

AOTEAROA NEW ZEALAND STEWARDSHIP CODE

Governance Committee – Terms of Reference

Introduction

- 1 The Aotearoa New Zealand Stewardship Code has been developed to provide a principles-based framework for achieving the three interconnected goals of effective stewardship:
 - 1.1 creating and preserving long-term value for current and future generations;
 - 1.2 ensuring the efficient management of capital whilst considering the best interests of clients and beneficiaries; and
 - 1.3 contributing towards achieving sustainable outcomes for our environment, society and economy.
- 2 The Code is supported by the GovCo and the Secretariat.

Purpose of the GovCo

- 3 The purpose of the GovCo is to:
 - 3.1 oversee the implementation of the Code by the Signatories (including to oversee the alignment of the Signatories with the Code on an annual review basis and assist the Secretariat to provide Signatories with assistance in relation to the Code);
 - 3.2 oversee the operation of the Secretariat, including the implementation of the reporting framework, growth of stewardship activities and financial oversight;
 - 3.3 operate in accordance with the Operating Principles policy;
 - 3.4 provide guidance to Signatories (individually or collectively) in relation to:
 - (a) effective stewardship; and
 - (b) alignment with the Code,

on the basis of the annual review of a subset of Signatory activity statements, or in other exceptional circumstances as required;
 - 3.5 where any areas of non-alignment with, or of non-compliance by, Signatories with the Code are identified:
 - (a) recommend remedial actions; and
 - (b) in the case of persistent or material non-alignment or non-compliance with:
 - (i) the Code; or
 - (ii) any recommended remedial actions,

(in each case as determined by the GovCo, acting reasonably and having given the Signatory adequate opportunity to be heard in relation to the matter), require de-listing of a Signatory from the Code as described in the Delisting Process document;

- 3.6 undertake appropriate and regular reviews of the Code, on at least a biennial basis, in accordance with the expectations set out in the Code;
 - 3.7 consider supporting appropriate stewardship capability building and amplifying best practice performance for wider market continuous improvement in stewardship; and
 - 3.8 do all other things necessary or desirable in furthering the successful and efficient adoption, implementation and development of the Code among financial markets participants in Aotearoa New Zealand.
- 4 The GovCo is also permitted to express views and make recommendations on matters relating to the operation and implementation of the Code, and fee structure and amount, for Signatories.
- 5 The GovCo is not a governing or authorized body of the host organisation(s) or any Signatory and Members of GovCo:
- 5.1 do not owe any duties (including fiduciary duties) to any person or entity (including any Signatory, host organisation or third party), except Members of GovCo have the duty to act honestly; and
 - 5.2 may only speak publicly on behalf of the GovCo with authorization from the Secretariat. Members are permitted, for example, to speak in relation to their own personal interest in the subject matter of the Code, and the importance of a Code.

Code host

- 6 The Code shall be hosted by one or more appropriate host organisations. A host organisation must be an organisation in Aotearoa New Zealand and have the relevant expertise, industry connections, and appropriate resourcing to host the Code. A host organisation may be a private company, industry body, non-profit, or government body.
- 7 The host is responsible for operational oversight of the Secretariat, including regular oversight of financials.
- 8 The initial host organisations are Responsible Investment Association Australasia and Toitū Tahu: Centre for Sustainable Finance jointly.
- 9 Following consultation with Signatories on the matter, the initial and any subsequent host organisation(s) can be changed by a unanimous resolution passed by GovCo members for that purpose appointing an alternative host organisation(s).

Conduct of Members

- 10 All Members shall promote and articulate the high standards of corporate governance, honest integrity, ethical and law-abiding behaviour expected of governance leaders in the area of stewardship in Aotearoa New Zealand.
- 11 When discharging their role under these Terms, Members must:
- 11.1 comply with any relevant legal duty;
 - 11.2 act in good faith and in the best interests of promoting the Code and enforcing its commitments;

- 11.3 act with reasonable care and diligence;
- 11.4 act for proper purposes;
- 11.5 avoid a conflict of interest or duty in accordance with clause 36;
- 11.6 disclose and manage any conflict of interest that may arise (including in accordance with clause 36);
- 11.7 not improperly use any information gained through their position as a Member of the GovCo, or take improper advantage of their position; and
- 11.8 protect the reputation of the Code and the goodwill associated with the Code and not bring the Code into disrepute or act in any manner which detracts from the integrity of the Code.

Meetings of the GovCo

- 12 The First Schedule governs the proceedings at meetings of the GovCo, except where otherwise agreed by all Members present (in person or via audio, or audio and visual, communication) in relation to a particular meeting or meetings.

