



# Collective Governance of Social Utility Trusts

Four Community Engagement Strategies



Research

Design

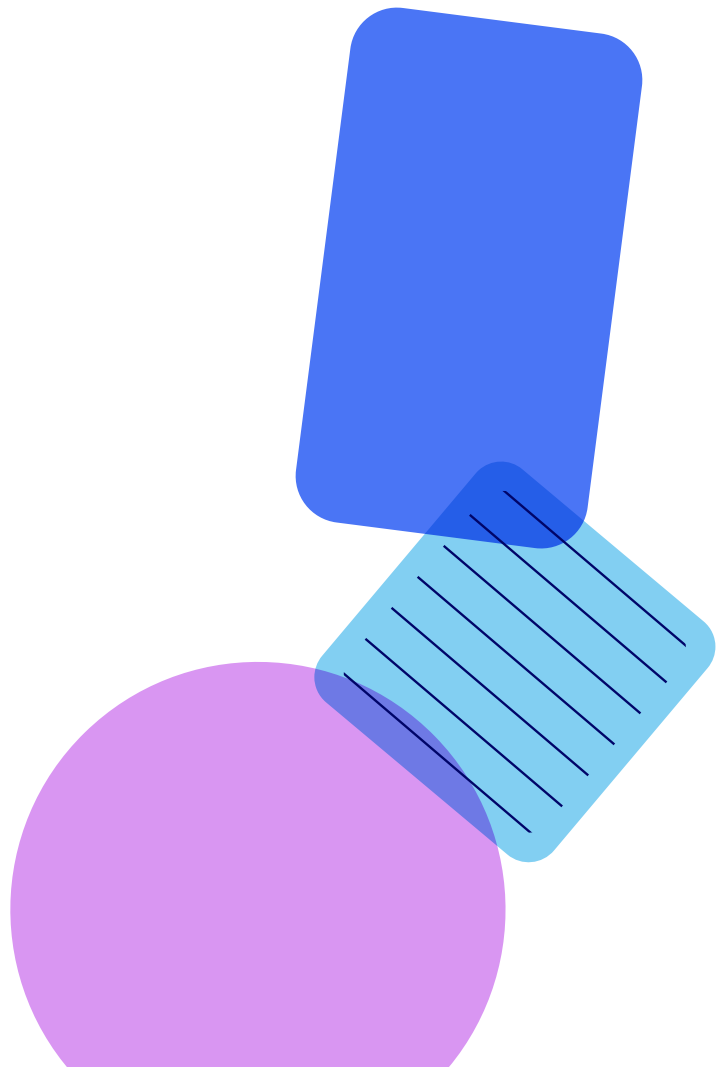
Implement

### Intended audience

- Data social utility trust (SUT) project owner support staff.
- Project owners.
- Settlers, before drafting the trust deed.
- Trustees, as well as persons asked to be Trustees.
- Anyone in the community who wants to understand collective SUT governance.

### Limit of liability

The information in this publication is for information purposes only and is not intended as advice to readers of their legal rights and obligations. It is based on laws and regulations that may have changed by the time you read it. It may also be inapplicable or not suited to your circumstances. No part of this document should be construed as either a professional opinion or an answer to any particular situation. This information is not intended as a substitute for professional legal advice.



## ● Introduction

# Social utility trusts (SUTs) are sparking lots of interest.

According to their inventors, they could safeguard against the misappropriation of assets that serve (or should serve) the public interest to private interests.

**However, there are significant obstacles to SUT implementation. Their governance, among other things, is poorly defined in the *Civil Code of Québec*.** They can exist without any oversight, transparency, or discussion mechanisms or procedures.

In addition, reporting requirements in the *Civil Code of Québec* do not specify to whom reports are to be addressed or any practical details. There is also no public SUT registry that provides information on trustees.

This lack of a framework leaves a great deal of room for the creation of tailor-made projects that feature varying degrees of control.

**However, by drawing on social economy principles and involving the community at various project milestones, risks associated with these obstacles can be minimized.**

For example, SUTs can establish practices aimed at making trustee decisions and actions transparent, create advisory committees, or ensure that the trustees reflect the community's diversity.

Who is part of the SUT community? Everyone who contributes to or has a stake in its creation, governance, or activities. (These people are not a homogeneous group.) That is why special efforts must be made to reach groups that are often under-represented in collective projects (e.g., seniors, racialized people, people with disabilities) and for whom SUT activities may have different impacts.

The earlier this community is involved in the project, the more it ensures that the social utility trust purpose meets its needs and furthers its ambitions and the common good.

### Reminder: Nonprofit, cooperative, and SUT legal frameworks

Nonprofit: Part III of the *Companies Act* and the provisions concerning legal persons in the *Civil Code of Québec*.

