



Governance Conflicts Management Plan

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NEW ZEALAND FINANCIAL BENCHMARK FACILITY

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Change Control

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Introduction

In response to the investigations and enforcement actions brought against the manipulation of financial benchmarks in many countries around the world, especially with regard to the Inter-Bank Offer Rate (IBOR) market, the International Organisation of Securities Commission (IOSCO) has published a set of guiding principles¹ for Financial Benchmarks to help restore and maintain public trust in the use of these benchmarks which form an important component in the financial markets ecosystem.

New Zealand's financial market benchmarks did not experience the problems faced in other jurisdictions, but the NZFBF as the Benchmark Administrator (BA) acknowledges and adheres to the principles set out by IOSCO.

These principles provide an expectations framework centred on four themes: Governance, Quality of the Benchmark, Quality of the Methodology used in the Benchmark, and Accountability. This document is intended to look at and address the third IOSCO principle (*Conflicts of Interest for Administrators*) regarding Governance, specifically the expectations and standards required around "Ownership and Control of the Benchmark Administrator"

Document Purpose

The purpose of this document is to identify the potential areas for conflicts of interest, to categorise these conflicts, provide an assessment as to whether they are perceived or actual and then to describe how these conflicts will be disclosed and managed. In so doing, we have followed the Institute of Directors "Conflicts of Interest Practice Guide" and, in particular, the three-step process recommended being:

- Identify the Conflict
- Disclose the Conflict
- Manage the Conflict

What is a conflict of interest?

A "conflict of interest" exists when a private interest or personal relationship interferes, appears to interfere, or could be reasonably expected to interfere, with the best interests of NZFBF.

There are three types of conflicts of interest covered by this policy:

- **Actual:** This occurs when a private interest would interfere with the best interests of NZFBF;
- **Apparent:** This occurs where a private interest would be perceived by a reasonable outsider as potentially interfering with the best interests of NZFBF; and
- **Potential:** This occurs when a private interest could at a later stage interfere with the best interests of NZFBF.

¹ [IOSCO Principles for Financial Benchmarks Final Report 2013](#)

Conflict Identification:

1. Benchmark design

The process for benchmark design improvement, which has developed over time, has historically been driven by market feedback through the use of committee structures (Rates & Credit Markets). This process takes the form of direct input from the relevant Committees made up of representatives from NZFMA member banks. It could be **perceived** that the relevant Committee members have a direct interest in a design feature that would allow them, or their institution, to benefit in some manner.

While there is the **potential** for conflict in this input mechanism, it is important that this ‘market’ feedback is maintained to ensure the NZ benchmark remains applicable and relevant to all stakeholders, as well as being responsive to change in global regulatory requirements.

Management Plan:

To manage this conflict, the independent Board of the NZFBF will provide oversight by having final decision rights on any changes to the Benchmark, including changes to methodology or design features.

2. Benchmark setting

Banks who are directly involved in the establishment of this benchmark rate may also hold large derivative positions that are priced or revalued based of this same rate: this may generate the **perception** that Banks could have a self-interest/incentive in the outcome of the rate setting process

Management Plan: *This conflict is managed through:*

- i. The quality of the benchmark administration design process, in that it does not rely on bank submissions but through the ‘capture’ of **actual** transactions (‘trades’) between participants via the interbank broker market or the use of executable bids and offers set by the aforementioned participants. This mechanism means that, unlike the submission process, it is harder to manipulate and a more realistic representation of what the benchmark is, in effect, supposed to reflect.*
- ii. There exists a comprehensive set of rules relating to benchmark establishment processes that is publicly available, providing transparency and helps set expectations around conduct and outcomes. This process is monitored by NZFBF and reported to the compliance officer.*
- iii. There is visibility to the regulator, and the general public, of the transactions that are used to calculate the daily benchmark rate. This level of granular transparency enhances the accountability mechanism implicit in the above design process, detailed in (i) above, and serves as a powerful deterrent against attempts to influence the outcome of the benchmark.*

3. NZFBF Ownership & Control

- a) The data that is generated from the benchmark administration activities of the NZFBF generate a significant revenue stream that in principle is the property of the NZFMA since the Intellectual Property (IP) is owned by the NZFMA. The NZFBF will be reliant on the NZFMA allocating a portion of that revenue to fund its core functions. From time to time, technical enhancement, hardware and infrastructure upgrades and increases in staff resourcing may require additional funding, some of which will be required by the NZFBF to meet their licencing obligations.

