



BANK OF PAPUA NEW GUINEA
SUPERANNUATION PRUDENTIAL STANDARD 7/2012
CORPORATE GOVERNANCE

ARRANGEMENT OF SECTIONS

PART I—PRELIMINARY

1. Short Title
2. Authorization
3. Application
4. Definitions/Interpretations
5. Commentary

PART II—STATEMENT OF POLICY

6. Purpose
7. Scope
8. Responsibility

PART III—IMPLEMENTATION AND SPECIFIC REQUIREMENTS

9. Governance Framework
10. Board Composition
11. Fitness and Propriety
12. Board Procedures
13. Tenure of Appointments
14. Conflicts of Interest
15. Whistleblowing
16. Audit Committee
17. Internal Audit
18. Board Renewal and Succession Planning
19. Performance Assessment and Reviews
20. Delegated Authority
21. Independent Directors
22. Remuneration Policy
23. Remuneration Committee
24. Remuneration Disclosure
25. Investment Committee
26. Risk Management Framework
27. Licence Holder that is part of a corporate group

PART IV—CORRECTIVE MEASURES

28. Remedial Measures and Sanctions

PART V—EFFECTIVE DATE

29. Effective Date
30. Transitional Arrangements
31. Questions and enquiries

PART I PRELIMINARY

- 1) **Short Title:** This Prudential Standard (“Standard”) may be cited as *Superannuation Prudential Standard 7/2012 Corporate Governance*.
- 2) **Authorization:** The Bank of Papua New Guinea (“Bank”), acting under Section 43 of the *Superannuation (General Provisions) Act 2000* (“Act”) and all other powers enabling it, determines this Standard.
- 3) **Application:**
 - a) This Standard applies to all Licence Holders licensed under the Act unless the context indicates otherwise.
 - b) Where provisions of this Standard apply specifically to a Licensed Fund Administrator and Licensed Investment Manager, these Licence Holders shall be referred to collectively as ‘*Licensed Service Providers*’.
 - c) This Standard applies to all Officers as defined under Section 3 of the Act unless the context indicates otherwise, the term director, chief executive or a manager is specifically used.
- 4) **Definitions/Interpretations:** In this Standard, unless the contrary intention appears, capitalised terms that are defined in the Act, have the same meaning when appearing in this Standard.

The following definitions also apply.

- a) “Bank regulated institution” means any entity licensed by the Bank under the *Superannuation (General Provisions) Act 2000*, *Life Insurance Act 2000*, *Banks and Financial Institutions Act 2000* and the *Savings and Loan Societies (Amendment) Act 1995*.
- b) “Cross-directorship” occurs when a director of a company, say X, becomes a director of another company, say Y, and likewise a director of the other company, Y, joins the Board of X. Such situation often arises in mergers or acquisitions scenarios.
- c) “Independent Director” means a Director as defined in paragraph 20.
- d) “Material” refers to the test of whether a relationship or business is “material”, which will be based on the nature, circumstances and activities of a director, having regard to his/her independence. Materiality will be considered from the perspective of the Licence Holder, the persons or organisations with which the director has an affiliation and from the perspective of the director.

- e) “Representative Director” means a Director who is appointed or nominated by a shareholder, a recognised association or other institution.
 - f) “Risk Management” means the proactive identification, assessment, mitigation, management, monitoring and reporting of risks. It comprises the policies and procedures, risk management methodology and processes, system of internal controls, formal reporting structure (with appropriate governance and oversight) and independent review process.
- 5) **Commentary:** Commentaries in this Standard are included for guidance.

