



Corporate Trustee Services Board Terms of Reference

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Date: November 2019

The Board of Directors of Trustees Executors Limited (“the Company”) hereby confirms the Terms of Reference of the Corporate Trustee Services Board (“CTS Board”).

Explanatory Note

“The Company” is to be read as including Trustees Executors Limited and all of its controlled entities.

1. Appointment of CTS Board

1.1 The CTS Board is appointed pursuant to Sections 20 and 21 of the Trustee Companies Act 1967 as a local board of the Company in Wellington.

2. Directors of the CTS Board

2.1 The CTS Board shall consist of such persons as members (each a “CTS Director”) as the Company shall from time to time appoint. The number of persons from time to time appointed as CTS Directors shall not at any time be fewer than the quorum of the CTS Board.

2.2 The CTS Board at the date of these Terms of Reference comprises John Meehan and Philip Dyer.

2.3 Each CTS Director will come due for reappointment every three years or until he or she resigns, or the Board of the Company resolves to terminate such appointment, which it may do at any time.

2.4 The Chair will be appointed for a three year term or until he or she resigns or the Board of the Company resolves to terminate such appointment, which it may do at any time.

3. Proceedings of CTS Board

3.1 The CTS Board shall conduct its meetings in accordance with the provisions of the schedule annexed to these Terms of Reference (Meeting Rules). The Board of the Company may change the Meeting Rules following consultation with the CTS Board.

3.2 Representatives from Management, Internal Audit, External Audit, and the Chief Risk Officer may attend meetings at the invitation of the Chairperson of the CTS Board. The Chief Executive Officer, General Manager CTS, and Head of Client Supervision will normally be present at meetings.

4. Guiding principles for the CTS Board

The following guiding principles apply to the CTS Board’s functions:

4.1 To hold CTS management to account for high standards of ethical behaviour, responsible decision-making and good conduct

4.2 To consider and uphold the interests of investors in trustee or supervised appointments

4.3 To ensure:

4.3.1 Sound risk-based client management and supervision

4.3.2 Clear, concise, transparent and timely disclosure/reporting

- 4.3.3 Compliance with legislation, regulator requirements and company policies/procedures/delegations
- 4.3.4 Independence of decision-making.

5. **Functions of CTS Board**

The CTS Board has the following functions, powers and authorities in respect of the CTS section of the Company's business:

- 5.1 Approval of Appointments
 - 5.1.1 To approve, on behalf of the Company, the due diligence and appointment of the Company as any of the following:
 - 5.1.2 Supervisor and/or trustee in respect of:
 - 5.1.2.1 debt securities
 - 5.1.2.2 managed investment schemes:
 - KiwiSaver
 - Managed Funds
 - Superannuation
 - 5.1.2.3 Wholesale managed funds
 - 5.1.2.4 Asset Securitisations
 - 5.1.3 Statutory supervisor of retirement villages
 - 5.1.4 Supervisor of Non-Bank Deposit Takers under the Non-Bank Deposit Takers Act 2013 and any amendments
 - 5.1.5 Any other trustee, supervisor or similar role for any retail or wholesale appointment under financial markets and/or trustee legislation for the time being
 - 5.1.6 Corporate Independent Licensed Trustee, subject to the prior approval of the Company's Board of Directors for any open scheme.

The CTS Board has no power or authority to approve any custodial appointments.

5.2 Review of Appointment Terms

To review and approve on behalf of the Company:

- 5.2.1 the terms of any appointment referred to in Clause 5.1 above
 - 5.2.2 the due diligence process associated with a review of the client and the terms of the appointment, and
 - 5.2.3 the terms of all documents necessary or desirable in connection with the transactions relating to any such appointment.
- ### 5.3 Company's Supervision and Management Role in Appointments
- 5.3.1 To act generally for the Company and in relation to protecting the interests of investors in connection with the supervision and management of appointments referred to in Clause 5.1 and including without limitation, power to:
 - 5.3.1.1 provide oversight and direction in respect of CTS's supervisory and trustee duties and conduct
 - 5.3.1.2 make major decisions and monitor key operational decision-making on the duties, authorities and discretions of the Company under trust deeds, or any

other deeds and/or agreements required to be entered into, or desirable to be entered into in connection with any appointment referred to in Clause 5.1 above

