

# ASI Governance Handbook

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## Aluminium Stewardship Initiative (ASI)

ASI is a not-for-profit standards setting and certification organisation for the aluminium value chain.

Our **vision** is to maximise the contribution of aluminium to a sustainable society.

Our **mission** is to recognise and collaboratively foster responsible production, sourcing and stewardship of aluminium.

Our **values** include:

- Being inclusive in our work and decision making processes by promoting and enabling the participation of representatives in all relevant stakeholder groups.
- Encouraging uptake throughout the bauxite, alumina and aluminium value chain, from mine to downstream users.
- Advancing material stewardship as a shared responsibility in the lifecycle of aluminium from extraction, production, use and recycling.

### General Enquiries

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### Disclaimer

*This document does not intend to, nor does it, replace, contravene or otherwise alter the requirements of the ASI Constitution or any applicable national, state or local government laws, regulations or other requirements regarding the matters included herein. This document gives general guidance only and should not be regarded as a complete and authoritative statement on the subject matter contained herein. ASI documents are updated from time to time, and the version posted on the ASI website supersedes all other earlier versions.*

# ASI Governance Handbook

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## 1. Purpose and Scope of this Handbook

Aluminium Stewardship Initiative Ltd (ASI) is committed to developing and implementing good operational and governance practices on behalf of its multi-stakeholder membership.

This Handbook provides an overview of the design and implementation of the ASI governance model. It is aimed at orienting and guiding the various participants in ASI's governance structure, including Board directors, Committee members and ASI staff. It also enhances transparency of ASI governance to broader stakeholders.

ASI is a not-for-profit public company limited by guarantee under the *Corporations Act* of Australia and has been registered as a charity by the Australian Charities and Not-for-profits Commission (ACNC). It may also be the case that in time, additional ASI-related entities are established in other regions. The [Constitution](#) of ASI is a legal document that sets out ASI's objects, powers, responsibilities and overall management. This Handbook is intended as a user-friendly companion to the Constitution, and it will evolve to meet the needs of ASI as the organisation grows and matures.

## 2. Anti-Trust Compliance

ASI is committed to complying with all relevant antitrust and competition laws. It has adopted an Anti-Trust Compliance Policy, compliance with which is a condition of continuing participation in ASI. All participants in ASI governance are required to read and understand this Policy, available at:

<http://aluminium-stewardship.org/about-asi/legal-finance-policies/>

## 3. Good Governance Principles

Corporate governance refers to the systems and processes put in place to control and monitor – or 'govern' – an organisation. Good governance is embedded in the good conduct and judgement of those who are charged with running the organisation.

ASI's Board and Committees are comprised of volunteers from among members and external organisations who play central roles in governance. The following ten principles of good governance for not-for-profit organisations (AICD, 2013) are a useful introduction to understanding and implementing good governance. While they are directed to the Board level, most of these principles would also apply at other levels of governance.

- **Clear Roles and Responsibilities:** There should be clarity regarding individual director responsibilities, organisational expectations and the role of the board.
- **Board Composition:** A board needs the right group of people, having particular regard to each individual's background, skills and experience, and how to build the collective capability and effective functioning of the board.

- **Purpose and Strategy:** The board plays an important role in setting the vision, purpose and strategies of the organisation.
- **Risk Recognition and Management:** By putting in place an appropriate system of risk oversight and internal controls, boards can increase the likelihood of an organisation delivering on its purpose.
- **Organisational Performance:** While the degree to which a not-for-profit organisation is delivering on its purpose can be difficult to assess, this can be aided by the board determining and assessing appropriate performance categories and indicators for the organisation.
- **Board Effectiveness:** This is enhanced through careful forward planning of board-related activities, efficient meetings, regular assessments of board performance, a board succession plan and the effective use of sub-committees where appropriate.
- **Integrity and Accountability:** It is important to have: a flow of information to the board that aids decision-making; transparency and accountability to external stakeholders; and a system for safeguarding the integrity of financial statements and other key information.
- **Organisation building:** The board has a role to play in enhancing the capacity and capabilities of the organisation it serves.
- **Culture and Ethics:** The board sets the tone for ethical and responsible decision-making throughout the organisation.
- **Engagement:** The board helps an organisation to engage effectively with stakeholders.

These general principles of clarity, integrity, accountability and good practice provide a foundation for the governance approach outlined in this Handbook.

**Practical steps that ASI will take** to support good governance are highlighted throughout this Handbook, in break-out boxes like this one.

#### 4. Good Meeting Practices

Good meeting practices are an important foundation for robust and effective governance. Board Directors, Committee members, Working Groups and the ASI Secretariat are collectively responsible for working together towards this outcome.

Actions that support a good meeting include (AICD, 2013):

- Clear, concise and focused agenda covering relevant issues
- Papers delivered in good time containing relevant, timely and accessible information and analyses
- Prepared participants
- An effective meeting chair
- Relevant, robust, inclusive and respectful debate
- Participants that can balance the need to express individual thoughts with maintaining the overall effectiveness of the group
- Minutes that accurately record information and decisions, and that are finalised promptly

- In the case of the Board, opportunities for in-camera sessions in which Directors meet without the CEO or other staff being present.

Factors that can contribute to poor meetings include (AICD, 2013):

- Poor performance by the chair
- Absenteeism by Board or Committee members
- Conflict of interest issues not being appropriately dealt with
- Dominant chairs and/or senior management taking over meetings, or making decisions without sufficient regard for other directors' or Committee members' views
- Inappropriate agenda and papers
- Not enough time allowed for pre-reading and/or discussion
- In the case of the Board, directors seeing themselves representing the interests of a particular stakeholder or group of stakeholders, rather than the interests of the whole ASI organisation.

#### Practical steps for good governance

Meetings should encourage a diversity of views and opinions to ensure input from all participants, without prejudicing effective and efficient decision-making. The culture should encourage openness and honesty of expression. However individuals should not be allowed to dominate discussion. Behaviour should be respectful and each person is expected to be able to disagree without being disagreeable.

## 5. Consensus-Based Decision-making

### a. Aim for consensus

Wherever possible, ASI decisions should be made by consensus. Consensus is defined as general agreement, through:

- Positive indication of acceptance of the proposed decision; or
- The absence of sustained opposition to the proposed decision by any one or more participants.

Therefore, consensus can be achieved even where there is not unanimity.

Participants in the ASI Board, Committees and Working Groups should attempt to reach consensus using a process which takes participants' views into account and reconciles any conflicting arguments.

The consensus building process will include teleconferences, face-to-face meetings, and emails. This process should:

- Ensure all participants in a proposed decision are invited to express their views.
- Allocate sufficient time to discuss and debate decisions.
- Allow additional time and/or information to be requested to help facilitate a consensus outcome.

## **b. Where consensus is not possible**

In the event that it is not clear whether consensus has been reached, and sufficient time and opportunity for deliberation has been allowed, a vote may need to be taken. This may be where:

- a decision is time sensitive, and/or
- differences will or may not be resolved by allowing further time and/or information than has already been given during the consensus-building process, and/or
- there has been insufficient participation in the consensus-building process to determine whether a broad consensus exists.

The need for a decision by vote may be flagged in meeting agendas, and/or email communications and/or by the chair/s at the relevant (in person or teleconference) meeting.

## **c. Procedure for decisions by vote**

A vote can be taken during a meeting (in person or teleconference, including by proxy) if the relevant quorum is present.

Proxy appointments for decisions during a Board or Standards Committee meeting must be in writing, and must either direct the proxy how to vote on a proposed decision, or expressly permit the proxy to vote as the proxy sees fit. If a Director or Standards Committee member holds more than one appointment as a proxy, only one of those can allow them to vote as they see fit and the others must direct the proxy how to vote. To be valid, proxy appointments must be submitted to the ASI Secretariat in time to be provided to the Chair of the meeting at or before the start of the relevant meeting.

Otherwise, or where the decision is significant in the opinion of 50% or more of the participants present or the chair of the meeting, the vote will be conducted via email poll. A minimum of 3 working days, assessed across all relevant jurisdictions, will be allowed for response. In cases where the decision is less time sensitive, up to ten working days may be allowed for response. The response time will be specified in the poll invitation. The CEO or his/her delegate will act as the returning officer for email polls.

Votes will be registered as either 'for', 'against', or 'abstain' for a motion, while non-responses will be counted as 'silent'. A resolution is regarded as passed if a simple majority of the votes cast (i.e. excluding any 'silent' and 'abstain' votes) are 'for', and a quorum participate in voting.

## 6. Overview of ASI Governance

ASI governance is designed to reflect the interests and priorities of its diverse members and stakeholders, while also meeting its responsibilities as a standards body and not-for-profit organisation.

Figure 1 below illustrates the key bodies in ASI’s governance. More details on the responsibilities of each body are contained in the relevant sections of this Handbook.

