

NZFBF

NEW ZEALAND
FINANCIAL BENCHMARK
FACILITY



TE POU HERENGA PŪTEA O AOTEAROA

NZFBF BOARD CHARTER

April 2024

NEW ZEALAND FINANCIAL BENCHMARK FACILITY

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Table of Contents

CHANGE CONTROL.....	3
NEW ZEALAND FINANCIAL BENCHMARK FACILITY LIMITED – BACKGROUND.....	3
BOARD OBJECTIVE.....	4
BOARD DUTIES AND RESPONSIBILITIES	4
BOARD COMPOSITION	7
BOARD REVIEW	8
MEETINGS	9
COMMITTEES & WORKING GROUPS.....	9
BOARD AND MANAGEMENT.....	9
REMUNERATION	9
CHAIR	10
CONFLICTS OF INTEREST	10
CONFIDENTIALITY	11

CHANGE CONTROL

Date	Author	Update
June 2020	John Groom	Draft
April 2021	John Groom	Final
June 2021	Jenni Walsh	Amend clauses 6.1(b) & (c)
December 2021	Various	NZFBF Board Review
December 2023	John Groom / Chapman Tripp	NZFBF Board Review following NZFMA update to Constitution Review and benchmarking of Charter against Constitution

NEW ZEALAND FINANCIAL BENCHMARK FACILITY LIMITED – BACKGROUND

- 1.1 The New Zealand Financial Markets Association Incorporated (**NZFMA**, the **Shareholder**) is a not-for-profit organisation that has been responsible, among other things, for the administration and calculation of the key New Zealand interest rate benchmarks, since 2008. The NZFMA is governed by its board.
- 1.2 The current interest rate benchmarks include - BKBM, the OCR Compound Index and Closing Rates (**Benchmarks**).
- 1.3 In 2021, New Zealand Financial Benchmark Facility Limited (**NZFBF**, or the **Company**), a not-for-profit subsidiary of the NZFMA, was established to provide independent financial benchmark administration services for the Benchmarks, exclusively for the Shareholder, following the introduction of benchmark administration regulation (including a licensing regime) overseen by the Financial Markets Authority (**FMA**).
- 1.4 NZFBF is governed by its board (**Board**), which for the avoidance of doubt is separate to the board of the NZFMA. The NZFBF has a number of committees (**Committees**) and working groups (**Working Groups**).
- 1.5 As the global environment for benchmarks has been plagued by misconduct events, regulators in the major economies have moved to regulate benchmarks using the IOSCO Principles for Financial Benchmarks as a guideline for best practice. As a result of this global regulation, benchmarks in New Zealand need to be of an equivalent standard to those in other countries, particularly the major economies, to enable their use by regulated entities globally. Not achieving this could have a detrimental impact on the ability of New Zealand banks to fund offshore and corporate/investment institutions to hedge interest rate risk. For this reason, New Zealand has established a legislative benchmark licensing regime. NZFBF has been established to be the licensed entity to undertake benchmark administration.

- 1.6 This Board Charter sets out the responsibilities and framework for the operation of the Board.
- 1.7 In developing this Board Charter, NZFBF has taken into account the guidance set out in the FMA's "Corporate Governance in New Zealand: Principles and Guidelines".

BOARD OBJECTIVE

- 1.8 The objective of the Company is to deliver effective and efficient calculation and publication of the Benchmarks, ensuring, to the extent applicable, compliance with the New Zealand administrators of financial benchmarks regime, as provided for in the Financial Markets Conduct Act 2013 (**FMCA**) and the Financial Markets Conduct Regulations 2014, and alignment with the IOSCO Principles for Financial Benchmarks.
- 1.9 The Board will facilitate and supervise the Company's fulfilment of its objective to deliver the calculation and publication of the Benchmarks, as set out in clause 4 of the constitution of the Company (**Constitution**), in accordance with the Constitution, this Board Charter and all other applicable policies and guidelines which the Board has adopted in respect of the Company.

