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# Case Study

# Conflict of Interest

19<sup>th</sup> India Fellowship Seminar

**A presentation at 19<sup>th</sup> India Fellowship Seminar  
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# Agenda

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- Case study details
- Understand Commutations
- Understand the conflict of interest
- Conclusions

# Case study details Scenario 1....

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- Until last year you were an actuary employed in Overexcited Insurance Company.
- One of your roles was to advise the company on commutations
- Last year the company went into run off mode and
- you were made redundant.
- You have been approached by the Ever Alert Insurance Company to take up a consultant role, advising on commutations.

# Case study details Scenario 1....

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- In particular, Ever Alert Insurance Company wants you to advise on commutations with Over Excited Insurance Company
- and more so on a particular commutation on which you used to work.
- Question1: Can you accept the job?.

# Case study details Scenario 2....

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- Until last year you were an employed as *consultant* in Overexcited Insurance Company.
- One of your roles was to advise the company on commutations
- Last year the company went into run off mode and
- your services were no longer required.
- You have been approached by the Ever Alert Insurance Company to take up a consultant role, advising on commutations.
- Question1: Can you accept the job?
- Question 2:would you work if some else had worked on this commutation at Over Excited Insurance?

# Agenda

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- Case study details
- **Understand Commutations**
- Understand the conflict of interest
- Conclusion

# Commutations ..... understanding

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- A commutation occurs when an insurance policy is cancelled, with the agreement of both parties, such that no further claims can be made under the policy.
- The insurer releases itself from paying all future claims under the policy, including those notified but not paid.
- Both parties do their own valuation, agreeing to a Fair value.
- Both parties will negotiate the consideration amount to be paid (by the insurer to the p/h).

# Commutations ...understanding

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- Valuation of your outstanding liabilities...
- Including IBNR (Incurred But Not Reported) and IBNER (Incurred But Not Enough Reserved) elements
- The level of uncertainty around the future claim experience , the class of business and the tail.
- This normally reduces the capital requirements and administrative costs.



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## Professional Guidance... ..PCS 5.2, 5.3 5.4

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- In case of conflict of interest, the *member must* consider the nature and extent of the conflict and whether it is such as to make it improper for the *member to give advice to one or more of the clients* involved in the conflict.
- The client or clients involved must be notified at the earliest opportunity and if any advice given to a client is, or will be, influenced by interests other than those of that client or by any constraint other than that imposed by professional guidance, this must be disclosed in the advice.
- the *member* must have proper regard to their respective interests and in particular must not communicate information within the members firm which the member has reason to believe might harm the interest of any client or previous client.

# Understanding the conflicts of

## Interests.....

## Scenario 1

- Access to confidential/ Insider information with Over Excited Insurance Company.
- Think in the interest of the client.
- Previous employment contract conditions w.r.t use of confidential information.
- Terms of redundancy- prohibits to use of confidential information.
- Professional guidance.
- Rejecting the job would mean loss of revenues.

# Understanding the conflicts of

## Interests.....

## Scenario 2

- Not as complex as the first scenario
- Consultants often work with competitors.
- Consultants bound by professional ethics and confidentiality agreements with clients.
- Grey areas in definition of “confidentiality”
- Commutation is arriving at fair value.
- Difficult for the actuary to not use the information gathered either explicitly or implicitly.
- May also be seen as breach of trust.
- Professional guidance
- It is possible to state that confidentiality has been maintained.

# Understanding the conflicts of

## Interests.....

## Scenario 3

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- Someone else has worked from your consultancy has worked with OverExcited.
- Would you still take up the job with EverAlert?
- You now have *insider/Confidential* information even if you have not directly work on the particular commutation.
- Professional guidance.

# Conclusions.....

# Scenario 1

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- Not as simple as it looks.
- Reject the job if your previous employment/ redundancy terms prohibits you from taking up the assignment or use of confidential information.
- As such, confidential information should not be disclosed by the actuary unless consent has been taken from the actuary's previous client.
- Else communicate to Ever Alert upfront at the earliest.
  - Citing professional guidance
  - Previous employment/ redundancy terms
- Another option: Disclose the conflict to Over Excited and Ever Alert.
  - Let both parties decide in case employment /redundancy time lines have been reached.
  - Difficult as both contract conditions are important.
  - Its likely that it may mean breach of trust.
  - So best option is to reject the job offer.

# Conclusions.....

# Scenario 2

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- Can take the job offer under the following options
- If contract terms with Over Excited do not strictly prohibit
- If constrained.... If both parties can be made clear of the conflict.
- Communicate to Ever Alert upfront at the earliest
  - Citing professional guidance
  - Previous client consultancy terms
- If not constrained, make use the information gathered
  - Be careful of “breach of trust”
  - Implications of informational advantages

# Conclusions.....

# Scenario 2 Q2

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- Can take the job offer under the following options
- Easier to deploy chinese walls in a consultancy
  - Limit access to previous files
  - No discussions on previous commutations.
- Any conflict must to made clear to Ever Alert at the earliest.
- Making use the information gathered
  - Be careful of “breach of trust”
  - Implications of informational advantages



# Contact Details

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THANK YOU