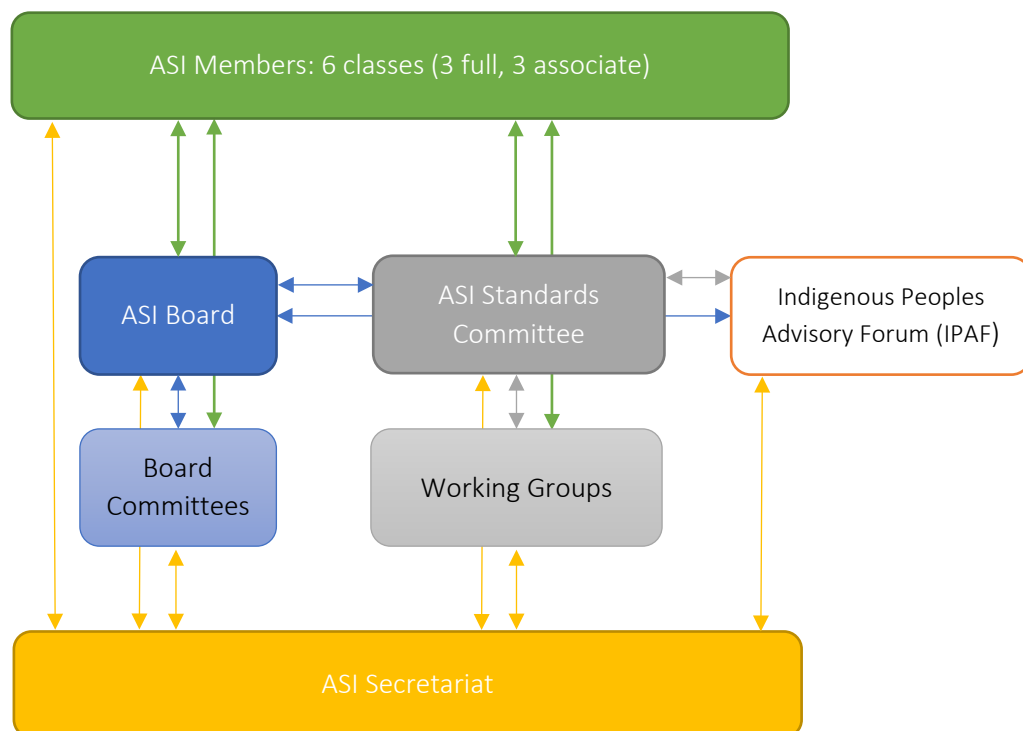


Figure 1 – Overview of ASI Governance

ASI strives to reflect an appropriate balance of interests in its governance. The member representatives on the Board and Standards Committee are elected by all ASI members.

The Board and Standards Committee is comprised of representatives of ASI Full Members. In addition, the Board has two additional Independent Directors, while the Standards Committee has two representatives from the independent Indigenous Peoples Advisory Forum.

Board Committees include a Legal Committee, a Governance Committee and a Finance and Audit Committee. The Standards Committee convenes Working Groups on specific issues related to



standards programs, which enable participation from all membership classes as well as broader stakeholders and experts.

Through this structure, both members’ interests and broader independence and expertise are included in ASI governance.

## 7. ASI Members

### a. Membership classes

ASI’s membership comes from across the world, from all parts of the aluminium value chain, and from broader stakeholders committed to sustainability and stewardship.

ASI members are organisations that join within one of the six different membership classes, in accordance with the nature of their primary activities. The six classes are shown in Figure 2 below.



Figure 2 – ASI membership classes

## b. Eligibility, rights and responsibilities

As part of the membership application process, all ASI members are required to commit in writing to be bound by ASI’s Constitution and to comply with the ASI Antitrust Compliance Policy and the ASI Complaints Mechanism. Specific eligibility, rights and responsibilities for each membership class are set out in Table 1 below, and further information is contained in the ASI Membership Information and Application Form available on the ASI website.

Two of the membership classes (Production and Transformation, and Industrial Users) are designed for those seeking certification against ASI standards. Representatives from members of these two classes, plus the Civil Society class, each of which are Full Members, are eligible for election to the ASI Board and Committees. All ASI member classes are eligible to vote as a Member (see section 8).

| Membership class                     | Eligibility  | Eligible for all ASI governance groups | Eligible for ASI Working Groups | Eligible to vote as Member | Minimum Certification commitment  |
|--------------------------------------|--|--|---------------------------------|----------------------------|---|
| <b>Production and Transformation</b> | Organisations with mining, refining, smelting, recycling, semi-fabrication, and/or material conversion activities, seeking certification against ASI standards.  | X                                      | X                               | X                          | ASI Performance Standard – full standard. Chain-of-Custody Standard is voluntary, though encouraged.        |
| <b>Industrial Users</b>              | Downstream users of aluminium, including consumer and commercial goods suppliers, seeking certification against ASI standards.   | X                                      | X                               | X                          | ASI Performance Standard – Material Stewardship. Chain-of-Custody Standard is voluntary, though encouraged. |
| <b>Downstream Supporters</b>         | Downstream users of aluminium, including consumer and commercial goods suppliers, which do not seek certification against ASI standards.   |  | X                               | X                          |   |
| <b>Civil Society</b>                 | NGOs, labour organisations, community organisations, Indigenous Peoples organisations and similar types of organisations.  | X                                      | X                               | X                          |   |
| <b>Associations</b>                  | Industry and other trade associations that represent commercial interests in any part of the aluminium value chain, such as aluminium associations, green building councils, and downstream sector associations. |  | X                               | X                          |   |
| <b>General Supporters</b>            | Organisations that support ASI’s mission not falling into one of the other membership classes.   |  | X                               | X                          |   |

Table 1 – ASI membership classes: rights and responsibilities

If there is any doubt or uncertainty over an organisation's entitlement to be a member in any particular membership class, the Board retains discretion to determine the appropriate class.

#### **c. Members' role in governance**

Members are the ultimate authority of ASI, as they elect the Board and Standards Committee, vote to approve changes to the Constitution, have the power to call general meetings, pass member resolutions (such as those relating to the ASI Constitution) and have the opportunity for practical and determinative participation in ASI governance.

#### **d. Annual General Meetings**

ASI Annual General Meetings (AGM's) provide an opportunity for all members to convene and discuss progress and future priorities. Important procedural aspects of the AGM are for members to receive annual financial reports, vote on resolutions put to members, hear reports on activities and future plans from representatives of the Board, Committees and the ASI Secretariat, and participate in member consultations.

AGM's will also provide opportunities for broader stakeholder engagement in the form of workshop, conference or forum style events for members and non-members, outside of the formal business of the AGM itself. Face-to-face meetings of ASI governance and working groups will also be scheduled to align with the AGM, wherever possible.

#### **e. Member resolutions**

Member resolutions will be put to all members in the form of a proposed motion, and members may vote for, against or abstain. The membership class voting weights, as set out in section 8(d) below, will apply to votes cast in member resolutions.

Ordinary resolutions are passed by a simple majority of votes cast by ASI members eligible to vote. In the case of an equality of votes upon any proposed resolution, the resolution is to be regarded as defeated.

A specific kind of member resolution is to change the ASI Constitution, which is called a 'special resolution'. Under applicable law, 75% of the votes cast by ASI members must be in favour to adopt a special resolution proposing changes to the ASI Constitution.

More detail on members' rights and responsibilities under the ASI Constitution can be found in section 15 of this Handbook and in the [Constitution](#) itself.

## 8. How to become involved in ASI governance

### a. Stand for election

Representatives of ASI members have the opportunity to actively participate in ASI governance by nominating for the Board, Committees or Working Groups.

The process for member nominations is as follows:

- Vacancies will be advised to all members by email. These may be vacancies due to the expiration of the incumbents' terms, or a casual vacancy due to a resignation mid-term.
- Eligible candidates may self-nominate or be nominated by their member organisation for election to these vacancies.
- The nomination form will include a request for a description of relevant experience and a short biography from the candidate, to be distributed to members where an election is required.

*Note that each member organisation is entitled to nominate only one candidate to each of the Board and the Standards Committee. These cannot be the same person.*

The ASI Governance Committee (see section 10a) has a role to oversee the integrity and effectiveness of ASI governance, and may seek additional nominations to ensure diversity among candidates, including:

- Production and Transformation: a mix of organisations from upstream primary, midstream and recycling, and material conversion sectors
- Industrial Users and Downstream Supporters: a mix of downstream industry sectors, including building and construction, transport and automotive, and packaging and consumer durables
- Civil Society: a mix of environmental and social organisations.

In the case of the ASI Standards Committee, if there are known to be insufficient members in a membership class to fill all vacancies even if every member in that class submitted a nomination, then Members will be asked to suggest additional candidates. In the case of Production and Transformation or Industrial Users, these would be individuals from other Members outside of that membership class, or in the case of Civil Society, these would be individuals from non-member civil society organisations. The ASI Standards Committee will then decide who will be nominated, on the basis that the individuals must in their reasonable opinion:

- i. fairly reflect the interests of the relevant membership class, and
- ii. help address any perceived skill, experience, gender or representation deficiencies on the Committee.

The nominations are to be provided to the ASI Board no less than 14 days before the commencement of the relevant Standards Committee election process. As long as the candidates are deemed by the Board to fulfil (i) and (ii), and do not result in more than one representative per ASI member on the Committee, they will be deemed elected for a one-year term. The Board will advise the Standards Committee and Governance Committee of its decision to revoke any nominations in cases where these criteria are not satisfied.

If there are still insufficient nominations or elected candidates for the number of vacancies following the Standards Committee election, these will be treated as casual vacancies as per the ASI Constitution and the Board may appoint individuals to the Committee to represent the relevant interests on the Committee until the next annual nomination and election opportunity for ASI members.

### b. Overview of the election process

The Secretariat will compile the nominations received and implement the following process:

- Where the number of nominations is less than or equal to the number of vacancies, the candidate/s will be deemed elected.
- Where the number of nominations exceeds the number of vacancies, then an electronic poll of all members will be conducted to determine the successful candidate/s. The poll will be open for a minimum of 10 working days, assessed across all relevant jurisdictions.
- Vacancies will be filled in order by those candidates with the highest amount of votes, following a cumulative voting and weighting system (see sections c and d below).

Note the following:

- All members (Full and Associate) are entitled to vote in elections.
- There is no quorum for an election.
- As candidates are elected as individuals, resignations will trigger a casual vacancy.
- If there is more than four months until elections will be held for all regular vacancies, a casual vacancy election will be held to fill the vacancy.
- If there is less than four months until elections will be held for all regular vacancies, or there are no nominations for the vacancy, the ASI Board will be entitled to appoint a replacement from the relevant membership class or stakeholder category, who will hold office until the next AGM, at which time that position is filled by a fresh election.

Members are encouraged to support diversity and a balance of interests in their voting preferences. To support elections for multiple candidates, as well as an appropriate balance of interests in decision-making, there will be a two-step process of voting by individual members (using a cumulative voting model – see section 8c below), then weighting by the ASI Secretariat of the aggregate votes cast (using the ASI membership class voting weights – see section 8d below).

### c. Cumulative voting method

As there will be multiple vacancies to fill in some Board and Standards Committee elections, a ‘cumulative voting’ system will be used for ASI elections. Cumulative voting is a form of proportional voting common in corporate governance, as voters are not limited to voting for only one candidate.

