

DotAsia Board / Governance / Policy Document:		Doc ID:	BGC-006		
Board Code & Consensus Process					
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Board Resolution:	2024.10.002	Approved:	2024.10.30	Effective:	2024.10.30
Maintainer:	Board Governance Committee (BGC)	Status:	COMPLETE	Version:	2.0

This document provides a framework for considering Board actions, interactions and Resolutions. Board Resolutions are formal actions by the Board and Board Directors owe their fiduciary responsibilities to ensuring that resolutions are thoroughly considered through deliberations. Such deliberations are carried out within expected norms and ethos of the Board to ensure that all Board members can express their views openly and strive towards building a consensus towards a decision and/or Resolution.

With reference to A Guide on Directors’ Duties complied by the Hong Kong Companies Registry, which explains the responsibilities of Directors, in particular, Board Directors owe a duty to exercise care, skill and diligence (Principle 4) in making resolutions, and a duty to observe the organization’s resolutions (Principle 10), which also means duly made Board Resolutions should not be lightly retracted unless due consideration is given and substantive changes to relevant conditions have demonstrably arisen justifying such revocation.

Board Directors are expected to observe the DotAsia Code of Conduct (BGC-002), and the remedies included therein applies to this Code. This Code is not intended to override any applicable laws or any obligations pursuant to DotAsia’s Articles, Board Confidentiality Guidelines or any other applicable policies. This Code is intended to focus Board Directors to foster a culture of collective decision making in a consensus-driven approach and in a collegial manner, while be cautious in areas of ethical risk, deter wrongdoing and promote fair and accurate disclosure and reporting.

1. General Board Governance Structure and Framework

The respective responsibilities of the Board, Board Committees and Board Directors are set out in the DotAsia Board Governance Framework (BGC-001). In accordance with BGC-001, Board Committees are expected to engage in the discussion of matters that may eventuate in recommendations for decisions by the full Board.

- 1.1. Administrative Board Resolutions such as adoption of Board Minutes and consideration of Member Applications, etc., should be prepared by the DotAsia Team and tabled for full Board consideration by the Board Secretariat.
- 1.2. Board Resolutions to address matters of concern should be raised by Board Directors through the respective Board Committee(s). Due considerations are further included in Section 2 below.
- 1.3. In the event that an urgent Board Resolution is needed, an Ad-hoc committee should be formed to consider the matter in a timely fashion. Further considerations are included in Section 3 below.

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2. Board Resolution Considerations

The following points of consideration are organized in a roughly sequential manner for the consideration of Board Resolutions, although they are not intended to be prescriptive. Nevertheless, the considerations follow a logical progression, from the identification of an issue to the recommendation of a policy resolution to be adopted by the full Board from a respective Board Committee.

- 2.1. *Identification of issue:* Board Directors may raise particular issues of concern for Board governance policy consideration for discussion, or issues of concern may arise from general discussion at Board and/or Board Committee meetings. When such issues are identified and agreed to be a topic for discussion, it should be added to and referred to a corresponding Board Committee for more in-depth discussion.
- 2.2. *Addition to agenda at corresponding Board Committee:* Upon the identification of an issue, the topic should be added to a corresponding Board Committee agenda for consideration. A brainstorming session regarding the matter of concern should be held at the next corresponding Board Committee meeting so that different aspects of the topic can be explored.
- 2.3. *Preparation of background information to support Board discussions:* After the brainstorming session, the DotAsia Staff Team should prepare and compile further relevant background information as well as identify any operational considerations to support the Board discussions on the matter, and present such matters to Board Directors at the next corresponding Board Committee meeting for discussion.
- 2.4. *Seek legal advice where appropriate:* at different points of deliberation, legal implications of policy responses should be considered and formal legal advice sought where appropriate.
- 2.5. *Preparation of draft policy document and Board Paper where appropriate:* as sufficient details are scoped and understanding reached based on Board Committee discussions, iterative drafts of the policy document should be prepared to support further discussion and deliberations by the Board and the Board Committee. An accompanying Board Paper may also be produced to document the discussion at the Board and Board Committee(s) where appropriate.
- 2.6. *Discussions at corresponding Board Committee(s):* Further discussions should be had at corresponding Board Committee to consider detailed impact, benefits and risks of proposed policies and to arrive at a satisfactory level of consensus (further discussed in Section 3 below). A particular Board Committee should also consider if the matter of policy discussion has implication in other Board Committee(s), and if so refer the discussion to such Board Committee(s) for their considerations. Such deliberations form the key records for ensuring accountable governance processes at the Board.
- 2.7. *Recommendation from Board Committee for Full Board Consideration:* Finally, after comprehensive review of the policy draft or proposed resolution, a corresponding

