilfully evading or attempting to evade compliance with the ITA, and is prohibited under the ITA.

Tax avoidance, by contrast, occurs when individuals choose one action over another to avoid tax or to obtain a tax advantage under the ITA. Ms. Christians noted that in Canada, Parliament has adopted rules to intentionally provide tax avoidance opportunities, such as to encourage economic investment.[46]

Ms. Christians also reminded the Committee that "Canada's courts have consistently upheld the taxpayers' rights to plan their affairs, including to reduce their taxes." Until Parliament decides otherwise, tax avoidance remains legal. With respect to whether tax avoidance should be considered acceptable, she reminded the Committee that anyone who contributes to a registered retirement saving plan or a registered education savings plan is avoiding tax.

However, she pointed out that the ITA provides consequences for abusive tax avoidance or tax abuse, where taxpayers misuse or exploit legislative provisions. Parliament has

45 ETHI, *Evidence,* Jason Ward (Principal Analyst, Centre for International Corporate Tax Accountability and Research); Ward.

46 ETHI, *Evidence*, Allison Christians (Full Professor, H. Heward Stikeman Chair in Tax Law, McGill University, As an Individual).

addressed this through the adoption and repeated refinement of a general anti-avoidance rule, which is found in the ITA.

Ms. Christians said that shifting profit abroad is a problem faced by all countries. Canada, like many countries, gives companies considerable discretion to arrange their affairs to reduce taxes. Profit shifting is about tax competition, not hiding information.[47]

Ms. Christians also noted that Canada is part of a global effort to establish a minimum corporate income tax to deter or get rid of the incentive to move assets and activities to lower-tax jurisdictions. Like other governments, Canada has made choices to reduce taxation in order to stimulate economic growth.[48]

In light of these considerations, Ms. Christians refused to recognize the term "tax haven" used by other witnesses, explaining that it is not an accepted technical term. She noted that all countries, including Canada, could be accused of being a "tax haven." Mr. Thurlow also finds this term pejorative. He sees no problem with individuals and corporations organizing their affairs to minimize taxes, provided they comply with applicable laws.

Mr. Knobel said that classifying a jurisdiction as a "tax haven" can often be politically driven. For example, many financial centres with limited transparency are not always identified as such.[49] Any list of "tax havens" should be based on objective and verifiable transparency criteria.[50]

Mr. Ward said that POHs could use subsidiaries in "tax havens" and trust structures to shield their income from taxation in Canada. He does not think that tax avoidance is moral, even though it is legal.[51] He stated that aggressive tax avoidance undermines trust in public institutions. Therefore, to ensure that all POHs pay tax along with other ordinary Canadians, he believes that all POH assets should be disclosed.

Similarly, Mr. Knobel said that, regardless of the vehicle in which a prime minister or an official holds assets, citizens, Parliament and relevant authorities should be aware of their existence and associated risks. In his view, blind trusts require the public to blindly

47 ETHI, *Evidence*, Christians.

48 ETHI, *Evidence*, Christians

49 ETHI, *Evidence*, Andres Knobel (Lead Researcher, Beneficial Ownership, Tax Justice Network).

50 ETHI, *Evidence*, Knobel (1700); Knobel (1730); Tax Justice Network, *Financial Secrecy Index*.

51 ETHI, *Evidence*, Ward.

rely on others.[52] He believes full transparency offers the most effective safeguard against conflicts of interest.[53]

Conversely, Ms. Turnbull pointed out that there are trade-offs between the public's right to know and an individual's right to privacy with regard to their financial holdings and those of their family. In her view, overreach with respect to disclosure and asset management can deter individuals from seeking public office. She said that, even if the public does not necessarily know an individual's exact salary or the full extent of their stock portfolio, they still have a broad picture of their affiliations and professional background. The public therefore has a way to assess whether that person will act against the interests of the public.

Ms. Mignolet also stressed the importance of maintaining the delicate balance between public expectations for transparency and respect for the privacy of POHs and members of Parliament. She cautioned against full and systematic disclosure of all information about members of Parliament and POHs. In her view, full and absolute transparency would serve neither the objective of ensuring the integrity of POHs nor the public interest. She added:

> As a society, we have chosen to give commissioners the responsibility of ensuring that public office holders and members conduct themselves in an ethical and professional manner. We must trust them and give them the flexibility they need to carry out their duties independently and impartially, taking into account the circumstances of each situation.

The Commissioner said that he fully agreed with this view.

Additional proposals for strengthening the COI Act were also raised. Mr. Ward supported banning the use of tax havens by POHs. Mr. Giorno cautioned, however, that such a ban is not so simple. Nevertheless, measures can be taken to help prevent such practices. For example, he pointed out that section 15 of the COI Act prohibits reporting POHs from operating a business. No POH should therefore be operating a business in a "tax haven." He also said that it would be easy to legislate that POHs be residents of Canada so they cannot take advantage of residing somewhere else. In his view, POHs should invest in jurisdictions where there is transparency and disclosure, two attributes that are absent in "tax havens."

52 ETHI, *Evidence*, Knobel.

53 ETHI, *Evidence*, Knobel.

With respect to the possible inclusion of a general anti-avoidance rule in the COI Act, Mr. Wernick stated that he saw no objection to considering such a measure. Mr. Thurlow, however, said that "a general anti-avoidance rule in this area undermines the whole purpose of the act" because "[a]nyone who's willing to design that kind of tool to avoid the application of the act is going to find another way around it."

The Committee makes the following recommendations:

Recommendation 7

That the Government of Canada amend the *Conflict of Interest Act* to ensure that reporting public office holders who are ministers and party leaders are required to divest fully from tax havens and disclose assets to the Conflict of Interest and Ethics Commissioner, with penalties for non-compliance.

Recommendation 8

That the Government of Canada amend the *Conflict of Interest Act* to prohibit reporting public office holders, after consultation with the Conflict of Interest and Ethics Commissioner, from investing in companies that use tax havens in order to avoid eroding public trust by creating the impression that they are not respecting their share of the fiscal social contract.

Recommendation 9

That the Government of Canada amend the *Conflict of Interest Act* to require political party leaders to disclose their assets to the Conflict of Interest and Ethics Commissioner within 30 days of becoming leader.

Recommendation 10

That the Government of Canada amend the *Conflict of Interest Act* to require prime ministers to divest their controlled assets within 60 days of assuming office.

Mandatory Sale

Some witnesses argued that only the mandatory sale of controlled assets held by POHs would fully eliminate conflicts of interest. Others opposed such a requirement.

Mr. Conacher maintained that any approach short of mandatory sale leaves a financial conflict of interest. He noted that both the 1984 Starr–Sharp report and the 1987 Parker Commission recommended that POHs be required to divest their investments and that

blind trusts be prohibited.[54] He would not require the sale of a family business, however, provided that the POH recused themselves whenever a conflict of interest or appearance of a conflict of interest arose in relation to that business, including in decisions that are of "general application" or that affect a "broad class of persons."

Samuel Cooper, a journalist with The Bureau, said he believes that full divestiture is a good solution for restoring public confidence in the integrity and transparency of the federal government.[55]

The commissioners from Quebec and Ontario expressed reservations regarding mandatory sale. Ms. Motherwell stated that requiring a POH, such as a minister, to sell all assets rather than place them in a trust would warrant extensive discussion and evidence demonstrating that trusts do not work. She has not seen evidence in her experience "that indicates that a trust does not work." While acknowledging that a minister is aware of the assets initially placed in trust, she explained that ministers are not informed of subsequent changes and that trustees make investment decisions without the minister's knowledge. Therefore, before imposing mandatory sale, she would look "for evidence … for obvious examples of where it is proven that the trust model, that trust framework, does not work."

Ms. Mignolet similarly urged caution with respect to imposing mandatory sale on members of Parliament, ministers or other persons subject to the Quebec Code. She has not observed anything in Quebec that would lead her to believe that such an obligation is absolutely necessary, nor has she seen evidence to suggest that blind trusts or blind management agreements do not work. She also noted that additional measures may be implemented alongside a blind trust or blind management agreement to ensure compliance with the Quebec Code.

Mr. Greenberg acknowledged that blind trusts alone may not be sufficient to ensure compliance with the principles underlying the U.K.'s conflict of interest regime. He said, however, that there is no one answer for every situation and that the effectiveness of asset divestiture depends on the value of the assets, the other assets the person has, and their proportion within an individual's overall portfolio.

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54 ETHI, *Evidence*, Conacher; Democracy Watch brief, p. 9. The 1984 Starr–Sharp report is a report of the Conflict of Interest Task Force. The Parker Commission was a commission of inquiry into allegations of conflict of interest concerning the Honourable Sinclair M. Stevens.

55 ETHI, *Evidence*, Cooper.

Other witnesses opposed mandatory sales. Mr. Thurlow said that individuals should not be compelled to divest assets. Mr. Greene agreed with the Commissioner that significant income tax liabilities would discourage competent individuals from getting into politics.

Mr. Stedman said that the only way to ensure that a POH has no knowledge of their assets would be to require full liquidation, with the proceeds placed in a blind trust. He nevertheless does not consider this a suitable approach for every circumstance. He acknowledged that forcing the sale of assets, particularly a robust portfolio of unique assets, could deter individuals from seeking public office. Mr. Ward believes that liquidating assets and then placing the proceeds in a blind trust would be more appropriate.

Mr. Stark said that requiring the sale and reinvestment of assets after they are placed in a blind trust could also resolve the issue. The POH would then have to recuse themselves or be screened from any involvement with that asset until the trustee has sold it.