Each ASI member votes for candidates in all membership classes. The poll will be conducted electronically and each member will have 100 votes for each election of candidates in a given class, to

be distributed as they choose across the candidates in a class. This provides for a flexible allocation of voting preferences.

Figure 3 provides an example of elections of Board directors from the 3 eligible membership classes. In the election for two Board directors from the Production and Transformation class, there are 4 candidates. Each ASI member has 100 votes to cast within this class. The member’s vote could be cast with 100 votes to one candidate, 50 votes each to two candidates, or any other possible combination. Similarly, 100 votes per member are also allocated for each of election of candidates in the Civil Society class and Industrial Users class.

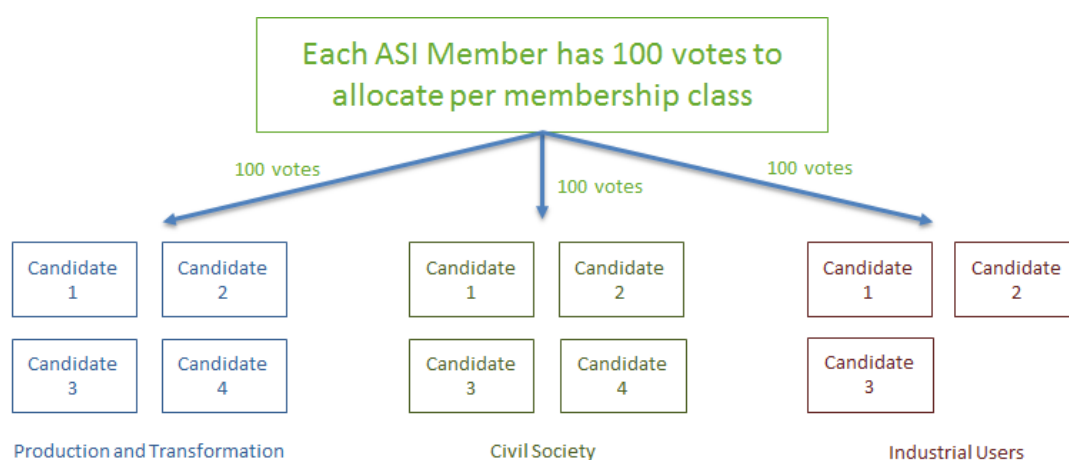


Figure 3 – Cumulative voting system, shown for hypothetical elections in three membership classes

#### d. Membership class voting weights

To ensure a balance of interests across ASI membership classes, irrespective of numbers of members in each individual class, weights are applied to the aggregate cast votes. The weights of Production and Transformation (30%), Civil Society (30%) and Industrial Users and Downstream Supporters combined (20%+10%=30%) are equal. The remaining 10% is split between Associations and General Supporters. These weights are shown in Table 2.

| Full/Associate | Membership Class              | Weight      |
|----------------|-------------------------------|-------------|
| Full           | Production and Transformation | 30%         |
|                | Industrial Users              | 20%         |
|                | Civil Society                 | 30%         |
| Associate      | Downstream Supporters         | 10%         |
|                | Associations                  | 5%          |
|                | General Supporters            | 5%          |
| <b>Total</b>   |                               | <b>100%</b> |

Table 2 – ASI membership classes: voting weights

For Board and Committee elections, these weights are applied following the cumulative voting step described in section 8(c) above. For member resolutions, the weights are applied to the votes cast for or against a proposed resolution. When applying the weights, the votes of voting members in each membership class are first aggregated. The totals will then be normalised across all classes, and then weighted according to the weight of the respective membership class.

#### e. Participate in Working Groups

All ASI members have the opportunity to participate in ASI governance through involvement in a Working Group on a particular topic or task. See section 11(e) for more information, and contact the ASI Secretariat to find out about current opportunities: [info@aluminium-stewardship.org](mailto:info@aluminium-stewardship.org)

*The following sections outline the definitive structures for ASI governance and management, including:*

- *ASI Board and sub-Committees*
- *ASI Standards Committee and Working Groups*
- *Indigenous Peoples Advisory Forum*
- *ASI Secretariat*

## 9. Board of Directors

### a. Roles and responsibilities

A governing board's primary responsibility, on behalf of its members, is to ensure that the organisation that it is responsible for remains viable and thrives. This is an important stewardship role that is focused on the organisation's future.

As a general rule, directors operate on a longer-term time frame and at a more strategic level than the organisation's management. Thus:

- Directors are generally held to be responsible for setting the appetite for risk, while management ensures that risks are managed
- Directors set the strategic direction and vision, while management devises the strategic plan and implements it
- Directors set the 'tone at the top' by acting ethically, modelling the correct values and requiring management to demonstrate, develop and support appropriate values for the organisation.

Key responsibilities of the ASI Board include:

- Setting the vision, purpose and strategies of the organisation and assessing overall organisational performance
- Ensuring financial integrity and resilience, including approving annual budgets, reviewing financial reports, approving expenditures over pre-defined limits, and appointing external financial auditors

- Ensuring the organisation complies with statutory and contractual requirements
- Overseeing risk assessment and management of identified risks
- Adoption of new or revised ASI standards and assurance models by making them a By-Law, where due process has been followed by responsible Committees and no material risks are identified
- Appointing the CEO, supporting his/her responsibilities and evaluating his/her performance
- Communicating with members and stakeholders to ensure they are kept informed about performance and have input into ASI direction
- Overseeing implementation of the ASI Complaints Mechanism and related disciplinary procedures for members
- Setting the tone for ethical and responsible decision-making throughout ASI.

Directors play a fiduciary role on behalf of all ASI members and their duties include:

- To act with reasonable care and due diligence
- To act in the best interest of ASI and for a proper purpose
- Not to improperly use information or their position as a Director
- To ensure that ASI’s financial affairs managed responsibly
- To disclose and manage conflicts of interest
- Not to allow ASI to operate while insolvent

#### Practical steps for good governance

A Governance Committee is appointed by the Board to oversee Board-level competence and skills, Board recruitment and succession planning, and reviews of Board effectiveness.

The respective functions and powers of Directors and the CEO are delineated in a formal delegation of authority policy.

#### b. Board meetings

Board meetings will ordinarily be held at least four times per year. It is anticipated that the Board will meet mainly by teleconference to enable broad participation, with one face-to-face meeting per year (potentially two, if warranted by the work program and where time and resources permit). Additional teleconferences or meetings may be convened as required.

Board directors should attend teleconferences and the ASI Annual General Meeting (where the face-to-face Board meeting will be held) unless such participation in a specific case is not possible. Directors will, however, be able to vote by proxy if their attendance at a meeting or teleconference is not possible.

#### c. Annual agenda

Each year, the Board will develop an annual agenda to be covered through its regular meetings, so as to set out the key issues and timeframes for decision-making through the year. The annual agenda



includes a core workplan around statutory compliance and organisational performance, plus any additional issues or workstreams to be addressed by the Board.

**Practical steps for good governance**

The Board’s annual agenda will include the following:

*Annually:*

- Annual review of organisational strategy
- Approval of annual budget
- Annual review of organisational performance
- Annual review of Board and Committee effectiveness
- CEO’s performance appraisal cycle
- Preparation for the Annual General Meeting
- Appointment of the financial auditor
- Approval of the year-end Financial Accounts and Directors Report

*Quarterly / as required:*

- Review of organisational risks
- Financial governance
- Business model/financial planning
- Review of operational reports
- Oversight of governance
- Dialogue sessions on emerging issues
- Input from Indigenous Peoples Advisory Forum
- Reporting from Committees
- Consultation with members
- Policy review schedule
- Any additional workstreams identified by the Board

**d. Board composition and terms**

ASI is governed by a multi-stakeholder Board of Directors as per the model below.

*ASI Board:*

| Size        | Up to 8 Directors   |
|-------------|---|
| Composition | 2 representatives from the ‘Production and Transformation’ membership class<br>2 representatives from the ‘Industrial Users’ membership class<br>2 representatives from the ‘Civil Society’ membership class<br>Up to 2 independent directors appointed by the Board, including two Australian-resident directors if not among the above 6 representatives. |
| Chair       | Elected by the Directors  |
| Quorum      | Half (rounded up if necessary) of sitting Directors   |
| Terms       | Normally 2 years  |

|  |   |
|--|---|
|  | Possibility for re-election at the end of the term (or re-appointment in the case of independent directors), up to a maximum of 6 continuous years (or longer where ASI members allow a longer term). |
|--|---|

Candidates for Director roles in the membership classes can be nominated by a member or be identified by the Governance Committee. From these nominations, the entire ASI membership will elect the candidates to fill vacancies.

Candidates for independent Directors are identified by the ASI Governance Committee and must fulfil the requirements for ‘Independent’ as defined in the ASI Constitution. Independent Directors are selected and appointed by the Board.

Directors will have staggered terms, so that in each of the 3 membership classes and among the two independent directors, there will arise one vacancy per year.

#### Practical steps for good governance

A letter of appointment for all new directors will set out details such as:

- How they were nominated/appointed and from what date
- Their role, responsibilities and duties
- The term of the appointment and any conditions or limits
- Expectations for their role, including time commitments
- An induction process, which would include a detailed introductory conversation with the CEO and/or Board Chair and legal briefing
- Key orientation documents, including this Handbook, the ASI Constitution, and the ASI Risk Assessment

#### e. Board skills and experience

As the ASI directors have specific fiduciary responsibilities, the collective skills and experience of individuals serving as directors is an important consideration. Board directors should be senior and experienced people, able to participate effectively in ASI Board decisions.

A “skills matrix” is useful to assess whether the board has the right balance of these, and assist with identifying potential new board candidates as vacancies arise. Key areas of competence and experience for Boards include (AICD, 2013):

- Strategic expertise – the ability to guide and review strategy through constructive questioning and suggestion.
- Accounting and finance – the ability to read and comprehend the organisation’s accounts, financial material presented to the board and some understanding of the organisation’s funding and business model.

