



SUBJECT	Guidelines for UBC Staff as Shareholders
SUBMITTED TO	Learning & Research Committee
MEETING DATE	June 14, 2022
SESSION CLASSIFICATION	Recommended session criteria from Board Meetings Policy: OPEN
REQUEST	<p>APPROVAL REQUESTED</p> <p>IT IS HEREBY RESOLVED that the Learning & Research Committee recommends to the Board of Governors approval of the Guidelines for UBC Staff as Shareholders in the form attached as Appendix 1 to the briefing, as contemplated by section 10.1 of the Procedures associated with the Technology Equity Policy (LR8).</p>
LEAD EXECUTIVE	Gail Murphy, Vice-President Research & Innovation
SUPPORTED BY	<p>Marcia Buchholz, Vice-President Human Resources</p> <p>Hubert Lai, K.C., University Counsel</p> <p>J.P. Heale, Managing Director, University-Industry Liaison Office (UILO)</p>

PRIOR SUBMISSIONS

The subject matter of this submission has not previously been considered by the Learning & Research Committee.

EXECUTIVE SUMMARY

The Technology Equity Policy (LR8) sets out the framework under which UBC handles equity transactions resulting from the licensing of UBC technology. The Policy contemplates the possibility that UBC faculty members and staff members may hold equity in the licensee company. In order to address the scenario where staff members hold equity in the licensee company, the Procedures associated with the Policy require that the Vice-President Research & Innovation (“VPRI”) develop guidelines, to be approved by the Board of Governors, that will apply to such investments.

The VPRI has developed guidelines and is now recommending them to the Board of Governors for approval.

BACKGROUND/CONTEXT

UBC has a long and successful track record creating spin-off companies based upon intellectual property (“IP”) arising from UBC research. To date, UBC’s University Industry Liaison Office (“UILO”) has licensed UBC IP to 245 spin-off companies, and proceeds from those licenses total \$196 million. Those proceeds are a mixture of royalties and liquidated equity, and in general the proceeds are divided evenly between the UBC inventors of the IP, and the University as detailed in the Inventions Policy (LR11).

One confounding element of the division of proceeds arises when the UBC inventors are also founders of the spin-off company that is licensing the UBC IP. This normally creates a conflict of interest (“COI”), which is permissible only if it can be properly managed. In order to manage the COI that arises when a UBC inventor/founder owns shares in a spin-off company, the UBC inventor/founder is required to ‘waive’ their interest in the share of UBC’s IP licensing proceeds that they would otherwise receive, since they are receiving founder’s equity in the spinoff company, and/or consulting fees, options, or salary from the spin-off company (as addressed by section 5.7 of the Inventions Policy).

Additionally, under the COI Policy (SC3), UBC inventors who are founders of a spin-off company must disclose their COI to their Initial Reviewer, who is then responsible for evaluating the COI and, where appropriate, developing a COI management plan, which may include:

- removal of the founder from license negotiations between UBC and the spin-off company;
- review of budgets for research agreements between the spin-off company and UBC;
- review of possible student involvement in the spin-off company; and,
- at least annual updates, by means of UBC's COI reporting portals, by the founder.

From time to time, UBC employees other than UBC inventors wish to invest in or otherwise engage with a spin-off company. They undertake these activities in their personal capacity, outside of their UBC employment duties. This may give rise to issues (including COI issues) that are somewhat different from those faced by UBC inventors. Provided that these issues are disclosed and managed appropriately, non-inventor employees may do so. The Procedures associated with the Technology Equity Policy require that the VPRI develop guidelines for the approval of the Board of Governors to address this scenario. Those guidelines have been developed and are submitted for the consideration of the Board of Governors.

APPENDICES

1. Guidelines for UBC Staff as Shareholders

GUIDELINES FOR UBC STAFF AS SHAREHOLDERS

These guidelines apply to investments by UBC staff members in licensees of UBC technology. They were developed by the Vice-President Research & Innovation, and approved by the Board of Governors on [INSERT DATE] pursuant to the Procedures associated with the Technology Equity Policy (LR8).

Non-inventor UBC staff members who are contemplating the acquisition of equity in a spin-off company must notify their Administrative Head of Unit of their intention to hold equity in a spin-off, along with any other financial interest in the spin-off. The Administrative Head of Unit must consider the potential for a COI and determine if a management plan is needed and if one can be put in place that limits the extent to which UBC's interests could be harmed. Non-inventor UBC staff members must disclose any COI in the Staff COI system managed by UBC's Office of the University Counsel. The declaration should be updated at least annually until such time as the spin-off company becomes publicly listed and traded, or the non-inventor UBC staff member disposes their holdings. The management plan must also include steps to prevent the access to or use of non-public information, people, or technology by the non-inventor UBC staff member for personal benefit.

There are situations when a COI arising from a non-inventor UBC staff member acquiring equity in a spin-off company cannot be effectively managed and would, therefore, not be allowed. For example, this type of situation could occur when the non-inventor UBC staff member has, or has access to, confidential information related to the spin-off company as part of their employment duties at UBC, and would include, but not be limited to, non-inventor UBC staff members employed in aspects of spin-off company creation. Examples of such individuals are non-inventor UBC staff members within the UILO and entrepreneurship@UBC units under the Vice-President Research & Innovation portfolio. In order to ensure no present or potential future COI, non-inventor UBC staff members in units such as these should not personally invest in spin-off companies that are not yet publicly listed or traded.

If a declared conflict cannot be effectively managed, then an equity holding in a spin-off company for that specific non-inventor UBC staff member would not be permitted. If a non-inventor UBC staff member is denied their request to purchase equity in a spin-off company, they may appeal the decision to the person immediately superior to the Administrative Head of Unit. After considering the appeal, the decision of that person will be final.

Careful consideration must be given to the possibility that a non-inventor UBC staff member wishing to acquire or sell equity in a spin-off company possesses information not available to the public related to the operations and performance of the spin-off company. Such information used in the decision to purchase or sell shares could constitute insider trading, and can result in penalties under British Columbia's *Business Corporation Act* and/or the *Canada Business Corporations Act*. It is the sole responsibility of non-inventor UBC staff members to make sure they comply with applicable securities laws.

Non-inventor UBC staff members acquiring equity in a spin-off must agree to indemnify UBC against any and all charges, fines, penalties or other penalty should their participation lead to the imposition of same against UBC.

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