- 5.3.1.3 provide oversight to the monitoring of compliance of managers, issuers, borrowers or appointments of the Company under the terms of trust deeds, or other deeds or agreements entered into in connection with any appointment referred to in Clause 5.1 above
- 5.3.1.4 make decisions on significant actions to be taken in respect of defaults of managers, issuers, borrowers or appointments of the Company under trust deeds, or other deeds or agreements entered into in connection with any appointment referred to in Clause 5.1 above; and
- 5.3.1.5 provide oversight to the monitoring activities of any subsidiary of the Company (whether incorporated before or after the date of these Terms of Reference) which has been or will be incorporated to facilitate any of the appointments of the Company referred to in Clause 5.1 and to act on behalf of the Company as a shareholder of each such subsidiary, with power to approve any major transaction and give any other shareholder consents or waivers which may be required or requested by the board of any such subsidiary company, but excluding any authority to commit the Company or any subsidiary to borrow, leverage, guarantee or otherwise incur monetary obligations in any manner unless the governing documents expressly state that any liability is limited to the assets of the client fund.

This power to act for the Company shall include the power of delegation to any CTS Director or other person from time to time authorised by the CTS Board, provided always that such delegated authorities are

- 5.3.2 consistent with the Company's and its subsidiaries' "Delegations and Policies for the Execution of Documents" and "List of Authorised Signatories for Signing under Company Seal" from time to time ("Delegated Authorities"); and
- 5.3.3 reported to and monitored by the CTS Board.

5.4 CTS Policies and Processes

To approve non-financial CTS policies, relating to the management and supervision of client appointments, provided that such policies and processes are not inconsistent with any corporate level policy or process of the Company.

5.5 Review of Audit Reports

- 5.5.1 To review internal and external audit reports for the CTS business carried on by the Company and to make recommendations to both the management and the Board of the Company concerning these reports.
- 5.5.2 The CTS Board shall be entitled to:
 - 5.5.2.1 request the Company's Audit Risk and Compliance Committee for a report from the Internal Auditor for any matter of particular concern; and
 - 5.5.2.2 discuss audit reports on the CTS business with the Internal Auditor.

5.6 Review of Risk and Compliance Reports

- 5.6.1 To review reports on the following for the CTS business and to make recommendations to both the management and the Board of the Company concerning these reports:
 - 5.6.1.1 risk management
 - 5.6.1.2 legislative, regulatory and Supervisor licensing compliance

- 5.6.1.3 complaints, professional indemnity insurance claims/notifications and litigation, if any.
- 5.6.2 The CTS Board shall be entitled to discuss risk and compliance reports on the CTS business with the Internal Audit Manager and Chief Risk Officer of the Company.
- 5.7 Receive Copies of Reports to/from a Regulator
 - 5.7.1 To receive and consider legislative reports and regulatory notifications to, and all reports, guidance and information sheets from, any Regulator (which term shall include the Financial Markets Authority and the Reserve Bank of New Zealand) in respect of the CTS business.
 - 5.7.2 The CTS Board will discuss the regulatory information and its impact for Trustees Executors Limited with management to ensure continuous business improvement.
- 5.8 Advisory Role
 - 5.8.1 To act as an adviser to managers of the CTS business unit of the Company. This role shall include providing independent professional expertise and commercial experience to management relating to:
 - 5.8.1.1 the conduct and oversight of any appointment, and in particular, when dealing with entities in distress or with other difficulties
 - 5.8.1.2 the review of procedures for the approval and enforcement of any appointment or of appointments generally.
- 5.9 Other Issues
 - 5.9.1 To deal with any specific issue referred to the CTS Board by the Executive Director of the Company.
- 6. **Limits on Terms of Reference**
 - 6.1 The powers and authorities given by the Company to the CTS Board do **not** include the power to:
 - 6.1.1 approve CTS business strategy or objectives
 - 6.1.2 approve or deal with financial aspects of CTS, the profits or prospects of the Company
 - 6.1.3 appoint, suspend or dismiss staff; nor
 - 6.1.4 fix the terms of employment for staff.
 - 6.2 Where the CTS Board is acting for and on behalf of the Company in connection with any of the matters referred to in these Terms of Reference the Board of the Company may concurrently act in connection with such matter.
 - 6.3 While the CTS Board is not directly responsible for company strategy, it may provide insights and recommendations to the main Board on emerging risks and trends that could impact CTS's supervision and monitoring.
- 7. **Reporting**
 - 7.1 The CTS Team will prepare and present information consistent with applying a risk-based approach, providing an overview of current and emerging issues as well as forward plans for supervision and monitoring.