Power to create committees

- 13 The GovCo may at any time, subject to the limits contained in these Terms, appoint any committee comprised of some or all the Members of the GovCo, and delegate to that committee any of the GovCo's powers authorised under these Terms. Any powers delegated may be revoked by the GovCo at any time, such revocation taking effect as from the time of the delivery of the notice.

Composition and appointment of Members

- 14 The minimum number of Members of the GovCo shall be four and the maximum number of Members shall be seven. The Members of the GovCo shall be appointed in accordance with these Terms.
- 15 Each Member is appointed in the capacity which they have elected at the time of appointment (or re-appointment as the case may be). This could be the Member's personal capacity or in their capacity as a representative of the organisation they are engaged or employed by.
- 16 Members to be appointed to the GovCo, both individually and as a collective, are expected to:
 - 16.1 bring diversity to the GovCo, including:
 - (a) visible diversity, such as gender, age and ethnicity; and
 - (b) underlying diversity, such as cultural backgrounds, thinking styles and industry currently engaged in;
 - 16.2 have the appropriate range of skills, experience and relevant sector expertise to effectively carry out their responsibilities as Members of the GovCo;

- 16.3 have relevant expertise in the areas relevant to the successful implementation of stewardship practices for improved long-term value and sustainability outcomes;
 - 16.4 prioritise having at least one Member who represents the interests of tikanga Māori; and
 - 16.5 have a good working knowledge of the financial services industry (particularly in New Zealand), including of investment managers and asset owners.
- 17 Each Member will serve for a term of three years, except some of the initial Members will serve for an initial term of a shorter duration as determined by the Secretariat when the Member is appointed. A Member may serve for up to a maximum of three consecutive terms (including, in the case of the initial Members, their initial term).
- 18 All subsequent Members of the GovCo, including where there is a vacancy, will be appointed by the GovCo in writing (with such appointment to be accepted by the new Member in writing and the Member must declare the capacity in which the Member is accepting the appointment and whether the Member will accept the remuneration contemplated by clause 30), provided that:
- 18.1 the GovCo has first met and deliberated on the skills and qualifications of the new Member; and
 - 18.2 the GovCo is satisfied the new Member has the requisite skills and qualifications expected of a Member, and satisfies the criteria set out at clause 16.
- 19 Any Member or a Host Organisation may nominate a person to become a Member to be considered by the GovCo under clause 18. The GovCo may also seek external nominations and expressions of interest for the position of Member and run such process in its sole discretion, provided that any appointment following the receipt of a nomination must follow the process for new GovCo Member appointments set out in clause 18.
- 20 Where an existing Member is eligible and wishes to be reappointed for a further term, the Member must notify the GovCo of their intention to be reappointed in writing at least three months prior to the expiry of their term. The Member's reappointment for the further term must then be confirmed by the GovCo (with the Member not being entitled to vote). Where the Chairperson's reappointment is subject to a vote, and the votes are equal, the Deputy Chairperson will have the casting vote.
- 21 Where a Member is appointed to fill the vacancy created due to the outgoing Member not completing their term, that Member will serve out the balance of the outgoing Member's term and this will count towards the Member's three term limit in clause 17.
- 22 The GovCo may appoint, and remove, any number of Observers to the GovCo.
- 23 An Observer:
- 23.1 does not have any right to vote on any decision to be made by the GovCo, and is not responsible for any decision made by the GovCo;
 - 23.2 will be invited to all meetings of the GovCo while they are an Observer; and

23.3 may, but is not required to, be a government representative.

- 24 For the avoidance of doubt, Observers are not entitled to any remuneration for attending GovCo meetings or any services provided under these Terms.

Removal and retirement of Members

- 25 If at any time during a Member's term in office, the Member (for whatever reason) believes they are unable to continue carrying out their duties, and fulfil their obligations, under these Terms, the Member must resign their position in writing by notifying the Chairperson. If the Chairperson wishes to resign, they must notify (in writing) the Secretariat.
- 26 Where a Member is determined by the other Members (acting reasonably and unanimously, and having given that Member adequate opportunity to be heard in relation to the matter) to no longer be able to further the goals of effective stewardship, as set out in clause 1, or where the Member has breached their obligations under clause 10 or committed any action that could negatively impact the standing and reputation of the Code and/or this GovCo, GovCo may remove that Member immediately upon giving written notice to the Member (copying the Secretariat).
- 27 Immediately upon the resignation or removal of a Member, the Member must return any confidential information of the GovCo in their possession or control back to the Secretariat, or if requested by the Secretariat destroy such confidential information. Confidential information may include:

- 27.1 copies of GovCo meeting minutes;
- 27.2 drafts of GovCo communications; and
- 27.3 drafts of revisions to the Code.

