



# AFM Corporate Governance Code

January 2019

## About this document

The AFM Corporate Governance Code (AFM Code) takes effect from 1 January 2019. This means AFM members should apply the principles set out in the AFM Code during 2019, and report on them in subsequent report and accounts.

AFM consulted on the new AFM Code in October and November 2018, to replace the Annotated Corporate Governance Code, which had been in place, with modification, since 2007, and which was based on the corporate governance code for premium listed companies. The objectives set for the review were to:

- Learn from and adopt good practice in corporate governance elsewhere;
- Ensure we do not place undue barriers on compliance, or conflict with regulatory or statutory requirements;
- Ensure new standards for our members are proportionate to their size;
- Create an approach which helps demonstrate how member organisations deliver good outcomes to customers; and
- Reflect the range of business models we support, in a way that is relevant for all our members.

This document was published in December 2018, along with a statement explaining how we were responding to the feedback received. For any questions, please email to [martin@financialmutuals.org](mailto:martin@financialmutuals.org).

## About Association of Financial Mutuals and its members

The Association of Financial Mutuals (AFM) was established on 1 January 2010. Financial Mutuals are member-owned and not-for-profit organisations, many of which have operated for over 100 years, and the nature of their ownership, and the consequently lower prices, higher returns or better service that typically result, make mutuals accessible and attractive to consumers.

AFM has 49 members and represents mutual and not-for-profit insurers, friendly societies and discretionary mutuals in the UK and Ireland. Between them, UK mutuals manage the savings, protection and healthcare needs of over 30 million people, and have annual premium income of around £16 billion. For more information, go to [www.financialmutuals.org](http://www.financialmutuals.org).

## THE AFM Corporate Governance Code: overview of Principles

<b>1 PURPOSE AND LEADERSHIP</b>	<p>An effective board promotes the purpose of an organisation, and ensures that its values, strategy and culture align with that purpose.</p>
<b>2 BOARD COMPOSITION</b>	<p>Effective board composition requires an effective chair and a balance of skills, backgrounds, experience and knowledge, with individual directors having sufficient capacity to make a valuable contribution. The size of a board should be guided by the scale and complexity of the organisation.</p>
<b>3 DIRECTOR RESPONSIBILITIES</b>	<p>The board and individual directors should have a clear understanding of their accountability and responsibilities. The board’s policies and procedures should support effective decision-making and independent challenge.</p>
<b>4 OPPORTUNITY AND RISK</b>	<p>A board should promote the long-term sustainable success of the organisation by identifying opportunities to create and preserve value, and establishing oversight for the identification and mitigation of risks.</p>
<b>5 REMUNERATION</b>	<p>A board should promote executive remuneration structures aligned to the long-term sustainable success of an organisation, taking into account pay and conditions elsewhere in the organisation.</p>
<b>6 STAKEHOLDER RELATIONSHIPS AND ENGAGEMENT</b>	<p>Directors should foster effective stakeholder relationships aligned to the organisation’s purpose. The board is responsible for overseeing meaningful engagement with stakeholders, including the workforce, and having regard to their views when taking decisions.</p>

## Introduction

AFM members include friendly societies, mutual insurers, not-for-profits and discretionary mutuals. Whilst their business models and ownership structures vary considerably, all AFM members exist to generate value for their customers, owners and wider society. In responding to feedback on its 'Green Paper on Corporate Governance Reform', the Government stated that strong corporate governance provides confidence to owners, as well as "the workforce, customers, suppliers, pensioners and the environment, that a company is being well run".

The AFM Corporate Governance Code is intended to help directors of AFM member organisations to meet their obligations for effective corporate governance.

## Directors' duties

Nothing in these Principles overrides or is intended as an interpretation of directors' duties as set out in the Companies Act 2006, sections 170-177, or of the common law fiduciary duties applicable to members of the committees of management of friendly societies. Directors' duties include the duty of a director to promote the success of the company for the benefit of its members as a whole, as covered in section 172 of the Companies Act. The AFM Code is intended to support directors in meeting the requirements of Section 172, which applies to all directors, regardless of ownership or size of the organisation. Section 172 states:

"1. A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to:

- a) The likely consequences of any decision in the long term;
- b) The interests of the company's employees;
- c) The need to foster the company's business relationships with suppliers, customers and others;
- d) The impact of the company's operations on the community and the environment;
- e) The desirability of the company maintaining a reputation for high standards of business conduct; and
- f) The need to act fairly as between members of the company".

