



ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

HONORABLE ROSLYNN R. MAUSKOPF
Director

WASHINGTON, D.C. 20544

Insert Date

MEMORANDUM

To: All United States Judges

From: Judge Roslynn R. Mauskopf

RE: ADDITIONAL GUIDANCE ON CONFLICT SCREENING
(IMPORTANT INFORMATION)

To follow up on my August 2, 2021 memorandum, I am writing to reiterate the importance of complying with the existing policy and requirements concerning financial interests and conflict screening. I ask that all judges review the guidance in this memorandum and ensure compliance with these requirements.

First, all judges have a duty under the Code of Conduct for United States Judges to keep informed about their personal and fiduciary financial interests and “make a reasonable effort” to keep informed of the financial interests of the judge’s spouse or minor child. *See* Canon 3C(2). Because of this duty, judges may not rely on a blind trust, or a “managed account” controlled by a financial advisor, to avoid recusal obligations. *See* Advisory Opinion No. 110 (“Separately Managed” Accounts). The Code of Conduct defines “financial interest” as “ownership of a legal or equitable interest, however small,” subject to certain exceptions such as “ownership in a mutual or common investment fund.” Canon 3C(3)(c); *see also* Advisory Opinion No. 106 (Mutual or Common Investment Funds).

Second, judges are required by Judicial Conference policy to “develop a list identifying financial conflicts for use in conflict screening, [and] shall review and update the list at regular intervals....” *Guide to Judiciary Policy*, Vol. 2, Pt. C, § 410.20(c). The Administrative Office (AO) has developed a checklist that judges may use when preparing or updating the list. Because annual financial disclosure requirements contain minimum dollar thresholds for reporting, judges should not rely exclusively on those reports to check for conflicts. Up-to-date recusal lists are the most effective tool for conflict screening.

Third, the policy further provides that each judge “shall employ the list personally or with the assistance of court staff to participate in automated conflict screening.” *Guide*, Vol. 2, Pt. C, § 410.20(c). Importantly, the use of automated conflicted screening is in addition to each judge’s “personal review of cases for conflicts.” *Id.* The Judicial Conference has explained that “[u]se of automated conflict screening is intended to be an addition to, and not a replacement for, each judge’s personal review of matters for conflicts.” (JCUS-SEP 2006, p. 11).

Fourth, under the policy, courts are required to use “automated conflict screening to identify financial conflicts of interest for judicial officers, and to notify the judicial officer (or designee) when a financial conflict is identified, through the screening component of the CM/ECF system....” *Guide*, Vol. 2, Pt. C, § 410.20(b). Automated conflict screening must occur “on a regular schedule, including screening new matters as they are filed....” *Id.* Both the AO and clerk’s office staff are responsible for providing information, training, and assistance to facilitate automated conflict screening. *Id.* § 410.20(a)-(b). Circuit councils have the responsibility to “make all necessary and appropriate orders to implement the...mandatory conflict screening policy within the circuit.” *Id.* § 410.20(e)

The Code of Conduct requires a judge to disqualify himself or herself “in a proceeding in which the judge’s impartiality might reasonably be questioned, including...[when] the judge knows that the judge, individually or as a fiduciary, or the judge’s spouse or minor child residing in the judge’s household, has a financial interest...in a party to the proceeding....” Canon 3C(1)(c). A “proceeding” includes pretrial as well as other stages of litigation. Canon 3C(3)(d). This Canon applies regardless of the substance of the judge’s actual involvement in the proceeding.

I have directed Judicial Conference committee staff to review the judiciary’s conflict screening process and to submit any recommendations on ways to clarify or improve this process to the committees of jurisdiction at their next meetings. The AO will also be offering training for judges and court staff on conflict screening. Finally, additional ethics guidance from the Committee on Codes of Conduct is contained in the *Ethics Deskbook for United States Judges*. The Committee’s published advisory opinions and other ethics resources are located on the JNet.

If you have any questions about these requirements or would like to request a confidential advisory opinion, please contact your circuit representative on the Committee on Codes of Conduct. You may also request ethics guidance by sending questions by email to ethics@ao.uscourts.gov.

cc: Circuit Executives
District Court Executives
Clerks, United States Courts