To address the potential tax implications of mandatory sale, Mr. Conacher suggested the introduction of incentives, such as tax exemptions for affected POHs.[56] Mr. Giorno made a similar recommendation. If there is to be real divestment under the COI Act, he believes that POHs should be compensated.

The Committee makes the following recommendations:

Recommendation 11

That the Government of Canada amend the *Conflict of Interest Act* to impose, to whomever holds the position of prime minister in Canada, as a reporting public office holder under the Act, an obligation to sell all controlled assets within 60 days upon entering into function.

Recommendation 12

That the Government of Canada amend the *Conflict of Interest Act* to ensure that, for the application of subsection 27(1), the prime minister, as a reporting public office holder, is fully divested from their controlled assets through sale, since placement in a blind trust does not constitute true divestment.

56 ETHI, *Evidence*, Conacher. Democracy Watch brief, p. 9.

Recommendation 13

That the Government of Canada amend the *Conflict of Interest Act* to require public disclosure of high-level holdings categories placed in blind trust by reporting public office holders (sector/asset class, and whether the holdings are Canadian-market concentrated).

Prime Minister's Blind Trust

In accordance with sections 17 and 27 of the COI Act, Prime Minister Carney divested his controlled assets by placing them in a blind trust. These assets include interests related to Brookfield.[57] The Commissioner stated that:

> The Prime Minister put all of his assets in a blind trust. He doesn't touch it, he doesn't talk to the trustee, and he doesn't make any decisions about that trust. Naturally, he knows what assets he owned before handing them over to the trustee. That said, decisions relating to companies in which he held assets could be profitable for him if those decisions led to an increase in the assets' value. That's why a conflict of interest screen was put in place. The idea is to prevent the Prime Minister from making any decisions that relate to the assets in the blind trust and that could affect their value. He obviously only knows the assets that were placed in the blind trust in the first place. Maybe those assets have changed or have since been sold.

Justin Beber, Chief Operating Officer at Brookfield Corporation, stated that increases in Brookfield's share price also increase the value of instruments such as stock options and deferred share units.[58] He noted that "[a]nybody who holds those instruments, whether during employment or following employment, derives the benefit from those instruments."[59] He also emphasized that information about these instruments is publicly disclosed. Mr. Beber added that Brookfield's investment strategy is publicly available.

Mr. Thurlow said that it is not possible to know whether the Prime Minister continues to hold the assets initially placed in his blind trust, as the trustee may have sold them. He also noted that, even if those assets remain in the trust, certain government decisions could disadvantage, rather than benefit, those investments. Mr. Blanchard similarly

57 OCIEC, Summary Profile, Mark Carney, Appendix A.

58 ETHI, *Evidence*, Justin Beber (Chief Operating Officer, Brookfield Corporation).

59 ETHI, *Evidence*, Beber.

emphasized that, once assets are placed in a blind trust, the Prime Minister no longer makes decisions with respect to them; those decisions are made by a trustee.[60]

Mr. Giorno pointed out that, while some observers perceive a lack of public information regarding the assets held in the Prime Minister's blind trust, the Commissioner is fully informed of its contents and has the necessary tools to address any potential issues.[61]

However, because assets linked to Brookfield are held in the Prime Minister's blind trust, some witnesses discussed the practices of that company. For example, Mr. Cooper said that Brookfield's investments with Chinese state entities, investments connecting to Middle East entities and its use of investment vehicles—which are based in lower-transparency jurisdictions in the Caribbean—raise legitimate questions about the company's practices.

Mr. Ward said that his organization has studied what it characterizes as Brookfield's tax avoidance practices.[62] He referred to a report alleging that Brookfield avoided paying taxes in Canada between 2017 and 2021, which would have resulted in a tax gap of $6.5 billion.[63] He explained that a tax gap is looking at the statutory income tax rate and that there are some legitimate reasons why companies pay below that. However, he noted that it is "an indication of a major underpayment of taxes that, in the spirit of the law, should have been paid in Canada to finance public services in Canada."

Mr. Ward made further comments on private investments in public infrastructure and services by Brookfield:

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60 ETHI, *Evidence*; Marc-André Blanchard (Chief of Staff of the Prime Minister of Canada, Office of the Prime Minister of Canada); Blanchard.

61 ETHI, *Evidence*, Giorno.

62 See, for example: Centre for International Corporate Tax Accountability and Research [CICTAR], *Tax Dodging by a Canadian Crown Corporation: Revera Living Making a Killing*, January 2021; CICTAR, *Darkness at Sunrise: UK Care Homes Shifting Profits Offshore?*, February 2021; CITAR, *Caring for People or Profit? The Financial Engineering & Real Estate Investment of Groupe Orpea*, February 2022; CICTAR, *CPPIB's Orpea Debacle*, October 2024; CICTAR, *Brookfield's Bermuda Base: Is Canada's Largest Alternative Asset Manager Dodging Global Taxes?*, June 2023; CICTAR, *Kindergarten Landlord: Should Norwegian Taxpayers Finance Profits for One of the World's Largest Asset Managers?*, February 2024; CICTAR, *Brookfield's Isagen: A Case Study on the Need for Change in the Global Tax System*, May 2024; CICTAR, *Water down investment, top up returns: The pitfalls of financing Basic Sanitation in Brazil*, September 2025; See also: CICTAR, *Inquiry Into Early Childhood Education and Care Sector in New South Wales*, Submission to Parliament, Australia, June 2025.

63 ETHI, *Evidence*, Ward; CICTAR, *Brookfield's Bermuda Base: Is Canada's Largest Alternative Asset Manager Dodging Global Taxes?*, June 2023, p. 12.

> I think that the example that I began to speak about of Brookfield and Caisse de dépôt et placement du Québec, CDPQ, investing in a private hospital company in Australia is a lesson for Canadians to be careful in terms of private investment in infrastructure and public services because it often leads to a situation where there's profit extraction that harms tax payments that should be made. Also, generally, it is not contributing to a better service, a better society and the public services that people need.

Mr. Ward stated that if Brookfield is not the largest firm practising tax avoidance, it is the very top tier. He argued that it is problematic that a company previously chaired by the Prime Minister was engaged in tax avoidance.[64]

Mr. Beber rejected allegations of tax avoidance against Brookfield.[65] He emphasized that the company pays taxes in all jurisdictions in which it operates, including Canada, where he stated it remitted over $750 million in federal tax in 2024.[66] He explained that Brookfield engages in tax planning in the same manner as other companies.[67]

Mr. Cooper also provided information regarding Brookfield's ties to China and the role Prime Minister Carney played in bringing them together. He noted that, while serving as Governor of the Bank of England, Mr. Carney worked on establishing a special relationship with the Bank of China. He further noted that, after 2015, Brookfield had made very substantial China-based real estate investments and that around the time of the Bank of China assisting Brookfield with their real estate investment, Mr. Carney, then with Brookfield, traveled to China to meet with senior officials of the Chinese Communist Party.[68]

According to Mr. Cooper, the information he outlined above raises questions about Mr. Carney's access and influence. He nevertheless acknowledged that, at a time when the Chinese economy needed foreign investment, it would have been important for Mr. Carney to attend those meetings.[69] With respect to Brookfield's current ties to China, he also agreed that "a business analyst would say it's almost impossible for international business persons to not be doing business with Chinese state entities in some ways." However, he maintains that Canadians should be aware when a Canadian company has significant interests in China.

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64 ETHI, *Evidence*, Ward.

65 ETHI, *Evidence*, Beber (1120); Beber (1220).

66 Brookfield, Letter to the Committee; ETHI, *Evidence*, Beber (1115); Beber (1115); Beber (1220).

67 ETHI, *Evidence*, Beber (1125).

68 ETHI, *Evidence*, Cooper.

69 ETHI, *Evidence*, Cooper (1225); Cooper (1230).

Compliance Measures: Conflict of Interest Screens (Section 29)

Section 29 of the COI Act provides that the Commissioner may impose appropriate compliance measures on a POH:

> Before they are finalized, the Commissioner shall determine the appropriate measures by which a public office holder shall comply with this Act and, in doing so, shall try to achieve agreement with the public office holder.

One of the compliance measures the Commissioner occasionally uses under this provision is the conflict of interest screen. The Federal Court of Appeal has determined that such screens are a reasonable exercise of the Commissioner's authority under section 29.[70] Writing for a unanimous Court, Justice DeMontigny rejected the argument that conflict of interest screens allow POHs to circumvent the public disclosure requirement set out in section 25(1) of the COI Act for recusals. Rather, he concluded that compliance measures such as conflict of interest screens are intended to ensure that a POH "will not have to recuse himself or herself from a discussion, decision, debate or vote at the last minute."[71]

As Mr. Blanchard noted, the Federal Court of Appeal confirmed that the Commissioner's practice of determining that the establishment of conflict of interest screens is an appropriate compliance measure and making those screens public contributes to the transparency and public accountability purposes of section 25(1) of the COI Act. He noted that Justice DeMontigny accepted the argument that "the publication of conflict of interest screens may well end up providing more information to the public than the publication of recusals."[72]

Use of Conflict of Interest Screens in Other Jurisdictions

The Ontario Integrity Commissioner may recommend the use of a conflict of interest screen under the commissioner's general powers.[73] Such screens are used, for example, to manage conflicts arising from personal relationships with family members, friends or former employers.[74] Ms. Motherwell noted that the eight Ontario ministers who have

70 *Democracy Watch v. Canada (Attorney General)*, 2018 FCA 194 (CanLII). The application for leave to appeal to the Supreme Court of Canada was dismissed.

71 Ibid., para 31.

72 Ibid., para 48.

73 ETHI, *Evidence*, Motherwell.

74 ETHI, *Evidence*, Motherwell (1105); Motherwell (1205).

placed assets in blind trusts do not have accompanying conflict of interest screens. In her view, placing assets in a trust effectively addresses the conflict of interest.