Chairperson and Deputy Chairperson

- 28 At the first meeting of the GovCo each year, the Members shall elect a Chairperson and Deputy Chairperson for the ensuing year. The Chairperson and Deputy Chairperson will serve until a new Chairperson and Deputy Chairperson is elected the subsequent year. A Chairperson and/or Deputy Chairperson may be re-elected in successive years.
- 29 In the event of a vacancy of the position of the Chairperson or Deputy Chairperson, the Members shall promptly elect a replacement Chairperson or Deputy Chairperson as the case may be.

Remuneration of Members and Insurance

- 30 Each Member will be entitled to be remunerated for their time at \$1,000 per full meeting that they attend, which is paid by Toitu Tahua: Centre for Sustainable Finance on behalf of the Secretariat. Whether the Member is actually paid the amount will depend on the nomination as to remuneration that the Member has made when they are appointed or reappointed as a Member.
- 31 The Secretariat must within the first three months of each year:
- 31.1 review the Members' yearly remuneration for that year; and
 - 31.2 confirm that year's remuneration to the Members.

- 32 When carrying out the yearly review of Members' remuneration, the Secretariat must have regard to:
- 32.1 the time commitment expected of the Members for that year;
 - 32.2 the expertise of the various Members; and
 - 32.3 the overall resourcing made available to the GovCo.
- 33 To avoid doubt, Members' remuneration may be increased, kept the same or adjusted down following a yearly review.
- 34 A Member may be reimbursed for reasonable expenses incurred in the course of attending GovCo meetings in person or carrying out the Member's duties under these Terms. The Chairperson will be responsible for approving the expenses incurred by the Members and the Secretariat will be responsible for approving the expenses incurred by the Chairperson. Approved expenses will be paid by Toitu Tahua: Centre for Sustainable Finance on behalf of the Secretariat.
- 35 The Secretariat will procure appropriate insurance is effected, to the reasonable extent permitted by law, for each Member.

Conflicts of interest

- 36 Members must be sensitive to actual, potential and perceived conflicts of interest.
- 37 Members must disclose to the other Members, and record in the interests register kept by the Secretariat, any known conflict of interest that may impact their ability to fulfil their obligations under these Terms.
- 38 Where a Member is conflicted on a matter to be resolved by the GovCo, that Member:
- 38.1 will not be entitled to vote on the matter;
 - 38.2 may be required by the Chairperson to leave the room for all or any part of the time the GovCo is considering and deliberating on the matter; and
 - 38.3 must not discuss the matter to which the conflict relates with any other Member (or attempt to influence any Member to vote in a particular way).

The Secretariat's duties

- 39 The Secretariat's duties are to provide secretary services to the GovCo, including:
- 39.1 preparing all agendas for meetings of the GovCo and keeping correct and accurate minutes and other records;
 - 39.2 preparing a programme of work for the GovCo and use best endeavours to ensure it is delivered on;
 - 39.3 promptly notifying all Members, and Observer members, of meetings of the GovCo;

- 39.4 handling all communications to the GovCo (including receiving all complaints and/or grievances) from a third party or Signatory regarding the implementation of the Code that requires a response from the GovCo; and
- 39.5 carrying out and performing such duties as required by these Terms.
- 40 Without limiting the above, the Secretariat must also carry out any duties delegated to the Secretariat by the GovCo. The GovCo may not delegate to the Secretariat the duty to remove a Signatory as contemplated by clause 3.3.

Independent experts

- 41 The Chairperson must ensure that the GovCo has sufficient access to independent experts as and when this is required. The GovCo may request the Chairperson seek expert advice to support the GovCo and the Members in their responsibilities. This may include commercial, legal or any other necessary advice. Any reasonable costs for expert advice will be met by the Secretariat, subject to availability of funds.

Amendments to these Terms

- 42 Signatories must be consulted on any proposed changes to clause 3 before they are made.
- 43 Subject to any required consultation, these Terms may be replaced or amended in writing at any time with the approval of a majority of Members.

