

**Governance in Regulated Markets**  
 Centre for Organizational Governance in Agriculture  
 January 23, 2020

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**Session Outline**

- Perceptions
- Today's Environment – Some Issues and Expectations
- Regulatory Overview
- Good Governance by Board Members
- Group Decision Making and Ethics
- Applying SAFETI
- Training to be a Decision-Maker
- Understanding Conflict of Interest and Apprehension of Bias

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**Perceptions**

- 1927 – Premier John Oliver re *BC Produce Marketing Act* “power without responsibility”
- 1930's – Legislation to Protect Producer Interests
- 1970 – Bill C-197 Government appointees rather than producers should govern national agencies and federal supervisory agency
- 2001 – Proposal to eliminate BC marketing boards and commissions
- 2004 – Introduction in BC of Independent Chairs (and RMEP)
- 2019 – Governing in the Public Interest Training of Public Sector
- 2020 – What is a Producer?

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### Today's Environment - Some Issues and Expectations

- "must operate in the present but anticipate the future" (Gaetan Lussier)
- Complexity and Pace.
- Connectivity.
- Tough and necessary decisions vs. satisfying all parties – is keeping things quiet an impediment to good decision-making?
- Diversity.

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### Regulatory Overview

- Historical Snapshot
- *Natural Products Marketing (BC) Act (NPMA)*
- NPMA Regulations
- Schemes
- *Agricultural Products Marketing Act (Canada)*
- BC Farm Industry Review Board and Its Role
- Ministry of Agriculture Regulated Marketing Economic Policy
- BC Farm Industry Review Board Governance Expectations

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### BCFIRB Governance Expectations

- Board Governance in the Public Interest
- Financial Responsibility and Accountability
- Stakeholders Experience / Producer Consultation and Involvement
- Sound Decision Making / Sound Marketing Policy - SAFETI
- Performance Targets and Measures

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### Good Governance by Board Members

Fiduciary Duties

- Honesty Duty – act with honesty, good faith and in best interests of the Board.
- Loyalty Duty – work exclusively in best interests of the Board and avoid conflicts of interest.
- Care Duty – act diligently and prudently based on common sense and ethical values.
- Diligence Duty – be informed in order to enquire properly about management of the Board’s affairs – assessing risk.
- Skill Duty – experience, skills of members.
- Prudence Duty – act carefully, assess consequences–good, bad, indifferent.

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### Good Governance by Board Members

Must Do Well

- Determine Core Purpose and Core Values (within NPMA/Scheme).
- Approve Major Goals and Desired Results.
- Maintain Standing Policies on All Aspects of Governance.
- Select an Executive Director and Hold Accountable to Policies.
- Ensure Financial Solvency and Integrity.
- Require Periodic External Audits.
- Help Represent Board.
- Encourage and Nurture Executive Director and Staff.
- Final Resolution of Internal Disputes.
- Evaluate and Improve Board.

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### Group Decision Making

Guiding Principles and Ethics

- Respectful to each other in all contexts – all must have a voice.
- Address and resolve conflicts quickly – but don’t avoid all conflict.
- Prepared and informed to timely address issues relevant to agenda.
- Support final decision – resign if don’t.
- Honesty – volunteer conflicts/potential conflicts, no personal agenda.
- Confidentiality.
- No authority outside of the Board except as assigned.
- Collective discipline. Hold one another accountable.

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### Applying SAFETI

- **Strategic** – Identifying key opportunities and systemic challenges, and plan for actions to effectively manage risks and take advantage of future opportunities.
- **Accountable** – Maintaining legitimacy and integrity through understanding and discharging responsibilities and reporting performance.
- **Fair** – Ensuring procedural fairness in processes and decision making.
- **Effective** – Ensuring clearly defined outcomes with appropriate processes and measures.
- **Transparent** – Ensuring that processes, practices, procedures, and reporting on how the mandate is exercised are open, accessible and fully informed.
- **Inclusive** – Ensuring that appropriate interests, including the public interest, are considered.

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### Training to be a Decision-Maker

- Registered Producers are licence holders – responsibility to know?
- Associations, Agencies, Committees (pre-board, succession planning)
- Initial Orientation as Board Member
- Centre for Organizational Governance in Agriculture
  - Specific – e.g., January 23, 2020 Session
  - General Knowledge – not just COGA – continuous improvement
- BC Council of Administrative Tribunals – COGA Specific
- Justice Institute (Conflict Resolution)
- Collective and Individual – balance on board

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### Understanding Conflict of Interest and Apprehension of Bias

- **Conflict of Interest** – is a particular type of reasonable apprehension of bias arising where a Board member’s personal financial interest, business interest or the financial interest of a family member, conflicts with the required duty of decision-making.
- **Apprehension of Bias** – where an informed person would reasonably perceive, in all the circumstances, that a decision-maker would not be impartial because of personal, financial interest, past or present associations or based on current or previously expressed views with respect to an issue.

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### Conflict of Interest and Apprehension of Bias (contd)

- Indirect Interest – family, partnership, director, shareholder, etc.
- Private Interest – direct or indirect interest in a contract or transaction (or potential one) of the Board or a matter being considered by the Board but does not include something that:
  - has application to general public
  - affects a Board member as one of a broad class (e.g., registered producers generally)
  - Concerns remuneration and benefits of Board members.
- Insider Information, Influence, Gifts and Benefits

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### Procedure on Conflict of Interest or Apparent Conflict of Interest

- Board member’s responsibility to disclose fully and promptly.
- Withdraw from meeting/decision-making without voting or participating in the consideration of the matter.
- Refrain from any action intended to influence the discussion or vote.
- Implications....managing in practice.

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### Questions

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