In addition, the extension of public interest entity definitions to all UK insurance undertakings, adds extra focus on the audit function in all AFM members and brings further into scope other corporate governance requirements which apply from 1 January 2019, including:

- Organisations that produce a Strategic Report are now required to provide a section 172 (1) statement on their website which describes how the directors have had regard to the matters set out in section 172(1) a) to f), as above;

- The Directors' Report has been amended to require companies to explain how they have engaged with employees, and how directors have regard to employee interests, and the effect of that regard.

In addition, for regulated insurers, the Prudential Regulatory Authority has published a supervisory statement on 'Board responsibilities' that reinforce the responsibilities placed on directors<sup>1</sup>.

For a longer discussion on this, see the AFM publication 'Duties of Directors'<sup>2</sup>.

## Reporting on your application of the AFM Code

Differing management and ownership structures means that a one-size-fits-all approach to corporate governance in financial mutuals is not appropriate. The Principles in the AFM Code seek to accommodate this by introducing a high-level approach to good corporate governance. This can be applied by any mutual or not-for-profit organisation, while allowing sufficient flexibility for organisations to explain the application and relevance of their corporate governance arrangements.

Each AFM member will be expected to apply the Principles fully. Using an 'apply and explain' approach, a mutual will be expected to provide a supporting statement in the Directors' Report for each Principle that gives an understanding of how their corporate governance processes operate and achieve the desired outcomes. The Principles are supported by non-exhaustive guidance that is intended to help in the application of the Principles in practice.

Each AFM member's 'apply and explain' statement will set out how they have followed the Principles in the way that is most appropriate for their organisation, as well as how the application of the Principles has resulted in effective corporate governance outcomes. Whereas the guidance provides a structure to help in developing explanations, it should not be viewed either as exhaustive or as a checklist. In this way, the explanations should provide a fair and balanced view of good governance, that is specific and relevant to the purpose and business model of the organisation.

For example, Principle Three states that the board and individual directors should have 'a clear understanding of their accountability and responsibilities. The board's policies and procedures should support effective decision-making and independent challenge.'

Mutuals could apply and explain this Principle in different ways:

- An affinity-based mutual insurer might seek to appoint an independent director to its board to introduce independent challenge. It could explain how the appointment of

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<sup>1</sup> <https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/supervisory-statement/2018/ss516update.pdf?la=en&hash>

<sup>2</sup> <http://www.financialmutuals.org/files/files/Duties%20of%20Directors%2C%20jan19.pdf>

this director has delivered improved outcomes to its board's decision-making processes by identifying an example where the provision of independent challenge from the independent director has improved board decision-making.

- A discretionary mutual with a member board might appoint an external consultant to provide independent advice on its corporate strategy. It could describe the value that independent insight has had on refining the mutual's purpose.
- A not-for-profit company limited by guarantee may establish an advisory committee to seek independent, objective advice as to the effectiveness of the board's decision-making. It could explain how this appointment demonstrates the directors' commitment to accountability and acknowledgement of their duties under the Companies Act 2006.
- A delegate-based friendly society<sup>3</sup> might appoint a senior independent director to provide a sounding board for the chair and to serve as an intermediary for other directors and members.
- A mutual that outsources day-to-day management of its policies might set out how the directors gain comfort that operations are running properly, and set out how responsibility for oversight is retained within the board, and how the board collects relevant data to help support clear decision-making and their accountabilities.

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<sup>3</sup> A delegate based friendly society has a process where individuals are nominated to attend the AGM on behalf of other members of their branch or court, and delegates may form the majority of board directors.

## PRINCIPLE ONE – PURPOSE AND LEADERSHIP

An effective board promotes the purpose of an organisation, and ensures that its values, strategy and culture align with that purpose.

### Guidance for consideration:

#### Purpose

- 1.1. A well-defined purpose will help organisations of all sizes and structures to articulate their business model, and develop their strategy, their operating practices and their approach to risk. In mutuals and not-for-profits, the purpose will establish a rationale for existence, and help ensure the organisation operates in the best interests of its members/ customers, and with its workforce and the wider public.
- 1.2. Directors should act with integrity and lead by example, setting the tone from the top and building positive relationships with all key stakeholders.
- 1.3. An effective board ensures that the organisation operates with a clear sense of purpose and a collective vision. To promote this the board will appreciate the importance of dialogue with employees and other stakeholders around the organisation's stated purpose. Effective boards are able to demonstrate how the sharing of this purpose has informed the decision-making process to achieve long-term sustainable success.