Definitions

- 44 In these Terms, capitalised terms have the following meaning:
- 44.1 *Chairperson* means the Member that is appointed as chairperson of the GovCo in accordance with these Terms;
- 44.2 *Code* means the Aotearoa New Zealand Stewardship Code;
- 44.3 *Deputy Chairperson* means the Member that is appointed as deputy chairperson of the GovCo in accordance with these Terms;
- 44.4 *GovCo* means the Stewardship Code Governance Committee;
- 44.5 *Member* means a member of the GovCo;
- 44.6 *Observer* means a person appointed to share specialist insight with the GovCo and complement the skills and representations of the GovCo, who is invited to attend all, or one or more specified, GovCo meetings while they are appointed in the role of observer;
- 44.7 *Secretariat* means the secretariat of the Code and GovCo from time to time, with the initial secretariat being the Responsible Investment Association Australasia and Toitū Tahu: Centre for Sustainable Finance jointly;
- 44.8 *Signatory* or *Signatories* means a signatory or the signatories to the Code; and
- 44.9 *Terms* means these terms of reference (as amended from time to time).

FIRST SCHEDULE

Proceedings of the GovCo

- 1 **Minimum number of meetings**
The GovCo must meet at least three times a year and no more than six times per year, at least one of which must be an in person meeting.
- 2 **Member's power to convene meetings**
Any Member may convene a meeting of the GovCo by giving notice in accordance with this Schedule.
- 3 **Notice to be sent to Member's address**
The notice of meeting must be a written notice delivered to the Member, or sent to the address or an electronic mail message sent to the electronic mail address, which the Member provides to the Secretariat for that purpose, or if an address or electronic mail address is not provided, then a written notice to his or her last place of residence or business known to the Secretariat.
- 4 **Notice to contain certain details**
The notice of meeting must include the date, time and place of the meeting and an indication of the matters to be discussed in sufficient detail to enable a reasonable Member to appreciate the general import of the matters.
- 5 **Period of notice required to be given to Members**
At least 2days' notice of a meeting of the GovCo must be given unless the Chairperson (or, in the Chairperson's absence the Deputy Chairperson) believes it is necessary to convene a meeting of the GovCo as a matter of urgency, in which case shorter notice of the meeting of the GovCo may be given, so long as at least 2 hours' notice is given.
- 6 **Standing items**
 - 6.1 Where the Secretariat has been notified of a complaint or grievance from a third party or Signatory regarding the implementation of the Code, the GovCo must discuss the matter and seek to resolve the matter if practicable at the next available meeting and, in all cases, follow the procedure detailed in the [Disciplinary Policy] to formulate a written response if the matter involves a Signatory.
 - 6.2 Complaints and grievances must be a standing agenda item for all GovCo meetings.
 - 6.3 Considering relevant international developments relating to stewardship and their application to New Zealand must be a standing agenda item for all GovCo meetings.
 - 6.4 The Govco will receive reports on the finances of the Secretariat on a twice yearly basis.
- 7 **Invitees**
Where a meeting requires the attendance of any expert, independent adviser or other invitee, the Chairperson must ensure that they are appropriately notified of the meeting and make arrangements for their attendance.
- 8 **Members may waive irregularities in notice**
Any irregularity in the notice of a meeting is waived if all Members entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or failure, or if all Members entitled to receive notice of the meeting agree to the waiver.

9 **Methods of holding meetings**

A meeting of the GovCo may be held either:

- 9.1 by a number of Members who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; and/or
- 9.2 by means of audio, or audio and visual, communication by which a quorum of Members participating can simultaneously hear each other throughout the meeting.

10 **Quorum for GovCo meeting**

The quorum necessary for at a meeting of the GovCo is at least three Members when there are four Members of GovCo, and four Members in all other cases, in each case including the Chairperson (or the Deputy Chairperson). No business may be transacted at a meeting of the GovCo unless a quorum is present.

11 **Meeting adjourned if no quorum**

If a quorum is not present within 30 minutes after the time appointed for a meeting of the GovCo, the meeting will be adjourned automatically until the same day in the following week at the same time and place. If at the adjourned meeting a quorum is not present within 30 minutes from the time appointed for the meeting, the GovCo present will constitute a quorum.

12 **Chairperson to chair meetings**

The Chairperson of the GovCo will chair all meetings of the GovCo at which he or she is present. If the office of Chairperson of the GovCo is vacant, or if at a meeting of the GovCo the Chairperson of the GovCo is not present within 10 minutes from the time appointed for the meeting, then the Deputy Chairperson will chair the meeting.

13 **Voting on resolutions**

Each Member has one vote. Unless noted otherwise, a resolution of the GovCo is passed if it is agreed to by the majority of Members present. A Member present at a meeting of the GovCo may abstain from voting on a resolution, and any Member who abstains from voting on a resolution will not be treated as having voted in favour of the resolution.