- 7.2 The Company requires the minutes of each meeting of the CTS Board to be submitted to the Board of the Company. The Company will inform the CTS Board of any other requirements for reporting procedures and administrative matters which it may have from time to time.
- 7.3 The CTS Board discharges its responsibilities amongst other means by reporting to, and making recommendations to, the Company's Board. In relation to these recommendations, the CTS Board does not have any authority to commit the Company's Board to their implementation, except those matters specifically delegated to the CTS Board in these Terms of Reference or otherwise by resolution of the Company's Board.
- 7.4 The Chairperson of the CTS Board will discuss and report significant findings and recommendations to the Board of the Company quarterly, or as the CTS Board considers appropriate.
- 7.5 In any event, the Chairperson of the CTS Board will provide the Company's Board with an annual report confirming the CTS Board has completed the following:
- 7.5.1 satisfied themselves that the approval of all appointments during the year have been completed with a suitable standard of due diligence and with appropriate terms having regard to:
- 7.5.1.1 Sector, individual client and product risk
- 7.5.1.2 Documentary and any disclosure arrangements with the client and investors as appropriate
- 7.5.2 satisfied themselves that there are effective risk management and compliance systems, policies and processes in place to manage appointment and ongoing sector, client and product risks
- 7.5.3 reviewed any monitoring or other formal reports on CTS's performance by any regulator and either
- 7.5.4 satisfied themselves that any appropriate remediation actions were being taken; or
- 7.5.5 reported any concerns to the Company's Board
- 7.5.6 satisfied themselves that the Internal Audit function has completed its planned programme for CTS for the year, and that any significant findings have been or are being addressed appropriately
- 7.5.7 satisfied themselves that TEL's actions as Corporate Independent Trustee and Supervisor licenses have been managed effectively and in compliance with legislative, regulatory and license requirements
- 7.5.8 monitored any claims or complaints against CTS, and any insurance notifications made; and are satisfied with management's actions on all such matters
- 7.5.9 confirmation of any significant matters that warrant bringing to the attention of the Board or if not, assurance that nothing has come to their attention; and
- 7.5.10 any other requirements that may be requested by the Board.

8. **Seal of CTS Board**

In furtherance of the powers and authorities granted by the Company to the CTS Board, the CTS Board shall have its own seal and shall have the power to resolve to authorise the affixing of the seal of the CTS Board in the manner specified in or not

inconsistent with the Company's Delegated Authorities, to any deed, agreement or other document in any manner from time to time permitted by the constitution of the Company and the Trustee Companies Act 1967. Any such affixation of the seal of the CTS Board shall be binding on the Company and shall constitute conclusive evidence of the Company's acceptance of the terms of any document sealed. All sealings under a seal of the CTS Board shall be reported to the Company's Board.

For completeness, it is noted that:

- 8.1 the seal of the CTS Board is not in use at the date of these Terms of Reference; and
- 8.2 the CTS Board has no responsibility for sealings under the Company's seal.

9. **Administrative matters**

The following matters relating to the powers and functions of the CTS Board be noted:

- 9.1 Where possible, the Chief Executive Officer will attend CTS Board meetings and where appropriate will provide comment on CTS Board matters in his monthly report to the Board of the Company.
- 9.2 The Chief Executive Officer is to have discretion as to whether to refer any particular matter from the CTS Board to the Board of the Company. Urgent matters would be referred without delay.
- 9.3 The CTS Board itself may refer any matters to the Board of the Company for information, decision or recommendation.
- 9.4 As set out in section 21(2) of the Trustee Companies Act 1967, the CTS Board is to be operated under the direction, control and supervision of the Board of the Company.