Cooperatives: The *Cooperatives Act* and the provisions concerning legal persons in the *Civil Code of Québec*.

Co-ops and nonprofits must be registered with the *Enterprise Register*, a public registry that provides access to basic information such as the identity of the directors, the organization's address, and its sector of activity.

SUT: Its governance is subject to few *Civil Code of Québec* provisions. The existence of SUTs is not recorded anywhere. There is no mandatory public registry (similar to the Enterprise Register) for SUTs. However, some SUTs have been entered on the Register.

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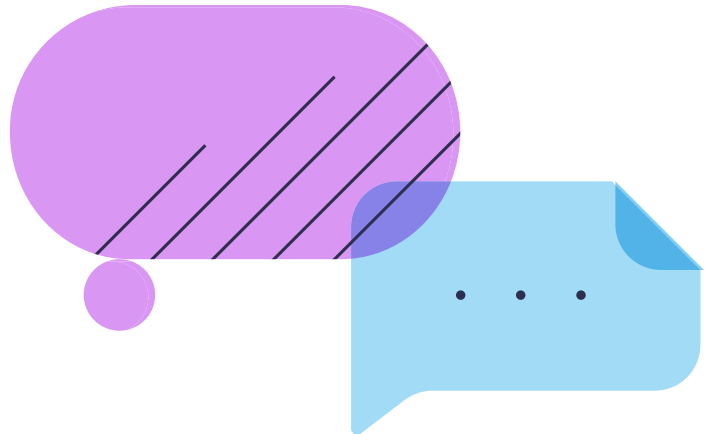
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# Defining the SUT community

In an SUT, the *Civil Code of Québec* stipulates only **two mandatory roles: the settlors**, who create the SUT and set its appropriation, and **the trustees**, who administer SUT assets and have a duty to carry out its purpose.

Governance of an SUT is therefore in the hands of trustees\*.

This minimal governance setup differs from what is typically found in nonprofits and cooperatives.<sup>1</sup> It is possible, however, **to create SUT governance that takes the whole community into account (outside of trustee meetings) by drawing on social economy principles.**

With this in mind, **we propose expanding the range of roles involved in an SUT** to include:

\*For more information on trustee roles, powers, and duties, see the TIESS document *Trustees: the Heart of Social Utility Trusts*



### Contributors

who transfer property to or help finance the trust.

- These could, for example, be individuals who transfer data to an SUT to augment a cultural data pool or donate land to a conservation trust.



### Users

who use the trust's assets.

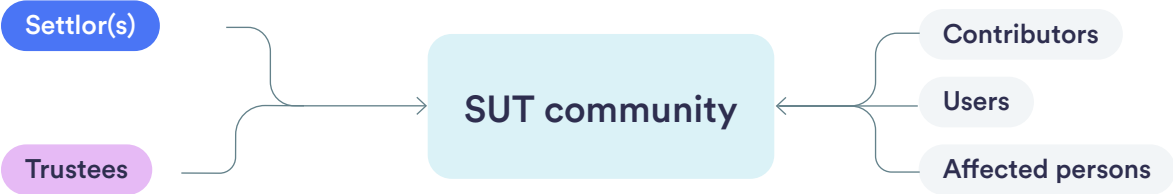
- These people could, for example, have access to SUT data, rent land held by an agro-ecological social utility trust to grow vegetables, or use hiking facilities on an SUT property.



### Affected persons

who are or may be involved in or affected by, directly or indirectly, SUT activities.

- These people could, for example, reside near an agro-ecological or environmental SUT, have their personal information processed, anonymized, and analyzed by a data SUT, or volunteer to maintain walking trails in a conservation SUT.



<sup>1</sup> Nonprofit and cooperative governance generally relies on a board of directors and members who meet in general meetings and committees.

## Defining the SUT community

These roles are not mutually exclusive and can evolve. A person may have multiple statuses at the same time, or one after the other. For example, the tenant of a residential SUT may be an affected person, user, and trustee. Similarly, a settlor may become a trustee.

A community can be defined when it is mapped. This step can be implemented by project owners and settlers, and carried out by other players. Ideally, it includes thinking about people who are not part of either the SUT creation process or its purpose. To include these people, try researching and contacting groups of marginalized people who are active in the region or in the SUT's area of activity.

### Who are the project owners?

Project owners are the people who start the project, i.e., create a social utility trust. These individuals may work to shape the operational, financial, and strategic aspects that underpin implementation of the SUT.