#### Values and culture

- 1.4. An organisation's purpose and values should inform the expected behaviours of all company employees. These values should be explained and integrated into the different functions and operations of the business, including the organisation's internal audit, ethics, compliance and risk management functions.
- 1.5. A healthy corporate culture is critical to the organisation's competitive advantage, and vital to the creation and protection of long-term value. Culture can be defined as a combination of the values, attitudes and behaviours manifested by an organisation in its operations and relationships with its stakeholders. The board and management must own and maintain a commitment to embedding the desired culture throughout the organisation.
- 1.6. Effective ways of monitoring culture include (but are not limited to) employee surveys, absenteeism rates, exit interviews and board feedback and evaluation.

## Strategy

- 1.7. An effective board develops a strategy and business model to generate long-term sustainable value. A board is responsible for ensuring that its strategy is clearly articulated and implemented throughout the organisation, and that it, along with the organisation's values, supports appropriate behaviours and practices within the organisation. This includes discouraging misconduct and unethical practices, and promoting behaviour that balances short-term needs with long-term aspirations.
  
- 1.8. The board manages conflicts of interest and a balance should be struck between short-term targets or needs, and long-term aspirations.



## PRINCIPLE TWO – BOARD COMPOSITION

Effective board composition requires an effective chair and a balance of skills, backgrounds, experience and knowledge, with individual directors having sufficient capacity to make a valuable contribution. The size of a board should be guided by the scale and complexity of the organisation.

### Guidance for consideration:

#### Chair

- 2.1. The chair leads the board and is responsible for its overall effectiveness. The chair should ensure all directors have appropriate information, and should facilitate constructive discussion.
- 2.2. The chair should be considered independent on appointment, and the role should be separate from the chief executive.

#### Balance and diversity

- 2.3. A balanced board promotes effective decision-making and supports the delivery of an organisation's strategy.
- 2.4. An effective board has an appropriate combination of skills, backgrounds, experience and knowledge that promotes accountability and incorporates objective thought, which in turn provides constructive challenge to achieve effective decision-making.
- 2.5. Appointments to the board will demonstrate effort to establish an appropriate balance of expertise, diversity and objectivity. A policy on board diversity can helpfully support appointments to the board and succession planning. Diversity characteristics a board may consider include, but are not limited to, gender, social and ethnic backgrounds, and cognitive and personal strengths.
- 2.6. The board should collectively demonstrate a high level of competence relevant to the organisation's business needs and stakeholders.

#### Size and structure

- 2.7. A board should give careful consideration to its size and structure so that it is sufficient to meet the strategic needs and challenges of the organisation and enables effective decision-making.
- 2.8. Directors should be subject to regular re-election, with papers relating to their election setting out how their contribution is important to the organisation's long-term sustainable success.

- 2.9. Organisations should consider the value that independent representation can deliver in the context of overall board composition and organisational structure, and seek opportunities to promote independent thought in the decision-making process. This is likely to be best achieved where at least half of the non-executive directors are considered to be independent; for small firms<sup>4</sup>, there should be at least two independent non-executives. To facilitate effective succession planning and the development of a diverse board, this period can be extended for a limited time. A clear explanation should be provided.
- 2.10. Directors that have been in place for more than nine years should be subject to annual re-election and would not count towards the minimum two independent directors required on a board.
- 2.11. Succession plans that address the loss of key individuals should be in place.

### Effectiveness

- 2.12. Individual evaluation of directors should demonstrate whether each director continues to contribute effectively. This should be accompanied by an annual evaluation of the board as a whole and its committees. The chair should consider having a regular externally-facilitated board evaluation.
- 2.13. Organisations should demonstrate a commitment to the ongoing professional development of their board, and directors should engage with such opportunities. Between them, non-executives need to have sufficient current and relevant knowledge and experience to understand the key activities and risks in the business model.
- 2.14. The board should appoint one of the independent non-executives as a Senior Independent Director, to serve as an intermediary for the other directors and the members and, with other non-executives, to appraise the chair's performance.
- 2.15. Directors should have access to adequate support and time to enable them to carry out their duties. This includes the advice of the Company Secretary, who is responsible for advising the board on all governance matters, and for helping to ensure the Board acts in an orderly and effective fashion. The board as a whole should consider the appointment and removal of the Company Secretary.