Ms. Motherwell explained that the administration of conflict of interest screens in Ontario is the responsibility of career public servants within the Cabinet office, specifically the Secretary of the Cabinet and supporting staff.[75] To her knowledge, ministers' political staff are not involved in administering such screens.[76]

With respect to her own role, Ms. Motherwell said that she is not involved in the administration of conflict of interest screens at all. She is not informed when a screen is triggered, nor when a matter is brought before Cabinet and a minister is asked to leave the room without being informed of the reason. In her view, public servants are fully capable of administering and overseeing conflict of interest screens.

The Quebec Code does not provide for conflict of interest screens. Nevertheless, Ms. Mignolet stated that she considers them to be an excellent compliance measure and has recommended that they be added to the Quebec Code. At present, she may request that a member of the National Assembly implement certain measures, but these are not made public. She believes that public disclosure of conflict of interest screens, as required under the COI Act, is beneficial.

Ms. Mignolet further stated that responsibility for administering a conflict of interest screen rests with the individual concerned or those around them. It is not the commissioner's role to be present for all major government decisions or Cabinet meetings. She emphasized, however, that clear processes should exist to permit an investigation where there are reasonable grounds to suspect a breach.

Effectiveness of Conflict of Interest Screens

Ms. Turnbull said that all POHs have their own personal circumstances and interact with the ethics regime in unique ways. Some have fairly straightforward financial portfolios and likely would not require a conflict of interest screen, while others have significant financial holdings or prior leadership roles in the private sector that make it more difficult to separate public responsibilities from private interests.

Mr. Giorno expressed support for the use of conflict of interest screens, noting that such "walls" have been used for decades in both government and the private sector. He

75 ETHI, *Evidence*, Motherwell (1135); Motherwell (1205).

76 ETHI, *Evidence*, Motherwell.

acknowledged that screens may be more challenging to apply when they involve the head of an organization, but that does not mean that the screen is not valid or that the principle is inappropriate. Mr. McLaughlin similarly noted that conflict of interest screens are a recognized and legitimate tool.

Conversely, M. Conacher argued that conflict of interest screens are ineffective and inconsistent with the COI Act, namely since they do not apply to matters of general application, which, according to him, represents 99% of decisions. He referred to such a screen as a "smoke screen that hides conflicts of interest." He recommended that their use be prohibited, reiterating that a POH should instead recuse themselves under section 21 of the COI Act and make a public declaration under section 25.[77]

Mr. Levine said that, if the Commissioner intends to rely on conflict of interest screens, their use should be expressly provided for in the COI Act. In his view, reliance on screens suggests that blind trusts are ineffective.[78] In short, he believes that conflict of interest screens risk obscuring conflicts rather than promoting transparency.[79]

Mr. Giorno supported requiring public disclosure every time a conflict of interest screen is activated. Mr. Wernick and Mr. Stark did not oppose such a requirement. Mr. Conacher added that, because the Commissioner sets the terms of the screen, the Commissioner could require public disclosure whenever the prime minister or another POH is shielded from a decision.

The Federal Court of Appeal has expressed reservations regarding public reporting obligations in relation to matters covered by conflict of interest screens, stating:

> Finally, I also agree with the respondents that public office holders would be put in the impossible position of having to report in sufficient detail on matters and meetings they do not even know about if, as the applicant contends, sections 21 and 25 of the Act were engaged even for matters screened out by a conflict of interest screen. In the alternative, the public office holder would need to be made aware, with sufficient detail, of all matters diverted to another decision-maker by the screen and of all meetings where he or she is not scheduled to attend, in order to address the requirements of section 25. Such a course of action would negate the benefits of the screens, which once again are put in place to prevent situations of conflict of interest.[80]

77 Democracy Watch brief, pp. 10–11.

78 ETHI, *Evidence*, Levine.

79 ETHI, *Evidence*, Levine.

80 *Democracy Watch v. Canada (Attorney General)*, 2018 FCA 194 (CanLII), para. 49.

Following Mr. Sabia's appearance, the Privy Council Office committed to providing the Committee with quarterly information on instances where the Prime Minister's conflict of interest screen is triggered.[81] In such cases, disclosure will be made by the administrator of the screen, rather than the POH.

Mr. Sabia had already shared, at the time of his appearance, that 13 cases had been examined with respect to the application of Prime Minister Carney's conflict of interest screen.[82] The Commissioner was consulted in all cases.[83] The administrators of the screen concluded that it did not apply in seven cases and applied in six cases.[84] In those six cases, the Prime Minister cannot be informed of the matters before a final decision is made public. Four cases were still pending at the time of Mr. Sabia's appearance and therefore could not be disclosed publicly. The two other cases related to changes to Canada's tax system, in which the Prime Minister was not involved.[85]

Mr. Wernick reiterated that the arrangements made by a prime minister, minister or other POH to comply with the COI Act are discussed with the Commissioner, who can assess their appropriateness and request changes. He also reiterated that Parliament has given the Commissioner the mandate to ensure compliance with the COI Act. It is therefore up to the Commissioner to make judgments about the appropriate conflict of interest screens and sanctions.[86]

The Committee makes the following recommendation:

Recommendation 14

That the Government of Canada amend the *Conflict of Interest Act* to impose the following requirements on ministers and the prime minister, as reporting public office holders under the Act, with respect to the use of conflict of interest screens or to require the issuance, by the Conflict of Interest and Ethics Commissioner, of binding directives relating to these screens:

81 Privy Council Office, *Letter to the ETHI Committee*, 26 November 2025 [HYPERLINK NOT AVAILABLE].

82 ETHI, *Evidence*, Michael Sabia (Clerk of the Privy Council and Secretary to the Cabinet, Privy Council Office).

83 ETHI, *Evidence*, Sabia.

84 ETHI, *Evidence*, Sabia.

85 ETHI, *Evidence*, Sabia (1740); Sabia (1740).

86 ETHI, *Evidence*, Michael Wernick (Jarislowsky Chair in Public Sector Management, University of Ottawa, As an Individual).

- **a written, auditable log of screened matters (dates, subject category, and the official/alternate decision-maker);**
- **a requirement that administrators of the screen be non-partisan public servants (not political staff);**
- **mandatory public disclosure of a screen's scope and categories, plus a standardized public reporting format; and**
- **a requirement that a mechanism for public reporting of instances where a screen is applied be established.**

Administration of the Prime Minister's Conflict of Interest Screen

In July 2025, the Prime Minister agreed with the Commissioner to implement an additional compliance measure to his blind trust in the form of a conflict of interest screen. This screen is intended to prevent the Prime Minister from being made aware of any official matters or decision-making processes involving the interests of certain companies, including Brookfield Asset Management, Brookfield Corporation and any company owned or controlled by them of which he was aware on the date that his blind trust was established.[87] He may be made aware of such matters or decisions where they are of general application or affect the interests of those companies as members of a broad class of persons unless those interests are disproportionate to the other members of the class.[88]

M. Sabia indicated that the screen was established on 10 July 2025. Prior to that date, a simplified screen had been put in place shortly after Mr. Carney assumed office as prime minister. The difference between the initial and the final screen is that, rather than focusing solely on Brookfield, the final screen lists 103 companies.[89]

The Prime Minister's *Public Declaration of Agreed Compliance Measures* identifies the 103 entities subject to the screen. Mr. Stedman stated that he has "never heard of a conflict of interest screen quite this broad." According to him, that screen does not

87 OCIEC, *Public Declaration of Agreed Compliance Measures (Section 29)*, Mark Carney. Annex A enumerates the entities to which the screen applies.

88 CCIE, Summary Profile, Mark Carney.

89 ETHI, *Evidence*, Sabia.

prevent Prime Minister Carney from participating in decisions relating to these entities on most matters.

The Commissioner explained that the first 25 entities included in Annex A because Prime Minister Carney had "a management position or an oversight role in respect of their investing activities on or prior to January 2025." The following four entities are listed because they are Brookfield portfolio companies that appear in the Registry of Lobbyists. The remaining entities were identified by the Commissioner as being Brookfield-related, even though the Prime Minister had no role in managing them and no direct financial interest in them.[90] Mr. Beber confirmed that all investments made in the Brookfield Global Transition Fund I are listed in Annex A of the public declaration.[91] He noted that only one Brookfield portfolio company in the appendix is located in Canada.

Mr. Beber said that Brookfield owns approximately 2,000 companies in total. With respect to why approximately 100 companies are subject to the screen rather than 2,000, the Commissioner reiterated the rationale for identifying only those entities listed in Appendix A.[92] He accepted the information provided by Mr. Beber and Brookfield that the other companies are of minimal interest.[93] He also reiterated that Brookfield, as a private company, is not subject to the COI Act.

With respect to the administration of the Prime Minister's conflict of interest screen, Mr. Wernick described an approach that appears to remain in use at the Privy Council Office. He said that the Cabinet's job is to review proposals from ministers. The people who prepare and present proposals to Cabinet in the form of documents and papers must be attuned to identifying and flagging any potential conflicts of interest if the minister is subject to a conflict of interest screen. These people include experts who are trained and have accumulated experience in exercising this function. During his tenure as Clerk of the Privy Council, those involved were aware of the specific screening items and had created a radar system to detect them.

The administrators of Prime Minister Carney's conflict of interest screen are the Clerk of the Privy Council and Secretary to the Cabinet, Mr. Sabia, and the Chief of Staff to the Prime Minister, Mr. Blanchard. Some witnesses questioned the selection of these administrators.

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90 OCIEC, *Public Declaration of Agreed Compliance Measures (Section 29)*, Mark Carney, Annex A.