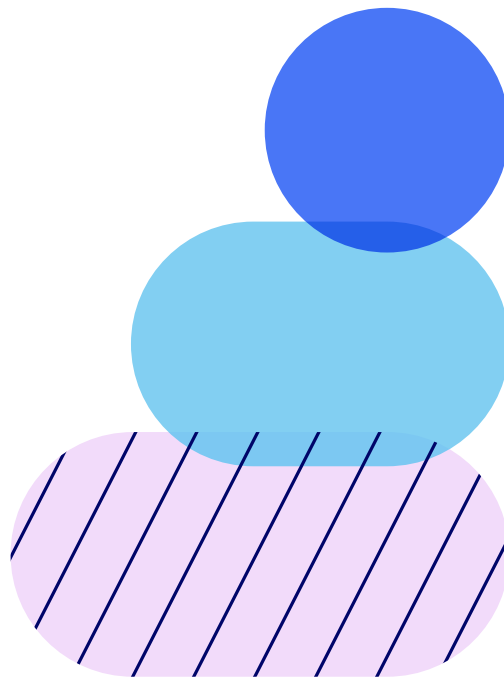
Owners have everything to gain by involving the community from the beginning of their process to create buy-in for their project. Once the SUT has been established, project owners can take on different roles within the trust (settlers, trustees, contributors, etc.).



### Questions to ask when mapping the SUT community

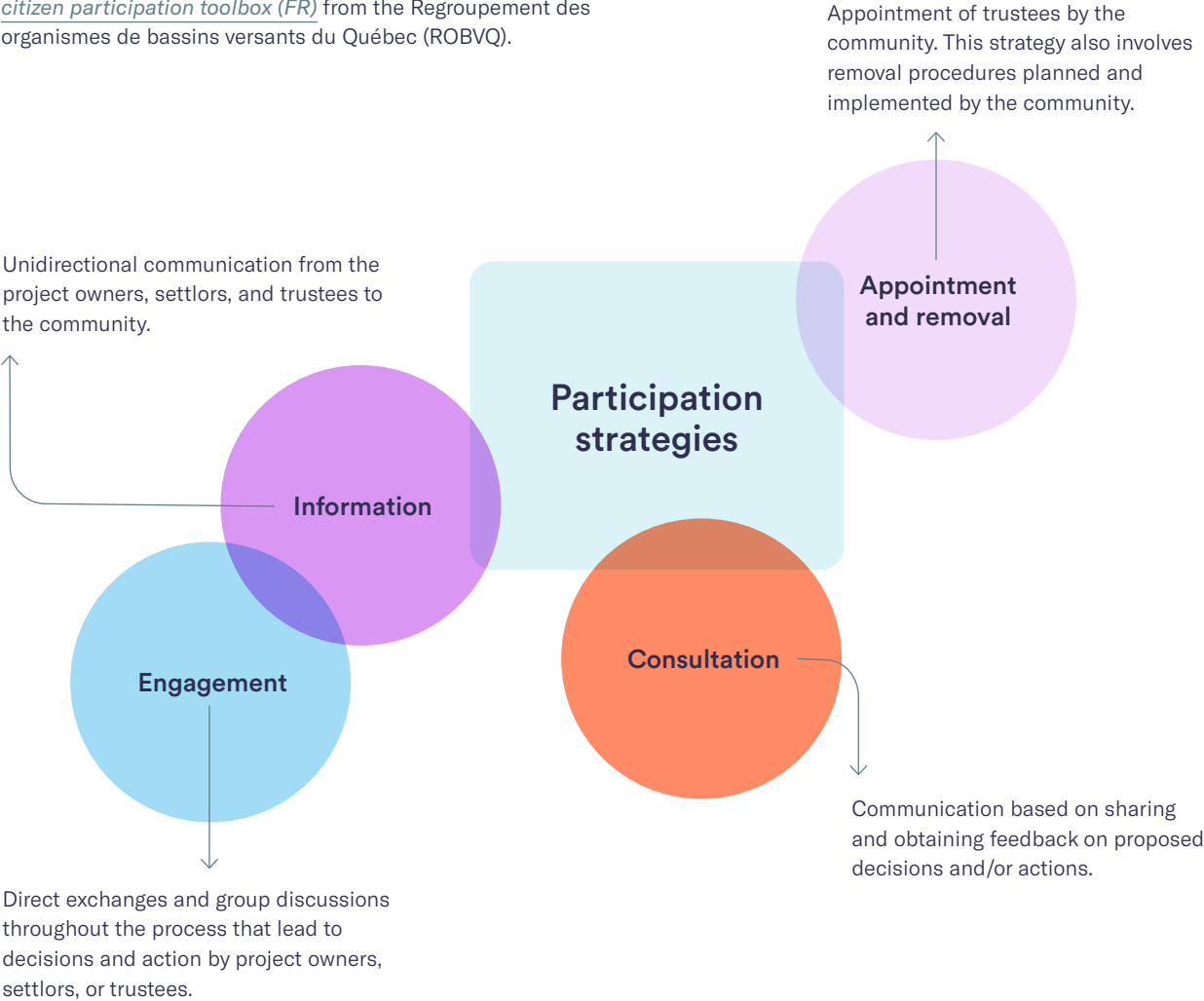
- Who will be affected by SUT decisions or actions?
- Who will the contributors, users, settlers, and trustees be? Who cannot have these roles?
- How can we ensure community participation that reflects the population's diversity? How do we identify and integrate unrepresented people?
- What are the risks, misgivings, expectations, and desires of each of these types of players?