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<sup>4</sup> A small firm in this context is likely to be one that has assets and premiums below the Solvency 2 threshold.

## PRINCIPLE THREE – DIRECTOR RESPONSIBILITIES

The board and individual directors should have a clear understanding of their accountability and responsibilities. The board’s policies and procedures should support effective decision-making and independent challenge.

### Guidance for consideration:

#### Accountability

- 3.1. An effective board should establish and maintain corporate governance practices that provide clear lines of accountability and responsibility to support effective decision-making.
- 3.2. An organisation’s constitutional documents should set out in a transparent manner the policies and practices that govern the internal affairs of the organisation. These include matters relating to the authority, accountability, role and conduct of directors and the principal rights and responsibilities of members.
- 3.3. Conflicts of interest can arise and compromise objective decision-making. In such cases the board should agree and set out how such conflicts should be identified and managed.
- 3.4. The chair and company secretary should periodically review the governance processes to confirm they remain fit for purpose and consider any initiatives which could strengthen the governance of the company.

#### Committees

- 3.5. A board should make use of committees to help with the consideration of matters such as financial reporting/ audit<sup>5</sup>, risk, nomination, remuneration<sup>6</sup> and/ or sustainability. The terms of each committee should be set out including authorities delegated to it. A board retains responsibility for any final decisions.

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<sup>5</sup> Where a company has a dedicated audit committee, PRA’s expectations if its independence are likely to be met are such that: the chair of the board is not a member, at least one member has recent and relevant financial experience, and the committee as a whole has competence relevant to the sector in which the company operates.

<sup>6</sup> The remuneration committee should consist of a minimum of two independent non-executive directors. In addition, the chair of the board can only be a member if they were independent on appointment and cannot chair the committee. Before appointment as chair of the remuneration committee, the appointee should have served on a remuneration committee for at least 12 months.

- 3.6. The provision of independent challenge in board and committee decision-making should mitigate the risk of individuals having unfettered powers. Independent challenge can allow for industry experience and objective decision-making, encouraging constructive problem-solving that benefits organisations in the long term.

#### Integrity of information

- 3.7. A board should have confidence in the quality and integrity of the information used for decision-making and reported by an organisation. An organisation should establish formal and robust internal processes to ensure systems and controls are operating effectively. Boards rely on a broad range of information sources, including, but not limited to:

- financial reporting;
- key performance indicators;
- workforce data;
- environmental data;
- stakeholder engagement feedback; and
- consumer data.

Board papers and supporting information should:

- be accurate, clear, comprehensive and up-to-date;
- contain a summary of the contents of any paper;
- inform the director what is expected of them on each issue; and
- be issued in good time.

## PRINCIPLE FOUR – OPPORTUNITY AND RISK

A board should promote the long-term sustainable success of the organisation by identifying opportunities to create and preserve value, and establishing oversight for the identification and mitigation of risks.

### Guidance for consideration:

#### Opportunity

- 4.1. A board should consider and assess how the organisation creates and preserves value over the long term. This requires boards to consider both tangible and intangible sources of value, and the stakeholders that contribute to it. This should include processes for identifying opportunities for innovation and entrepreneurship. Such opportunities may be dependent on an agreed risk appetite and the company's long-term strategy and prospects.

#### Risk

- 4.2. A board has responsibility for an organisation's overall approach to strategic decision-making and risk management. This requires oversight of risk and how it is managed, and appropriate accountability to stakeholders, particularly with regards to conflicts of interest.

#### Responsibilities

- 4.3. The board should establish an internal control framework with clearly defined roles and responsibilities for the board and any audit committee, and an agreed approach to reporting. Responsibilities may include:
  - developing appropriate risk management systems that identify emerging and established risks facing the organisation and its stakeholders. Such systems should enable the board to make informed and robust decisions, including those associated with material environmental, social and governance matters, such as climate change, employee relationships, supply chains and ethical considerations;
  - determining the nature and extent of the principal risks faced and those risks which the organisation is willing to take in achieving its strategic objectives (determining its 'risk appetite');
  - agreeing on how the principal risks should be managed or mitigated to reduce the likelihood of their incidence or magnitude of their impact;
  - establishing clear internal and external communication channels on the identification of risk factors; and
  - agreeing a monitoring and review process.

## PRINCIPLE FIVE – REMUNERATION

A board should promote executive remuneration structures aligned to the long-term sustainable success of an organisation, taking into account pay and conditions elsewhere in the organisation.

