



## CONFLICTS OF INTEREST (CHINESE WALLS)

DATE OF ENDORSEMENT:	June 2009
DATE OF EFFECT:	June 2009
DATE LAST AMENDED:	June 2009

### 1. Introduction

*“A Chinese wall refers to procedures taken by a firm to prevent information obtained while representing a client from being disclosed to employees in the same firm who represent other clients that may profit from the information.” - <http://definitions.uslegal.com/c/chinese-wall/>*

In other words, a Chinese wall enables an organisation like ASMOF to continue to represent ASMOF member(s) although other ASMOF employees may have confidential information about the opposing side (i.e. other ASMOF member(s)).

### 2. Purpose

The purpose of this Policy is to enable ASMOF to put a Chinese wall in place each time we have staff members acting for members who are opposing each other in a matter so that all members' interests will be protected.

### 3. Scope

This Policy must be read and adhered to by all ASMOF employees who work on the same matter but represent opposing parties. A copy of this document should be placed inside the relevant file(s). The relevant file(s) should be clearly marked (i.e. a red sticker must be placed on the front of the file) which will alert and indicate that a Chinese wall has been established in the matter.

### 4. Policy Directive

1. ASMOF employees must NOT communicate, disclose or discuss any information pertaining to such a matter with any other persons other than the persons (including, other ASMOF employees and/or counsel briefed in the matter) who are privy to that information.
2. If material<sup>1</sup> information pertaining to the matter is accidentally leaked or disclosed to an ASMOF employee working on the opposing side, then the following steps must be followed:

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<sup>1</sup> 'Material' information is information which, if used by the recipient of that information, can profit or benefit that person's case to the detriment of the other party.

## CONFLICTS OF INTEREST (CHINESE WALLS) POLICY

- a. The event (including the information that was disclosed) must be documented and signed by the discloser of the information as well as the recipient of that information. A copy of the signed and dated document must be placed in the relevant file(s).
  - b. The recipient of the information must also provide a written undertaking to the following effect - that he/she will not use that information to profit or benefit their case. A copy of the written undertaking should be placed in the relevant file(s).
  - c. **The Executive Director may at his/her discretion assign the matter to a third employee.**
3. Insofar as clause 2 above applies, the Executive Director of ASMOF may, from time to time, obtain information which may be considered or deemed to be 'material' information about a matter in which a Chinese wall has been 'erected', on the basis that it is necessary for him/her to carry out his/her duties and responsibilities as Executive Director of ASMOF including, **but not limited to, supervising junior employees, assisting employees where the matter is of significance to ASMOF or its members, and monitoring of legal costs.** Where the Executive Director of ASMOF does obtain such information, the Executive Director does so:
  - a. in good faith and in the interests of ASMOF; and
  - b. to effectively carry out his/her duties and responsibilities as Executive Director of ASMOF.
4. When work is not being performed on such a matter, the relevant file(s) (including any documents pertaining to the matter) should be kept in a locked or enclosed cabinet (in the office of the person who has conduct of the matter). If a locked or enclosed cabinet is not available then the file(s) should be kept in a safe and appropriate place (in the office). At the end of each day, the file(s) should be stored in the locked or enclosed cabinet or a safe place in the office of the person with conduct of the particular matter in which a Chinese wall has been erected.