

*Note: This is an informal translation of the Claim Code 2019.*

## **PRINCIPLES AND ELABORATION**

### **I. COMPLIANCE AND ENFORCEMENT OF THE CODE**

#### **Principle**

The founder(s) is (are) responsible for the governance structure of the interest group and for compliance with this code. After the foundation, the board of the association and the board and the supervisory board of the foundation are responsible for the maintenance of the governance structure of the interest organization and for compliance with the code. The governance structure of the foundation shall at least provide the establishment of a supervisory board in addition to the board of directors.

The founders and, after incorporation, the board of the association and the board and the supervisory board of the foundation are accountable for this to the persons or legal entities whose interests the interest group take an interest in pursuant to its objective under the articles of association and provide sound reasons for any deviations from the code.

The starting point is the recognition that the design of the governance is tailor-made and that deviation from the principles and elaborations of this code may be justified under special circumstances (according to the principle of "comply or explain"). However, this requires that the reason for this for this deviation must be verifiable and made public.

#### **Elaboration**

1. The broad outline of the governance structure of the interest group will be explained each year on a publicly accessible part of the website of the interest group, partly by reference to the principles laid down in this code. In doing so, the interest group will explicitly explain to what extent it applies the provisions of this code and, if it does not, why and why it does not apply them.
2. The information on the governance structure published on the website for each financial year will remain accessible to the public as long as the interest group is active.
3. Any intended change to the governance structure of the interest group and to compliance with this code will be submitted for discussion under a separate agenda item to the supervisory board of the foundation and to the general meeting of members of the association.

### **II. REPRESENTATION OF COLLECTIVE INTERESTS WITHOUT PROFIT MOTIVE**

#### **Principle**

The interest group acts in the collective interest of the (legal) persons for whom it acts pursuant to its statutory objective. The objective as set out in the articles of association, the actual activities and the governance of the interest group shows that the interest group as well as the persons and legal entities directly or indirectly associated to the interest group have no profit motive when carrying out their activities.

#### **Elaboration**

1. The governance of the interest group shows that neither a natural person or a legal entity may dispose, in whole or in part, the assets and income of the interest group as if it were his/ her own assets and income. The articles of association of the interest group contain a two-signature system with regard to the board's power of representation.

2. The term 'profit' does not relate to the fee received or stipulated by an interest group for costs incurred or services rendered, including any reasonable top-up for the purpose of (future) collective representation of interests and the costs of using equity capital or loan capital.
3. With regard to the appropriation of any surplus assets, the articles of association of the interest group stipulate that this will as much as possible in accordance with the objective of the interest group and shall benefit the participants of the foundation or the members of the association. foundation or the members of the association or to an ANBI institution (set up pursuant to art. 6.33 paragraph 1 part b of the Wet Income Tax 2001, including a charity organization established outside the Netherlands in a country designated by ministerial regulation).

### **III. EXTERNAL FUNDING**

#### **Principle**

The interest group may enter into an agreement with a solid external financier for the purpose of financing its statutory activities. The board ascertains that individual directors and members of the supervisory board, as well as the lawyer or other service providers engaged by the interest group of the external financier and of the parties directly or indirectly affiliated (legal) persons, as well as that the external financier and the (legal) persons affiliated directly or indirectly to it be independent of the defendant in the collective action. The agreement shall provide for an arrangement that guarantees the independence and autonomy referred to in the previous sentence. The board will ensure that the financing conditions (including the scope and system of remuneration to be agreed upon) are not reasonably at odds with the collective interest of the persons or legal entities on whose behalf the interest group acts pursuant to its objective under the articles of association.