PART II STATEMENT OF POLICY

- 6) **Purpose:**
- a) This Standard prescribes standards of corporate governance conduct and administration for Licence Holders and its Officers to ensure that Licence Holders are prudently managed and that reasoned, informed and impartial decisions are made in the best interests of the members of ASFs.
 - b) The ultimate responsibility for the sound and prudent management of an institution regulated by the Central Bank (the Bank) rests with its Board of directors. It is essential that a Licence Holder has a sound governance framework and conducts its affairs with a high degree of integrity. A culture that promotes good governance that benefits all stakeholders of a Licence Holder and helps to maintain public confidence in the institution.
- 7) **Scope:** All Licence Holders shall comply with this Standard except where specific provisions are stated to apply only to ‘*Licensed Service Providers*’.
- 8) **Responsibility:** All Licence Holders and Officers shall comply with this Standard as it applies to them.

PART III IMPLEMENTATION AND SPECIFIC REQUIREMENTS

9) Governance Framework

- a) The Board of a Licence Holder (the Board) must develop, document and maintain a Governance Framework.
- b) In developing the Governance Framework, the Board must take into account the size, complexity and risk profile of the business.
- c) The Governance Framework must include, as a minimum, the requirements in paragraph 10 to 25.

10) Board Composition

a) Licensed Trustee

- i) The Board of a Licensed Trustee must have a minimum of five Directors.
- ii) The majority of Directors must be Independent Directors.
- iii) The majority of Directors must be resident in PNG.
- iv) The chairperson of the Board must be an Independent Director.
- v) The chairperson of the Board cannot chair any Board committees.
- vi) The quorum of the Board, which as a minimum must be no less than three directors, must include a majority of Independent Directors.
- vii) The chairperson of a Board Committee must not chair more than one Board Committee.
- viii) An employee of a Licensed Trustee is not permitted to be a Director. This excludes directorships on family, charity, religious, sport or NGO organizations.

b) Licensed Service Providers

- i) The Board of a Licensed Service Provider must have a minimum of three Directors.
- ii) The minimum quorum of the Board must be no less than two Directors.
- iii) Where a Licence Holder is locally incorporated but foreign owned, at least one of the Directors must be resident in PNG.
- iv) A Director or employee of a Licensed Service Provider must not be a director on the Board of any entity that an ASF invests in.

11) ***Fitness and Propriety***

- a) The requirements of paragraph 11 of this Standard shall complement requirements of *Superannuation Prudential Standard 6/2008 Fit and Proper Requirements*.
- b) The Board must, as a minimum, ensure that all Directors and Officers of a Licence Holder must possess appropriate skills, knowledge and qualifications to carry out their appointed roles.
- c) The minimum requirements for all Directors must include:
 - i) an understanding of and ability to effectively implement the covenants outlined in Section 71 of the Act;
 - ii) a working knowledge of the Act and the Prudential Standards;
 - iii) for a Licensed Trustee, a working knowledge of the accounting, auditing and operational processes relating to trustee roles and responsibilities and the fund it manages;
 - iv) for a Licensed Trustee and a Licensed Investment Manager, appropriate levels of investment knowledge and expertise;
 - v) the principles of Risk Management;
 - vi) knowledge of the duties of directors;
 - vii) basic knowledge of the elements and application of other laws applying to the Licence Holder;
 - viii) be and remain a member of the PNG Institute of Directors; and
 - ix) awareness of subjects where additional technical, professional or expert advice should be sought.

12) ***Board Procedures***

- a) Board meetings must be structured and documented so as to allow the orderly deliberation by all Directors on all matters under discussion and adequate record keeping of the proceedings and of decisions made in support or against any proposition must be kept.
- b) Directors must receive Board papers at least one week prior to any meeting so that the Directors have the most up-to-date papers and would allow time to read, assess and form a view of matters under discussions.
- c) All Directors must contribute independently in the decision-making process. Accordingly, significant decisions, including investment decisions, must be made following interactive discussion among Directors.

- d) Directors must exercise their individual judgement as to whether they possess sufficient information to make prudent decisions. Chief Executives and Managers should be diligently questioned and held accountable. Where in doubt about any matter materially affecting a decision, Directors must seek further information and where required, relevant additional independent legal, accounting or other expert advice must be sought.
- e) A Chief Executive Officer of a Licensed Trustee and an ASF must be resident in PNG.
- f) Board papers, minutes, reports and notes should be properly documented, filed and stored in a safe place.