BOARD DUTIES AND RESPONSIBILITIES

- 1.10 The Board will:
 - (a) aim to achieve the highest standards of governance;
 - (b) be responsible for the governance, proper direction, and control of the activities of the Company; and
 - (c) act consistently with all legal requirements and any letters of appointment relating to their appointment as a director of the Company,acknowledging the Company's important role in the New Zealand financial markets, its status as a not-for-profit entity and the overlay of the FMCA licensing regime.
- 1.11 To meet NZFBF's objectives, the Board is responsible for the following:

Core duties

- (a) managing the business and affairs of the Company;
- (b) providing strategic leadership;
- (c) setting the culture for the Company and overseeing the conduct of management, staff and contractors;
- (d) putting in place rigorous risk management processes and internal controls and monitoring risks identified;

Oversight duties in respect of Benchmark Administrator

- (e) ensuring that the Benchmarks meet the criteria set out in any terms and conditions

of any licence set under the FMCA by the FMA (**Conditions**);

- (f) reviewing and facilitating alignment with the IOSCO Principles for Financial Benchmarks (to the extent applicable) (the **Standards**);
- (g) making final decisions on Benchmark design changes and signing off on Benchmark design changes by reviewing the process for the methodology, design, calculation and publication of the Benchmark (**Process**);
- (h) reviewing international developments and considering their impacts, including developing any changes required to the Process in order to continually comply with the Standards;
- (i) reviewing and providing feedback on the design, methodology, calculation and publication of the Benchmarks by reviewing a selection of activities to determine whether they:
 - (i) are consistent with the Conditions and Standards;
 - (ii) reflect a credible market for an interest measured by the Benchmarks;
 - (iii) are logical and appropriate in the circumstances, with any discretions reasonably exercised; and
 - (iv) have been made in accordance with the Company's processes and the delegation to the general manager of the Company (**General Manager**) of the day-to-day operational management of the Company in accordance with the plan and budget agreed by the Board, under the NZFBF Board Delegation to the NZFBF General Manager dated 15 November 2021, as approved by the Board (**General Manager Delegation**);
- (j) making recommendations to the Shareholder regarding any new benchmarks or the collection of any new benchmark related data;

Oversight of Management

- (k) establishing policies and delegated authorities within the Company;
- (l) approving strategic objectives and performance as recommended by the General Manager;
- (m) reviewing the implementation of the strategic objectives;
- (n) reviewing policies and delegated authorities established within the Company;
- (o) selecting, appointing, determining the terms and conditions, evaluating the performance and succession planning for the General Manager and other senior management;
- (p) reviewing and approving the remuneration of the General Manager and senior management;
- (q) establishing relevant service levels and key performance indicators (**KPIs**) in

respect of the Company's oversight function and the Benchmarks' performance;

- (r) reviewing and providing feedback in respect of the Benchmarks' performance and the Company's oversight function against applicable KPIs;

Financial

- (s) negotiating a funding arrangement with the Shareholder;
- (t) setting the Company's annual budget, having regard to:
 - (i) complying with the Conditions and Standards; and
 - (ii) the Shareholder's other activities;
- (u) consulting the Shareholder on the budget;
- (v) approving major capital expenditure, acquisitions and divestures outside any delegated authority of senior management;
- (w) procuring an external review of the Benchmark's compliance with the Conditions as required by the FMA;
- (x) reviewing and approving the Company's audited financial statements;
- (y) fostering good communications with the Company's auditors, reviewing their performance and ensuring that there is a change of audit partner at least every 7 years;

Managing compliance

- (z) setting high standards of ethical behaviour and holding management accountable for these standards being adhered to throughout the Company, including by regularly reviewing the Company Code of Conduct;
- (aa) reviewing and providing feedback in respect of Company arrangements for referring matters for investigation and its compliance with these arrangements;
- (bb) managing complaints related to the Company's Benchmarks as prescribed in the Company's Complaints Policy;
- (cc) managing whistle-blowing related to the Company's Benchmarks as prescribed in the Company's Whistle-blowing Policy;
- (dd) ensuring the Company fulfils any obligation in respect of the Independent Oversight Committee (**IOC**) in accordance with clause 9 of the Constitution;
- (ee) generally supervising the Company's compliance with the FMCA licensing regime;

General

- (ff) engaging and managing interactions with stakeholders, including the regulators, the Shareholder and its members, Committees and Working Groups, the wider financial market and the public, including by releasing public statements by the Company;
- (gg) consulting the Committees and Working Groups on any changes to the Benchmark process and any other matters where their expertise may be beneficial;
- (hh) reviewing regular reporting from Committees and Working Groups;
- (ii) considering issues referred to it by the Shareholder or Committees and Working Groups;

- (jj) referring to the Shareholder or Committees and Working Groups matters that the Board considers may require a response from the Shareholder or Committees and Working Groups; and
- (kk) carrying out all other actions required of the Board in accordance with the Constitution.