#### **Elaboration**

1. The interest group investigates the capitalization, any track record and reputation of the external financier.
2. The agreement will be in writing and will include a choice of law for Dutch law and a choice of forum for the resolution of disputes forum for the Dutch court or an arbitration institute established in the Netherlands.
3. The agreement shall stipulate that control over the litigation and settlement strategy rests exclusively with the interest group.
4. The interest group will ensure, and have this recorded in a letter of engagement laid down that its lawyer and other service providers engaged by it will act exclusively for and on behalf of the interest group and its statutory members and in the case in question will not accept any assignment(s) from the external financier and the (legal) entities directly or indirectly affiliated with it persons directly or indirectly affiliated with it, which does not affect the fact that the financing and actual payment of the attorney fees and expenses of other service providers on behalf of the interest group may be effected directly or indirectly by the external financier.
5. The agreement shall provide for an arrangement that maintains the confidentiality of the information belonging to the interest group and delineates to which information the external financier has confidential access.
6. The agreement shall provide for an arrangement that guarantees that the external funder, barring special circumstances, may not terminate the agreement before a final decision in the first instance has been obtained and furthermore guarantees that a period of notice is used such that the interest group so that the interest group has a reasonable opportunity to attract alternative funding.
7. The interest organization shall state on the publicly accessible part of the website (i) that external funding is involved, (ii) the identity and place of residence of the external financier and (iii) an outline of the fee(s) and services agreed upon with the external funder. If the external funder is entitled to a compensation that is based on a percentage of a collective (damages) to be

awarded in or collective (damages) compensation to be awarded in or out of court, the interest the interest group also states the percentage concerned.

8. With the exception of the provisions of the second sentence of the previous elaboration, the interest group is not required to disclose the amount of the compensation due to the external financier, the budget available for the case, the financing documentation or other information which, in view of the nature of its work, is sensitive on the website or otherwise. The interest group stipulates with the external funder that it is authorized to disclose this information to the court if the court orders it to do so, while the interest group may endeavour to prevent the opposing party from gaining access to this information.

#### **IV. INDEPENDENCE AND AVOIDANCE OF CONFLICT OF INTEREST**

##### **Principle**

The board is composed in such a way that the members, in relation to each other, the supervisory board, any external financier and the stakeholders of the interest group, can operate independently and critically.

##### **Elaboration**

1. Within the board and the supervisory board there are no close family or similar relationships, including marriage, registered partnership and unmarried cohabitation. The same applies to the relationships of directors and supervisory board members with persons associated with an external financier. Also, main or secondary positions of board members and members of the supervisory board that could impair their independence should also be avoided.
2. Any interest of members of the management or supervisory board which may give rise to doubts about their independence or critical functioning will be disclosed on the website of the interest group.
3. The interest group will not enter into any agreement with a person, legal entity or otherwise, in which a member of the management board or the supervisory - whether or not through close relatives as referred to in IV.1 - in the capacity of director, founder, shareholder supervisor, partner, associate or employee has an interest. The foregoing does not apply to remuneration paid to a personal private company or other legal entity of a director or member of the supervisory board for the performance of his duties on behalf of the interest group. This is a clarification and not a change from the Claim Code 2011.

#### **V. COMPOSITION, DUTIES AND WORKING METHODS OF THE BOARD**

##### **Principle**

The board shall have a balanced membership and shall be charged with the management of the interest group, which means, among other things, that it is responsible for the determination and implementation of the (financial) policy and the strategy aimed at achieving the objective set out in the articles of association. The board of the foundation accounts for this to the supervisory board at least once a year.

##### **Elaboration**

1. The board shall consist of at least three natural persons.
2. The Board is composed in such a way that it has the specific expertise necessary to adequately represent the interests described in the objective set out in the articles of association.
3. At least one member of the Board has the specific experience and legal expertise needed to adequately represent the interests described in the statutory objective.
4. At least one member of the board shall have the specific experience financial expertise which is necessary for adequate representation of the interests defined in the statutory objective.
5. The board represents the interest group. The power of representation is also vested in two directors jointly.

6. The Board of the foundation shall submit the balance sheet, the statement of income and expenditure and the budget to the supervisory board for approval. The board of the association shall submit the balance sheet, statement of income and expenditure and the budget to the general meeting of members for approval.
7. The Board will submit (potentially) far-reaching decisions for approval of the interest group and its interested parties to The Board shall submit (potentially) far-reaching decisions for approval to the supervisory board in the case of a foundation and to the general meeting of members in the case of an association. The supervisory board or the general meeting of members, as the case may be, will decide whether a decision is far-reaching or not. Far-reaching decisions are in any case understood to mean decisions to amend the articles of association, appoint and dismiss/suspend directors, merge and demerge, dissolve the company, institute legal proceedings, enter into a settlement agreement and file a WCAM petition. The management board shall, in any event, consider the support base among those under its articles of association in the decision-making process regarding a possible settlement agreement.
8. The board of the interest group will maintain a generally accessible website on which it posts the information that is of importance to its interested parties, which includes in any event (i) the articles of association of the interest group, (ii) the information referred to in I.1, (iii), the information referred to in III.7, (iv) the information referred to in VII.3, (v) information referred to in VII.8, (vi) an overview of the contribution(s) requested from participants of the foundation or members of the association, (vii) the resumes of the members of the management board and the supervisory board, (viii) any relevant interests of members of the supervisory board, (ix) the remuneration policy regarding board members (x) the established cost reimbursement and vacancy fee rules for members of the supervisory board, (xi) an outline plan of action which enables a potential participant to assess whether the nature and the approach of the interest group are in line with his/her interests, (xii) an overview of the current situation of legal proceedings initiated by the interest group, and (xiii) an overview of the main features of the settlement agreements concluded by the interest group.