Commentary

- 1. After every board meeting, minutes should be prepared within one week from the date of the meeting and confirmed as soon as practicable.
- 2. Each Director and Officer must retain all Board papers, minutes and reports being issued, in either electronic or hard copy, for a minimum period of seven years.
- g) Board vacancies, which result in the total number of the Board being below the required minimum, should be filled immediately. All Board vacancies must be filled within a maximum period of 6 months.
- h) Board members and senior management of a Licence Holder must be available to meet with the Bank on request.

13) *Tenure of Appointments*

- a) The chair of the Board and the chair of any Board Committee must not hold the position for a period exceeding two terms or six years (whichever is the lesser).
- b) Directors must not hold office for a period exceeding three terms or nine years (whichever is the lesser).
- c) A Director must not be a Director in more than two Bank Regulated Institutions.
- d) A Director must not hold more than five directorships in total at any one time. This excludes directorships on charity, family, religious, sport or NGO organizations.

Commentary

1. A director on an entity that is part of a group is considered as holding one directorship.

14) Conflicts of Interest

- a) The Board must develop and maintain a conflict of interest policy covering conflicts between:
 - i) the duty owed to the members and Licence Holder by its Directors and Officers and the Directors' and Officers' self-interest; and
 - ii) the duty owed by third party service providers (including Licensed Service Providers) to the Licence Holder and the interests of the third party service providers and their officers and shareholders.
- b) The conflict of interest policy must cover, at a minimum:
 - i) a procedure to recognise, assess and manage all material conflicts, both potential and actual on an on-going basis. The policy must provide that the first priority is to avoid any conflict of interest and only where that is not possible to avoid the conflict of interest, the policy must detail the procedures to be followed;
 - ii) the disclosure by Officers and registration of all personal interests that could potentially give rise to a conflict, and the creation and maintenance of an interests register to be updated regularly;
 - iii) a policy controlling, limiting and requiring the disclosure of the acceptance by Officers of gifts, benefits or hospitality from any party with an actual or potential commercial relationship with the Licence Holder;
 - iv) adequate disclosure of actual conflicts to the Bank and the members of the ASF concerned through the annual report or on request by a member and in the public section of each fund's web site within three months of the end of each financial year; and
 - v) education of Directors and Officers about the circumstances that can give rise to a conflict, and the responsibility to avoid conflicts.
- c) Licensed Service Providers or its related parties should not stand to benefit directly or indirectly apart from the investment manager fees or fund administration fees that it receives directly from the Licensed Trustee.
- d) Where serious conflicts of interest exist, the Bank if necessary, may:
 - i) impose Licence conditions;

- ii) object to the Officer's fitness and propriety; or
 - iii) revoke the Licence.
- e) A copy of the Board's approved Conflict of Interest policy must be submitted to the Bank including approved revised versions.

15) Whistleblowing

- a) The Board must establish and maintain a whistleblowing policy for the purpose of assisting staff to draw attention, without risk of retribution, to matters which they believe in good faith to be illegal, unethical or a risk to members' interests.
- b) The whistleblowing policy must, at a minimum:
 - i) provide the procedure for confidential internal reporting of relevant information to higher management;
 - ii) where the Chief Executive Officer or Board are the subject of the report, or the employee believes in good faith that the Board will not act or he/she feels at risk of retribution, provide for confidential external reporting directly to the Bank;
 - iii) prohibit retribution, punishment or discrimination against staff who make a report or discloses information in good faith;
 - iv) provide for the policy to be made available and its contents communicated to all directors, employees, the external auditor, actuary and service providers of the Licence Holder.
- c) A Licence Holder must not constrain, impede, restrict or discourage, whether by confidentiality clauses, policies or other means, any person from disclosing information or providing documents to the Bank.
- d) A copy of the Board's approved Whistleblowing policy must be submitted to the Bank including approved revised versions.