- Legal – the board’s responsibility involves overseeing compliance with numerous laws as well as understanding an individual director’s legal duties and responsibilities.
- Managing risk – expertise/experience to oversee strategic, financial and operational risk to the organisation.
- Managing people and achieving change.
- Specific knowledge – experience in standards and certification organisations, sustainability and supply chain issues, and/or the aluminium value chain.

Diversity of gender and geography are also relevant considerations for ASI as a global initiative. Identified skills, diversity or geographical gaps can be partially addressed through the independent director category.

#### f. Role of the Chair

The Board Chair presides at board meetings and annual general meetings, and acts as a key interface between the Board and the ASI CEO. Attributes of a good board chair (AICD, 2013) include:

- Provides overall effective leadership to enhance the effectiveness of the Board
- Has the confidence of the Board
- Has a productive working relationship with the CEO
- Has a good understanding of the organisation’s purpose and operational challenges
- Has the skills to ensure the Board works as a cohesive team
- Is an effective conductor of Board meetings

The Board Chair would be elected by the ASI Board Directors and serve one director’s term, with possibility for re-election. It is recommended that when possible, the Board Chair be one of the independent Directors to promote impartiality. Note the Board Chair is the Chair of the Board, not the Chair of ASI.

The Board Chair has a key role to ensure:

- There is comprehensive, relevant and timely information from management.
- There is an appropriate Board environment and open culture for robust board discussion.
- There is sufficient time for timely decisions to be made.
- There is a culture of inclusiveness to allow all Directors to express their views.
- The Board is aware of Directors’ or management’s conflicts of interest or duty and manage any such conflicts.
- The Board’s decision-making processes are aligned to ASI’s governance, strategy, values and risk profile.
- The Board addresses all the major strategy issues that can affect ASI’s credibility and sustainability.
- The Board is engaged in assessing and improving its effectiveness.

### g. Role of the CEO

It is important to establish a clear distinction between the job of the Board to govern – provide direction and oversight – and the job of the CEO to manage the operations of the organisation.

It is the CEO's responsibility to ensure that the Board is informed and supported in its work.

Accordingly, the CEO shall:

- Provide information in a timely, accurate and understandable fashion, addressing the various issues to be monitored by the Board
- Provide financial reports that make clear significant trends and data relevant to agreed benchmarks
- Inform the Board of significant trends, implications of Board decisions, or issues arising from policy matters
- Inform Board members when for any reason there is an actual or anticipated non-compliance with ASI policies or procedures
- Inform the Board of any actual or potential serious legal conflict or dispute that has arisen or may arise in relation to matters affecting ASI
- Deal with the Board as a whole on formal matters, except when dealing with individual requests for information or requests from Board Committees or working groups.

Within the direction set by the Board and delegations of authority determined by the Board, the CEO uses his/her professional judgement to make management decisions and take action when appropriate and necessary to achieve the outcomes and priorities agreed by the Board. The CEO appoints and leads the ASI Secretariat, who support implementation of ASI's agreed workplan within the approved budget.

### h. Directors act in the interest of ASI as a whole

The ASI Board includes representatives of various stakeholders groups, to help promote an appropriate diversity of views and create opportunities for involvement of the relevant membership classes in strategic decision-making.

While a director's appointment may stem from their association with a particular membership class, all directors must apply an independent mind to the board's work and decision-making. Individual directors must not regard themselves only as representatives of their particular stakeholder group or organisation, as they must act in the best interests of the entire ASI membership.

Thus a Board director's legal accountability is to the ASI membership as a whole, notwithstanding the obligation they may feel to 'represent' their individual member organisation or stakeholder group. This brings us to the related issue of conflicts of interest and duties.

## i. Conflicts of interest and duties

As many Board directors will also be employees or officers of ASI members, it is important to distinguish the particular duties that come with a Board role. Board members are fiduciaries who share common legal and moral responsibilities. These include to:

- exercise a duty of care
- act honestly
- exercise a reasonable level of care and diligence
- avoid using their positions, or information gained in their position, for personal advantage
- comply with all relevant legislation and organisation constitutional requirements
- act in the best interests of the organisation as a whole.

Decisions made by the Board must be impartial and in the best interests of ASI as an organisation. Any potential conflicts of interest for ASI Board directors, and for members of the Governance, Legal and Finance and Audit sub-Committees must therefore be identified, declared and managed appropriately.

A conflict of interest is any situation that puts a director in a position where their interests as a director of ASI and their interests in another capacity, are inconsistent. For example, if a particular decision could, if made a particular way, benefit a director's employer without commensurate benefit to ASI, then that director is no longer in a position to make an impartial decision: he or she has a conflict of interest.

A conflict of duty is a related concept, however it is a conflict between two different legal or ethical duties. A conflict of duty may arise when a director's obligations to ASI cannot properly be fulfilled whilst also fulfilling the director's obligations to another company. For example, a director may have confidential information that is important to ASI, but the director also has duties to a third party to keep that information confidential.

It is not uncommon for directors to experience a conflict of interest or duty on particular matters from time to time. For example, ASI directors dealing with changes to membership fees may also be employees or officers of an ASI member. This would normally not be regarded as a conflict of interest or duty. Corporate governance is usually concerned only with what are known as "material conflicts".

The law of companies does not formally define a "material" conflict. The extent to which a conflict is material depends on the circumstances of each case. Case law suggests that the word "material" means that a reasonable person might conclude that the conflict has the potential to influence the vote of the particular director.

If a material conflict has been identified, whether of interest or duty, it must be disclosed and from the moment it is disclosed, that director or sub-Committee member is no longer invited to exercise judgement on how the conflict should be resolved or how the underlying matter giving rise to the conflict should be dealt with by ASI. The other members of the Board or sub-Committee should then

decide the best course of action given the conflict situation. The individual with the conflict may be excluded from any further discussion, or be allowed to be present but not permitted to vote. The Board or sub-Committee may also tailor the papers provided so that the conflicted individual receives no information on the issue. The minutes of the meeting will note the identified conflict and the course of action taken to manage it.

Section 16 of this Handbook contains more information on Directors’ interests, duties, confidentiality and liability which should be reviewed by all acting Directors and individuals considering nominating for a Director role.

### j. Board and Committee effectiveness

Boards aspire to be effective in their governing of an organisation. Board effectiveness is usually enhanced when adopting the following governing style:

- Focus on the future, avoiding being unduly preoccupied with the past and the present.
- Look beyond the boundaries of the organisation, avoiding being preoccupied with internal concerns.
- Be proactive rather than reactive.
- Encourage the expression of a diversity of views and opinions.
- Ensure its time is spent on strategic leadership rather than administrative detail.
- Cultivate a sense of group responsibility making collective rather than individual decisions.
- Ensure there is a clear distinction between governance (Board) and operational (CEO and Secretariat) roles.

As a part of good practice, the ASI Board should periodically review its overall effectiveness with a view to taking steps to improve the quality of its governance, boardroom discussion and decision-making. The Board should also review the effectiveness of other key elements of ASI governance, including Board Committees and the Standards Committee. Overseeing this process will be one of the responsibilities of the Governance Committee (see section 11(a) below).

#### Practical steps for good governance

Questions to consider as part of a Board effectiveness review include:

- Are the Board meetings sufficiently prepared by the ASI Secretariat?
- Is the Board adopting an effective governing style?
- Is there a gap in skills, knowledge or experience which would help the Board to function more effectively?
- What steps does (or should) the board take to promote a cohesive board team?
- Are there any Chair or individual director conduct issues which need intervention?
- Can the board induction process be improved?
- Are Committees of the Board effectively supporting the Board’s duties?

## 10. Committees of the Board

ASI governance is also carried out through Committees covering critical work programs and organisational responsibilities. Committees of the Board will include:

- Governance Committee
- Finance and Audit Committee
- Legal Committee

Terms of reference for each are contained in the sections below. As ASI membership and activities expand over time, additional or alternative Committees may be constituted by the Board to effectively manage the developing ASI work program.

### a. Governance Committee

The Governance Committee is a committee of the Board, focused on the integrity and effectiveness of ASI's governance. It plays an important role in overseeing nomination and election processes for Board and Committee vacancies, so as to enhance appropriate diversity and skills.

#### *Membership:*

- A maximum of 4 Board directors, one drawn from each of the Production and Transformation, Industrial Users and Civil Society classes, and one Independent director.
- Committee chair elected by Committee members.
- Quorum = 2
- Terms of 2 years (or duration of director's term, whichever is lesser), with possibility for re-appointment.

#### *Terms of reference:*

- Oversee compliance with, and the development of proposed amendments to, the ASI Constitution and Governance Handbook
- Oversee Board-level competence, diversity and integrity, including the need for induction and orientation on key issues
- Oversee processes for reviews of the performance and effectiveness of the ASI Board as a whole and individual directors, as well as ASI Committees, normally through annual surveys
- Oversee procedures for Board and Committee succession planning, nomination and election of member Directors and Committee members, identification and recruitment of independent Directors and non-member Committee members, and resignations and retirements
- Oversee succession planning and recruitment of CEO (and critical staff, where appropriate)
- Oversee executive remuneration and executive short and long term incentive remuneration
- Bring any other governance issues to the attention of the Board and recommend courses of action as deemed appropriate.

## b. Finance and Audit Committee

The Finance and Audit Committee is a committee of the Board, focused on ASI's financial positions, projections and management controls.

### *Membership:*

- A maximum of 4 Committee members, including at least one Board director.
- Committee members should have accounting or related financial management expertise.
- Nominations will be sought from within ASI members. The Board may also choose to appoint external individuals with appropriate qualifications to the Committee.
- Committee chair elected by Committee members (cannot be the Board Chair).
- Quorum = 1
- Terms of 2 years, with possibility for re-appointment.

### *Terms of reference:*

- Provide guidance and where appropriate assist in the preparation of projections on future financial positions.
- Review and make recommendations regarding the membership fee structure and other sources of revenue.
- Provide policy guidance to the CEO for effective financial management including delegations of authority for expenditures, investment policy, and cash management.
- Review ASI's internal accounting procedures and accounting controls.
- Review ASI's compliance with all relevant laws and regulations regarding financial matters.
- Recommend external auditors to the Board, and, where directed by the Board, review the audit plans and reports of external auditors.
- Bring financial issues to the attention of the Board and recommend courses of action as deemed appropriate.