BOARD COMPOSITION

- 1.12 The number and appointment of directors is determined by the Shareholder in accordance with clause 6 of the Constitution. The Shareholder may remove a director at any time by notice in writing under the circumstances defined in clauses 6.6(a) – (g) of the Constitution.
- 1.13 The Board must consist of a majority of independent directors in accordance with clause 6 of the Constitution, subject to the exceptions defined in that clause.
- 1.14 The Board will review its composition at least annually, taking into account the provisions of this Board Charter, and may advise or make recommendations to the Shareholder about further appointments to the Board, taking into account the provisions of this Board Charter.
- 1.15 On the resignation of a director, the Board may advise or make recommendations to the Shareholder about prospective appointees, taking into account the provisions of this Board Charter.
- 1.16 Directors must be in compliance with any Conditions regarding any requirements for directors.

Observers

- 1.17 Subject to approval by the chair of the Board (**Chair**), the General Manager of the Company may attend meetings as an observer.
- 1.18 In addition to the General Manager, the Board may permit up to two persons holding positions in the public sector to attend meetings as observers. These persons should have significant experience in financial markets and bring skills, experience and thought leadership that will be useful to the Board. These persons should bring a public perspective to the issues faced by the Company and the Board. These members could be drawn from, but not limited to, the FMA, Reserve Bank of New Zealand and/or The Treasury.
- 1.19 Observers shall be entitled to speak at meetings but shall not vote.

Director Skills

- 1.20 The Board should consist of directors with the necessary skills, knowledge and experience relevant to interest rate benchmark setting, preferably in a New Zealand context. Directors' attributes should complement one another and include diversity reflecting stakeholders.
- 1.21 The Independent Directors:
 - (a) must satisfy the independence definition set out in the Constitution (**Independent**

Directors); and

- (b) should have a working knowledge of New Zealand's financial markets.
- 1.22 The market directors (**Market Directors**) should have an extensive knowledge of, and experience in, New Zealand's financial markets. Ideally, a Market Director should have at least 15 years' experience.
- 1.23 In addition to the matters set out above, all directors should:
- (a) understand New Zealand's interest rate benchmarks and their impact on other instruments, both domestically and globally;
 - (b) bring skills, diversity and thought leadership that complements that of other Board members;
 - (c) confirm they have no current involvement in the interest rate benchmark setting process before being considered;
 - (d) confirm they are able to operate in the NZFBF's best interests (and, in the case of the Market Directors, to the exclusion of the interests of any NZFMA member they may also work for to the extent that is required to operate in the Company's best interests) and have sufficient time available to properly undertake their duties;
 - (e) abide by the Company's Code of Conduct and Conflicts of Interest;
 - (f) disclose any conflicts of interests that arise in accordance with the requirements of the Companies Act 1993 (**Companies Act**) and manage those conflicts using the Company's Conflicts Management Plan;
 - (g) not have been the subject of any investigation or adverse admissions or findings made, or regulatory action taken by or to any authority with disciplinary or regulatory functions in respect of persons engaging in a profession or an occupation; and
 - (h) not have been the subject of any investigation or adverse admissions or findings made, or disciplinary or regulatory action taken by an authority with regulatory functions over a market in respect of participation in a market (either in their personal capacity or as a director or senior manager of an entity, or otherwise have exercised significant influence over the management and administration of that entity).

BOARD REVIEW

- 1.24 The Board will set performance measurements for the Board and senior management, in consultation with an independent third-party advisor.
- 1.25 The Board will complete regular reviews of Board and senior management performance, with an independent third-party review, at such intervals as reasonably determined by the Board.
- 1.26 An independent third party will review the Chair's performance regularly, at such intervals as reasonably determined by the Board.