16) Audit Committee

- a) The requirements of paragraph 16 of this Standard shall complement requirements of *Superannuation Prudential Standard 5/2008 External Audits*.
- b) The Board must establish and maintain an Audit Committee.

Commentary

1. This does not preclude a Board from being a Board Committee. However, separate Board committee charters are required and the Board chairperson cannot chair any of the Board Committees. Further, the Chairperson of a Board Committee must be an

Independent Director and not chair more than one Board Committee.

- c) The Board Audit Committee charter must clearly set out its roles and responsibilities, including as a minimum responsibility for:
 - i) monitoring compliance with the Board's policies and prudential and statutory requirements;
 - ii) ensuring appropriate systems and controls are in place to identify and address the risks arising from the Licence Holder's activities;
 - iii) instilling a strong risk management culture throughout the Licence Holder; and
 - iv) overseeing financial reporting, internal and external audits and recommending external auditor appointments.
- d) The Audit Committee must be comprised of a minimum of three suitably qualified and experienced Directors.
- e) The Audit Committee must be comprised of Directors who are able to provide an objective, non-executive review of the effectiveness of the entity's risk management and control processes.
- f) The Audit Committee must have at least one member with financial, auditing or accounting qualifications, skills and relevant experience.
- g) The chairperson of the Audit Committee must be an Independent Director and be a person other than the chairperson of the Board.
- h) No employee of the Licence Holder must be a member of the Committee.

17) *Internal Audit*

- a) The Board must ensure that the Licence Holder has an independent and adequately resourced internal audit function.

Commentary

- 1. This does not preclude the institution from outsourcing this function or having a part-time arrangement.
- b) The internal audit function must report regularly on its work to the Board Audit Committee.
- c) Staffing, remuneration and performance assessments for the internal auditors are to be reviewed by the Board Audit Committee.
- d) The Board Audit Committee is responsible for determining the objectives of the internal audit function, which must as a minimum, include the evaluation of the adequacy and effectiveness of the internal controls, compliance,

financial reporting and the Risk Management framework of the Licence Holder.

18) *Board Renewal and Succession Planning*

- a) The Board must establish and maintain policies and procedures to address Directors' renewal and succession planning.
- b) A copy of the Board's approved Board renewal and Succession planning policy must be submitted to the Bank including approved revised versions.

19) *Performance Assessment and Reviews*

- a) The Board must establish and document the process for the review of the performance of the Board, each Board Committee, and each Director, Chief Executive Officer and Manager and the process must include a requirement for a regular independent and objective assessment of performance.
- b) A copy of the Board's approved Performance assessment and review policy must be submitted to the Bank including approved revised versions.

20) *Delegated Authority*

- a) All delegations of authority must be documented and approved by the Board.
- b) The Board must ensure that it receives regular reports on the exercise of delegated authority.
- c) The Board must put in place mechanisms to monitor the exercise of delegated authority.
- d) The Board cannot abrogate its responsibility for functions delegated to management.
- e) A copy of the Board's approved Delegated Authority Register must be submitted to the Bank including approved revised versions.

21) *Independent Directors'*

- a) A Director is not independent if:
 - i) the Director is a Representative Director;
 - ii) the Director is a Shareholder Controller of the Licence Holder, or an Officer of or otherwise associated, directly or indirectly, with a Shareholder Controller in the Licence Holder;
 - iii) the Director holds or has any significant links with other Directors through involvement in other companies or bodies, which cross-directorships or links would materially interfere with the director's objective or