To guide your thoughts, read the brainstorming and decision support tools for [social utility trusts](#) and [data social utility trusts](#).



# Four community engagement strategies

Various strategies can support community participation in SUT activities, actions, and decisions. To identify them, we drew on the range of citizen participation activities in the *citizen participation toolbox (FR)* from the Regroupement des organismes de bassins versants du Québec (ROBVQ).



# Information

Without information, it's impossible to take part in an SUT's activities and direction. It is difficult for community members to ask questions and speak to issues without first knowing their ins and outs.

This strategy involves one-way communication: one party produces information while the other receives it. This information must be accessible, readable, and intelligible for all.

We suggest using this mechanism throughout an SUT's creation process and existence in the form of virtual or physical spaces where information can flow.

There are other benefits to informing stakeholders. This can spark community interest in the SUT creation initiative and inspire other project owners who want to replicate or strengthen projects in Québec.

## Who needs to implement this strategy, when, and how?

**Before the SUT is created, project owners and/or settlors** can map the community in order to find the most appropriate means of communication to reach it. This step may call for the use of various means of communication, including reaching populations with low electronic communications use.

### Examples of actions to take

- Organize in-person and online information meetings for the community.
- Create online groups to share information.
- Develop a website to explain the process.
- Write monthly newsletters to publicize project progress.
- Mail notices to neighbourhood residents.



#### Careful!

When you put these actions into the trust deed, keep in mind that means of communication evolve over time. You need to provide trustees with the flexibility to adapt to technological and social change.

**When drafting the trust deed, project owners and/or settlors** may state in the deed that trustees have a duty to keep community members informed and list ways to do so.

Incorporating the above measures into the trust deed ensures that they will last over time.



#### Careful!

Don't forget that trustees have a legal obligation to report on their activities, which is one way of keeping the community informed. The trust deed must therefore include answers to the following questions:

- Who receives trustee reports?
- What form do these reports take?
- How often are reports produced?
- What mechanisms do report recipients have to respond and challenge reports? ([See the Engagement section.](#))



Once the SUT has been created, the trustees are required to produce annual financial reports. They should also make public the report, as well as the trust deed (in its entirety or in a simplified format), their identity and contact information. These actions increase the SUT's transparency.

Trustees may also revise the community map at regular intervals and have it checked at a meeting ([see the Engagement section](#)).

Note that volunteers may be involved in the creation and dissemination of various communication tools.

### Other examples of actions to take

- Develop a guide that outlines trustee roles and responsibilities.
- Develop a brochure that outlines the SUT's appropriation or purpose, the assets it holds, and its activities.
- Produce thematic publications related to the SUT's purpose.
- Issue news releases or quarterly newsletters.
- Post videos on an audio-visual platform.
- Organize open houses with group visits.
- Invite the community to attend trustee meetings.
- Introduce the SUT at public events organized by citizen groups or interested municipalities.
- Participate in university courses or conferences on topics related to SUT appropriation.

Trustees may describe these actions and how they will be implemented (e.g., frequency of education, information and awareness activities, and frequency of updating community mapping) in an internal by-law. These regulations should be public.

### Example

## Lanaudière Conservation Social Trust

The Lanaudière Conservation Social Trust was created in 2012 to protect natural habitats of high ecological value (peatlands, wildlife corridors, shorelines, woods, and woodlots) in the region in perpetuity.

To keep the community informed, trustees created various tools that are easily accessible on the trust's website. A [pamphlet](#) explains the SUT's appropriation and various ways to get involved. The stages of the land donation process are described in a [YouTube video](#) (FR). These tools can be found in the ["Publications" tab](#) (FR), which is easy to find on the website (in the "Nos Actions" drop list). Essential SUT documents (trust deed, by-laws) are available upon request.

SUT's participation in projects such as the Québec Ecological Corridors Initiative (QECI) and the plan de développement lanauois en plein air 20|32 (Lanaudière outdoor development plan 20|32), as well as presentations of its model to municipal councils in the Lanaudière region, help maintain the flow of information within the community and contribute to Lanaudière's territorial development.