14 **Chairperson has casting vote**

In the case of an equality of votes, the Chairperson (or, if the Chairperson is not present, the Deputy Chairperson) of the GovCo has the casting vote.

15 **Secretariat must keep minutes of proceedings**

The Secretariat must ensure that minutes are kept of proceedings at meetings of the GovCo. Minutes which have been signed as correct by the Chairperson of the meeting are evidence of the proceedings at the meeting unless they are shown to be inaccurate.

16 **Written resolutions of GovCo permitted**

- 16.1 A written resolution signed or assented to by all Members is as valid and effective as if it had been passed at a meeting of the GovCo duly convened and held.
- 16.2 Any written resolution may consist of several copies of the resolution, each signed or assented to by one or more of the Members.

17 **Confidentiality**

Except as otherwise agreed and resolved by the GovCo, Members must keep strictly confidential and private the details of all meetings and proceedings of the GovCo.

18 **GovCo may regulate other proceedings**

Except as set out in this Schedule, the GovCo may regulate its own procedure.

SECOND SCHEDULE

Operating Principles of the Governance Committee

AOTEAROA NEW ZEALAND STEWARDSHIP CODE

Operating Principles of the Governance Committee

The role of the Aotearoa New Zealand Stewardship Code Governance Committee is to act as Guardians of the Code, ensuring implementation by Signatories meets the spirit and intent. The Committee will:

1. Operate independently of Stewardship Code Signatories to ensure integrity and that the industry is not both setting and marking its own homework.
2. Consult Stewardship Code Signatories on material decisions and consider their responses. Final decisions will then be made by the Governance Committee.
3. Acknowledge and respect that all Signatories are at different stages of their Stewardship journey with differing levels of resources for undertaking stewardship activities.
4. Not 'name and shame' any organisation, act fairly and reasonably, and take a constructive approach to building stewardship activity in New Zealand.
5. Provide aggregated anonymised feedback to Signatories at appropriate times (i.e. as part of annual reporting), and does not expect to regularly provide individual feedback to Signatories.
6. Proactively monitor for conflicts of interest and stringently manage any that are identified in accordance with the Governance Committee Terms of Reference.
7. Actively increase expectations relating to stewardship activities and outcomes over time, as the maturity of stewardship activities in New Zealand grows.
8. Aim to enable and improve stewardship practice in NZ, considering what is collectively best for stewardship in the process.
9. As outlined in the Governance Committee Terms of Reference, engage with Signatories that are not aligned and/or compliant with the Code and escalate into the Delisting Process Policy if necessary, while also recognising that 2023-2024 represents a 'lighter touch' phase for the Code.

THIRD SCHEDULE

Delisting Process

AOTEAROA NEW ZEALAND STEWARDSHIP CODE

Delisting Process

If a Signatory no longer meets the requirements of the Aotearoa New Zealand Stewardship Code (the Code), which may include but is not limited to:

- a) persistent or material non-alignment or non-compliance with the Code or any recommended remedial actions;
- b) failing to meet the spirit of the Code;
- c) providing information in their application or report which is later discovered to be false or inaccurate;
- d) is under investigation or has been subject to regulatory action from another government or regulatory body; or
- e) ceases to trade/exist;

the Secretariat will write to the Signatory setting out:

- a) our concerns and the basis on which we consider that the organisation may no longer meet those requirements; and that,
- b) subject to any representations that the Signatory may wish to make (see below), the Secretariat may remove that Signatory from the list of signatories.

The Signatory will be given 30 working days to make written or in person representations to the Secretariat before a final decision is made as to whether to remove an organisation from the list of signatories.

Where the Signatory chooses to make representations, these will be referred, together with the Secretariat's correspondence setting out the basis of concerns, to the Secretariat's Governance Committee, who will make the final decision about whether to remove the organisation from the list. The Governance Committee will allow time for any representations to be implemented where appropriate, and may defer making a final decision for up to 12 months in this event. The Governance Committee may also agree other actions instead of delisting, such as temporary removal of their logo from the Stewardship Code website.

Where the organisation chooses not to make representations, it will be removed from the list of signatories upon approval from the Code Governance Committee.

The Secretariat will communicate the decision in writing to the entity, and this decision will be final. Organisations that have been removed as signatories to the Code may re-apply in future. The circumstances under which the signatory was previously removed may be considered in any future application.

Withdrawing as a signatory

Organisations that want to withdraw their signatory application or be removed as a signatory should email info@stewardshipcode.nz.

Any organisation that is delisted or withdraws shall not be entitled to a reimbursement of any part of their Signatory fee.