IMAP MDA 360 Webinar Series

Conflicts of Interest in Managed Accounts

Jenny Mulders, JM GRC Advisory
Jesse Vermiglio, Holley Nethercote

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Akambo	**Jane Zhou** – Head of Governance
Consultant	**Mark Watmore** – Partner
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JM GRC Consulting	**Jenny Mulders** - Founder
Hamilton Locke	**Simon Carrodus** – Partner
	Jaime Lumsden – Partner
Holley Nethercote	**Michael Mavromatis** – Partner
	Jesse Vermiglio – Partner
HSF Kramer	**Andrew Bradley** – Partner

IMAP Alternatives and Discretionary Portfolio Management Conference

The Fullerton, Sydney

16th September

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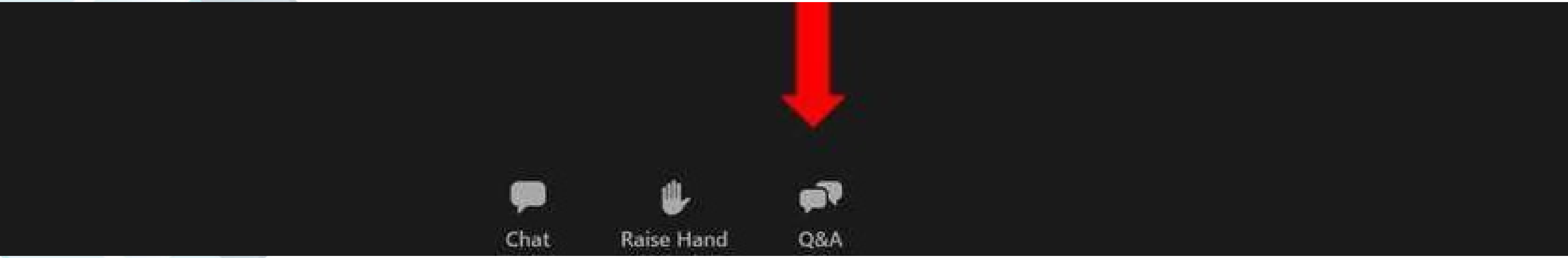
Ask a Question



IMAP WEBINAR | AUGUST 2026

Conflicts of Interest in Managed Accounts

Identifying, assessing and managing conflicts where the licensee is involved in the investment solution

Jenny Mulders | JM GRC Advisory
Jesse Vermiglio | Holley Nethercote

AGENDA

What we will cover

01

Managed account structures

Where the licensee is part of the investment solution

02

The regulatory framework

AFSL conditions, Corporations Act, RG 181, Code of Ethics, BID

03

How to identify a conflict

Who benefits, follow the revenue, test the recommendation

04

Common managed account conflicts

Proprietary SMAs, investment committees, related parties

05

Treatment options

Avoid, control, disclose — proportionate to the risk

06

Managing conflicts in practice

Governance, independence, product and advice controls

What are we talking about?

This session focuses on managed account structures where the licensee has some level of involvement in the development, operation, administration, oversight or recommendation of the investment solution.

Managed Discretionary Accounts (MDAs)

- Licensee holds the MDA authorisation
- Advisers are authorised representatives of the licensee
- Investment decisions may be made by an adviser, or investment committee or appointed investment manager
- Clients provide discretionary authority for decisions made on their behalf

Proprietary or related-party SMAs

- Outsourced responsible entity/trustee/custody (platform)
- The advice licensee develops and manages the SMA
- The SMA is badged for the advice licensee
- The adviser recommends the SMA to clients
- A representative may sit on the investment committee

Conflicts are like standing in two canoes

HOLLEY NETHERCOTE | JM GRC

Why are these structures different?

The conflict arises because the licensee may simultaneously act as:

LICENSEE
wearing multiple hats

- Adviser
- Product provider
- Portfolio constructor
- Investment committee or investment adviser
- Equity Interest

> The greater the involvement across multiple functions, the greater the potential for conflicts of interest.

Key regulatory sources

AFSL conditions

Licence conditions require compliance measures that ensure, as far as reasonably practicable, compliance with the financial services laws.