## ● Consultation

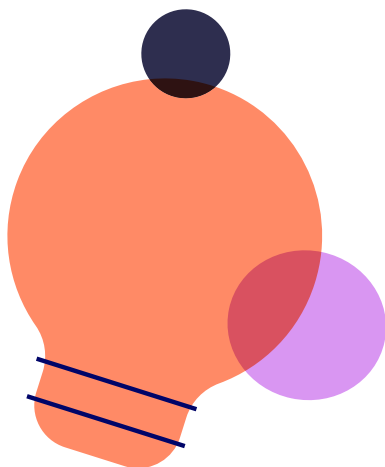
Consultation enables us to hold discussions and obtain feedback on what decisions and actions the project owners, settlors, and trustees want to take.

This process must involve all types of people in the SUT community map and be aimed at the widest possible diversity of society's actors.

Consultation is particularly important during a project's development phase since it enables the creation of an SUT based on community needs.

We suggest that this strategy be implemented during the process of creating an SUT and throughout its lifetime.

Note: Once the SUT is created, it is the trustees who ultimately assess and address, as a group, the recommendations of other community members. **Consultation does not give decision-making power to anyone other than the trustees.**



### Who needs to implement this strategy, when, and how?

**Before creating an SUT, project owners and/or settlors** must design physical or virtual consultation spaces.

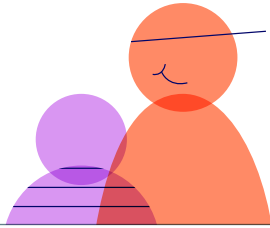
#### Examples of actions to take

- Hold project development consultation meetings.
- Set up booths for informal consultation.
- Create a suggestion box on the project website.
- Conduct a consultation process that includes the submission of written opinions.
- Establish advisory committees on specific topics (governance, funding, etc.).

**When they draft the trust deed, project owners and/or settlors** may state in the deed that the trustees have a duty to consult with community members and list ways to do so. Incorporating the above measures into the trust deed ensures that they will last over time.

The trust deed may stipulate how trustees implement consultations by specifying details such as:

- Means of consultation (online, in-person, survey, committee, meeting, etc.)
- Frequency
- Purpose of the consultations
- People to be addressed
- How to make the results of the consultation public



## Keep in mind

We also suggest that project owners, settlors, and trustees consider the following questions throughout the process of creating and running an SUT:

### Who implements the consultation process?

- Project owners?
- Trustees?
- The community?
- A specific community member or group?

### Who assumes responsibility for consultation?

### Who facilitates consultation?

### Who can participate?

- The whole community?
- Specific community members or groups?
- Community members or groups with specific skills?

### What types of findings must be recorded and disseminated?

### How do reports reflect what was proposed and retained during consultations?



### Careful!

When you include these elements in the trust deed, remember to give the trustees some leeway. The trust deed cannot be easily modified, so avoid making any aspects too specific (e.g., consultation dates, precise identities of people to be consulted). This document will be supplemented by an internal by-law (that can be amended) in order to clearly define trustee powers and duties.

The trust deed may also include practices that could not be implemented during the project development phase, such as making trustee meetings public or including time to answer questions from the community.

**After the SUT has been created, the trustees** continue the consulting actions provided for in the trust deed. Trustees may also integrate actions (and how to implement them) that are not in the trust deed into their internal by-laws (e.g., details of deployed consultation tools, frequency, facilitation tools to be used, registration process, tools used to announce an event, the means to publicize results, etc.).

## ● Engagement

To engage the SUT community means creating in-person exchanges and collective deliberations. On the one hand, these interactions inform the decisions or actions taken by project owners, settlors, or trustees. On the other hand, they bring the community together around an SUT project.

This strategy enables governance that has project success as its focus and adjustments to SUT activities when required.

We suggest involving the community at all stages of an SUT's life cycle (ideation, creation, implementation, and operation).



### Careful!

All general SUT administration decisions are made by the trustees. The community, when involved and brought together in meetings, committees, or workshops, cannot make decisions that belong to the trustees. However, it can be specified in the trust deed that the trustees have a duty to consider the results of deliberations arising from these proceedings.



## Who needs to implement this strategy, when, and how?

**Before they create the SUT, project owners and/or settlors** must design real or virtual spaces conducive to community engagement.

### Examples of actions to take

Organize collective ideation or co-creation workshops, or an issue table (decision-making or not) to:

- Identify community issues and needs
- Identify SUT community stakeholders
- Establish and draft the trust's purpose
- Ponder and establish governance
- Check the trust deed's content

### When drafting the trust deed, project owners and/or settlors

may specify in the deed that trustees have a duty to encourage and cultivate the active participation of community members and list ways to achieve this. Integrating the following actions into the trust deed ensures that they will last over time.