## c. Legal Committee

The Legal Committee is a committee of the Board, focused on ASI's legal responsibilities and risks. The Committee shall provide informal support to the Directors on legal and compliance matters. Consistent with its informal role, the Legal Committee shall not make any decisions on behalf of ASI. Responsibility for decisions relating to ASI's activities lies with the Directors, Officers or any decision-making bodies created pursuant to the Constitution of ASI.

### *Membership:*

- Ideally between 3-10 Committee members.
- Committee members must have appropriate professional legal qualifications.
- Nominations will be sought from within ASI members and appointed by the ASI board of Directors. The Board may also choose to appoint external individuals with appropriate qualifications to the Committee.
- Terms of 2 years, with possibility for re-appointment.



*Terms of reference – mandate of Legal Committee (LC):*

- Review legal and regulatory compliance matters brought to its attention, including draft standards, other normative documents, the ASI Constitution and Anti-Trust Compliance Policy;
- Discuss and provide feedback on legal and regulatory compliance matters by flagging up potential legal risks and opportunities and suggesting appropriate courses of action;
- Make recommendations as to when the ASI should seek external legal advice and on the appointment of external legal counsel.

For the avoidance of doubt, in providing informal support to the ASI the LC members shall not be taken to provide legal advice to the ASI, its Directors, Officers or any other ASI decision-making bodies.

The LC shall act independently from any ASI Members and shall not represent any ASI Members in any way. The LC shall incur no liability and shall bear no responsibility for ASI’s legal or compliance matters, this responsibility ultimately resting with the board of Directors. The LC shall not act as the agent or authorized representative of, nor have the ability to bind ASI, the board of Directors, any ASI Member or any other member of the LC.

## 11. Standards Committee

### a. Roles and responsibilities

The ASI Standards Committee is a multi-stakeholder group at the heart of ASI’s mission. Its work is focussed on standards development and revision, the ASI assurance model, and monitoring and evaluation of impacts. During active standards development periods, all relevant stakeholders are invited to participate in public consultation opportunities. While the feedback from all stakeholders is taken into account, the Standards Committee is responsible for approving new standards, revisions and supporting documents.

*Terms of reference:*

- Approve new and revised ASI standards and related normative documents for assurance, for adoption by the ASI Board as a By-Law based on good process having been followed and review of any material risks
- Provide regular updates to the ASI Board during active standards setting periods, to enhance the early identification of any material risks to ASI which need to be addressed
- Provide guidance on the consultation and engagement of stakeholders during standards development activities
- Recommend that ASI convene working groups or forums on specific standards-related issues, so as to inform the development of guidance or standards development activities
- Review and make recommendations to the Board on the design, implementation and continuous improvement of ASI Certification
- Review and make recommendations on allowed claims relating to ASI certification and recommend courses of action to prevent misrepresentative claims

- Review and make recommendations on ASI’s monitoring and evaluation of impacts, including the ASI Theory of Change
- Provide guidance relating to the quality and impartiality of ASI’s certification and auditor accreditation activities
- Conduct, with the support of the ASI Secretariat, and/or a person engaged by the ASI Secretariat, an annual review of the impartiality of the decision-making processes relating to ASI Certification.

### b. Meetings

During an active standards setting program, it is anticipated that the Standards Committee would meet by teleconference at least 6 to 8 times per year, with at least one face-to-face meeting (potentially two, if warranted by the work program and where time and resources permit).

Standards Committee members should attend teleconferences and the ASI Annual General Meeting (where the face-to-face Committee meeting would normally be held) unless such participation in a specific case is not possible. Committee members will, however, be able to vote by proxy or nominate an alternate for up to 30 days if their attendance at a meeting or teleconference is not possible. A Committee member can appoint an Alternate up to 3 times in any year. Exceptions to these limits apply in the case of maternity or paternity leave, or extended illness.

Minutes of Standards Committee meetings are made available on the ASI website, once they have been approved at the following meeting.

### c. Composition and terms

Balance on the Committee is sought between ‘upstream’ and ‘downstream’ supply chain members and civil society interests. Acknowledging the early stages of Civil Society membership in ASI, the Committee is structured with a flexible participation model. The aim is to build to a 50% non-industry (civil society plus indigenous peoples) participation in the Standards Committee and encourage Civil Society membership in ASI. The minimum non-industry participation will be one-third of the Committee, and the maximum will be one-half of the Committee.

#### *ASI Standards Committee*

| Size        | 12-24 Committee members  |
|-------------|--|
| Composition | <ul style="list-style-type: none"> <li>• 3-6 representatives from the ‘Production and Transformation’ membership class</li> <li>• 3-6 representatives from the ‘Industrial Users’ membership class</li> <li>• 4-10 representatives from the ‘Civil Society’ membership class</li> <li>• 2 representatives from the Indigenous Peoples Advisory Forum.</li> </ul> |
| Chairs      | Two Committee co-chairs elected by Committee members, one representing aluminium supply chain interests and one representing civil society and indigenous peoples’ interests.  |

|        |   |
|--------|---|
| Quorum | Half (rounded up if necessary) of sitting Committee members   |
| Terms  | 2 years<br>Possibility for re-election at the end of the term, up to a maximum of 6 continuous years (or longer where ASI members allow a longer term). |

A diversity of interests in each of the member classes will be sought through the member election process. Relevant interests include:

- **Production and Transformation:** upstream primary; mid-stream and recycling; material conversion
- **Industrial Users:** building and construction; transport and automotive; packaging and consumer durables
- **Civil Society:** mix of environmental and social organisations.

Diversity of gender and geography are also relevant considerations for ASI as a global initiative.

If there are insufficient Civil Society members for the available Standards Committee seats, non-member civil society organisations will be invited to participate to fill any vacancies to meet the minimum (4) for a term of one year. New seats, up to a maximum of 10, will open up on the Standards Committee for new Civil Society members who apply to join ASI. Once there are more than 10 Civil Society members who nominate for the Standards Committee, elections will be held to decide the representatives of this class. For Production and Transformation or Industrial Users, vacancies due to insufficient members or nominations can be filled by ASI members from other classes that fairly represent their interests (see section 8(a)).

#### d. Role of the Co-Chairs

The Co-Chairs preside at Standards Committee meetings and act as an interface with the ASI Secretariat and the ASI Board, where required. Attributes of a good Committee chair include:

- Is an effective conductor of Committee meetings
- Has a good understanding of the Committee’s work program and timelines
- Has the skills to help the building of consensus among Committee members
- Has the confidence of the Committee
- Has a productive working relationship with the ASI Secretariat

The Co-Chairs would be elected by the Standards Committee and serve to the remainder of their current term, with possibility for re-election. One Co-Chair should represent aluminium supply chain interests and one Co-Chair should represent civil society and indigenous peoples’ interests.

#### e. Working Groups

The Standards Committee can recommend that ASI convene Working Groups on specific standards-related issues, so as to inform the development of guidance or standards development activities.

Working Groups may be comprised of Standards Committee members, other representatives of members, and other stakeholders. Participants may be nominated by any ASI member or identified by the ASI Secretariat.

A Working Group is established through a Terms of Reference document, which must be approved by the Standards Committee (or other parent Committee, where relevant). Information required in a Terms of Reference include:

- **Name of Working Group:** Identifying the topic/theme/issue being addressed.
- **Co-Chairs:** Co-Chairs shall be drawn from ASI members from 2 different membership classes/IPAF and at least one must be a Standards Committee member.
- **Scope:** The scope should be a clear and concise statement outlining the topics to be addressed by the Working Group and their relationship to ASI's work programs.
- **Objectives:** The aims and target outcomes/deliverables of the Working Group, for example to produce a guidance document, or to review and inform a component of a Standard, or to provide input to a normative document.
- **Timeframes and Reporting:** An initial timeframe to achieve the above objectives, with regular progress reporting – note this may need to align with other milestones as directed by the relevant Committee. The Working Group may continue after this timeframe, but a new TOR would be set outlining the new objectives and timeframes.
- **Participants at inception:** List of names and affiliations of those initially participating in the Working Group, as well as any additional target participants eg subject matter experts. For practical reasons, a Working Group size of 12-20 is probably the most workable.

If a Working Group has more than 30 members, a smaller co-ordination group of up to 10 individuals may be nominated from among this group to help agree and co-ordinate process. Working Groups make recommendations to the Standards Committee (or other Committee as relevant), which are then considered as part of the Committee's own work program.

#### f. Adoption and revision of ASI Standards

ASI aims to operate in conformance with the ISEAL Code of Good Practice for Setting Social and Environmental Standards.

The decision for ASI to adopt a new or revised ASI standard will follow the [ASI Standards Setting Procedure](#) and pass through the following key steps:

- Consensus-based decision-making, as outlined in section 5 of this Handbook, within the ASI Standards Committee during the drafting of new or revised standards content
- Public consultation processes as defined in each standards development program in accordance with the ISEAL Code of Good Practice
- Approval by the Standards Committee of new standards / revisions, based on the results of the consultations

- Formal adoption of the approved new standards/revisions by the ASI Board, based on the quality of the standards development process followed and review of material risks. If the standards development process has been inadequate, the Board will refer the proposed standard/revision back to the Standards Committee for further work.

Figure 4 below illustrates the key bodies and processes that contribute to the development and finalisation of a new or revised ASI Standard.

