



Code: QA308
Title: **University participation/investment in Subsidiary/Associated and Other Entities**
Date: Meán Fómhair 2018
Approval: UMT/FRC/Údarás 26/10/2018

1.0 Purpose

1.1 To ensure that the University properly and correctly identifies, manages, and controls subsidiary, associated, 'spin-out', or linked joint venture companies, partnerships, and similar business combinations, to include all aspects of:

- a) initiation/incorporation/formation
- b) participation
- c) disposal/dilution/share swap etc.

The circumstances in which it is desirable to establish and/or invest in such subsidiary/associated/joint venture/partnerships etc. are limited and may proceed only in accordance with this policy.

2.0 Description

2.1 The University conducts its business under its legal name (National University of Ireland Galway), and it will not ordinarily be necessary to register or use any other trading name (whether a Business Name, Trade Mark or otherwise), in the conduct of University business.

2.2 In situations where the University does conduct some of its business through a 'trading' name (e.g. to promote a specific aspect of its activity), the registration or creation of such a name (whether a Business Name, Trade Mark or otherwise), does not create a legal entity separate from the University itself.

2.3 Notwithstanding the foregoing, the University may sometimes incorporate, participate with, or invest in a wholly/partially owned subsidiary/associate or otherwise connected entity. This step results in a 'de facto' separate legal entity, which may conduct business in its own right. The objectives and constitution of any such connected entities must be aligned with those of the University.

3.0 Management

3.1 All/any such entities must be operated on a profitable/break even basis and may not incur deficits without the written authority of the Bursar. Any events, developments, information that indicates the possible incurrence of deficits or asset impairment must be formally brought to the attention of the Bursar immediately.

3.2 Arrangements for the subsequent winding up, liquidation, dissolution, dilution, share swaps etc. or disposal of such entities that are controlled by the University, must reflect its investment, if any, in them. All/any assets remaining upon such cessation of trade or disposal of such University controlled entities must either be:

- (i) returned to the University for application in accordance with its constitution, i.e. the Universities Act 2009.
- (ii) in the case of an entity holding charitable status, any remaining value on dissolution must be transferred to another charitable institution or institutions having main objects similar to those of the entity being dissolved. The institution or institutions to which the property is so transferred shall prohibit the distribution of their income/assets amongst their members as follows:
 - (a) No portion of the Company's income and property shall be transferred or paid directly or indirectly by way of dividend, bonus, distribution, or otherwise howsoever by way of profit to members of the Company, except where such members are themselves charitable institutions, officially registered with the Charities Regulatory Authority.
 - (b) No Director shall be appointed to any office of the Company that is paid by salary or fees, or receive any remuneration or other benefit in money or money's worth from the Company. However, nothing shall prevent any payment in good faith by the Company of:
 - i. reasonable and proper remuneration to any member or servant of the Company (not being a Director) for any services rendered to the Company;
 - ii. interest at a rate not exceeding 1% above the Euro Interbank Offered Rate (Euribor) per annum on money lent by Directors or other members of the Company, to the Company;
 - iii. Reasonable and proper rent for premises demised and let by any member of the company (including any director) to the Company;
 - iv. reasonable and proper out-of-pocket expenses incurred by any Director in connection with their attendance to any matter affecting the Company;
 - v. fees, remuneration or other benefit in money or money's worth to any company of which a Director may be a member holding not more than one hundredth part of the issued capital of such company.
 - (c) Nothing shall prevent any payment by the Company to a person pursuant to an agreement entered into in compliance with section 89 of the Charities Act, 2009 (as for the time being amended, extended or replaced).
- (iii) Members of the company being dissolved/wound up etc. shall select the relevant institution or institutions at or before the time of dissolution and if and so far as effect cannot be given to the provisions at (a) to (c) above, then the property shall be given or transferred to a charitable object with the agreement of the Charities Regulator.
- (iv) Final accounts to the date of dissolution shall be prepared, audited, and approved by the board that include details of any income/assets transferred, details of the beneficiaries, and the terms of the transfer.

3.3 Arrangements for the subsequent winding up, liquidation, dissolution, dilution, share swaps etc. or disposal of entities in which the University participates but that are not controlled by it, must have due regard for the charitable objects of the University and its stakeholders.

4.0 Responsibilities

4.1 Every member of University staff has responsibility for adherence to this policy.

4.2 The University Unit (College, School, Research/Support Service unit etc.) proposing the initiation/incorporation/formation/establishment of/participation in an entity shall submit a written request as outlined in the attached procedure at 4.1.

4.3 In the event of any doubt arising as to the applicability of this Policy, advice should be sought from the Bursar's office by submission of a written request with full particulars of the query.

4.4 Ownership of this policy rests with the Bursar's Office.

5.0 Attachments

Procedures applicable to University participation in subsidiary, associate, partnership, joint venture, or similar entities and business combinations.



Procedure to apply for University participation in a subsidiary, associate, partnership, joint venture or similar entity

1.1 New Companies/Joint Ventures/Partnerships etc

The University unit (College, School, Research/Support Service unit) proposing the participation, formation or establishment of the entity shall submit a written request to the Bursar's office for UMT consideration and approval. The submission must include:

- (i) Executive summary to include entity format, shareholding, constitution etc.
- (ii) Proposed Directors/Secretary/Management
- (iii) Financial Projections and resource/seed capital requirements
- (iv) Taxation implications (VAT/Corporation Tax/PAYE/PSWT etc)
- (v) Banking arrangements
- (vi) Audit and accounting arrangements
- (vii) Arrangements for dissolution/winding up or other divesting of the University's investment in the entity

The Bursar shall notify An Runaí of the submission and shall table the request for consideration at UMT. If approved by UMT, the Bursar shall then table that approval for ratification on the agenda of the subsequent Finance Resources Committee/Údarás na hOllscoile.

1.2 Legal Aspects

If authorised, legal services required to incorporate or otherwise establish the entity shall be procured in accordance with the University's legal services procurement framework.

1.3 Reporting

All entities in which the University participates, holds an interest in, or otherwise exercises a controlling interest in, shall be notified to Údarás na hOllscoile by way of:

- a) FRC minute upon first establishment/formation
- b) Annual report to FRC in the form of summary of financial results

1.4 Annual Audit

The annual audit of Financial Statements of entities in which the University holds a controlling interest shall be organised and carried out under the auspices and control of the Bursar's office which shall ensure the consolidation of the entity's financial results with those of the University and its other subsidiary and associated entities as appropriate.