They have to do with two distinct aspects: deliberation and consultation of all community members, and monitoring of trustee decisions and actions.

### Examples of deliberation and consultation actions to implement

- Hold ideation/co-creation workshops and issue tables at specific intervals.
- Establish standing committees on individual aspects of the trust (governance, finance, etc.).
- Create an SUT community assembly.



An SUT **community assembly** is a gathering of community members to discuss and provide input on key elements of the SUT's direction.

In order to ensure this meeting is held, the trust deed must set forth certain trustee duties, such as the duty to call, attend, and participate in this meeting.

The trust deed may also state that trustees have a duty to take into account the discussions and decisions made at that meeting and to apply them to the extent that they are consistent with the appropriation and do not place trustees in a position of non-compliance with their role as administrators of the property of others, the trust deed, or trust by-laws.

**Examples of ways to monitor trustee decisions and actions to implement**

- Reserve seats for community members to observe trustee meetings.
- Make trustee meetings public.
- Provide for appointment or election of an “SUT Protector” (possibly on the same terms as trustees, see Appointment and removal section).



The **protector** reviews trustee decisions and actions to ensure they are consistent with the SUT's appropriation and governance. This role may be performed by a partner organization or by an elected committee of community members.

The trust deed must state that trustees have a duty to keep persons acting as protectors informed and consider their views, suggestions, and feedback to better inform the trustees' own decisions, whenever possible.

The trust deed may also list ways to do so, such as inviting protectors to trustee meetings (while providing them with all relevant documentation) or setting up meetings between trustees and protectors.

Finally, the trust deed can provide a dispute resolution or challenge mechanism if protectors (or any other community members) believe that trustees are not acting in accordance with the trust deed or in the best interests of the trust.

**Domaine Saint-Bernard Trust**

Example

The Domaine Saint-Bernard Trust organizes an annual general non-voting meeting that is open to everyone. This is an opportunity to bring the community together to discuss how the SUT works. In addition, the trust has set up a consultation mechanism: it asks the community to suggest events or activities in a virtual suggestion box.



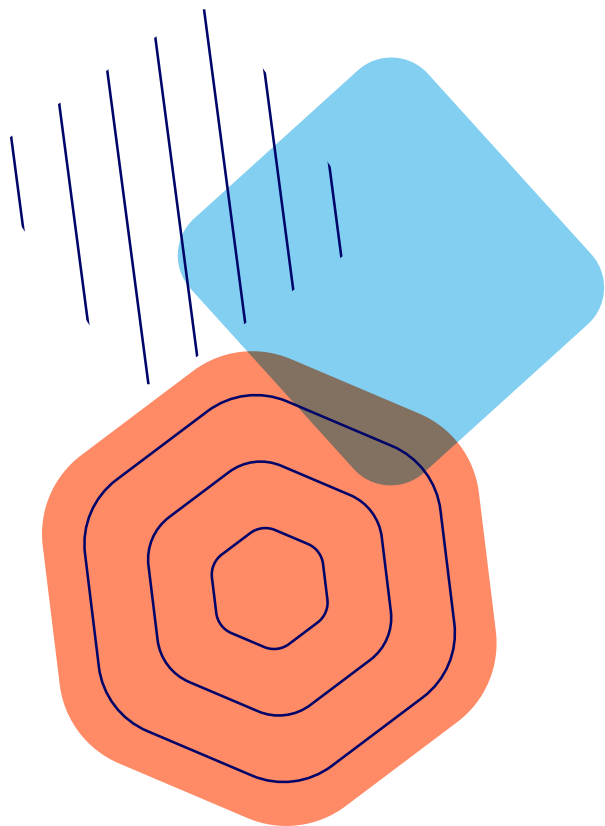
**After the SUT is created**, trustees must maintain engagement activities provided for in the trust deed.

If no engagement strategy is provided for in the trust deed, trustees may nevertheless include one or more of the strategies mentioned above in an internal by-law and apply the strategy(-ies). Trustees may therefore at any time supplement existing methods (or add new ones) to include the whole community in the SUT's existence.

## ● Appointment and removal

Appointment refers to a situation where the community appoints people as trustees. The community may also establish and implement trustee removal procedures.

The rules set out in the *Civil Code of Québec* regarding the appointment and removal of trustees are almost nonexistent (see the TIESS booklet *Trustees: the Heart of Social Utility Trusts*). There is no inherent collective decision-making process for appointing or removing trustees in an SUT.