91 Brookfield, *Letter to the ETHI Committee*, 16 November 2025 [HYPERLINK NOT AVAILABLE].

92 ETHI, *Evidence*, von Finckenstein.

93 Ibid.

For example, Mr. Conacher said that anyone who serves at the pleasure of another person is not independent, and the administrators of the conflict of interest screen should therefore not be the Clerk of the Privy Council or the Chief of Staff to the Prime Minister. Mr. Stedman similarly stated that being subordinate to the Prime Minister and administering his conflict of interest screen means being in a conflict of interest. He nevertheless acknowledged that there may be resistance to appointing an external administrator, given the need to preserve confidentiality. He suggested that accountability could be enhanced through ongoing reporting to the Commissioner.

By contrast, Mr. Thurlow and Mr. Greene did not express concerns regarding the choice of administrators of the conflict of interest screen. Mr. Greene noted that the Clerk of the Privy Council is non-partisan, while the chief of staff is partisan and is trusted by the Prime Minister. He believes it is important for the Prime Minister to have someone involved in the screen mechanism he can trust and who can provide advice. The Commissioner noted the following concerning the choice of administrators of the conflict of interest screen:

> Mr. Sabia and Mr. Blanchard are the people who are responsible for all the documents that come before the Prime Minister, whether on the bureaucratic side or the political side. The two of them work with a large team to review every single thing that has to come before the Prime Minister to see if there's a potential conflict of interest. If so, the document isn't presented to the Prime Minister.

The Commissioner noted that the job of the administrators of the conflict of interest screen is to prevent and avoid a conflict of interest. In his view, they are there to ensure that the Primer Minister complies with the COI Act.

Mr. Sabia, one of the administrators of the Prime Minister's screen, said that all advice provided by the public service flows through the Clerk of the Privy Council, which gives him a broad perspective that is critical to his role as an administrator. Mr. Blanchard fulfills these responsibilities on the political side. According to Mr. Sabia, the combination of these roles brings together the perspectives of the public service and the political office.[94] Mr. Blanchard made similar remarks.[95] Both rejected the suggestion that they act at the direction of the Prime Minister in administering the screen.

Mr. Sabia and Mr. Blanchard confirmed that they are not aware of the specific controlled assets placed in the Prime Minister's blind trust. Mr. Blanchard noted that this is consistent

94 ETHI, *Evidence*, Sabia (1705); Sabia (1820).

95 ETHI, *Evidence*, Blanchard (1545); Blanchard (1640); Blanchard (1725).

with the COI Act, under which only the trustee and the Commissioner have knowledge of the contents of the trust.

Mr. Sabia explained that the conflict of interest screen is applied based on the sectors in which the 103 identified companies operate. Where questions of uncertainty arise, they consult the Commissioner, who has access to this information.[96] Mr. Blanchard made similar remarks.[97] Mr. Sabia said that the Commissioner is an integral part of the administration of the screen.[98] Mr. Blanchard agreed.[99] The Commissioner stated that his Office is often consulted. Ms. Robinson-Dalpé confirmed that the Office provides advice with respect to the screen.

Mr. Sabia summarized the process for applying the Prime Minister's conflict of interest screen as follows:

> As a first step, policy decisions that might trigger the screen are identified and reported to the senior management of departments and agencies as they arise. Then departments and the Privy Council Office conduct a very robust case-by-case due diligence examination. At that point, if there appears to be even a remote possibility that the screen may be needed, it is immediately put in place. Why is that? It's so that we always err on the side of caution.[100]

Once this process is completed, the Deputy Secretary for Governance at the Privy Council Office makes a recommendation regarding the application of the screen. The recommendation is reviewed by Mr. Sabia, who makes the final determination. The decision is then communicated to the Prime Minister's Chief of Staff and second administrator, Mr. Blanchard, for concurrence and immediate implementation.[101] Mr. Blanchard described the process in similar terms.[102] He specified that, where the screen applies, departments must clearly identify the documents as subject to the screen so that they are neither shown to the Prime Minister nor discussed with him.[103]

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96 ETHI, *Evidence*, Sabia (1700); Sabia (1700); Sabia (1700); Sabia (1730); Sabia (1730); Sabia (1730).

97 ETHI, *Evidence*, Blanchard (1540); Blanchard (1610).

98 ETHI, *Evidence*, Sabia (1750); Sabia (1800); Sabia (1800); Sabia (1800); Sabia (1800).

99 ETHI, *Evidence*, Blanchard (1615); Blanchard (1645); Blanchard (1655).

100 ETHI, *Evidence*, Sabia (1705); Sabia (1805).

101 ETHI, *Evidence*, Sabia (1645); ETHI, Sabia (1645); Sabia (1755).

102 ETHI, *Evidence*, Blanchard (1620); Blanchard (1620).

103 ETHI, *Evidence*, Blanchard (1700); Blanchard (1705).

The Commissioner confirmed that, in such cases, the Prime Minister is informed of a decision only once it has taken effect.

In the event of a disagreement between the two administrators of the screen, Mr. Sabia said that he would ask the Commissioner to decide.[104] However, the Commissioner insisted on the fact that his Office provides advice on the application of the screen, but does not make decisions for the administrators.

To facilitate the administration of the screen, Mr. Sabia and Mr. Blanchard described the assessment tool for the application of the Prime Minister's conflict of interest screen, which the Commissioner has validated.[105] The assessment tool sets out an analytical framework for how to determine whether the screen should be triggered and identifies sectors requiring particular attention. For example, Mr. Blanchard explained that it helps determine whether a matter is of general application or affects a broad class of persons and, if so, whether the company involved has a disproportionate interest or benefit in that context.

Mr. Sabia said that the assessment tool consists of a series of structured steps.[106] He added that extensive training has been provided across the public service, as well as within the Privy Council Office and the Prime Minister's Office.[107] He emphasized that the process is not based on any single individual. Decisions regarding the application of the screen are made following a process involving multiple public servants.

Mr. Sabia also noted that conflict of interest screens have been used by governments of different political affiliations. For example, Mr. Blanchard said that the screen established for Nigel Wright when he became chief of staff to former prime minister Stephen Harper following a career in the private sector is similar to that of the current prime minister.[108] At the time, Mr. Wright said that "the actual design and administration of the wall fit within well-established practices that have been used not only in the Government of Canada but elsewhere widely across this continent."[109]

Mr. Giorno said that the conflict of interest screen for Mr. Wright was administered by the deputy chief of staff, who reported to the chief of staff. In his view, the situation under the

104 ETHI, *Evidence*, Sabia.

105 ETHI, *Evidence*, Sabia; Blanchard (1545); Blanchard (1645).

106 ETHI, *Evidence*, Blanchard.

107 ETHI, *Evidence*, Blanchard (1720); Blanchard (1720).

108 ETHI, *Evidence*, Blanchard (1615); Blanchard (1635).

109 ETHI, *Evidence,* 40th Parliament, 3rd Session, Nigel Wright (As an Individual)

Harper government "is exactly" the same as the current arrangement, whereby Prime Minister Carney's screen is administered by his chief of staff and the Clerk of the Privy Council.

Mr. Blanchard said that the system in place to prevent the Prime Minister from finding himself in a conflict of interest is one of the most comprehensive and rigorous he has seen in his career.[110] Mr. Sabia similarly stated that the Prime Minister's conflict of interest screen is every bit as rigorous as any screen he has seen in the private sector.[111]

Mr. Sabia further noted that the conflict of interest screen provides an additional layer of protection beyond the blind trust and contributes to transparency and accountability. The screen reflects the reality that, while an individual may not know the precise composition of their blind trust, they may have a general understanding of the types of assets it contains. In the Prime Minister's case, the screen ensures that he is not involved in certain decisions.[112] Mr. Blanchard made similar comments regarding the preventive nature of the screen.[113]

The Commissioner also noted that the screen is "a preventive measure. We don't want a conflict of interest to arise that would require the Prime Minister, or anyone else, to recuse themselves." He reminded the Committee that this measure has been approved by the Federal Court of Appeal. Based on the testimony of Mr. Sabia and Mr. Blanchard on the administration of the conflict of interest screen, the Commissioner believes that it is a measure that works well.

Ms. Robinson-Dalpé added that the conflict of interest screen of the Prime Minister is there to anticipate conflicts of interest. It is not there for the Prime Minister to avoid conflicts of interest. "[I]f a matter is brought to the Prime Minister's attention and the Prime Minister is aware that it would further the private interests of Brookfield, then he would have to recuse, even if the screen did not capture that item…"

Specific examples were raised with Mr. Sabia and Mr. Blanchard during their appearance to confirm how the Prime Minister's screen is applied. For example, Mr. Sabia and Mr. Blanchard said that the Budget 2025 Implementation Act, No. 1[114] should be

110 ETHI, *Evidence*, 45th Parliament, 1st Session, Blanchard.

111 ETHI, *Evidence*, Sabia.

112 ETHI, *Evidence*, Sabia.

113 ETHI, *Evidence*, Blanchard.

114 Parliament of Canada, 45th Parliament, 1st session, Bill C-15, An Act to implement certain provisions of the budget tabled in Parliament on November 4, 2025.

considered a matter of general application, even though one measure provides tax credits in the nuclear sector, which is identified in the grid as requiring particular attention. Mr. Aquilino noted that, based on his understanding, the tax credits in question apply to taxpayers and are therefore of general application. Mr. Sabia emphasized the distinction between announcing a government priority and participating in a decision involving the allocation of federal funds to a specific company.[115]

Mr. Stark reminded the Committee that there are three possible remedies for conflict of interest: recusal, divestment and disclosure. When recusal and divestment are not possible—because a prime minister must participate in decisions of general application and a blind trust does not require the sale of assets—disclosure is the appropriate response. In his view, Canadians will be able to judge for themselves whether they think the Prime Minister is in a conflict of interest and vote accordingly. Ms. Turnbull expressed a similar view, stating that, if the public is unhappy with the Prime Minister, they will make it known. She argued that "[y]ou can't create ethics rules around individuals, ever. That's not the point."