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Board Committee (or Board Committees) should come to agreement to make a recommendation to the full Board for consideration of the proposed policy directive.

3. Consensus Process and Collective Responsibility

In alignment with the collegial and deliberative approach of the Internet Governance community in general, Board Directors and participants in the discussions are committed to engage in good faith and in an acceptable expected standards of behavior (as included in the DotAsia Code of Conduct), in the discussion and making of decisions in a consensus basis.

Board Directors understand that it is a well-established principle of good governance that boards govern through principles of collective responsibility: firstly, that Board Directors should be able to have free and frank discussions prior to coming to a collective decision (rather than prematurely pushing or pressuring other Directors toward a vote), also that such discussions should remain confidential; secondly, that once a position has been agreed, Board Directors are expected to abide by that position and support it, otherwise resign their office.¹

- 3.1. On the matter of commitment to a consensus basis this Code & Consensus Process further references the intent and spirit of RFC7282: On Consensus and Humming in the IETF², the ICANN GNSO Policy Development Process (PDP) Manual³, and the corresponding Consensus Playbook⁴ as the understanding of a consensus based approach consistent with the Internet Governance community.
- 3.2. In cases where determining the direction of the Board or Board Committee is needed and an informal poll is taken, polling may be iteratively taken in the spirit of building consensus among the Board to inform the Board's further discussion or until a consensus position can be established.
- 3.3. The Board or Board Committees, once decisions are made, speak in one voice collectively regardless of level of consensus achieved.

4. Good Faith Representation as Ambassadors of DotAsia

Throughout Board deliberations, and as representatives of DotAsia, Board Directors should not be, or appear to be, subject to influences, interests or relationships that conflict with the interests of DotAsia or its ability to operate for the benefit of the Asia Pacific Internet community as a whole. Board Directors shall act as Ambassadors of DotAsia so as to protect DotAsia's interests and those of its staff members, assets and legal rights, and Board Directors

¹ For the avoidance of doubt, Board Directors may of course vote against certain decisions and there is no need for Board Directors to resign should they express disagreements. Nevertheless, once a decision is made by the Board, fiduciary duties require that Directors abide by such positions. Directors not willing to abide by duly made resolutions may resign from office, and should not publicly or otherwise undermine the collective responsibility of the Board by excessive and unwarranted relitigation of established Board policies and resolutions.

² <https://www.rfc-editor.org/rfc/rfc7282>

³ <https://gns0.icann.org/en/basics/consensus-policy/pdp>

⁴ <https://gns0.icann.org/sites/default/files/file/field-file-attach/pdp-3-4-consensus-playbook-03jul20-en.pdf>

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shall serve the interests of DotAsia and the global Internet Community, especially the Asia Pacific Internet Community, over those of any other person, group or stakeholder of DotAsia.