Signed for and on behalf of the Company:

Ryan Bessemer
Executive Director

Date

10. **Schedule 1**

**Proceedings of the Corporate Trustee Services (“CTS”) Board
Meeting Rules**

10.1 **Meetings**

- 10.1.1 Before the CTS Board can transact any business there must be present a quorum of two non-executive CTS Directors.
- 10.1.2 If a quorum is not present within 15 minutes of the time appointed for the commencement of the meeting, the meeting shall then stand adjourned for seven days; or as agreed with the CTS Directors. The quorum for an adjourned meeting of the CTS Board shall remain two non-executive CTS Directors.
- 10.1.3 A meeting of the CTS Board may be held by not less than the number of CTS Directors who constitute a quorum, either by being assembled together at the place, date and time, appointed for the meeting, or by the contemporaneous linking together by telephone or other means of communication. All such meetings shall comply with the following conditions:
- 10.1.3.1 All the CTS Directors entitled to receive notice of a meeting of the CTS Directors have received notice of the meeting and are entitled to be linked by telephone or such other means of communication for the purposes of such meeting
- 10.1.3.2 Each of the CTS Directors taking part in the meeting by telephone or other means of communication must throughout the meeting be able to hear each of the other CTS Directors taking part
- 10.1.3.3 At the commencement of the meeting each Director must acknowledge his or her presence for the purpose of a meeting of the Board to all the other Directors taking part; and
- 10.1.4 A CTS Director may not leave the meeting by disconnecting the telephone or other means of communication unless he or she has previously obtained the express consent of the Chairperson of the meeting. A CTS Director shall be presumed to have been present and to have formed part of the quorum at all times during the meeting by telephone or other means of communication unless he or she has previously obtained the express consent of the Chairperson of the meeting to leave the meeting.
- 10.1.5 The CTS Board must meet regularly and in any event at intervals of not greater than two months. The non-binding custom at the date of these Terms of Reference is that a minimum of six meetings are held each year.
- 10.1.6 The CTS Board must ensure that minutes are kept of all proceedings at meetings of that Board.
- 10.1.7 The minutes of each meeting shall be signed by the Chairperson of that meeting or the next.
- 10.2 **Notice of Meetings**
- 10.2.1 The Chairperson, or any CTS Director, may summon a meeting of the CTS Board at any time.
- 10.2.2 Subject to clause 9, notice of each meeting shall be given to each CTS Director, via an Outlook calendar appointment, or electronic mail. Any notice must include the date, time and place of the meeting.

10.2.3 An irregularity in the notice of a meeting or a failure to give notice is waived if all CTS Directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if all CTS Directors agree to such waiver.

10.3 **Voting**

10.3.1 Questions arising at any meeting of the CTS Board shall be decided by a majority of votes and each CTS Director present shall have one vote.

10.3.2 Where there is an equality of votes the Chairperson of the meeting shall have a casting vote.

10.4 **Directors' resolution outside meeting**

10.4.1 A resolution in writing, signed or assented to by letter, electronic mail, via Diligent voting process or other written form by all CTS Directors then entitled to receive notice of a Board meeting, is as valid and effective as if it had been passed at a meeting of the CTS Board duly convened and held.

10.4.2 A resolution under paragraph 10.4.1 of this schedule may consist of several documents in like form each signed or assented to by one or more CTS Directors, as the case may be.

10.5 **Interests**

10.5.1 A CTS Director must disclose his or her interest in accordance with the Companies Act 1993 and the requirements of the Company's constitution as soon as possible after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the Company.

10.5.2 A CTS Director who is interested in a transaction entered into, or to be entered into, may:

10.5.2.1 vote on a matter relating to the transaction

10.5.2.2 attend a meeting of the CTS Board at which a matter relating to the transaction arises, but may not be included among the CTS Directors present at the meeting for the purpose of a quorum; and

10.5.2.3 sign a document relating to the transaction on behalf of the Company or the CTS Board, witness the affixation of the seal of the CTS Board, and do any other thing in his or her capacity as a CTS Director in relation to the transaction.

10.6 **Chair**

10.6.1 The Board of the Company shall appoint the Chairperson.

10.6.2 The Chairperson shall preside at all meetings of the CTS Board.

10.6.3 If the Chairperson is absent from or unable to act at any meeting, the CTS Directors present at that meeting shall appoint one of their number to act as the Chairperson.