- independent judgement or ability to act in the best interests of the Licence Holder;
- iv) the Director has within the last three years been a principal of a material professional adviser or a material consultant to the Licence Holder or an employee materially associated with the service provider;
 - v) the Director has within the last three years been a material supplier of the Licence Holder or an officer, shareholder controller of, or otherwise associated directly or indirectly with a material supplier;
 - vi) the Director has a material contractual relationship with the Licence Holder or its subsidiary or group to which the Licence Holder is part of;
 - vii) the Director has any other material interests, relationships or associations with any person or entity which affects, or could be perceived to affect the independence of the Director;
 - viii) is employed, or has previously been employed in an executive capacity by the Licence Holder, and there has not been a period of at least three years between ceasing such employment and serving on the Board; and
 - ix) the Board, unless the Bank has any objection, determines that the Director is not independent in character and judgement.
- b) If the Board of a Licence Holder and/or ASF is in doubt regarding a Director's independence, the Licence Holder and/or ASF should refer the matter to the Bank for guidance.

22) *Remuneration Policy*

- a) The Board must establish and maintain a remuneration policy.
- b) The remuneration policy must, at a minimum:
 - i) detail the remuneration objectives and the structure of the remuneration arrangements, including but not limited to any performance-based remuneration components;
 - ii) for a Licensed Trustee, align remuneration with the objective of the Licensed Trustee meeting the reasonable expectations of its members, which include competent administration and a reasonable rate of return on investment consistent with conservation of capital;
 - iii) encourage behaviour that takes into consideration:
 - (1) the Licence Holders long-term financial soundness;
 - (2) the long-term financial soundness of the ASF;

- (3) the interests of members of the ASF; and
- (4) the Risk Management framework of the License Holder.
- iv) set out who is covered by the Policy. The policy must cover as a minimum all Officers of the Licence Holder;
- v) provide that all employees of the Licence Holder require specific written approval from the Board for any outside employment and this must be clearly required as a condition of employment; and
- vi) provide for a Director who receives director's fees when representing a Licensed Trustee on the Board of an entity in which the Licensed Trustee is a shareholder to disclose those fees in the annual accounts of the Licensed Trustee.
- c) A copy of the Board's approved Remuneration policy must be submitted to the Bank including approved revised versions.

23) *Remuneration Committee*

- a) The Board must establish and maintain a Remuneration Committee.

Commentary

- 1. This does not preclude a Board from being a Board Committee. However, separate Board committee charters are required and the Board chairperson cannot chair any of the Board Committees. Further, the Chairperson of a Board Committee must be an Independent Director and not chair more than one Board Committee.
- b) The Remuneration Committee charter must clearly set out its roles and responsibilities, including as a minimum, responsibility for:
 - i) monitoring compliance with the Licence Holder's remuneration policy periodically and making recommendations to the Board on the policy and the remuneration of all Officers;
 - ii) ensuring that the performance-based components of remuneration encourage behaviour that supports both the entity's long-term financial soundness and its risk management framework; and
 - iii) conducting regular reviews of, and making recommendations to the Board on, the Remuneration Policy.
- c) The Remuneration Committee must be comprised of a minimum of three suitably qualified and experienced Directors.

- d) The chairperson of the Remuneration Committee must be an Independent Director and be a person other than the chairperson of the Board.
- e) No employee of the Licence Holder must be a member of the Committee.

24) *Remuneration Disclosure*

- a) The Board must ensure that the remuneration policy is available to members on request and published in the public section of the ASF's web site.
- b) The total remuneration and benefits provided by the ASF to all Directors and Officers for the previous financial year must be published in the Annual Report to members and be published in the public section of each fund's web site within three months of the end of each financial year.

25) *Investment Committee*

- a) The requirements of paragraph 25 of this Standard shall complement requirements of *Superannuation Prudential Standard 1/2008 Authorised Superannuation Fund Investments*.
- b) The Board of a Licensed Trustee must establish and maintain an Investment Committee.

