

CORPORATIONS ACT

A Public Company Limited by Guarantee

CONSTITUTION

of

PROFESSION OF INDEPENDENT FINANCIAL

ADVISERS LIMITED

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COMPANY NAME AND TYPE

1. COMPANY NAME

- 1.1 The name of the Company is Profession of Independent Financial Advisers Limited (“the Company”).

2. COMPANY TYPE

- 2.1 The Company is a public company limited by guarantee under the Act.

3. INTERPRETATION

- 3.1 In this Constitution, unless there is something in the subject or context which is inconsistent:

- (a) “**Act**” means the *Corporations Act 2001* (Cth);
- (b) “**Additional Director**” means a Director appointed at the discretion of the Board under clause 26.1(b).
- (c) “**Annual General Meeting**” means the annual general meeting of the Company;
- (d) “**Associate Member**” means a person a person admitted to membership in the Associate Members class by the Board in accordance with this Constitution;
- (e) “**Australian Financial Services Licence**” and “**AFSL**” means a person who holds an Australian financial service licence in accordance with the Act;
- (f) “**Board**” means the Board of Directors elected or appointed in accordance with this Constitution;
- (g) “**By-Laws**” means the by-laws of the Company as created and amended from time to time in accordance with clause 60;
- (h) “**Constitution**” means this Constitution as amended or supplemented from time to time;
- (i) “**Company**” means the Company referred to in clause 1.1;
- (j) “**Director**” means any person holding the position of a Director of the Company and Directors means the directors for the time being of the Company or as the context permits such number of them as have authority to act for the Company;
- (k) “**Financial Member**” means an Independent Financial Adviser Member who has paid all annual membership fees due and payable under clause 14;
- (l) “**General Meeting**” means the Annual General Meeting or any Special General Meeting of the Company;
- (m) “**Independent Financial Adviser Member**” or “**Full Member**” means a person admitted to membership in the Independent Financial Adviser Members class by the Board in accordance with this Constitution;

- (n) “**Insolvent Under Administration**” has the same meaning as is given to that term under section 9 of the Corporations Act;
- (o) “**Majority**” means more than fifty percent (50%);
- (p) “**Member**” means a Member of either of the Membership classes of the Company pursuant to clause 7 and may refer to Independent Financial Adviser Members or Associate Members or to both classes as the context requires;
- (q) “**Non-Financial Member**” means an Independent Financial Adviser Member who has not paid all the annual membership fees due and payable under clause 14;
- (r) “**Objects**” means the Objects of the Company as set out in clause 5;
- (s) “**Professional Requirements**” means collectively any pronouncement, By-Law, regulation, code, conduct, investigative, disciplinary, quality assurance and audit process, risk management requirement, adopted or issued by the Board or its delegate by authority of clause 34.3 of this Constitution;
- (t) “**President**” means the person appointed in accordance with clause 41.1(a) to preside at any General Meeting of the Company or any meeting of the Board of Directors as specified in this Constitution;
- (u) “**Secretary**” means the person appointed in accordance with clause 41.1(b) as the Secretary of the Company in accordance with this Constitution and includes any assistant or acting secretary;
- (v) “**Special General Meeting**” means a special general meeting of the Company; and
- (w) “**Voting Member**” means a Financial Member under this Constitution.

3.2 In this Constitution, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) each gender includes the other genders;
- (c) the reference to persons includes a natural person but does not include any partnership, trustee, association, body, an authority or entity whether incorporated or not;
- (d) references to a person does not include the legal personal representatives, employees, agents, contractors, successors, and permitted assigns of that person;
- (e) the words “writing” and “written” include any other mode of representing or reproducing words, figures, drawings or symbols in a visible form;
- (f) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
- (g) a reference to any clause or schedule is to a clause or schedule of this Constitution;
- (h) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;
- (i) all headings contained in this Constitution are for guidance and do not form part of the substance of the Constitution.