## **VI. REMUNERATION OF DIRECTORS**

### **Principle**

Board members may, in connection with the performance of their management duties, receive a remuneration commensurate with the nature and intensity of their work. In addition, they may receive a reasonable expense allowance. Directors shall not perform remunerated activities on behalf of the interest group which do not arise from their management task.

### **Elaboration**

1. The determination of the remuneration and the reimbursement of expenses of the board members shall be made by the supervisory board. The general meeting of members shall determine the remuneration and expenses of the members of the association.
2. Board members shall not accept any remuneration for their activities from anyone other than the interest group or the party that appointed them or nominated them as directors.
3. All remunerations agreed upon with board members shall be included as such, together with an explanation, in the annual accounts of the interest group. If the remuneration is related to the number of time units a board member spent on those activities, then that number is disclosed in the notes.
4. The interest group publishes the main points of the remuneration policy for its board members on its website.

## **VII. THE SUPERVISORY BOARD**

### **Principle**

The foundation has a supervisory board consisting of at least three natural persons, no more than one of whom shall be appointed on the recommendation of any financier. The duties of the supervisory board are to supervise the policy and strategy of the management board and the general course of events in the foundation. This also includes financial supervision and the exercise of those duties and powers assigned to the supervisory board in this code and the foundation's articles of association. The supervisory board gives the management board solicited and unsolicited advice on all important points and focuses in the performance of its duties on the statutory objective as defined in the foundation's articles of association.

### **Elaboration**

1. The supervisory board shall meet at least once a year. The supervisory and the management boards shall also meet at least once a year in a joint meeting to discuss the general lines of the strategy and the policy pursued and to be pursued in the future.
2. The composition of the supervisory board is such that the members can operate independently and critically with respect to each other and the management board with respect to the interests promoted by the foundation. A member of the supervisory board shall have no direct or indirect personal interest in or with the foundation and its activities, or with the legal person(s) against whom the foundation acts.
3. In the event of financing by a third party, one member of the supervisory board, not being the chairman, may be appointed on the nomination of that third party. Such an appointment is published on the foundation's website.
4. At least one member of the supervisory board shall have the specific experience and legal expertise necessary to adequately represent and adequately supervise the interests described in described in the statutory objective of the interest group.
5. At least one member of the supervisory board shall have the specific experience and financial expertise necessary to adequately represent and adequately supervise the interests described in the statutory objective of the interest group.
6. The management board shall provide the supervisory board in a timely manner with the information necessary for the performance of its duties and powers, including the minutes of the board meetings, as well as any information concerning the foundation's affairs that the supervisory board may require. The supervisory board is authorized to inspect all of the foundation's books, records and other data carriers, and to have them inspected.
7. The supervisory board may, before giving its approval to the balance sheet and profit and loss account drawn up by the management board, may instruct the management board to have a chartered accountant or other expert appointed by the supervisory board examine those documents, unless the management board has already appointed a chartered accountant or other expert for such review. The chartered accountant or other expert shall report on his audit to the supervisory board and shall express the results of his audit in a certificate as to the truthfulness of the balance sheet and the statement of income and expenditure. He shall share his report with the management board.
8. The supervisory board draws up a document every year in which it renders account in general terms of the supervision it has exercised. This document, together with the information referred to in I.1, shall be published on the foundation's website accessible to the general public..
9. The joint meeting of the management and supervisory boards shall determine a reasonable and not excessive compensation for expenses and fees of the members of the supervisory board. In all other respects, the members of the supervisory board shall receive no remuneration. The adopted expense allowance and fee regulations are published on the foundation's website.