Management Plan:

*This **potential** for conflict will be managed through the joint financial planning process whereby both the NZFBF Board and the NZFMA Board will agree an annual financial budget for the NZFBF. This will ensure that it can carry out its functions as a BA as well as maintaining compliance with regard to the required regulatory minimum capital buffers.*

- b) The proposed BA structure requires the NZFBF General Manager (GM) to have dual reporting lines. That person will report all operational issues relating to benchmark administration to the NZFBF Board. The NZFBF GM will operate within an agreed financial budget, set in consultation with the NZFBF Board and the NZFMA CEO/Board. On all other issues, the NZFBF GM will report to the NZFMA CEO. This includes office administration, leave, remuneration and allocation of technical support. This dual reporting structure may represent a **potential** conflict where the interests of the NZFMA CEO impacts the NZFBF's ability to perform the BA role.

Management Plan:

*Where operational overlap creates the **potential** for conflict, the separation of duties and responsibilities of the NZFMA/NZFBF Boards will provide 'clear line of sight' to the management of NZFMA & NZFBF.*

Conflict Identification:

4. Self-Reporting

As noted earlier, the NZFMA/NZFBF facilitates several Committees that have input into the NZFBF’s benchmark processes. Sitting rules for these Committees require that participants **must** report any conduct related concerns on benchmarks at each meeting or to the conduct regulator. This situation could generate a **potential** conflict by creating a disincentive to ‘engage’ constructively for fear of self-incrimination/recrimination in reporting a conduct related matter.

Management Plan:

The NZFMA/NZFBF has an external ‘Whistle-Blowing’ policy in place that allows members to raise any conduct/criminal activity.

The NZFBF ‘Complaints Process’ provides a mechanism where conduct issues can be reported and escalated.

5. Independence of the Benchmark Administrator Board

The NZFBF Board will be comprised of: three independent directors, the Chair, an external legal expert and one other. However, to ensure that the Board is able to provide the necessary level of oversight, especially given the specialist nature of Benchmark Administration, it will be necessary to have Board members who possess knowledge and experience of New Zealand Capital Markets. The breadth and depth of New Zealand’s financial markets could present a challenge in finding Directors with those skills that are not conflicted by either being directly or indirectly connected to member banks. This could create **actual** conflicts, or be **perceived** by stakeholders as allowing **potential** conflicts of interest to develop.

Management Plan:

Industry experts are appointed as directors independent of their employer. They are expected to represent themselves as experts within the industry they work rather than representing their employers’ interests.

*The **perception** of conflict is mitigated through the independence of the Chair and the other two (independent) directors, who will constitute the majority of voting/decision rights on the Board.*

*Where **actual** conflict exists Directors will be obliged to **declare** the conflict, and will if required by the Chair, recuse themselves from any votes/decisions. Guidance to Directors on this matter is given by the New Zealand IoD. The NZFBF Directors, as ‘Representatives’, will also have to attest that they will comply with the company’s Code of Conduct & Ethics which includes a requirement to **declare** any conflicts of interest.*

The NZFBF Board will also consist of two non-voting observers from the RBNZ and Treasury. They have no regulatory oversight of the Benchmark Administrator but will be in a position to provide comment on all matters before the Board and guide outcomes.

6. Conflicts of Interest relating to third party relationships or suppliers

- (a) GRSS is benchmark administrator for a number of country specific financial benchmarks and calculation agent for Euribor and the Danish financial benchmarks. GRSS operates as a benchmark administrator in each country as a wholly owned subsidiary with an independent board and management team. However, the current CEO of the NZFMA, Paul Atmore, is a founding director and significant shareholder (of GRSS), and may at times be privy to commercially sensitive information.
- (b) Expert Developments Ltd, a software development and web hosting company, provides technical infrastructure support and server hosting to NZFBF. Expert also operates as a development company for other benchmark administrators, including GRSS.

The situations above create **actual** conflicts but highlight the **potential** for conflicts to also arise in the future.

Management Plan:

*With regard to the situation (a), Mr Atmore will be required to follow guidance given in the NZFBF's Code of Conduct & Ethics and **declare** his interest, recusing himself from any decisions where this conflict arose.*

In the case of (b), NZFBF has a Service Level Agreement (SLA) and confidentiality agreement in place with Expert to ensure the provision of the required level of service and information/data protection.