MEETINGS

- 1.27 Meetings will be conducted in accordance with the Company's Constitution and otherwise as determined by the Chair.
- 1.28 It is intended that there should be at least six Board meetings a year, held approximately every two months, or as required.
- 1.29 Directors are expected to attend all meetings and may be required to give an explanation to the Chair if they miss a meeting.
- 1.30 Directors may seek independent advice relating to the performance of their duties by making a request to the Chair. The Chair will determine on a case-by-case basis whether it is appropriate for the Company to pay for the services.

COMMITTEES & WORKING GROUPS

- 1.31 The Board may from time to time establish further Committees and Working Groups to assist it in carrying out its responsibilities and shall adopt terms of reference setting out matters relevant to the composition, responsibilities and administrations of such committees, and other matters that the Board may consider appropriate.
- 1.32 The Committees and Working Groups shall assist the Board in carrying out its functions, however responsibility in carrying out all Board functions remains with the entire Board.
- 1.33 Proceedings of each Committee and Working Group shall be promptly reported to the Board.
- 1.34 As defined in the Constitution, a member of the Board may not be a member of the IOC.

BOARD AND MANAGEMENT

The General Manager

- 1.35 Subject to any restrictions in the Companies Act as to matters which cannot be delegated, the Board may delegate management responsibilities to the General Manager in accordance with the formal delegations set out in the General Manager's contract of employment on such basis as the Board considers appropriate. The General Manager Delegation specifies which powers are delegated to the General Manager by the Board.
- 1.36 Management will supply the Board with information in a form, timeframe and quality that will enable the Board to discharge its duties effectively. Directors are entitled to request additional information at any time when they consider it appropriate.

REMUNERATION

- 1.37 The Board shall ensure that remuneration paid to directors and management is fair and reasonable having regard to market data in respect of remuneration for broadly

equivalent roles.

CHAIR

- 1.38 The Board shall appoint one Chair and one deputy chair, subject to the Shareholder's approval, and give notice in writing to the Company and Shareholder of such appointments. Both Chair and deputy chair positions should be held by Independent Directors.
- 1.39 The General Manager will facilitate and supervise any secret ballots to elect the Chair and deputy chair of the Board in the event that a secret ballot is required to appoint the positions.
- 1.40 The Chair will provide leadership to the Board, including, but not limited to, by:
 - (a) ensuring that the Board's processes and actions are consistent with this Board Charter and its other policies;
 - (b) leading the process of evaluation and review of the Board's performance; and
 - (c) being the primary interface between the Board and the General Manager.
- 1.41 The Chair will chair Board meetings ensuring that:
 - (a) meeting discussion content is focused on governance matters as defined in this Board Charter and in the Constitution;
 - (b) all Board members are treated even-handedly and fairly; and
 - (c) all Board members are encouraged to contribute to the Board's deliberations.
- 1.42 The Chair will ensure that all directors understand their responsibilities and have access to any necessary training, be that technical or related to their director responsibilities, to ensure this is achieved.
- 1.43 The Chair will facilitate the Board's engagement and relationship with the IOC, as may be appropriate from time to time to ensure the Company meets its objective and complies with the FMCA licensing regime.
- 1.44 The Chair will carry out all other duties and fulfil all responsibilities required of them as defined in the Constitution.

CONFLICTS OF INTEREST

- 1.45 Directors must disclose to the Board any potential, perceived or real conflicts of interest whether pecuniary or non-pecuniary, and comply with the "Guide to Managing Conflicts of Interest" provided in Appendix 1 of the "NZFBF Code of Conduct and Conflicts of Interests Policy", the Companies Act and the Constitution as appropriate.

CONFIDENTIALITY

- 1.46 All discussions, papers and records of Board meetings will remain confidential to the Company, unless there is specific direction from the Board, or disclosure is required by law.
- 1.47 Records of Board meetings shall be made available to relevant regulators (e.g., FMA, the Reserve Bank of New Zealand, the Commerce Commission) on request (subject to any appropriate redactions for reasons of confidentiality).