Commentary

- 1. This does not preclude a Board from being a Board Committee. However, separate Board committee charters are required and the Board chairperson cannot chair any of the Board Committees. Further, the Chairperson of a Board Committee must be an Independent Director and not chair more than one Board Committee.
- c) The Investment Committee is responsible for:
 - i) monitoring compliance with the Board's investment policy and prudential and statutory requirements;
 - ii) ensuring appropriate systems and controls are in place to identify and address the risks arising from the Licence Holder's investments and investment proposals;
 - iii) reviewing investment objectives and strategies;
 - iv) reviewing and making investment recommendations to the Board based on investment proposals provided by the Investment Manager. This must include an assessment of:
 - (1) the risk and return;
 - (2) compliance with investment objectives and strategies;

- (3) how the performance of the investment is to be measured and monitored.
- v) regularly reviewing the investment portfolio including initiating dialogue with the Investment Manager as to the continuing suitability of all investments.
 - d) The Investment Committee must be comprised of at least three suitably qualified and experienced Directors.
 - e) The Investment Committee must have at least one member with financial, auditing or accounting qualifications, skills and relevant experience.
 - f) The majority of the members of the Investment Committee must be Independent Directors.
 - g) The chairperson of the Investment Committee must be an Independent Director and be a person other than the chairperson of the Board.
 - h) No employee of the Licence Holder must be a member of the Committee.
 - i) The Investment Committee and/or the Board must not approve or recommend any investment proposals that are dependent on secrecy or undue urgency.
 - j) In every case of a new, unusual or complex investment, competent independent professional advice as to its structure, legality and security must be obtained and, where relevant, entities such as the Bank or relevant Government Departments or instrumentalities must be consulted before an investment decision is made.

26) *Risk Management Framework*

- a) All Licence Holders are required to have in place a Risk Management Framework which provides for the proactive identification, assessment, mitigation, management, monitoring and reporting of risks. The Risk Management Framework must include the document of the policies and procedures, risk management methodology and processes, system of internal controls, formal reporting structure (with appropriate governance and oversight) and independent review processes to address the risks associated with the business of the Licence Holder and the ASF.

Commentary

- 1. Examples of relevant risks are operational risk, liquidity risk, investment risk, reputational risk, natural disasters, fraud etc.

2. The Board, where it considers it would be of assistance, should utilize external consultants and experts in developing the Risk Management Framework.
- b) The Risk Management Framework should document the process by which the Board identifies and manages new and emerging risks.
- c) The Risk Management Framework must be reviewed on a regular basis (at least annually).
- d) A copy of the Board's approved Risk Management Framework must be submitted to the Bank including approved revised versions.

27) *Licence Holder that is part of a corporate group*

- a) Where a Licence Holder is part of a corporate group, the Board may approve the use of the group policies and functions. However, the Board must ensure that the policies and functions give appropriate priority to the requirements of the Licence Holder and the Board must ensure that the policies and functions fully comply with all of the requirements of this Prudential Standard.

PART IV CORRECTIVE MEASURES

28) *Remedial Measures and Sanction:*

- a) A Licence Holder which experiences difficulty in complying with sections of this Standard should advise the Bank forthwith in writing where it considers special circumstances exist where it will enforce to undertake to the Bank in order to fully comply by no later than 1 January 2014.
- b) If a Licence Holder fails to comply with this Standard, the Bank may impose or vary conditions on the licence to ensure compliance or, if necessary, suspend or revoke the licence.

PART V EFFECTIVE DATE

29) ***Effective Date:*** The effective date of this Standard shall be 1 January 2013.

30) *Transitional arrangements:*

- a) Where a Licence Holder is unable to comply immediately with the requirements of paragraph 22 of this Standard, relating to remuneration, due to

existing contractual commitments. The Licence Holder must notify the Bank, in writing.

b) In any case, terms and conditions of all contracts must comply with requirements of this Standard no later than 31 December 2013.

31) **Questions and enquiries:** Questions and enquiries relating to this Standard should be addressed to:

The Manager

Superannuation and Life Insurance Supervision Department

Bank of Papua New Guinea

Tel: 322 7370.



Benny B M Popoitai, MBE

ACTING GOVERNOR