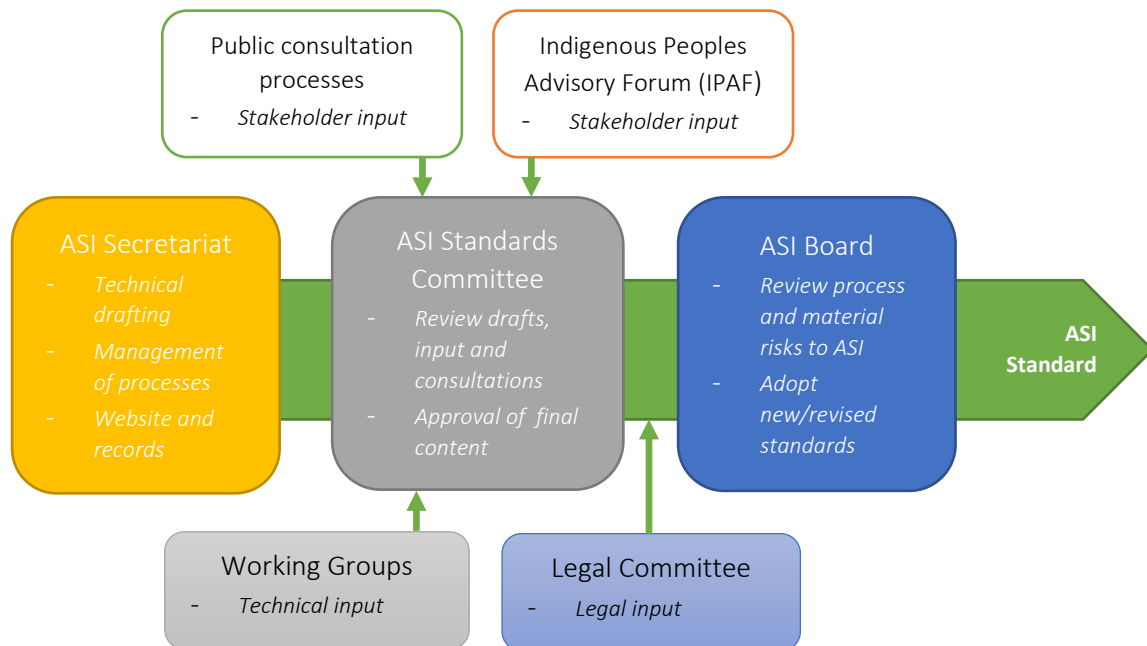


Figure 4 – Bodies involved in ASI standards development and summary of responsibilities

## 12. Indigenous Peoples Advisory Forum

An Indigenous Peoples Expert Workshop convened in 2015 recommended that ASI develop structures for full and effective participation of indigenous peoples in both the ongoing governance of the ASI Performance Standard and the ASI Complaints Mechanism.

While Indigenous Peoples organisations are eligible for ASI membership, this may not be the most appropriate engagement structure for some organisations and communities. Furthermore, it was also recommended that there should be separate avenues for engagement with indigenous peoples' organisations and communities, which is separate to the involvement of civil society organisations in general.

ASI's governance structure thus includes the establishment of a standing Indigenous Peoples Advisory Forum. This group will be comprised of representatives from Indigenous Peoples organisations and

indigenous peoples' rights experts, where possible with connection to the aluminium value chain. Geographic and gender diversity will be sought in participation. The Forum members will be drawn from a broader Network group who receive regular information on ASI activities and consultation opportunities.

The following principles for Composition and Terms of Reference for the IPAF were developed through a second Indigenous Peoples Expert Workshop held in April 2016.

*Composition:*

- The Indigenous Peoples Advisory Forum (IPAF) Network is open to any indigenous person or organisation and support groups and individuals to apply, based on interest to be engaged and commitment to provide input based on experience.
- The Indigenous Peoples Advisory Forum Members will be regionally self-selected from within the Network of engaged organisations and communities.
- Members will serve on the Forum for a term of four (4) years, and may extend this term if mutually agreed at a Forum meeting for an additional term.
- Number of representatives will be according to relevance and extent of aluminium production, with a maximum number of 15. Alternate representatives will be identified.
- Selection criteria for the IPAF Members will be based on:
  - In-depth knowledge of indigenous peoples' rights, life-ways and issues at the local, national and regional level
  - Must be an indigenous person with integrity and credibility, from the region being represented on the Forum
  - Members must be endorsed by his/her communities, traditional institutions and/or organizations
  - Level of experience with bauxite mining, refining and/or smelting issues and familiarity with the ASI (or commitment to build familiarity)
  - Gender balance, and representation of youth and elders and persons with disability will be taken into account
  - Representation from affected communities will be ensured
  - Geographical representation will be ensured according to the relevant regions within the UN regional process (Africa, Asia, Central and South America and the Caribbean, Central and Eastern Europe, Arctic, Russian Federation, Central Asia and Transcaucasia, North America and Pacific – relevance to be checked)
  - Consideration will also be given to ensuring that countries with bauxite reserves and mining activities, and those with refineries and smelters, are both represented, as well as countries that have both
  - Having the time and the commitment to attend meetings, report back to and collect feedback from their respective regions, and perform other tasks as defined in the Terms of Reference.

*Terms of Reference:*

- The IPAF will be independent from the ASI with its own protocols and rules of procedure.
- The IPAF Members will hold least one face-to-face ordinary meeting annually, with the potential for a second meeting in the case of urgent attention needed to a particular issue (and if ASI has

resources available). ASI will provide resources for the annual meetings and translation needs of the IPAF.

- Two designated IPAF Members shall be the IPAF representatives on the ASI Standards Committee to ensure that indigenous peoples’ rights, concerns, and recommendations are taken into account.
- The IPAF representatives on the Standards Committee shall meet directly with the ASI Board at least once a year, usually at the ASI AGM. This will be an opportunity to report on and discuss issues raised to the Board’s attention during the course of the year, issues raised during the IPAF meeting, and general concerns and recommendations from indigenous peoples.
- The IPAF shall provide advice and recommendations during the development of ASI documents as they relate to indigenous peoples.
- The IPAF shall review, reflect on and provide recommendations for improvement or change to ASI’s governance arrangements.
- The IPAF will recommend processes for participatory monitoring of compliance of ASI Standards that can directly involve indigenous peoples and participate in ASI’s oversight procedures for certification and accreditation processes.
- The IPAF’s engagement with the ASI Complaints Mechanism shall include:
  - Acting as a resource on ASI Certification and non-conformance with ASI Standards relating to indigenous peoples;
  - Being informed of complaints related to the rights and interests of indigenous peoples;
  - Nominating indigenous rights experts to serve on Complaints Mechanism panels convened to respond to such complaints;
  - Participating in ASI’s oversight procedures for the Complaints Mechanism.
- The IPAF may request additional resources from the ASI for specifically identified needs, including commissioning specific research into issues raised by indigenous peoples<sup>1</sup> which ASI may contribute to if resources are available.
- The IPAF will be responsible for regular expansion and targeting of un-represented areas or regions to ensure that membership adequately represents indigenous peoples from territories impacted by the primary aluminium supply chain.
- The IPAF may create sub-committees or working groups of people within the Forum to deal with specific issues raised and brought to the IPAF’s attention and may designate representatives to thematic ASI working groups.
- All members of the IPAF will be responsible for providing reports back to the communities and organisations they represent and will be responsible for gathering feedback and inputs from indigenous peoples in their respective regions.
- If a member of the IPAF is unable to fulfil their function during their term, a replacement may be proposed by regional members of the wider network between Forum meetings.

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<sup>1</sup> For example, issues faced by indigenous peoples, e.g. best practice in rehabilitation processes involving or controlled by indigenous peoples, health conditions caused by smelting, environmental issues

### 13. ASI Secretariat

The ASI Secretariat is led by the CEO and responsible for carrying out the day-to-day work of ASI and supporting the responsibilities of the ASI Board, Committees and Working Groups.

The Secretariat's responsibilities include the following workstreams:

- With the ASI Board, manage corporate governance compliance, financial and resource management and strategic planning processes
- With the ASI Standards Committee, develop, review and update ASI standards for currency, relevance and effectiveness, to address the needs of Members and stakeholders
- Develop and maintain cost-effective and user-friendly tools and guidance for the ASI Certification process
- Accreditation of third party Auditors to conduct ASI audits
- Provide Member and Auditor training and support
- Ensure appropriate oversight of the quality, integrity and credibility of ASI Certification
- Issue ASI Certification and maintain up-to-date information on the ASI website
- Maintain internal records for all relevant aspects and outcomes of the Certification process
- Administer the ASI Complaints Mechanism, including disciplinary proceedings where required
- Administer and oversee implementation of the ASI Claims Guide
- Monitor, evaluate and publicly report on the impacts of ASI Certification in the context of ASI's Theory of Change
- Manage ASI member, stakeholder and media communications and relationships.

### 14. ASI Complaints Mechanism

The [ASI Complaints Mechanism](#) is a separate document to this Handbook and aims to ensure the fair, timely and objective resolution of complaints relating to ASI's standards setting processes, certification program, auditor conduct and ASI policies and procedures.

It serves as an important part of the overall ASI governance model, allowing stakeholders to raise issues of concern and have these investigated and addressed as appropriate. Oversight of the ASI Complaints Mechanism processes is the responsibility of the ASI Board.



## 15. Corporations Act References in the ASI Constitution

The ASI Constitution includes a number of references to parts or sections of the *Corporations Act 2001 (Cth)*. To assist ASI Members to understand these specific references, this section contains general explanations of a number of those provisions. This section also includes a number of explanations of aspects of Australian law that are relevant to the governance and/or operations of ASI.