- 3.3 A clause that deals with an expression with a special meaning in a particular Part or Division of the Act, has the same meaning as that Part or Division of the Act, unless a contrary intention appears.

4. REPLACEABLE RULES

- 4.1 Subject to Part 2B.4 of the Act, the replaceable rules do not apply to the Company.

5. OBJECTS

- 5.1 The Objects of the Company are:

- (a) to promote, encourage, sponsor and assist the development of:
 - (i) independent financial advisers; and
 - (ii) independent financial advice to consumers;
- (b) to promote, encourage, sponsor and assist in the “independence” of independent financial advisers;
- (c) to improve the ethical and professional standards of financial advisers and suppress dishonourable conduct, for the benefit of consumers of their services;
- (d) to assist and facilitate the development of appropriate training and continuing professional development for independent financial advisers;
- (e) to liaise with government and other organisations for the purpose of promoting and furthering the Objects;
- (f) to undertake any other thing in relation to the Objects as determined to be appropriate by the Board or the Members.

6. COMPANY POWERS

- 6.1 The Company can only exercise the powers in section 124(1) of the Act to:

- (a) carry out the Objects of the Company set out in clause 5.1; and
- (b) do all things incidental or convenient in relation to the exercise of power under clause 6.1(a).

MEMBERSHIP

7. ADMISSION

- 7.1 The Independent Financial Adviser Members of the Company are:

- (a) the persons who are specified in the application for registration of the Company as persons who consent to becoming Members;
- (b) all Independent Financial Adviser Members of the Company as at midnight on 30 June 2019 so long as they have satisfied all applicable Board requirements as set out in the By-Laws; and

- (c) any other person admitted to Independent Financial Adviser Membership by the Board in accordance with this Constitution.

8. MEMBERSHIP CLASSES

8.1 There are two classes of member:

- (a) Independent Financial Adviser Members;
- (b) Associate Members.

8.2 Other than as expressly provided in this Constitution, an Associate Member shall enjoy no rights or benefits as are given or ascribed to members of a company under the Act.

8.3 The Board may create other classes of members on such terms and conditions and with such rights as it thinks fit.

9. ELIGIBILITY

9.1 To be eligible for membership in the Independent Financial Adviser Members class, a person must satisfy the Board in its absolute discretion that:

- (a) they hold the legal right to practice as a Financial Adviser or Financial Planner in Australia;
- (b) they are ***genuinely independent*** as prescribed by the Board from time to time in the By-laws;
- (c) they have a genuine interest in promoting the Objects of the Company; and
- (d) they meet such terms and conditions prescribed from time to time by the Board in the By-laws, including terms and conditions in respect of:
 - (i) training, educational qualifications, experience, examinations, nature and period of service; and
 - (ii) fitness for membership.

9.2 To be eligible for membership in the Associate Members class, a person must satisfy the Board, in its absolute discretion, that:

- (a) they hold the legal right to practice as a Financial Adviser or Financial Planner in Australia;
- (b) they are able to become ***genuinely independent*** as prescribed by the Board from time to time in the By-laws for the purposes of this clause;
- (c) they have a genuine interest in promoting the Objects of the Company;
- (d) they meet such terms and conditions prescribed from time to time in the By-laws, including terms and conditions in respect of:
 - (i) training, educational qualifications, experience, examinations, nature and period of service; and
 - (ii) fitness for membership.