The Committee makes the following recommendation:

Recommendation 15

That the Government of Canada amend the *Conflict of Interest Act* to establish separate rules for the person who holds the position of prime minister, recognizing that individuals with greater decision-making authority should be held to higher standards.

Sanctions, Administrative Monetary Penalties and Fines (Section 52)

Sanctions Regimes in Canada and Elsewhere

Section 52 of the COI Act provides that a POH who contravenes certain compliance measures set out in Part 2 of the COI Act commits a violation and is liable to an administrative monetary penalty not exceeding $500. For example, an administrative monetary penalty may be imposed where a reporting POH fails to provide a confidential report to the Commissioner within 60 days after the day on which they are appointed.[116] The Commissioner recommended increasing the maximum amount of administrative

115 ETHI, *Evidence*, Sabia.

116 *Conflict of Interest Act*, S.C. 2006, c. 9, s. 2, sections 22(1) and 26(1).

monetary penalties to $3,000.[117] There are no sanctions for contravening conflict of interest rules in Part 1 of the COI Act (sections 4 to 19).

By comparison, the *Conflict of Interest Code for Members of the House of Commons* authorizes the Commissioner to recommend that the House of Commons impose "appropriate sanctions." In Quebec, the Ethics Commissioner may recommend that the National Assembly impose a sanction for violations of the Quebec Code.[118] Eight sanctions are available, ranging from a reprimand, to a penalty, to removal from Cabinet.[119] Sanctions must be proportional to the seriousness of the violation. The Quebec Code does not specify the amount of a monetary penalty, which Ms. Mignolet said is determined based on what she deems appropriate in each individual case. The Quebec Code does not provide for penalties in cases of failure to produce documents or delay.[120]

In Ontario, the Integrity Commissioner may recommend a penalty for a violation of the *Members' Integrity Act* to the Legislative Assembly. Section 34 of that Act sets out four options: no penalty, a reprimand, suspension of a member's right to sit and vote for a specified period or until a condition imposed by the Integrity Commissioner is fulfilled, or declaration of a vacant seat. The *Members' Integrity Act* does not provide for monetary penalties for non-compliance with substantive rules of the Act.[121] As under the COI Act, penalties may be recommended for failure to produce documents or for delay.

Mr. Greenberg explained that, in the U.K., he refers cases to the Committee on Standards following an investigation, after which that committee makes recommendations to the House of Commons. Sanctions may vary and can include a suspension of the member or a simple apology, and must be proportionate to the incident.

Proposed Amendments

Mr. Giorno said that the absence of penalties in the COI Act is one of its most significant weaknesses. He noted that the COI Act contains 55 distinct rules—31 prohibitions and 24 obligations—yet only 15 of the least serious provisions carry penalties. Mr. Conacher

117 OCIEC 2024–2025 Annual Report, p. 9.

118 ETHI, *Evidence*, Mignolet.

119 ETHI, *Evidence*, Mignolet. The eight sanctions that the Ethics Commissioner may recommend are set out in section 99 of the Quebec Code.

120 ETHI, *Evidence*, Mignolet.

121 ETHI, *Evidence*, Motherwell.

similarly argued that, in practical terms, the COI Act currently contains "zero penalties." In his view, increasing the penalty under section 52 to $3,000, as recommended by the Commissioner, is meaningless as it will not discourage those covered by the COI Act. He advocated instead for a mandatory, sliding scale of penalties that would increase in severity based on the level of authority held by the individual.

Mr. Giorno further argued that increasing the penalty is pointless so long as violations of the other 40 provisions remain unsanctioned, stating that "it sends a message that the big rules aren't taken seriously and get to be ignored." He suggested that more serious penalties, including significant fines or imprisonment, could be considered, although he acknowledged that this would likely require removing from the Act rules that are not suitable for such consequences.

Mr. Wernick also supported the introduction of a range of penalties, including non-monetary penalties such as the loss of security clearance or a prohibition on running for public office. He emphasized the importance of proportionality and noted that, if Parliament were to adopt a very strict regime imposing criminal sanctions, it would likely need to reconsider including concepts such as the appearance of a conflict of interest in the COI Act.

In a similar vein, Mr. Stark noted that, if apparent conflicts of interest were explicitly recognized in the COI Act, any associated penalties would need to be carefully calibrated, given the inherent vagueness of the concept. Mr. McLaughlin suggested that one way to strengthen the Commissioner's role would be to empower the Commissioner to impose penalties directly under the COI Act.[122] Democracy Watch also recommended that the Commissioner be granted such authority.[123]

Mr. McLaughlin declined to specify an appropriate level for monetary penalties, but stated that higher fines would send a stronger signal that violations of the COI Act are taken seriously. He did not consider it necessary to impose additional penalties or measures specifically targeting the prime minister.

Mr. Stark emphasized that, prior to imposing sanctions, individuals found to be in a conflict of interest should be given an opportunity to remedy the situation. For example, that person could apologize and acknowledge their mistake. He cited the example of former labour minister Claudette Bradshaw, who reimbursed the cost of an improperly

122 ETHI, *Evidence*, David McLaughlin (As an Individual).

123 Democracy Watch brief, p. 13.

accepted trip and apologized to the House.[124] In his view, significant fines should be imposed only where a conflict of interest is not remedied. He did not suggest a specific penalty amount.

Mr. Thurlow cautioned against the assumption that individuals subject to the COI Act do not take their obligations seriously. He stated that the parliamentarians he talks to are vigilant about their obligations. He added that the public can see online who has contravened the COI Act and who has been issued a penalty, which he does not consider to be a mere slap on the wrist. He did not recommend any specific amendments to section 52.

The Committee makes the following recommendation:

Recommendation 16

That the Government of Canada amend the *Conflict of Interest Act* in order to:

- **Establish a sliding scale for penalties and other sanctions meant to be proportionate to the seriousness of the violation, that includes, at least:**
  - **A benefit-disgorgement (repayment of gains linked to the breach);**
  - **A percentage-based administrative penalties tied to the public office holder's level of authority and the seriousness of the breach; and**
  - **Serious sanctions for non-compliance by a reporting public office holder with divestment requirements under the Act.**
- **Provide the Conflict of Interest and Ethics Commissioner with discretionary authority to impose these penalties and sanctions for violations of the substantive provisions of the Act; and**
- **Require the publication of issued penalties and sanctions in a public registry, with the Conflict of Interest and Ethics Commissioner's reasons.**

124 ETHI, *Evidence*, Stark.

Other Provisions

The Commissioner recommended amending section 15 of the COI Act to give the Commissioner the discretion to authorize reporting POHs to engage in outside activities that the Commissioner determines would not give rise to a conflict of interest like teaching part-time at a university.[125]

Mr. Giorno recommended incorporating into the COI Act key provisions from *Open and Accountable Government*, specifically Annex B, which addresses fundraising and dealing with lobbyists, and Annex I, which sets out the code of conduct for ministerial exempt staff. Mr. Conacher supported this recommendation and noted that the ministerial code has not been updated since 2015.

Democracy Watch also made several other recommendations in its brief to the Committee.[126] For example, it recommended extending the time limit on post-employment rules set out in sections 35 to 42. Mr. Thurlow recommended consolidating post-employment rules for POHs into a single statute, noting that such rules are currently split between the COI Act and the *Lobbying Act*.

Democracy Watch further recommended allowing members of the public to file complaints with the Commissioner.[127] Mr. Thurlow supported this recommendation, while suggesting that the Commissioner be given the authority to refuse to investigate complaints that do not meet a defined evidentiary threshold, with reasons provided for such refusals.

The Committee makes the following recommendation:

Recommendation 17

That the Government of Canada amend section 15 of the *Conflict of Interest Act* to grant the Conflict of Interest and Ethics Commissioner discretion to authorize reporting public office holders to engage in outside activities such as teaching, non-profit or charitable activities, where the Commissioner determines that no conflict of interest would arise.

125 OCIEC 2024–2025 Annual Report, p. 9; ETHI, *Evidence*, von Finckenstein.

126 The brief also includes recommendations to amend other acts.

127 Democracy Watch brief, p. 14.

CHAPTER 3—OTHER WAYS TO STRENGTHEN THE FEDERAL CONFLICT OF INTEREST REGIME

Education and Awareness

Education and Awareness of Public Office Holders

Mr. Greene noted that eight provinces require annual meetings between the ethics commissioner and individual members of provincial legislatures. He stated that these meetings are critical to preventing conflicts of interest. He linked conflict of interest scandals—reported to occur more frequently among federal members of Parliament and ministers than among their provincial counterparts—to the optional nature of such meetings at the federal level.

Mr. Greene added that annual meetings between ethics commissioners and elected officials encourage officials to consult the commissioner whenever they have doubts about the existence of a conflict of interest. He noted that, at the federal level, an advisor from the Office of the Conflict of Interest and Ethics Commissioner is assigned to each member of Parliament and each minister. Mr. Greene recommended making annual meetings mandatory.

Ms. Mignolet said that meetings and contact between elected officials and the Office of the Ethics Commissioner of Quebec are essential, particularly since training is not mandatory in Quebec. She believes training should be mandatory. Ms. Mignolet explained that, in educating candidates, she informs them of their future ethics and professional obligations and also provides informal advice.