Corporations Act 2001

s912A(1)(aa) conflicts management; s912A(1)(a) efficiently, honestly and fairly; s961B and s961J for personal advice. 912AEB(2) MDA Instrument 2016/968

ASIC RG 181

Licensing: Managing conflicts of interest — ASIC's core guidance on identifying, controlling and disclosing conflicts.

Code of Ethics and BID

Financial Planners and Advisers Code of Ethics and the best interests duty for relevant providers.

Conflicted remuneration

Divisions 4 and 5 of Part 7.7A ban certain benefits that could influence advice or recommendations.

Internal policy

The licensee's own Conflicts of Interest Policy, risk appetite statement and conflicts register.

Conflicts regulation – sources of law

MDA providers

- Section 912A(1)(a) - Efficient, honest and fair
- Section 912A(1)(aa) - Conflicts management
- Section 912AEB(2)(b) - Best interests duty
- Section 912AEB(2)(b) - Conflicts prioritisation rule
- Section 912AEB(2)(c) - Not misuse information for improper advantage
- Section 963E-J – Ban on conflicted remuneration

Advisers

- Section 912A(1)(a) - Efficient, honest and fair
- Section 912A(1)(aa) - Conflicts management
- Section 961B(1) - Best interests duty
- Section 961J – Conflicts prioritisation rule
- Section 963E-J – Ban of conflicted remuneration
- Standards 2-6 - Code of Ethics

Note: This is not an exhaustive list.

New RG 181 and what is expected

Refreshed after 21 years

RG 181 was reissued in December 2025, superseding the August 2004 guide.

Identify, assess, respond

Adequate arrangements must identify and assess conflicts, respond to them, and be implemented, maintained, monitored and reviewed.

Proportionate and risk-based

Tailor arrangements to legal requirements, the likelihood and seriousness of the conflict, and the nature, scale and complexity of your business.

Avoid, control, disclose

Effective management means avoiding, controlling and disclosing conflicts — disclosure alone is not enough where harm is material.

Real consequences

Conflicts drive consumer, investor and market harm; failures can bring licence conditions, breach reporting and civil penalties.

Everyone's job

ASIC will review the managed accounts sector — governance, conflicts management and consumer outcomes (Kirkland, IMAP, 15 Oct 2025).

Sources: ASIC RG 181 (16 December 2025); A Kirkland, ASIC, 'Improving consumer outcomes is everyone's job', 15 October 2025.

Best interests and the priority rule

Acting in the client's best interests — s961B

When providing personal advice, advisers must act in the best interests of the client. Where personal, business or commercial interests compete with client interests, the client comes first.

The priority rule — s961J

Where there is a conflict between the interests of the client and the interests of the adviser, representative or licensee, the adviser must give priority to the client's interests.

Questions to consider

- Is the recommendation genuinely in the client's best interests?
- Would we make the same recommendation with no commercial benefit?
- Is there sufficient evidence supporting the recommendation?

Particularly relevant where

- Advisers recommend proprietary SMAs
- Advisers recommend white-labelled solutions
- Related-party investment managers are used
- The licensee receives additional revenue

Actual, potential and perceived

RG 181 describes conflicts as circumstances where competing interests create a risk that the financial services provided may be influenced by interests other than those owed to clients.

Actual

A conflict currently exists and is influencing decision-making.

Potential

A conflict could arise in the future.

Both must be identified and assessed — a potential conflict deserves the same attention as one already influencing decisions.

Efficiently, honestly and fairly

Conflicts management is closely linked to the obligation to provide financial services efficiently, honestly and fairly. Poor conflict management can undermine the integrity of advice, product governance and investment decision-making.

In a managed account context, poorly managed conflicts can undermine:

- Product selection
- Portfolio construction
- Investment governance
- Advice recommendations
- Client outcomes

ASIC links effective conflict management directly to the efficient, honest and fair provision of financial services.

Avoid, control, disclose

STRONGEST

WEAKEST

OPTION 1

Avoid

1

Sometimes the conflict is too significant to manage effectively.