10. MEMBERSHIP PROCESS

- 10.1 A person who wishes to become a Member must first apply for Associate Membership and satisfy the Associate Membership requirements as set out in the By-Laws.
- 10.2 Every applicant for Associate Membership of the Company must submit a valid application to the Board in a form approved by the Board from time to time which must:
- (a) be in writing;
 - (b) be signed by the applicant;
 - (c) provide honest answers to all questions asked and provide all documents requested; and
 - (d) be accompanied by the appropriate membership fee.
- 10.3 The Board must consider each valid application for Associate Membership as soon as is reasonable after the Board receives the application.
- 10.4 The Board is not required to give any reason for the rejection of any application.
- 10.5 If the Board accepts a person's application for Associate Membership the Secretary must notify the applicant in writing.
- 10.6 If the Board refuses a person's application for Associate Membership, the Secretary must:
- (a) notify the applicant in writing; and
 - (b) return the refundable portion of the applicant's membership fee (if any).
- 10.7 An Associate Member may apply for Independent Financial Adviser Membership only after having completed such requirements as may be imposed by the Board from time to time and set out in the By-Laws.
- 10.8 Clauses 10.2 to 10.6 above apply to the application process for Independent Financial Adviser Membership, making such changes as are necessary in respect of the wording of each clause.
- 10.9 If a former Independent Financial Adviser Member seeks to rejoin the Company, the Board may refuse their application for any reason or for no reason or may admit them to Independent Financial Adviser Membership upon such terms as the Board thinks fit.

11. RIGHTS OF INDEPENDENT FINANCIAL ADVISER MEMBERS

- 11.1 All Independent Financial Adviser Members who are Financial Members have:
- (a) the right to attend, speak and vote at all General Meetings;
 - (b) the right to stand for nomination to the Board;
 - (c) the right to advertise their membership of the Company to indicate a person's independence as a financial adviser;

- (d) the right to use the genuinely independent logo to be developed by the Company pursuant to clause 61; and
- (e) such further and other rights as the Board determines from time to time.

12. RIGHTS OF ASSOCIATE MEMBERS

12.1 Subject to clause 8.2, all Associate Members have:

- (a) the right to attend and observe at all General Meetings, but have no right to speak or to vote; and
- (b) such further and other rights as the Board determines from time to time.

12.2 An Associate Member does not have the right to stand for nomination to the Board.

12.3 An Associate Member does not have the right to hold themselves out to be independent as that term is defined in the Act or to be genuinely independent as that term is defined in the By-Laws, nor to use any logo developed by the Company to demonstrate a person's independence as a financial adviser. However an Associate Member may, subject to any requirements in the By-Laws established by the Board under clause 61.3 for the use of logos by Members, use any logo developed by the Board for Associate Members in accordance with clause 61.2 to promote their membership in the Associate Member class.

13. MEMBERS OBLIGATIONS

13.1 The Constitution constitutes a contract between each Member and the Company and each Member agrees to be bound by the Constitution and By-Laws.

13.2 All Members must comply with and observe the Constitution and By-Laws and any determination or resolution which may be made or passed by the Company or the Board.

13.3 All Members submit to the jurisdiction of the Australian Capital Territory in respect of any disputes between a Member and the Company or a Member and another Member.

14. MEMBERSHIP FEE

14.1 Each Associate Member must pay such membership fees as may be determined by the Board from time to time and set out in the By-Laws.

14.2 Each Independent Financial Adviser Member must pay such membership fees as may be determined by the Board from time to time and set out in the By-Laws

14.3 At incorporation the relevant membership fees were:

- (a) Independent Financial Adviser Members - \$1,100 (inclusive of GST) per annum; and
- (b) Associate Members - \$595 (inclusive of GST) per annum.

15. NON PAYMENT OF MEMBERSHIP FEES

15.1 An Independent Financial Adviser Member whose membership fees are in arrears:

- (a) By less than 60 days – is a Non-Financial Member; or
- (b) by 60 days or more – automatically ceases to be a Member.

15.2 The Board may, at its sole discretion and on such terms as it thinks fit, reinstate a Non-Financial Member who has ceased to be a Member by operation of clause 15.1(b) if they pay all of their arrears within 4 months after the due date for payment.