- 4.1. *Ethical Conduct:* No code can anticipate every situation that may arise. Accordingly, this Code is intended to serve as a source of guiding principles and not absolute directives. Each Board Director is expected to adhere to a high standard of ethical conduct. The good name of DotAsia depends upon the way Board Directors conduct business and the way the public perceives that conduct. Unethical actions, or the appearance of unethical actions, are not acceptable.
- 4.2. *Care:* Board Directors shall apply themselves with seriousness and diligence to participating in the affairs of the Board and Board Committees and shall act prudently in exercising oversight, and shall be attentive to legal ramifications of his or her and the Board's actions. Board Members are expected to be familiar with DotAsia's business and the environment in which the organization operates, and understand DotAsia's principal Strategic Plan, Governance Policies and Core Values.
- 4.3. *Corporate Opportunities:* Board Directors are prohibited from: (a) taking for themselves personally opportunities based on confidential information provided to the Board related to DotAsia's business; (b) using DotAsia's property, information, or position for personal gain; or (c) competing with DotAsia for business opportunities. Board Directors shall exercise prudent judgment to avoid the appearance of improper influence when offered opportunities, gifts or entertainment.
- 4.4. *Confidentiality:* Board Directors should maintain the confidentiality of information entrusted to them by DotAsia as confidential and any other confidential information about DotAsia, including all Board discussions and correspondences, DotAsia's Members, operations, customers or suppliers, and all non-public information, which comes to them, from whatever source, except when disclosure is authorized or legally mandated.
- 4.5. *Board Interaction with Members and the Internet Community:* The Board recognizes that DotAsia Members and the Internet Community, especially the Asia Pacific community are interested in DotAsia's actions and governance and therefore the Board seeks to ensure appropriate communication, subject to concerns about confidentiality. The Board notes that the Chief Executive Officer speaks for DotAsia for executive and daily operational matters, consistent with applicable policy and Board directives. All comments from the Board to DotAsia Members, the wider Internet Community and/or media on behalf of the Board should be reviewed and discussed by the Board in advance, and, in most circumstances, come from the Board Chair unless otherwise agreed by the Board.

5. Ad-Hoc Committees

Board Resolutions are not management or executive decisions, and therefore are not intended in general to require rapid response. Rather, deliberative response ensures that

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Board Directors exercise their fiduciary duty of care and observance of the organization's prevailing resolutions and practice.

In the rare case that an urgent resolution that does not readily fit into the scope of any existing Board Committee from the Board is required, an Ad-hoc committee should be formed to consider a matter of concern identified.

- 5.1. Unless apparent conflict of interest issues are identified, the CEO, as a Board Director of DotAsia should participate in Ad-hoc Committees, as with all Board Committees, as an Ex Officio.
- 5.2. Formation of any ad-hoc committee, or any Board Resolution in lieu of an ad-hoc committee (or Board Committee) recommendation, should be institutionalized at a full Board meeting with major majority support from Board Directors. In consideration for the formation of ad-hoc committees, the Board should at least identify and enumerate the following parameters to define the scope of the committee:
 - *Purpose*: A clearly stated scope and purpose (i.e. charter/terms of reference) of an ad-hoc committee should be identified and articulated;
 - *Composition*: An initial composition and whether additional members can be included should be defined;
 - *Membership Criteria*: Appropriate skills and/or requirements, such as to avoid conflicts of interests, should be described regarding membership for the ad-hoc committee;
 - *Sponsor*: A sponsoring Board Director for the ad-hoc committee, who may or may not be the Chair of the committee, should be identified; and,
 - *Timeline*: A rough timeline should be established based on appropriate milestones for the committee.
- 5.3. In general, the principles underlining the considerations described in Section 2 and 3 above should be considered by the ad-hoc committee in its deliberations on the matter of concern, albeit in a timely fashion.
- 5.4. In alignment with Board and Board Committee activities, the DotAsia Board Secretariat shall provide full support for ad-hoc committees in their work. The Sponsor and/or Chair of ad-hoc committees shall work collaboratively with the CEO and Board Secretariat (DotAsia Staff team) to establish meeting agendas and other tasks in readiness for meetings within a reasonable timeframe and in a prioritized manner to ensure timeliness of deliberations without compromising thoroughness.
- 5.5. Recommendations from Ad-hoc committees should be ratified by the full Board or BoardExco where appropriate.

6. Updates to the Board Code & Consensus Process.

This document may be updated from time to time to improve the processes and address issues as they arise. Updates to the document should be considered and reviewed by the

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Board Governance Committee (BGC) and recommendations made to the whole DotAsia Board for consideration and adoption.