These general explanations are intended to reflect current law, therefore, from time to time it may be necessary to amend these explanations as relevant regulations change. Of course, the law and the Constitution itself prevail over these explanations to the extent of any inconsistency.

| Explanation of <i>Corporations Act 2001 (Cth)</i> References in the ASI Constitution |   |   |
|--|---|---|
| RULE   | CORPORATIONS ACT PROVISION              | COMMENTARY  |
| 1.1  | Section 250D                            | The Members of ASI are, generally, corporations. A corporation needs to act through natural persons. To promote certainty and clarity in the entitlements of natural persons to represent a corporation which is a Member of ASI, the <i>Corporations Act</i> includes a regime for the appointment of representatives. A Member of ASI may appoint an individual as its representative to exercise all or any of the powers of the Member at or in relation to general meetings of ASI.  |
| 4(c)(5)  | Chapter 2E – Related Party Transactions | <p>Australian law regulates public companies undertaking ‘related party transactions’. Rule 4(c)(5) of the Constitution recognises that where Chapter 2E permits, financial benefits may be conferred on members or directors despite the general prohibition in rule 4(b) on such benefits being given.</p> <p>The regime of regulation under Chapter 2E is designed to protect members’ interests by restricting the circumstances in which Directors can use company property for their own benefit. The general position is that ASI cannot give a financial benefit to a related party unless an exception applies or Member approval to the proposal has been obtained.</p> <p>The concept of a ‘financial benefit’ is broad and includes giving money or property, buying or selling assets, supplying or receiving services and taking up or releasing obligations. A financial benefit need not be given directly, it can be given indirectly, for example through interposed entities. The concept of a ‘related party’ is also broad and includes:</p> <ul style="list-style-type: none"> <li>(a) directors themselves;</li> <li>(b) spouses of directors;</li> <li>(c) parents and children of directors or their spouses;</li> </ul> |

|        |   |  |
|--------|---|--|
|        |   | <p>(d) entities controlled by anyone in (a) to (c);</p> <p>(e) any person who fell within (a) to (d) at any time in the previous 6 months;</p> <p>(f) any person who has reasonable grounds to believe it will fall within (a) to (d) at any time in the future; and</p> <p>(g) a person who acts in concert with a related party with the expectation of receiving a benefit.</p> <p>Exceptions to the general prohibition include:</p> <p>(h) a financial benefit that amounts to ‘reasonable remuneration’ e.g. paying a director’s travelling expenses; and</p> <p>(i) a financial benefit given on arms’ length terms e.g. the terms of the financial benefit are no more favourable to the related party than they would be if the benefit was given to an independent 3rd party.</p> <p>If none of the exceptions apply, the public company must obtain fully-informed member approval before the financial benefit can be given.</p>   |
| 8.1(c) | Section 249D – Members requisitioning a general meeting | <p>Ordinarily the Board decides when general meetings of members will be held. Sometimes individual directors can call general meetings. However – the members of a company have a statutory right themselves to require the company to convene a general meeting of members.</p> <p>Under s249D, a threshold of 5% of the voting power of the members can requisition a general meeting.</p>  |
| 8.2(c) | Business at a general meeting                           | <p>Certain provisions of the <i>Corporations Act</i> allow certain types of business to be transacted at a general meeting, despite not being specifically identified in the notice of meeting. Other provisions require certain business to be transacted if members with sufficient votes requisition that business in advance.</p> <p>For example under s250R the business of an AGM may include the following even if not referred to in the notice of meeting:</p> <p>(a) the consideration of the annual financial report, directors’ report and financial auditor’s report;</p> <p>(b) the election of directors;</p> <p>(c) the appointment of the financial auditor; and</p> <p>(d) the fixing of the financial auditor’s remuneration.</p> <p>Additionally under s249N – a Member or Members with 5% of the votes able to be cast at a general meeting may give the company notice that it/they intend to put forward a resolution at that meeting. The company may not have provided for this in the notice</p> |

|        |  |  |
|--------|--|--|
|        |  | <p>convening the meeting, yet it would still need to be put to members provided the member wishing to move the resolution complies with the requirements of s249N, and provided the meeting was still 2 months or more away (s249O).</p>   |
| 8.5(b) | Control and conduct of, and procedures at, a general meeting | <p>Whilst under this rule the Chair is generally responsible for the conduct of the meeting, the <i>Corporations Act</i> gives members specific rights which the Chair cannot limit.</p> <p>For example the Chair of an AGM must allow a reasonable opportunity for the members as a whole to ask questions about or make comments on the management of the company (s250S), and if the company’s financial auditor is present, the Chair must allow reasonable opportunity for the members to ask the auditor or their representative questions relevant to the conduct of the audit, the preparation and content of the auditor’s report, the accounting policies adopted by the company in relation to the preparation of the financial statements and the independence of the auditor in relation to the conduct of the audit (s250T).</p> <p>Another example is where a poll may be demanded. Generally speaking – 5 members entitled to vote on a resolution, or a member or members with at least 5% of the votes that may be cast on a resolution may demand a poll be taken on any resolution (s250K(1)).</p> |
| 8.8    | Rights and entitlements of proxies                           | <p>This rule simply clarifies the effect of an instrument appointing a proxy without ASI needing to include whole sections of the <i>Corporations Act</i> in the Constitution. Section 250BB provides how proxies are to vote if the instrument appointing them specifies a way to vote, and when they must vote and when they can abstain. It also provides that when key management personnel or closely related parties are appointed as proxies, they cannot cast the proxy vote in relation to certain matters such as their own remuneration unless the instrument specifies which way they are to vote on that particular resolution (s250BD).</p> <p>Expressing the rule in this manner incorporates these useful administrative tools, whilst still giving the appointor discretion as to whether or not to exclude any of them.</p>  |
| 9.7    | Vacation of office of the Director                           | <p>The <i>Corporations Act</i> includes a number of provisions under which a director ceases to hold office. These include, by virtue of s203B &amp; Part 2D.6:</p> <ul style="list-style-type: none"> <li>(a) if the director is convicted of certain offences;</li> <li>(b) if the director is an undischarged bankrupt;</li> </ul>  |

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|                         |  | <p>(c) if the director is disqualified from managing a corporation under a foreign law;</p> <p>(d) by Court order if the director has contravened certain civil penalty provisions;</p> <p>(e) by Court order if the director has been responsible for the failure of 2 or more companies within a 7 year period; and</p> <p>(f) by Court order if the director has repeatedly breached the Corporations Act.</p>   |
| <b>9.11(a)</b>          | Inherent statutory powers of Members     | <p>This rule vests in the Directors all the powers of ASI which are not by virtue of the Constitution or the <i>Corporations Act</i> required to be exercised by the Members in general meeting.</p> <p>The <i>Corporations Act</i> grants a number of powers exclusively to the members, including:</p> <p>(a) the power to modify the Constitution (s136(2));</p> <p>(b) the power to approve a voluntary winding-up (s495);</p> <p>(c) the power to remove Directors (s203D); and</p> <p>(d) the power to appoint financial auditors (s327B).</p>  |
| <b>13.3(a)(2)</b>       | Sections 1317G & 1317H – civil penalties | <p>Section 1317G of the <i>Corporations Act</i> provides for a pecuniary penalty of up to A\$200,000 to be levied against a person if they contravene a ‘civil penalty provision’ of the Act. A full list of civil penalty provisions can be found in s1317E and they include, for example, the duties of directors under s180(1) to act with the degree of care and diligence a reasonable person in their position would exercise and s181(1) to act in good faith in the best interests of the corporation and for a proper purpose.</p> <p>Section 1317H provides that a person who contravenes a civil penalty provision and causes damage to a company may be ordered to compensate the company.</p> <p>In essence – rule 13.3(a)(2) prevents an officer of ASI who breaches the <i>Corporations Act</i> from being able to claim indemnity from ASI for any fines levied against him or her personally or any liability they may have to ASI for causing ASI damage as a result of his or her breach. This prohibition is consistent with s199A(2)(b).</p> |
| <b>FURTHER CONCEPTS</b> |  | <b>COMMENTARY</b>   |
|                         | <b>Amending the Constitution</b>         | <p>The process to modify ASI's Constitution is regulated by the <i>Corporations Act</i> and the Constitution itself. Under s136(2) of the <i>Corporations Act</i>, a company may modify its constitution only by members passing a ‘special resolution’. Only <i>members</i> can vote on a special resolution, the <i>directors</i> cannot themselves modify the Constitution.</p>  |

Under s9 of the *Corporations Act*, a special resolution is defined as a resolution which:

- (a) has been specifically notified to members, usually with at least 21 days' notice; and
- (b) is passed by at least 75% of the votes cast by members entitled to vote on the resolution.

The voting weightings calculated under rule 8.7 of the Constitution will apply to Members' votes cast in relation to a special resolution to determine whether or not the 75% threshold is reached. The 75% threshold relates only to Members who actually cast votes (by proxy or by Representative) – therefore if a Member does not attend the meeting or abstains on the vote, that Member's potential voting weighting does not count either for or against the special resolution.

## 16. Directors’ Interests, Duties, Confidentiality and Vicarious Liability

To assist ASI Directors to understand their obligations, this section contains general explanations of a number of issues that may arise. These general explanations are intended to reflect current law, therefore, from time to time it may be necessary to amend these explanations as relevant regulations change. Of course, the law and the ASI Constitution prevail over these explanations to the extent of any inconsistency.

| ISSUES FOR DIRECTORS |   |   |
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| NO.                  | ISSUE                                   | COMMENTARY  |
| 1                    | WHOSE INTERESTS MAY A DIRECTOR PROMOTE? | <p>A director of a company must, when performing his or her duties as such a director, act in the best interests of <i>that particular company</i>, even where doing so may be not in the interests of another person, eg. another company such as a nominating member or any organisation of which the director is an officer or employee (the <b>Nominator</b>)</p> <p>The categories of Director in ASI have been created:</p> <ul style="list-style-type: none"> <li>• <b>not</b> so that the interests of a particular Member or class of Members of ASI can be advanced without regard to the interests of other Members or classes of Members</li> <li>• <b>to ensure</b> that Directors who have knowledge, experience and expertise across a range of industry segments in the aluminium value chain can come together to share that knowledge, experience and expertise in making decisions and guiding the strategic direction of ASI, and to assist ASI to make better and more informed decisions</li> </ul> <p>A Director is not prohibited from having regard to the interests of his or her Nominator, but he or she must consider the interests of ASI’s members as a whole in acting as a Director, he or she may not favour or exclusively pursue the interests of his or her Nominator where those interests are not the best interests of ASI</p> <p>Put another way, it has been said that:</p> <p><i>A director may act with the interests of a principal other than the company in mind, provided he or she has a genuine belief that in so doing he or she is acting consistently with the interests of the company as a whole</i></p> <p>The fact that a Nominator can only <b>nominate</b> a candidate for election as a Director, and it is the members themselves as a whole who <b>elect</b> the Director, further reinforces the position that the Director may not favour the interests of his or her Nominator over those of ASI</p> |