16. CESSATION OF MEMBERSHIP

16.1 In addition to clause 15.1(b), an Independent Financial Adviser Member or an Associate Member ceases to be a Member if they:

- (a) give the Secretary written notice of their resignation;
- (b) become of unsound mind or whose estate becomes liable to be dealt with in any way under a law relating to mental health; or
- (c) are a director or principal of an entity, and the entity enters into liquidation (otherwise than for the purpose of reconstruction or amalgamation) or an administrator, receiver or receiver and manager is appointed to the entity;
- (d) becomes an Insolvent Under Administration;
- (e) refuse or neglect to comply with a provision of this Constitution or the By-Laws;
- (f) fail to comply with a sanction imposed by the Board on the Member under clause 63.1(c);
- (g) cease to meet the eligibility criteria to be a Member.

16.2 The Secretary must notify a Member in writing if the membership is terminated as a result of clauses 16.1(e), 16.1(f) or 16.1(g) and provide the reason for the termination.

17. APPEAL AGAINST CESSATION OF MEMBERSHIP

17.1 If any Member ceases to be a Member as a result of clause 16.1 (“Terminated Member”), the Terminated Member may lodge a written appeal (“the Appeal”) to the Secretary to be reinstated.

17.2 The Board must review the Appeal at the next Board meeting held a reasonable time after the Secretary receives the Appeal.

17.3 If the Board decides to reinstate the Terminated Member, the Secretary must notify the Member in writing, of their reinstatement within 7 days of the Board making its decision.

17.4 There is no appeal from this decision.

GENERAL MEETINGS

18. ANNUAL GENERAL MEETING

18.1 The Company must hold an Annual General Meeting in accordance with the Act.

19. SPECIAL GENERAL MEETINGS

19.1 All general meetings, other than the Annual General Meetings are Special General Meetings.

19.2 The Board may convene a Special General Meeting:

- (a) as required under this Constitution;
- (b) as required under the Act; and
- (c) at anytime it thinks fit.

20. GENERAL MEETINGS

20.1 The Board must give at least twenty one (21) days notice of every General Meeting to:

- (a) every Member, except those Voting Members who (having no registered address within Australia) have not supplied to the Company an address within Australia;
- (b) every Director; and
- (c) the auditor or auditors of the Company,

except:

- (d) for special resolutions which requires notice in accordance with the Act; and
- (e) where there is an agreement for shorter notice between the Voting Members.

20.2 A notice of a General Meeting must include:

- (a) the place of the meeting;
- (b) the date of the meeting;
- (c) the time of the meeting; and
- (d) the business to be transacted at the General Meeting.

20.3 The Company may hold a meeting of members at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.

PROCEEDINGS AT GENERAL MEETINGS

21. QUORUM

- 21.1 No business can be transacted at a General Meeting unless a quorum is present.
- 21.2 The quorum for any General Meeting is 20 Voting Members, or more than five percent (5%) of Voting Members, whichever is the greater.
- 21.3 For the purpose of this clause, "Voting Member" includes a person attending as a proxy or a representative of an entity which is a Voting Member.
- 21.4 If a quorum is not met within 30 minutes of the start of the meeting, the meeting:
- (a) if convened by the requisition of Voting Members – is dissolved; and
 - (b) in any other case - stands adjourned to:
 - (i) the same day in the following week at the same time and place; or
 - (ii) to such other day, time and place as the President may determine.
- 21.5 If a quorum is not met within 30 minutes of the start of an adjourned meeting, two (2) or more Voting Members present in person or by proxy will constitute a quorum.
- 21.6 The business transacted at any adjourned meeting must only be the business left unfinished at the General Meeting from which the adjournment took place.

22. PRESIDING AT MEETINGS

- 22.1 The President presides at every General Meeting.
- 22.2 If:
- (a) there is no President; or
 - (b) the President is not present within fifteen (15) minutes after the time appointed for the General Meeting; or
 - (c) the President is unwilling to act,
- the Voting Members present will elect a Voting Member to be President for that meeting only.