Ms. Mignolet further explained that the Quebec Code applies to the conduct of elected officials in all contexts, whether with constituents, in connection with a minister's executive power, in the National Assembly or on social media. That is why she is raising awareness among elected officials and their political staff regarding social media use, including the need to be careful and verify content that is posted, reposted or liked and by reminding them of their duty to set an example.

In Ontario, Ms. Motherwell said that the *Members' Integrity Act* allows members to seek confidential advice from the Integrity Commissioner. The *Members' Integrity Act* also requires all members to submit an annual financial disclosure and to meet with the Commissioner to discuss that disclosure and their obligations under the Act. She described the mandatory annual one-hour in-person meeting as one of the strengths of the Ontario regime.

Ms. Motherwell also noted that the Ontario Integrity Commissioner's website provides information on the ethics and conflict of interest regime for individuals wishing to run for office. She also noted that she gives a presentation to all new members following an election, participates in a service fair to answer questions and meets individually with each member.

In light of the above, the Committee makes the following recommendation:

Recommendation 18

That the Government of Canada amend the *Conflict of Interest Act* to require annual meetings between public office holders and representatives of the Office of the Conflict of Interest and Ethics Commissioner.

Public Awareness and Education

Drawing on the U.K. experience, Mr. Greenberg emphasized that outreach and public engagement are absolutely essential. He said that greater transparency about the system in place and the mechanisms used to ensure that most politicians act in the public interest contribute to increased public trust. As an example of public engagement to increase public trust in politicians, he noted that ordinary citizens serve as members of the Committee on Standards in the U.K.[128]

Ms. Mignolet similarly emphasized the importance of raising public awareness, and she referred to the many partnerships her office has established with universities. She explained that their goal is to reach and educate the entire public service as well as individuals who engage from the sidelines with POHs, members and ministers. She noted that these efforts are having an impact, particularly in encouraging consultation with the Commissioner to ensure proper application of post-employment rules.

Application of the *Conflict of Interest Act* to Political Party Leaders and Leadership Candidates

Mr. Stedman recommended that the advice given by the Commissioner to POHs on compliance with the COI Act and on the prevention of conflicts of interest—whether real, apparent or potential—should also be available to candidates for public office. He said that the Office should be available for consultation by candidates, and that political parties should encourage, if not require, serious candidates to seek such advice.

128 ETHI, *Evidence*, Greenberg.

Mr. Stedman added that, beyond clarifying the scope of applicable ethics rules, the Office could give them advice on how to put their affairs in order and advice about what being seen to be doing good might look like. He added that this advice should also be offered to candidates for party leadership, even if they do not currently hold a seat, and that their obligations should be at least as strict as those currently applicable to elected officials under the COI Act.

Ms. Turnbull identified as a possible loophole the fact that leaders of opposition parties are not subject to an ethics regime where they are not members of the executive. She said, however, that she did not view this as a concern, as a leader who becomes prime minister following a change in government would become subject to the COI Act upon assuming executive office.

Ms. Turnbull further stated that, if conflict of interest rules were extended to the leader of the official opposition, it would be logical to extend them to all party leaders. She noted that, given the constitutional role of the leader of the official opposition as a potential prime minister, it could be argued that such a role carries a special responsibility to be transparent with respect to assets. She added, however, that in theory any party leader could ultimately gain the confidence of the House of Commons if a prime minister were to lose it, although this type of situation does not typically occur in the Canadian parliamentary system.

With respect to applying ethics rules to candidates in party leadership contests, Ms. Turnbull said that leadership races are primarily internal party processes, with Elections Canada playing an oversight role with respect to financing. She argued that requiring leadership candidates to disclose their assets would impose an undue burden on them and serve no public purpose, noting that such candidates are private citizens who have no power, do not make decisions on behalf of the public and do not control public funds.

The Committee makes the following recommendation:

Recommendation 19

That the Government of Canada amend the *Conflict of Interest Act* to ensure that political party leaders, including party leaders who are not members of Parliament, be designated as reporting public office holders for the purposes of the application of the Act.

Harmonization between the *Conflict of Interest Code for Members of the House of Commons* and the *Conflict of Interest Act*

With respect to harmonization, Ms. Robinson-Dalpé said:

> It's always easier to have harmonized rules because you know all the rules that apply to each of you. That means it's always clearer when the same regime applies to everyone who's subject to the rules on conflicts of interest.
>
> For example, in Quebec or Ontario, a rules model is used for the various categories of people who are subject to the rules, but within the same framework.
>
> I think it's much more understandable and much clearer for the people subject to those rules when the regime is the same for everyone.

Mr. Greene said that it is confusing to have sets of rules in the COI Act that differ from those in the *Conflict of Interest Code for Members of the House of Commons*. He suggested that including apparent conflicts of interest in the COI Act, as is already the case under the Code, would reduce that confusion. Mr. Wernick suggested that, if the COI Act and the Code were harmonized, distinctions between categories of members should be made.

Mr. Conacher said that many provinces have a single statute that applies to both ministers and members, with special provisions applicable to members of the executive. With respect to Quebec, Ms. Mignolet said that the Quebec Code establishes distinct rules for members and ministers.

Mr. Conacher further stated that, even if all provisions were combined into a single legislative framework, a sliding scale of accountability and standards should apply, such that individuals with greater decision-making authority would be held to higher standards.

Independence of the Conflict of Interest and Ethics Commissioner

Role of the Conflict of Interest and Ethics Commissioner

Mr. Cooper drew on his experience as a reporter in British Columbia to argue that the Conflict of Interest and Ethics Commissioner should be independent, not serve at the pleasure of the prime minister and not be appointed by the prime minister.[129]

Mr. Greene agreed that the Commissioner's recommendation to provide for an interim commissioner through the automatic designation of the Commissioner of Lobbying under proposed new section 82(3) of the COI Act would strengthen the perception of independence. He added that the choice of Commissioner must be acceptable to both the government and the opposition, given the importance of that individual having the trust of both sides of the House.

Ms. Turnbull noted that, in other jurisdictions, including within Canada at the provincial level, an agent of Parliament may be appointed interim Conflict of Interest and Ethics Commissioner. She said such an individual could be a judge or another non-partisan person with appropriate credentials, appointed until a permanent commissioner is selected. She emphasized the importance of the Commissioner's role and the need for the appointee to exercise sound judgment and command public trust.

Appointment Process for the Conflict of Interest and Ethics Commissioner

Mr. Greene noted that most provinces have a legislative committee composed of members of all parties that advertises the position of ethics commissioner and interviews the best candidates. He added that, in some cases, candidates say during the interview that they would accept the appointment only if the committee's recommendation is unanimous, given the importance of having the trust of both sides of the House.

Ms. Turnbull cautioned that the Commissioner's role can very easily become politicized. She said that party leaders should agree in advance on the qualifications required and

129 *Parliament of Canada Act*, R.C.S. 1985, c. P-1, section 81. The Conflict of Interest and Ethics Commissioner is appointed by the Governor in Council, by commission under the Great Seal, after consultation with the leader of every recognized party in the House of Commons and approval of the appointment by resolution of that House.

the nature of the role, in order to reduce the risk that the Office becomes a focal point for partisan disputes following controversial decisions.[130]

Ms. Turnbull said she strongly doubts that the public is aware of the Commissioner's role and the way in which the Office operates. She pointed out that the position is not a political appointment and that the public likely expects the appointee to be selected on the basis of trust, qualifications and merit.

In Quebec, the appointment process for the Ethics Commissioner differs from that used for other individuals designated by the National Assembly. Ms. Mignolet explained that the appointment must be approved by two-thirds of the National Assembly and that the government must table the motion jointly with the official opposition. In her view, this process enhances the independence and impartiality of the position.

In Ontario, Ms. Motherwell noted that the Integrity Commissioner is appointed by the Legislative Assembly of Ontario as a whole. She said it is essential that there is trust among elected members and the public service that the Commissioner will be fair and impartial and that the advice provided to them is grounded in the legislation and the facts presented. She added that the public must also have trust that the Commissioner will fulfill their duties fully mindful of the public interest.

The Committee makes the following recommendation:

Recommendation 20

That the Government of Canada amend subsection 81(1) of the *Parliament of Canada Act* to provide for the appointment of the Conflict of Interest and Ethics Commissioner by a motion, jointly moved by the Government and the official opposition, and which must be approved by a two-thirds vote of the members of the House of Commons.

Combining the Office of the Conflict of Interest and Ethics Commissioner and the Office of the Lobbying Commissioner

The Commissioner has raised another potential reform in the past, the possible reorganization of the Office of the Commissioner of Lobbying and the Office of the Conflict of Interest and Ethics Commissioner. He noted the possibility of merging the two offices to save money.

130 Section 81(2) of the *Parliament of Canada Act* identifies the qualifications required to be appointed Conflict of Interest and Ethics Commissioner.

Mr. Giorno opposed the idea of combining the roles of the Conflict of Interest and Ethics Commissioner and the Lobbying Commissioner, noting that each is responsible for regulating distinct aspects of conduct involving POHs. Mr. Thurlow expressed similar opposition on the same grounds.

Mr. Giorno also pointed out that the Conflict of Interest and Ethics Commissioner already has pooled responsibility for POHs and reporting POHs under the COI Act, as well as members of Parliament under the Code. While he acknowledged that there may be scope to expand the Commissioner's public sector reach, he argued that having the same regulator regulating the private sector and the public sector at the same time is not good policy.

Rather than merging the two offices, Mr. Giorno recommended greater alignment through shared definitions and joint guidance. He noted that the two commissioners already collaborate and have sought to align their approaches, for example through shared guidance on matters such as acceptable limits for meals and hospitality.

