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# **Market Operator Services Limited Board Terms of Reference**

13 December 2023

## 1. Purpose

- 1.1 The Board, as a whole, is collectively responsible for the success of the Company and to act in the best interests of its members. The Board's role is to:
  - 1.1.1 Provide leadership of the Company within a framework of prudent and effective controls which enable risk to be assessed and managed;
  - 1.1.2 Set the Company's strategic aims, ensure that the necessary financial and human resources are in place for the Company to meet its objectives, and review management performance; and
  - 1.1.3 Set the Company's values and standards and ensure that its obligations to its members and others are understood and met.
- 1.2 The Board is ultimately charged with overseeing, with the CEO managing day to day operations, that MOSL fulfils the role of the Market Operator and carries out the obligations of the Market Operator as set out in the Wholesale-Retail Code and the Market Arrangements Code and to ensure that MOSL adheres to the objects for which it was established, as articulated in its Articles of Association. This includes:
  - 1.2.1 To fulfil the role of the Market Operator under the Market Rules;
  - 1.2.2 To commercially deliver and operate the central information systems and processes required for the non-household retail water and sewerage services market in England, including the IT applications, infrastructure and service delivery aspects;
  - 1.2.3 To administer supply point registration and switching services;
  - 1.2.4 To manage financial settlement services; and
  - 1.2.5 To administer the Market Codes and the code modification process, manage the disputes process, provide secretariat and governance functions to the Strategic Panel, its committees and working groups, and administer accession to the codes during market entry and exit.
- 1.3 The MOSL Board sets the strategic direction for MOSL, future scanning as to the services MOSL can, and should provide, in consultation with its membership and the regulator, Ofwat.
- 1.4 The Board is responsible for submitting an annual business plan (including the annual budget) to members for their approval and for monitoring MOSL's delivery of that plan. The Board is responsible for ensuring good governance.
- 1.5 Whilst MOSL is owned by its members, it is important that it remains independent of them and conducts its work impartially and without undue influence from any group or individual member.
- 1.6 The Board ensures that these obligations are met by setting the values and standards of the Company, overseeing the performance of the management team and ensuring that the required resources are available to enable MOSL to achieve its objectives. MOSL's purpose statement is 'Advancing simple and effective water markets to unlock value and choice for customers'.
- 1.7 The Board is responsible for the appointment of, succession planning for, performance review of the CEO and for approving the remuneration of the CEO.

## 2. Schedule of matters reserved for Board decision

- 2.1 The Board maintains a **Delegated Authority Policy**, which outlines a schedule of delegated authority and approval limits within MOSL. This includes (i) contracts; (ii) purchase orders, invoices and expense claims (iii) payment runs and (iv) disposals, bad debts and other write-offs. It also details the authority delegated to the Investment Authority Board (IAB), which approves material project spend (where this is not already budgeted for in the Business Plan) as well as MOSL initiated Code Changes. The IAB also provides oversight of budgeted project spend to ensure objectives are achieved, and project spending is carefully controlled.
- 2.2 Alongside the Delegated Authority Policy, the Board also delegates responsibilities to its formal committees, these being the Audit and Risk Committee, the Remuneration Committee, the Digital and Data Committee and the Nomination Committee. Additionally, the Board may delegate any of the powers conferred on it as it sees fit.
- 2.3 The **Remuneration Committee** is empowered to approve:
  - 2.3.1 The framework of remuneration for the Senior Leadership Team (SLT), including individual remuneration and the metrics for the bonus scheme and any Long-Term Incentive Plans; and
  - 2.3.2 The policies related to employee benefits.
  - 2.3.3 Review the CEO's performance annually and make any recommendations to the Board ahead of its annual review.
- 2.4 The Audit and Risk Committee is empowered to:
  - 2.4.1 Approve the appointment or termination of appointment of the internal audit function;
  - 2.4.2 Approve any non-audit services from the statutory auditor in aggregate in any one financial year;
  - 2.4.3 Approve the external auditor's terms of engagement, including their remuneration; and
  - 2.4.4 To review and oversee MOSL's principal risks, compliance matters and market audit issues and monitor the integrity of the company's financial statements.
  - 2.4.5 To recommend the appointment of the statutory auditors to the Board, for recommendation to members at a general meeting.
- 2.5 The Digital and Data Committee is empowered to:
  - 2.5.1 Take responsibility for the overall strategy for the technical architecture of MOSL, detailed oversight of digital and data risk, and, in relation to MOSL's significant digital and data projects - the technical architecture and system solutions, including data;
  - 2.5.2 Approve material digital contracts up to the value of £1m, save where deemed strategically important;
- 2.6 MOSL also maintains a Core Policies and Procedures Schedule, which details all MOSL policies and procedures, including whether review and approval is reserved to the Board, or otherwise delegated to a committee or a member of the executive.
- 2.7 The Board delegates all matters within the normal operation of the business, as catered for in the Articles of Association and the Codes, to the CEO, with the exception of the delegations detailed in section 2.2 to 2.5, together with the matters set out below, which are reserved for Board decision:

- 2.7.1 The appointment, remuneration, performance and succession of the CEO;
- 2.7.2 Award of contracts valued at over £1 million and/or strategically important;
- 2.7.3 Approving the company's strategy and agreeing the services that MOSL can and should provide;
- 2.7.4 Approval of MOSL's risk appetite and risk strategy;
- 2.7.5 The annual business plan and budget;
- 2.7.6 Redistribution or retention of any annual surplus to members;
- 2.7.7 The annual report and financial statements;
- 2.7.8 Appointment and remuneration of the independent (not elected) directors (subject to conflict-of-interest rules);
- 2.7.9 Appointment of members of the SLT;
- 2.7.10 Calling of General Meetings;
- 2.7.11 Setting the values and standards
- 2.7.12 Acceptance of new members of MOSL, in accordance with the Articles and Market Codes; and
- 2.7.13 Any other delegations the Board agrees to implement from time to time.

### **3. Membership**

- 3.1 The Board shall comprise no more than nine directors comprising:
  - 3.1.1 Three elected directors, one drawn from each of the membership classes, each to be appointed for a term of three years;
  - 3.1.2 The CEO as nominated by the unanimous decision of the Nominations Committee;
  - 3.1.3 An independent chairperson is also nominated by the unanimous decision of the Nominations Committee, for a term of three years; and
  - 3.1.4 At least two, and up to a maximum of four independent directors appointed by the independent Chairperson having regard to the recommendations of the Nominations Committee, for a term of three years.
- 3.2 Only members of the Board have the right to attend Board meetings. However, other individuals (particularly members of the SLT) and external advisers may be invited to attend all or part of any meeting, as and when appropriate.
- 3.3 The Board may also co-opt independent experts with relevant experience from outside MOSL and from inside or outside the industry to attend meetings.

### **4. Secretary**

- 4.1 The Board shall appoint a Company Secretary who shall act as the secretary of the Board (or their nominee).

### **5. Quorum and voting**

- 5.1 The quorum necessary for the transaction of business shall be two independent directors (including the Chairperson) and any two of the elected directors.
- 5.2 The Board may elect, by unanimous decision, to vary the quorum from time to time.

- 5.3 A duly convened meeting of the Board, at which a quorum is present, shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Board.
- 5.4 Decisions, save where otherwise stated, shall be by majority vote. In the event of a tie, the Chairperson shall have a casting vote.

## **6. Conflicts of Interest**

- 6.1 The Board has approved a separate Conflicts of Interest Policy, which details the policy and procedures of MOSL for managing conflicts of interest for the directors, including confidential information that could confer a commercial advantage if disclosed outside of the Board or Board committees.

## **7. Notice and Conduct of Meetings**

- 7.1 Meetings of the Board may be called by any director, or otherwise meetings may be scheduled by agreement of the Board.
- 7.2 At least four meetings shall be scheduled annually, together with a strategy meeting and a development session.
- 7.3 The schedule of meetings shall be produced and circulated at least six months in advance confirming the date, venue and time.
- 7.4 Unless otherwise agreed, notice of each meeting confirming the venue, time and date, together with an agenda of items to be discussed, shall be given to each member of the Board and any other person required to attend.

## **8. Minutes of Meetings**

- 8.1 Minutes of the meeting shall be circulated for viewing as a draft to the Board Chairperson no later than ten business days after the meeting and confirmed as accurate, following feedback, no later than 15 business days after the meeting for circulation to the Board as a whole. A summary minute of the meeting shall be published on the MOSL website within 15 business days.

## **9. Board Effectiveness**

- 9.1 The Board will review its effectiveness, including its terms of reference, at least annually. It shall also commission periodic independent, external effectiveness reviews of its performance. The Company Secretary shall maintain an effectiveness plan and update the Board periodically as to its development and progress.
- 9.2 The Chairperson shall review the performance of all independent directors annually, and a record of such review shall be confidentially maintained by the Company Secretary.
- 9.3 The Company Secretary shall maintain a skills register of the directors, for discussion by the Board at least annually

## **10. Other Matters**

10.1 The Board shall: -

10.1.1 have access to sufficient resources in order to carry out its duties, including access to the Company Secretary for assistance as required;

10.1.2 be provided with appropriate and timely training, both in the form of an induction programme for new members and on an ongoing basis for all members (as required); and

10.1.3 give due consideration to laws and regulations and the provisions of the UK Corporate Governance Code, as appropriate;

## **11. Authority**

11.1 The Board derives its authority from its Articles of Association and the Market Codes.

11.2 The Board shall be entitled to commission outside professional advice on any matters within its terms of reference or for the instructing of independent experts. Each director shall similarly, and in accordance with the service contract, seek independent advice at MOSL's expense, with notice to the Chair and Company Secretary.

13 December 2023

Approved at the Board on 13 December 2023

## **12. Appendix – Referenced Documents**

Conflicts of Interest Policy

Articles of Association

Market Arrangements Code

Audit and Risk Committee ToR

Remuneration Committee ToR

Nomination Committee ToR

Digital and Data Committee ToR

Delegated Authority Policy

Core Policies and Procedures Schedule