### Ideas from the social economy

The election of directors by members is one of the pillars of democratic governance (see FR - [TIESS tools on democratic governance](#)). A social utility trust can draw on these tools to enable community members to appoint trustees. In the same way that power to remove directors must be included in a corporation's letters patent (see [Boîte à outils: Gouvernance démocratique - OBNL](#) (FR - democratic nonprofit governance toolkit) from the Comité sectoriel de main-d'œuvre de l'économie sociale et de l'action communautaire [CSMO-ESAC]) (Social economy and community action labor sector committee), this same power may be provided for in the trust deed.

As a matter of principle, the power to remove trustees should rest with those who appointed them. Similar procedures should be established for both appointment and removal.

Finally, as suggested by CSMO-ESAC, the following clarifications should be added to the SUT by-law regarding the removal process:

- 1 The person to be removed must be informed that removal proceedings are underway, be able to learn the reasons why, and when and where removal proceedings will take place.
- 2 The person must also have their say, orally or in writing.

## Who needs to implement this strategy, when, and how?

Before they create the SUT, project owners must think about the right terms for the community to appoint and remove trustees.

When they create the SUT, the settlor(s) must include these terms in the trust deed.

### • Sample appointment process

The following appointment processes address different needs or constraints. It is up to you to select the ones that best suit your project. The removal procedure must be consistent with the appointment method you choose, so we won't deal with it here.

#### Stakeholders appoint trustees

- Some trusts adopt a model where designated stakeholders (e.g., a local organization, municipality, or constituent) appoint a trustee for each new term. These trustees do not represent their organization. They must act in a disinterested manner in order to carry out the trust's purpose.
- Stakeholder replacement rules may be included in the trust deed. This is helpful if stakeholders end their involvement (e.g., a nonprofit ceases operations).

#### Trustees appointed by a committee that is representative of the community

- The trust deed may provide for a committee to appoint trustees. The trust deed may also state that this committee must be composed of an equal number of users, contributors, and affected persons, or that the number of persons must be proportional to each category.

#### Trustees appointed by a community assembly that may include the creation of electoral colleges

- The community meets in assembly and can set up a mechanism for appointing trustees. It may make appointments itself, either by universal vote or by electoral college (one college for each type of person involved in the SUT community).
- The trust deed must provide that the assembly appoints trustees. A committee or the assembly itself can decide the details of that appointment and put them in the by-laws.

### Ideas from the social economy

The establishment of electoral colleges is a recognized and valued practice in the social economy because it ensures that multiple interests are represented and prevents a single category of persons from holding all power. This practice can easily be transplanted into SUTs to provide for diversity of representation among trustees.

#### Hybrid approach to trustee appointment

- These various ways of appointing trustees are not mutually exclusive. For example, consider the appointment of eleven trustees divided as follows: three trustees are appointed by stakeholders who were actively involved in creating the SUT; three are appointed by current trustees seeking specific, useful expertise or views; and five are appointed by the community in assembly.

After the trust is created, trustees must convene and organize meetings or organize appointments.

## Solutions Immobilier Solidaire (SIS)

Example

Solutions Immobilier Solidaire (SIS) is a nonprofit that sets up solidarity-based real estate project SUTs across Québec. Its proposed governance includes three electoral colleges: one-third of the trustees must be SUT users (e.g., building residents); one-third must be persons affected by the SUT (e.g., neighbours or civil society representatives); and the remaining third must have expertise related to community housing (e.g., an employee of a technical resource group).