CONCLUSION

The Committee's review of the COI Act highlighted both the strengths and the limitations of the current federal conflict of interest regime and identified several avenues for improvement. It also clarified certain aspects of the application of the COI Act to Prime Minister Mark Carney, in particular with respect to the divestment of his controlled assets through their placement in a blind trust and the administration of his conflict of interest screen.

The Committee's recommendations would allow for the modernization of the COI Act to ensure the effective conflict of interest management.

The review further underscored, among many things, the need to strengthen enforcement mechanisms under the COI Act. In the Committee's view, the Conflict of Interest and Ethics Commissioner should be empowered to impose a range of penalties proportionate to the seriousness of the violation.

Lastly, the Committee concludes that enhanced education and outreach would contribute to a clearer understanding of the COI Act and, in turn, to improved compliance with both its letter and spirit by POHs, as well as increased public confidence in the integrity of those subject to the COI Act.

APPENDIX A:
LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee's webpage for this study.

Organizations and Individuals	Date	Meeting
As an individual	2025/09/24	5
Ian Greene, Professor Emeritus, School of Public Policy & Administration, York University		
As an individual	2025/10/01	6
Ian Stedman, Associate Professor, York University		
Lori Turnbull, Professor, Faculty of Management, Dalhousie University		
Democracy Watch	2025/10/01	6
Duff Conacher, Co-founder, Board Member and Chairperson, Government Ethics Coalition		
As an individual	2025/10/08	8
Guy Giorno, Lawyer		
Gregory J. Levine, Lawyer, Ethics Consultant, Social Scientist		
Thurlow Law	2025/10/08	8
W. Scott Thurlow, Founder		
United Kingdom House of Commons	2025/10/20	9
Daniel Greenberg, Parliamentary Commissioner for Standards		
Centre for International Corporate Tax Accountability and Research	2025/10/22	10
Jason Ward, Principal Analyst		
As an individual	2025/10/27	11
Samuel Cooper, Journalist, The Bureau		
Michael Wernick, Jarislowsky Chair in Public Sector Management, University of Ottawa		

Organizations and Individuals	Date	Meeting
As an individual	2025/10/29	12
Allison Christians, Full Professor, H. Heward Stikeman Chair in Tax Law, McGill University		
Tax Justice Network	2025/10/29	12
Andres Knobel, Lead Researcher, Beneficial Ownership		
Commissaire à l'éthique et à la déontologie du Québec	2025/11/03	13
Ariane Mignolet, Ethics commissioner of Québec		
Office of the Integrity Commissioner of Ontario	2025/11/03	13
Cathryn Motherwell, Integrity Commissioner of Ontario		
As an individual	2025/11/05	14
David McLaughlin		
Andrew Stark, Professor, Political Science, University of Toronto		
Privy Council Office	2025/11/19	16
Michael Sabia, Clerk of the Privy Council and Secretary to the Cabinet		
Office of the Prime Minister of Canada	2025/11/20	17
Marc-André Blanchard, Chief of Staff of the Prime Minister of Canada		
Brookfield Corporation	2025/11/24	18
Justin B. Beber, Chief Operating Officer		
Office of the Conflict of Interest and Ethics Commissioner	2025/12/08	22
Michael Aquilino, Legal Counsel		
Lyne Robinson-Dalpé, Director, Advisory and Compliance		
Konrad von Finckenstein, Commissioner		

APPENDIX B:
LIST OF BRIEFS

The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's webpage for this study.

BC Coalition of Experiential Communities

Democracy Watch

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this report.

A copy of the relevant *Minutes of Proceedings* (Meetings Nos. 5, 6, 8 to 14, 16 to 19, 22, 29 and 32 to 35) is tabled.

Respectfully submitted,

John Brassard
Chair

Dissenting Opinion of the Liberal Party of Canada – Conflict of Interest Act

Introduction

The Liberal members of the Standing Committee on Access to Information, Privacy and Ethics participated fully and in good faith in this review of the Conflict of Interest Act. We supported the principle of the review and engaged constructively with every witness who appeared before the Committee, because we believe that a strong, effective and fair conflict of interest regime is essential to maintaining public trust in Canada's democratic institutions.

However, we cannot support the report as adopted by the majority. In our view, a number of the Committee's recommendations are not grounded in the weight of the evidence heard, would create significant practical problems in the administration of the Act, and in several instances appear to have been crafted with one individual in mind rather than in pursuit of sound, durable public policy. As Professor Lori Turnbull reminded this Committee: *"You can't create ethics rules around individuals, ever. That's not the point."*

We are also concerned that some witnesses who appeared before the Committee and whose testimony features in the majority's reasoning lacked the subject-matter expertise one would expect in a review of this significance. We address this concern below.

Concerns Regarding Witness Expertise

While the Committee benefited from the testimony of accomplished legal scholars, Federal and Provincial Ethics Commissioners, expert scholars and experienced practitioners, the majority report also relies on the testimony of a witness whose expertise on the Conflict of Interest Act was, at best, limited.

During Committee proceedings, journalist Samuel Cooper was asked about the basis for his recommendations regarding the Act. Mr. Cooper acknowledged that *"most of my technical knowledge comes from another witness, Mr. Conacher."* He confirmed that his understanding of the Act was derived largely from interviews with a single individual, Duff Conacher of Democracy Watch.

This lack of independent expertise was further underscored when Mr. Cooper was questioned on the independence of the Ethics Commissioner's office. Rather than offering his own informed assessment, he deferred entirely to Mr. Conacher's position, stating: *"I lean towards Duff Conacher's testimony that it's not independent enough, no."*

It had become clear that Mr. Cooper appeared before the Committee to propose amendments to the Conflict of Interest Act on the basis of interviews conducted with essentially one person, without adequately considering alternative perspectives offered by the Federal Conflict of Interest and Ethics Commissioner, by provincial commissioners, by scholars and by experienced practitioners. It is troubling that the majority report treats such testimony as carrying equal weight to that of genuine subject-matter experts.

The Importance of Encouraging Competent Persons to Seek Public Office

The majority recommends removing objectives (d) and (e) from section 3 of the Act, which respectively encourage experienced and competent persons to seek and accept public office, and facilitate interchange between the private and public sectors. We strongly disagree.

These purposes are not afterthoughts. They reflect a deliberate and essential policy choice by Parliament to ensure that Canadians from all walks of life, including those with private-sector experience, are encouraged to seek public office.

Witness after witness echoed this point. Scott Thurlow, Founder of Thurlow Law, reinforced this by stating:

> *"We're trying to encourage the best and the brightest to become parliamentarians and put their names forward to be part of this decision-making body. We want to encourage them to seek public office and give their wealth of experience to Canadians."*

Michael Wernick, a former Clerk of the Privy Council, cautioned that overly restrictive rules could exclude people with private-sector experience from public life. Michael Sabia, the current Clerk, emphasized the importance of enabling Canada to continue attracting competent individuals to government. Professor Ian Greene, Professor Emeritus at York University's School of Public Policy and Administration, similarly cautioned that unnecessarily strict rules would be counterproductive and discourage competent individuals from entering politics.

Removing these foundational purposes from the Act would send a clear signal to accomplished Canadians considering public service. It would suggest that Parliament views private-sector experience as a liability rather than an asset—an approach that would impoverish our democracy and weaken our government at a time when Canada needs its best talent in public life.

The Risks of Incorporating Apparent Conflict of Interest

The majority recommends incorporating the concept of apparent conflict of interest into the Act and empowering the Commissioner to investigate and impose remedial measures on that basis. While the concept has some appeal in the abstract, the testimony before this Committee revealed significant practical and legal concerns that the majority has not adequately addressed.

Professor Lori Turnbull drew a critical distinction between soft and hard approaches to ethics regulation, arguing that the concept of apparent conflict of interest belongs in codes of conduct, not in legislation. As she told the Committee:

> *"Enforcing that into a law is a different thing. I think the appearance of conflict of interest is problematic. It can cause a trust problem with the public. There's a reason to enumerate that in a code. Enumerating it into a law starts to create problems in terms of back and forth around whether there's really an appearance. How do you get into the legalities of that? If you're going to start fining people in terms of administrative monetary penalties, that's messy to me, and it misses the point."*

This is legislation, not aspiration, and the consequences of getting it wrong are severe.

Scott Thurlow pointed to the fundamental difficulty of proving the appearance of a conflict objectively and warned that including apparent conflicts of interest in the Act would *"create more problems than it would solve."* Michael Wernick, with decades of experience at the highest levels of the public service, cautioned that the concept as well, stating, *"I don't think you can describe potential issues of perceived conflict in the future in a way that can really be legislated with a lot of clarity. There's just too much subjectivity."* Even Guy Giorno, who supported inclusion in principle, conceded that extending the Act to apparent conflicts would make it harder to apply.

Professor Andrew Stark raised a further concern: that the Commissioner might be expected to rule on allegations manufactured by political opponents on social media, creating the appearance of conflicts where none exist. In a parliamentary system that thrives on adversarial debate, this is not a theoretical risk, it is a certainty. The majority report fails to grapple with the inevitable reality that, in a parliamentary system built on adversarial debate, apparent conflict of interest provisions would be weaponized for political purposes, discouraging public office holders from making the difficult decisions that Canadians expect of them.

The General Application Rule Is a Cornerstone, Not a Loophole

The majority recommends narrowing the exclusion for decisions of general application, particularly as it applies to the Prime Minister, Ministers and Parliamentary Secretaries. This recommendation, if implemented, could render senior members of the executive unable to govern.

The testimony on this point was clear. Michael Aquilino, legal counsel for the Office of the Conflict of Interest and Ethics Commissioner, confirmed that *"the general application exemption is found in all ethics regimes in Canada. It's an almost uniform provision in all provinces."* Gregory Levine similarly noted that excluding decisions of general application from the definition of private interest is not uncommon and appears in several provincial statutes.