### Guidance for consideration:

- 5.1. Appropriate and fair levels of remuneration are imperative to enable organisations to secure and retain high-quality directors, senior management, and their workforce. Alignment between the remuneration of directors and senior management and an organisation's performance should demonstrate a shared purpose and common objectives.
- 5.2. Director and senior management remuneration should be developed around principles that align with the organisation's culture, values and long-term success. These include a considered assessment of the organisation's response to matters such as its gender pay gap reporting.
- 5.3. The board should establish a clear policy on the transparency of remuneration structures that enable effective accountability to members/ customers. Remuneration, including benefits, for directors and senior management should consider the broader operating context of the organisation, including the pay and conditions of the wider workforce.

## PRINCIPLE SIX – STAKEHOLDER RELATIONSHIPS AND ENGAGEMENT

Directors should foster effective stakeholder relationships aligned to the organisation’s purpose. The board is responsible for overseeing meaningful engagement with stakeholders, including the workforce, and having regard to their views when taking decisions.

### Guidance for consideration<sup>7</sup>:

#### General

- 6.1. Mutuels and not-for-profit insurers create their own social, economic and environmental impact, but are also affected by changes to their operating environment. Sustainable business benefits wider society, and large organisations have a responsibility to create and sustain long-term value for a variety of stakeholders. This could include consideration of how an organisation’s activities may impact both current and future stakeholders, which, for example, could include impacts on the environment.
- 6.2. An organisation should identify the stakeholder relationships that are integral to its ability to generate and preserve value (this might include employees, owners and customers). A board should demonstrate how the organisation has undertaken effective engagement with material stakeholders and how such relationships have been taken into account in its decision-making.

#### Customers

- 6.3. The board should present to customers a fair, balanced and understandable assessment of the company’s position and prospects on a regular basis. Reporting should focus on how the organisation has delivered good customer outcomes, such as appropriate pricing, high standards of service and fair claims handling.
- 6.4. The board should ensure there are appropriate channels for receiving feedback from customers.

#### Owners

- 6.5. Where the organisation’s policyholders are the owners of the business (ie the organisation’s members), it should seek regular engagement with its members including, but not restricted to formal general meetings.
- 6.6. The board should present to owners a fair, balanced and understandable assessment of the company’s position and prospects and make this available on an

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<sup>7</sup> This principle is broken down into the constituent elements of AFM’s “The Loyal Company”. More details are available on the AFM website: <http://www.financialmutuals.org/about/the-loyal-company>.

annual basis<sup>8</sup>. Reporting should be proportionate and delivered in a manner that is understandable to its ownership base, and which highlights how it is delivering benefits to its members. The board should ensure there are effective mechanisms for inviting feedback from members.

### Employees

6.7. For mutuals and not-for-profits, the workforce is a material stakeholder. Organisations should develop a range of formal and informal channels, consistent with their size and complexity, that enable a meaningful, two-way dialogue, that enables employees to share ideas and concerns with senior management. Such forms of engagement provide useful feedback about business practices and can support the desired culture.

6.8. Employee policies and practices should be aligned with the organisation's purpose and values. Such policies should establish clear procedures for raising concerns (such as whistleblowing policies) and should be reviewed regularly.

### Suppliers and business partners

6.9. The board should ensure there is appropriate, two-way dialogue with suppliers and business partners. This should include demonstration of the way that the organisation values its suppliers and partners, which might include paying bills on time, providing adequate lead times, working in a productive and professional manner, and monitoring how contracts are adhered to.

### The community and the environment

6.10. The community in which an organisation works is usually a material stakeholder, and the board should ensure that the organisation demonstrates how it supports community initiatives, abides by relevant laws and regulations, and explains its impact on the community and the wider environment. Reporting on environmental, social and governance standards should take account of the priorities of customers and members.

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<sup>8</sup> To accord with the FCA Handbook rule LR 9.8.6 R (3), and as per FRC's ['guide to board effectiveness'](#), the format this might take is:

- the board should state whether it considers it appropriate to adopt the going concern basis of accounting in preparing financial statements, and identify any material uncertainties to the company's ability to continue to do so over a period of at least twelve months from the date of approval of the financial statements; and
- the board should explain in the annual report how it has assessed the prospects of the company, over what period it has done so and why it considers that period to be appropriate. The board should state whether it has a reasonable expectation that the company will be able to continue in operation and meet its liabilities as they fall due over the period of their assessment, drawing attention to any qualifications or assumptions as necessary.