## FUSA Les blés dansants

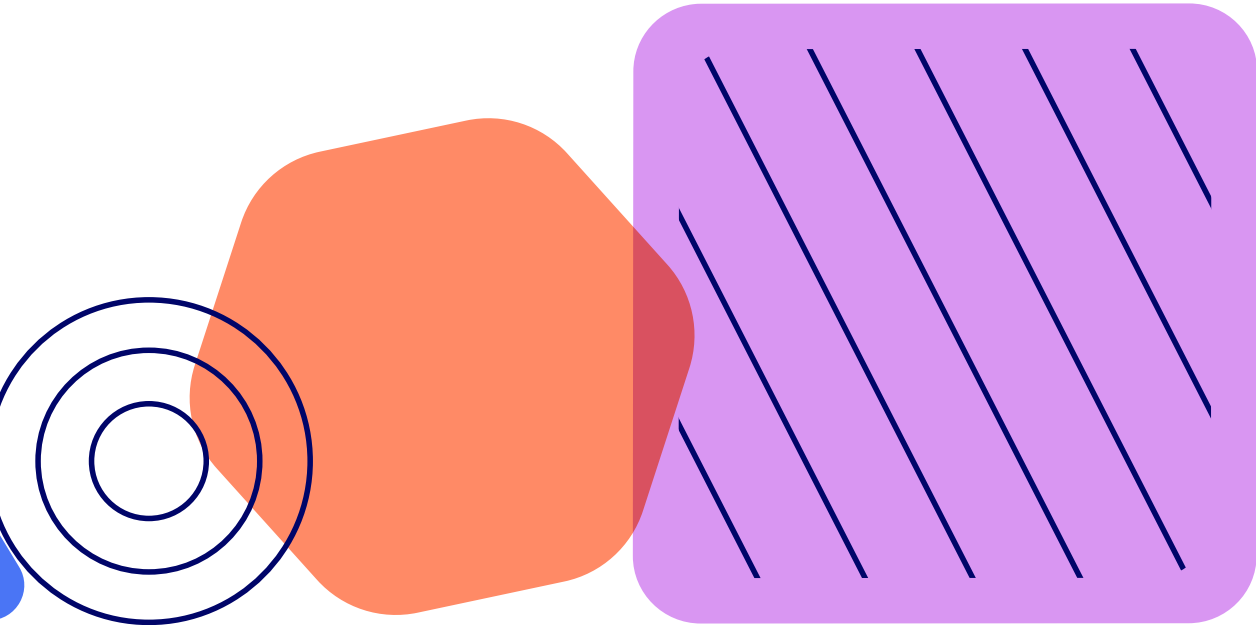
Example

In some cases, an SUT may decide to ask the members of another organization to appoint one or more of its trustees. This is the case for FUSA les blés dansants, part of the Cadet Roussel Farm. They entrust Protec-Terre with the responsibility of appointing three of the five trustees provided for in the trust deed. Protec-Terre calls on its members to recruit candidates, then the members cast votes for these candidates to choose the FUSA trustee(s). The other two trustees are chosen and appointed by Cadet Roussel Farm.



# Methodology

The information in this document comes from a variety of sources. TIESS has led a variety of projects since 2021 that observe and document various governance practices within SUTs (both existing and under development). TIESS has also been involved in SUT ideation and creation projects in a new area: data governance. Note: the TIESS vision of governance is anchored in the principles of democratic governance as defined in *La gouvernance démocratique en économie sociale - Une définition* (FR—Democratic governance in the social economy—a definition).



# Ready to continue your research?

A selection of resources is available to help you better understand certain concepts in this tool, to help you think through the matter, and to provide concrete suggestions that meet your needs.

Research

Design

Implement

Documents to read (as applicable) during a project's ideation stage



**Data Partnerships: An Introduction**



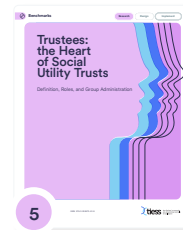
**Business Models for Data Partnerships**



**The Social Utility Trust: A Path to Data Partnerships**



**Collective Governance of Social Utility Trusts: Four Community Engagement Strategies**



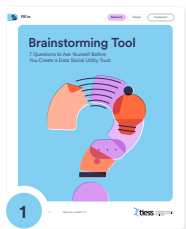
**Trustees: the Heart of Social Utility Trusts: Definition, Roles, and Group Administration**

Research

Design

Implement

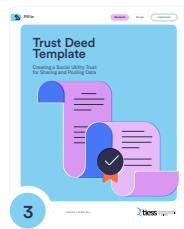
Useful tools to help you create a data social utility trust (FR) or a social utility trust (FR)



**Brainstorming Tool: 7 Questions to Ask Yourself Before You Create a Data Social Utility Trust**



**Decision Support Tool: Questions and Exercises to Help You Design Your Data Social Utility Trust Deed Together**



**Trust Deed Template: Creating a Social Utility Trust for Sharing and Pooling Data**



**Brainstorming Tool: 9 Questions to Ask Before Creating a Social Utility Trust**



**Decision Support Tool: Questions and Exercises to Help You Design Your Social Utility Trust Deed Together**

Research

Design

Implement

These documents will all still be useful after the social utility trust (SUT) has been created. After all, the SUT is a flexible and evolving tool. You may need to review its business model, certain ways of doing things, or the level of community involvement, when possible.

Did you find this booklet useful?  
Do you have any suggestions for improvement?  
Please complete our [feedback form](#) (FR).

## Acknowledgements

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## Contributions

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Québec 

  
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## About

### TIESS

Territoires innovants en économie sociale et solidaire (TIESS) is a social innovation liaison and transfer body recognized by Ministère de l'Économie, de l'Innovation et de l'Énergie (MEIE). It unites numerous stakeholders in the social and solidarity economy and territorial development, as well as research centres, universities, and colleges. TIESS contributes to territorial development by equipping social and solidarity economy organizations so that they can transform their practices and face social challenges in innovative ways. Discover our other resources: [tiess.ca](https://tiess.ca)