Scott Thurlow warned of the consequences of narrowing the general application rule:

> *"The problem with the position you're advancing is that, if we don't have a general application rule, will parliamentarians ever be able to vote on anything? Where do we draw the line with something in front of Parliament that is important for the country to keep going? We could get into the CUSMA or the USMCA, depending on what you call it. There are so many other things that an individual's past performance or past experience is going to have an impact on. It's very difficult to narrow the rule of general application."*

Professor Andrew Stark acknowledged the practical argument that a prime minister who is unable to address matters of general application would be unable to govern effectively. Michael Wernick also recommended against expanding the concept of private interest to capture decisions of general application, noting that many policies and legislation, including the federal budget, have broad implications.

The majority's recommendation to narrow this rule specifically for prime ministers, ministers and parliamentary secretaries is an invitation to paralysis at the highest levels of government. It would create an unworkable regime in which the most consequential decision-makers in the country are the least able to make decisions.

Blind Trusts and Conflict of Interest Screens Are Effective

The majority report casts doubt on the effectiveness of blind trusts and recommends mandatory sale of controlled assets for prime ministers. This recommendation stands in direct opposition to the evidence heard by this Committee.

Cathryn Motherwell, the Integrity Commissioner of Ontario, was unequivocal. She had stated, "I have not seen evidence within my experience thus far that indicates that a trust does not work." She described trusts as *"essential tools"* and noted that her experience with them has been positive. Before recommending mandatory sale, she said she would look *"for evidence … for obvious examples of where it is proven that the trust model, that trust framework, does not work."* No such case was made.

Ariane Mignolet, the Ethics Commissioner of Quebec, similarly urged caution. She stated that she has not observed anything in Quebec that would lead her to believe that mandatory sale is absolutely necessary, nor has she seen evidence to suggest that blind trusts or blind management agreements do not work. She also noted that additional measures may be implemented alongside a blind trust to ensure compliance.

Commissioner von Finckenstein confirmed that the Prime Minister placed all of his assets in a blind trust, that he does not communicate with the trustee, and that an additional compliance measure — the conflict of interest screen — was put in place precisely to address the fact that the Prime Minister would know what assets were initially placed in the trust. Scott Thurlow reinforced the legal significance of this arrangement, stating: *"Once you are a public office holder and your materials are in a blind trust, you have crossed that line and you are no longer making a decision that can legally benefit you."* When asked whether *"as of the date that blind trust is created, he [Prime Minister Mark Carney] no longer knows what is contained in that or how it is being handled or how those affairs are being conducted,"* the Commissioner replied: *"That's correct."*

The Federal Court of Appeal in Democracy Watch v. Canada (Attorney General), 2018 FCA 194 has also confirmed that conflict of interest screens are a reasonable exercise of the Commissioner's authority under section 29 of the Act.

Michael Sabia and Marc-André Blanchard, the two administrators of the Prime Minister's screen, described the robust and multi-layered process by which the screen is administered, confirming that the Conflict of Interest and Ethics Commissioner was consulted in all cases that had been examined with respect to the application of the Prime Minister's conflict of interest screen. Mr. Blanchard described the system as *"one of the most comprehensive and rigorous"* he has seen in his career. Mr. Sabia said it is *"every bit as rigorous as any screen he has seen in the private sector, pretty much ever."* When questioned on the appropriateness of the administrators chosen, Commissioner von Finckenstein explained:

> *"Mr. Sabia and Mr. Blanchard are the people who are responsible for all the documents that come before the Prime Minister, whether on the bureaucratic*

side or the political side. The two of them work with a large team to review every single thing that has to come before the Prime Minister to see if there's a potential conflict of interest. If so, the document isn't presented to the Prime Minister."

The Commissioner himself confirmed that, based on the testimony of the administrators, the screen is a measure that works well. Guy Giorno, who served as chief of staff to former Prime Minister Stephen Harper, noted that such "walls" have been used for decades in both government and the private sector. He also pointed out that, while some observers perceive a lack of public information regarding the assets held in the Prime Minister's blind trust, the *"Commissioner [Konrad von Finckenstein] knows his assets; they know all assets in blind trusts and not in blind trusts."*

The majority's recommendation to require mandatory sale for prime ministers is a rule built around one individual. It disregards the testimony of two sitting provincial commissioners, the federal Commissioner, experienced lawyers, expert scholars, and a Federal Court of Appeal decision, all of whom affirmed that blind trusts, when properly administered and supplemented by additional compliance measures such as conflict of interest screens, are effective and proper use of authority.

Privacy, Disclosure and the Limits of Transparency

Several of the majority's recommendations push toward greater public disclosure of the financial affairs of public office holders. While transparency is an important value, the Committee heard clear and compelling testimony about the limits of this approach and the countervailing right to privacy.

The Federal Court of Appeal addressed this question directly in Democracy Watch v. Canada (Attorney General), 2018 FCA 194, noting, *"Finally, I also agree with the respondents that public office holders would be put in the impossible position of having to report in sufficient detail on matters and meetings they do not even know about if, as the applicant contends, sections 21 and 25 of the Act were engaged even for matters screened out by a conflict of interest screen."* The Court further observed that requiring the public office holder to be made aware of all matters diverted by a screen in order to comply with disclosure obligations, *"would negate the benefits of the screens, which once again are put in place to prevent situations of conflict of interest."* The majority's recommendations on disclosure cannot be reconciled with this settled judicial authority.

Ariane Mignolet, the Ethics Commissioner of Quebec, stressed the importance of maintaining the delicate balance between public expectations for transparency and respect for the privacy of public office holders and members of Parliament. She cautioned against full and systematic disclosure of all information, stating that *"full and absolute transparency would serve neither the objective of ensuring the integrity of public office holders nor the broader public interest."* She further noted that commissioners have been entrusted with the responsibility of ensuring ethical conduct and must be given the flexibility to carry out their duties independently and impartially. Commissioner von Finckenstein himself said that he fully agreed with this view.

Professor Turnbull likewise pointed out the trade-offs between the public's right to know and an individual's right to privacy, noting that overreach with respect to disclosure can deter individuals from seeking public office. She further acknowledged that the public already has a broad picture of a public office holder's affiliations and professional background and can assess whether that person will act against the public interest.

We are concerned that the majority's approach to disclosure risks crossing the line from accountability into punitive transparency, and serves as an approach that would deter accomplished Canadians from public service, undermine the role of the Commissioner, and disregard the considered views of the Federal Court of Appeal.

The "Tax Haven" Recommendation Is Unworkable

The majority recommends prohibiting reporting public office holders from investing in companies that use "tax havens." This recommendation is not grounded in the testimony heard and rests on a term that expert witnesses explicitly rejected.

Professor Allison Christians, the H. Heward Stikeman Chair in Tax Law at McGill University, was categorical: *"A tax haven is not a technical term, and it is just simply not a term. Every country could be accused of being a tax haven, including Canada itself. I don't recognize that term, and I can't use it for you."*

Scott Thurlow echoed these concerns: *"I don't like the term 'tax haven.' I think there is a pejorative aspect to it."*

Andres Knobel of the Tax Justice Network also acknowledged that classifying a jurisdiction as a "tax haven" can often be politically driven and that many financial centres with limited transparency are not always identified as such.

The majority's recommendation asks public office holders to avoid investing in assets that use a term that does not have a recognized definition. It would be impossible to administer, impossible to comply with, and represents exactly the kind of imprecise, politically motivated lawmaking that undermines confidence in the conflict of interest regime rather than strengthening it.

Ethics Rules Must Be General, Not Personal

Throughout these proceedings, it became clear that many of the majority's recommendations were animated not by a desire to improve the Act for all Canadians, but by a desire to impose specific constraints on the current Prime Minister. Several recommendations explicitly single out the prime minister for separate, more onerous treatment, such as mandatory sale of assets, prohibition on blind trusts, separate rules, without adequate justification in the evidence.

Professor Turnbull's caution bears repeating: *"You can't create ethics rules around individuals, ever. That's not the point."* Ethics legislation must be durable, principled and of general application. It must apply fairly regardless of who holds office, what party they belong to, or how extensive their prior career may have been. The moment Parliament begins tailoring conflict of interest rules to the perceived circumstances of one individual, the regime loses its credibility as a neutral, principled framework.

Commissioner von Finckenstein reminded the Committee that his role is to ensure that the best people can get into public service with the least amount of conflict of interest, noting:

> *"The more experienced and the more talented somebody is, the more difficult it becomes to apply the act. That doesn't mean we won't do it or that we discourage good people from entering. It's just the opposite. We want the best people to enter the public service."*

We urge Parliament to resist the temptation to legislate in response to the political partisanship of the day.

Conclusion

The Liberal members of this Committee support a strong, effective and fair conflict of interest regime. Canada's regime is recognized internationally as among the top performing. Commissioner von Finckenstein, the OECD, and Freedom House have all confirmed this. There

is always room for improvement, but improvement must be grounded in evidence, guided by principle, and resistant to partisanship.

Many of the majority's recommendations fail this test. They would remove foundational purposes from the Act, introduce vague and subjective legal standards, restrict the ability of senior officials to govern, and impose obligations based on a term that one of our country's leading tax law scholars refuses to recognize.

We call on the Government to exercise caution in responding to this report and to ensure that any amendments to the Conflict of Interest Act are principled, workable, and designed to serve all Canadians—not to target any one individual.

The Liberal members of the Committee would like to thank the House of Commons analysts and clerk for their work on this study, as well as the witnesses whose testimony informed these proceedings.