- Excluding conflicted individuals from decisions
- Not proceeding with a related-party arrangement
- Removing inappropriate remuneration structures

OPTION 2

Control

2

The most common treatment in managed account arrangements.

- Independent oversight
- Segregation of duties
- Independent review processes
- Formal governance arrangements
- Documented decision-making

OPTION 3

Disclose

3

Disclosure informs clients of a conflict.

- Explains the conflict to the client
- Rarely sufficient on its own
- Should operate alongside other controls

A practical assessment framework

QUESTION 1

Who benefits?

Identify every party that may benefit: client, adviser, licensee, investment committee member, related entity, investment manager, shareholders.

QUESTION 2

Follow the benefit

Identify all benefits — direct and indirect benefits.

QUESTION 3

Test the recommendation

Would we make the same recommendation if the licensee, adviser and investment manager received no additional benefit?

QUESTION 4

Consider the client outcome

Is the client receiving value? Is the recommendation objectively supportable and fair to an external observer?
Is it appropriate?

HOLLEY NETHERCOTE

Six conflicts we often see

Advisers recommending a proprietary SMA

The adviser recommends a solution that generates revenue for the licensee.

Representative on the investment committee

The same individual helps design the investment solution and later recommends it to clients.

Related-party investment manager

Investment management fees flow to a related entity within the group.

Migration to a proprietary solution

Clients are moved from external products into a managed account that increases group revenue.

Platform or service provider relationships

Commercial arrangements may influence platform or investment selection decisions.

Performance assessment bias

Reluctance to remove or downgrade internally managed portfolios due to reputational or commercial impacts.

● Higher inherent risk ● Moderate inherent risk

Follow the Benefits

$ Direct benefits

Paid by the client, received by the licensee

- Advice fees
- Portfolio management fees
- Administration fees

? Is the benefit flowing to the client — or to the adviser and licensee?

+ Indirect benefits

Accrue to the licensee's business

- Increased funds under management
- Increased profitability
- Related-party revenue
- Improved scale benefits
- Strategic business growth

If it is uncertain whether the same recommendation would be made without the benefit, a conflict likely exists.

Governance and independence controls

Investment committee governance

- Formal charter
- Defined membership
- Conflict declarations
- Recorded decisions
- Clear voting arrangements

Conflicts register

- Identified conflicts
- Risk assessments
- Treatment plans
- Control effectiveness
- Review outcomes

Independence controls

- Independent investment committee members
- External research providers
- Independent product reviews
- Independent due diligence assessments

Product, advice and disclosure controls

Product governance

- Product approval framework
- Initial due diligence
- Ongoing monitoring
- Performance assessment
- Benchmark comparisons
- Periodic suitability reviews

Advice controls

- Best interest assessments
- Advice file reviews
- Supervisory reviews
- Product replacement analysis
- Documented recommendation rationale

Disclosure controls

- Relationships between parties
- Fee arrangements
- Related-party involvement
- Investment management arrangements
- Commercial interests

A possible framework

Before recommending or operating any managed account structure, ask:

01 → 02 → 03 → 04

01 Have we identified the conflicts?

02 Who benefits from the decisions?

03 Are our controls sufficient?

04 Can we demonstrate that client interests remain paramount?

If the answer to any of these questions is uncertain, further assessment and stronger controls are likely required.

References and further reading

- ASIC Regulatory Guide 181 — Licensing: Managing conflicts of interest (published 16 December 2025)
- ASIC media release 25-145MR — ASIC consults on updated guidance for managing conflicts of interest
- Conflicts of Interest Policy — 2025 v6 template (JM GRC)
- AFSL Conflicts of Interest Policy V6 — HN Hub
- Attachment to CP 385 — published 30 July 2025
- Corporations Act 2001 — s912A(1)(a), s912A(1)(aa), s961B, s961J and Part 7.7A Divisions 4 and 5
- s912AEB(2) notionally inserted by the MDA instrument.
- ASIC RG 179

Questions? Speak with **JM GRC** about tailoring your conflicts framework to your managed account structure or **Holley Nethercote** if you need legal advice about your conflicts of interest obligations.
www.jmgrc.com.au **www.hnlaw.com.au**

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