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| 2 | <b>CONFLICTS OF INTEREST</b> | <p>A conflict of interest is a situation where, in relation to a decision to be made by a person, the person finds that the interests of 2 or more parties that the person must, or would like to, promote (including the interests of a company of which the person as a Director) are not each promoted by one particular choice for that decision</p> <p>A Director must avoid being placed in a situation where he or she has a conflict of interest. A Director need not avoid mere <i>potential</i> conflicts of interest – the fact that each Director has an extraneous loyalty to his or her Nominator may well itself be a potential conflict of interest</p> <p>The extraneous loyalty that a Director has does not necessarily mean that the Director will regularly be faced with conflicts of interest. The regularity with which actual or potential conflicts of interest need to be assessed will depend entirely upon the nature of the Nominator and the activities of ASI over time</p> <p>Conflicts of interest can often be managed by the Director:</p> <ul style="list-style-type: none"> <li>• <i>disclosing</i> the competing interests to the other Directors; and</li> <li>• <i>excusing</i> himself or herself from discussions and/or voting in relation to the particular decision.</li> </ul> <p>If the conflict of interest cannot be managed in 1 of these ways (or some other way), the Director must favour the interests of ASI over the extraneous interest</p> <p>In cases where an ASI Director is also a director of his or her Nominator, and the decision relates to a matter between the Nominator and ASI, that Director will have 2 competing interests but disclosure and non-involvement in the decision should ensure that there are no breaches of duty in this instance</p> <p>In an extreme case, eg. where serious conflicts of interest regularly arise, it may be appropriate for the conflicted Director to resign to prevent this situation continuing</p> <p>Examples of a conflict of interest may be:</p> <ol style="list-style-type: none"> <li>1. a Director of ASI is also a senior executive of a Member involved in a particular part of the aluminium value chain. The ASI board is considering approving proposals from the ASI Standards Committee regarding amendments to an ASI Standard which would significantly impact that Member’s interests in a particular way. The Director would most likely have a conflict of interest if involved in this decision-making</li> </ol> |
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|   |                                 | <p>2. ASI needs to engage a chemical engineer to assist it in considering a query from an ASI auditor relating to certification of a Member. Any Director who is an officer or employee of the employer of the chemical engineer, or of the subject Member being audited, may have a conflict of interest if involved in this decision-making</p> <p>3. ASI institutes disciplinary action in relation to a Member following a complaint made under the ASI Complaints Mechanism. Any Director who is an officer or employee of the subject Member would most likely have a conflict of interest if involved in this decision-making</p>  |
| 3 | <p><b>CONFLICTS OF DUTY</b></p> | <p>A conflict of duty is a situation where, in relation to a decision to be made by a person, the person finds that he or she has a duty to act in a particular way with respect to 2 or more parties, but that those duties are not all complied with by the person deciding in one particular way</p> <p>The extraneous loyalty that a Director has does not necessarily mean that the Director will regularly be faced with conflicts of duty. The regularity with which actual or potential conflicts of duty need to be assessed will depend entirely upon the nature of the Nominator and the activities of ASI over time</p> <p>As with conflicts of interest, conflicts of duty can often be managed by the Director:</p> <ul style="list-style-type: none"> <li>• <b>disclosing</b> the competing interests to the other Directors; and</li> <li>• <b>excusing</b> himself or herself from discussions and/or voting in relation to the particular decision.</li> </ul> <p>If the conflict of duty cannot be managed in 1 of these ways (or some other way, such as permission from the Nominator for the Director to vote in a way that favours ASI), the Director must act consistently with his or her duty to ASI over the duty to the extraneous interest</p> <p>In cases where an ASI Director is also a director of his or her Nominator, and the decision relates to a matter between the Nominator and ASI, that Director will have 2 competing duties but disclosure and non-involvement in the decision should ensure that there are no breaches of duty in this instance</p> <p>In an extreme case, eg. where serious conflicts of duty regularly arise, it may be appropriate for the conflicted Director to resign to prevent this situation continuing</p> <p>Directors should also ensure that nothing in any arrangements they have with their Nominator, including the terms of any permission</p> |



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|   |   | <p>they need to take office as a Director of ASI, may require them to act in any way inconsistent with the best interests of ASI</p> <p>Examples of a conflict of duty may be:</p> <ol style="list-style-type: none"> <li>1. a Director of ASI is a senior executive of a Member and as part of his or her employment contract with that Member, has a contractual obligation to disclose to that Member all relevant information that he or she learns that relates to that Member. If the Director receives confidential information of ASI that is relevant to the Member, he or she would most likely have a conflict of duty, in that he or she is bound to ASI to keep the information confidential, yet bound to the Member to disclose the information</li> <li>2. a lobby group has internal rules requiring members to use whatever influence they have to ensure that officers of that lobby group are elected to government advisory bodies. A Director of ASI who is a member of that lobby group has a duty to ASI to not improperly use his or her position to benefit 3rd parties. In this instance – the Director may have a conflict of duty</li> </ol>  |
| 4 | <p><b>MATERIAL PERSONAL INTERESTS</b></p> | <p>A material personal interest is one that has the capacity to influence the vote of the Director upon the decision to be made. It need not be a financial interest, and it may only be an indirect interest</p> <p>The role of a Director on the board of ASI may give rise to material personal interests, particularly where the Director stands personally to gain from his or her Nominator in the events that ASI makes a particular decision</p> <p>If the Director’s Nominator stands to gain from a decision of ASI, that may, but will <i>not necessarily</i>, give the Director himself or herself a material personal interest in the decision</p> <p>As with conflicts of interest and conflicts of duty, material personal interests can often be managed by the Director:</p> <ul style="list-style-type: none"> <li>• <i>disclosing</i> the interest to the other Directors; and</li> <li>• <i>excusing</i> himself or herself from discussions and/or voting in relation to the particular decision.</li> </ul> <p>Examples of a material personal interest may be:</p> <ol style="list-style-type: none"> <li>1. a Director of ASI will receive a commission or bonus if a particular contract is awarded to the company of which the Director is also a director. The Director will most likely have a material personal interest in that matter</li> <li>2. ASI needs to rent new premises to establish an overseas office. A Director who is the major shareholder in a proposed landlord will most likely have a material personal interest in that matter</li> </ol> |

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|   |  | <p>3. ASI decides to register a range of trade marks and requires legal assistance. A Director who is a partner in the law firm considered to be engaged to provide those services will most likely have a material personal interest in that matter</p>  |
| 5 | <b>HANDLING ASI'S CONFIDENTIAL INFORMATION</b>           | <p>A Director is ordinarily not entitled to pass any confidential information of ASI back to his or her Nominator unless ASI permits him or her to do this</p> <p>Such information may include:</p> <ul style="list-style-type: none"> <li>• Board papers of ASI;</li> <li>• deliberations of the board of ASI, including other Director's positions on various issues; and</li> <li>• ASI's intentions and planned future activities which are not public knowledge through ASI communications.</li> </ul> |
| 6 | <b>HANDLING THE NOMINATOR'S CONFIDENTIAL INFORMATION</b> | <p>A Director does not have a legal obligation to pass confidential information of his or her Nominator to ASI, indeed he or she will have duties of confidentiality to his or her Nominator in respect of such information</p>   |
| 7 | <b>VICARIOUS LIABILITY</b>                               | <p>In general terms – a director installed as such on the Board of another company by his or her employer is, in general, presumed not to be subject to the employer's direction when performing functions as a director, so that no vicarious liability attaches to the employer for the director's conduct in that capacity</p> <p>This position is reinforced the fact that no individual Member of ASI has an actual Director appointment right</p>   |

## 17. References in this Handbook

Australian Institute of Company Directors (AICD), *Good Governance Principles and Guidance for Not-For-Profit Organisations*, 2013. <http://www.companydirectors.com.au/Director-Resource-Centre/Not-for-profit/Good-Governance-Principles-and-Guidance-for-NFP-Organisations>

Graeme Nahkis for Creative NZ, *Getting on Board: a governance resource guide for arts organisations*, 3<sup>rd</sup> ed, 2000. <http://www.creativenz.govt.nz/assets/paperclip/publications/files/33/original/getting-on-board.pdf?1300394226>

## 18. Glossary

| Term   | Definition   |
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| ASI  | Aluminium Stewardship Initiative Ltd   |
| ASI Standards                                  | Includes the ASI Performance Standard and the ASI Chain-of-Custody Standard.   |
| Associations membership class                  | Industry and other trade associations that represent commercial interests in any part of the aluminium value chain, such as aluminium associations, green building councils, and downstream sector associations.   |
| Civil Society membership class                 | Not-for-profit organisations serving the public interest, such as environmental and human rights NGOs, Indigenous Peoples and community-based organisations, labour organisations or consumer associations, at either an international, regional, national or local level.   |
| Downstream Supporters membership class         | Organisations that manufacture consumer or commercial goods containing aluminium in the: aerospace, automotive, construction, consumer durables, engineering, IT, and similar sectors; organisations in the beverage, food, pharmaceutical, retail and similar sectors that use aluminium in packaging for their products; and organisations that trade physical aluminium or collect aluminium for re-melting or recycling. Downstream Supporters are not required to seek ASI Certification.   |
| General Supporters membership class            | Organisations that support ASI's mission not falling into one of the other membership classes, such as: governments and regulators, international institutions, investment sector, parallel initiatives, academic and research institutions, specialist agencies, consultancies, media organisations, and related industries (for example, waste processing of bauxite residue, dross or spent pot-lining). This class excludes organisations seeking to carry out independent third party-audits: they must go through the ASI auditor accreditation process and cannot also be members of ASI. |
| Industrial Users membership class              | Organisations that manufacture consumer or commercial goods containing aluminium in the: aerospace, automotive, construction, consumer durables, engineering, IT, and similar sectors; and organisations in the beverage, food, pharmaceutical and similar sectors that use aluminium in packaging for their products. Industrial Users are required to seek ASI Certification for at least one of their facilities or product lines.  |
| Production and Transformation membership class | Organisations with activities in one or more of: bauxite mining, alumina refining, aluminium smelting, aluminium re-melting and refining, semi-fabrication and/or material conversion. Production and Transformation members are required to seek ASI Certification for at least one of their facilities or product lines.   |

### Document Revision History:

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