23. ADJOURNING MEETING

- 23.1 The Voting Members present at a General Meeting may by Majority resolution adjourn the meeting from time to time and place to place.
- 23.2 If a General Meeting is adjourned for thirty (30) days or more, the Secretary must give all Members notice of the time and place of the adjourned General Meeting twenty one (21) days prior to the adjourned General Meeting.
- 23.3 A notice of an adjourned meeting does not need to state the business to be transacted.

23.4 The business transacted at any adjourned meeting must only be the business left unfinished at the General Meeting from which the adjournment took place.

24. PROCEEDINGS AND VOTING

24.1 At any General Meeting a resolution put to the vote will be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:

- (a) by the President; or
- (b) by at least two (2) Voting Members present in person or by proxy.

24.2 A:

- (a) declaration by the President that a resolution has on a show of hands been carried (unanimously or by a particular majority) or lost; and
 - (b) entry in the minutes of the Company showing the result of the resolution,
- is conclusive evidence of the result of the resolution, except where a poll is demanded.

24.3 A resolution is carried if supported by a Majority of Voting Members present at a General Meeting in person or by proxy.

24.4 The President of that General Meeting has a second or casting vote if the vote on any resolution is tied.

24.5 Any poll must be taken in such a manner as the President directs.

24.6 The result of any poll is the resolution of the General Meeting at which the poll was demanded.

24.7 Notwithstanding clause 24.5, a poll demanded on the election of a President or on a question of adjournment must be taken immediately.

24.8 A Non-Financial Member cannot vote at any General Meeting.

24.9 The Board may determine that at any general meeting or class meeting, a Member who is entitled to attend that meeting is entitled to a direct vote. A 'direct vote' includes a vote delivered to the company by post, fax or other electronic means approved by the directors. The Board may specify the form, method and timing of giving a direct vote at a meeting in order for the vote to be valid.

25. PROXY

25.1 A Voting Member may by written instrument appoint another person to act as their proxy to attend, speak and vote in their place at a General Meeting.

25.2 An instrument appointing a proxy is not valid and must not be recognised by the President of the General Meeting unless it complies with this clause 25.

- 25.3 An instrument appointing a proxy must be received by the Secretary at least forty-eight (48) hours before the time for holding the General Meeting or adjourned General Meeting at which the Voting Member proposes to vote.
- 25.4 The instrument appointing a proxy must be in the form approved by the Board from time to time.
- 25.5 An instrument appointing a proxy must be in writing and signed by:
- (a) the Voting Member; or
 - (b) the Voting Member's attorney; or
 - (c) if a corporation – in accordance with the Act or authorised representative of the company.
- 25.6 An instrument appointing a proxy must include the power of attorney or other authority (or a certified copy of that power or authority), under which it is signed.
- 25.7 A Voting Member may instruct his proxy in favour of or against any proposed resolutions.
- 25.8 A proxy may vote as he thinks fit, unless otherwise instructed.
- 25.9 On a show of hands every person present who is a:
- (a) Voting Member; or
 - (b) an authorised representative, attorney or proxy of a Voting Member,
- has one vote.
- 25.10 The instrument appointing a proxy confers authority on the proxy to demand or join in demanding a poll.
- 25.11 On a poll every Voting Member present:
- (a) in person; or
 - (b) by proxy; or
 - (c) by attorney; or
 - (d) by other duly authorised representative,
- has one vote on their own behalf and one vote for every proxy they hold.
- 25.12 A vote given in accordance with the terms of an instrument of proxy or attorney is valid notwithstanding:
- (a) the previous death or unsoundness of mind of the Voting Member; or
 - (b) the revocation of the instrument or the authority under which the instrument was executed,

if no indication in writing of such death, unsoundness of mind or revocation has been received by the Secretary before the commencement of the General Meeting or adjourned General Meeting at which the instrument is used.

BOARD OF DIRECTORS

26. DIRECTORS

26.1 The Board of Directors must consist of:

- (a) at least three Directors elected by Voting Members in accordance with clause 28; and
- (b) Up to two (2) Additional Directors (who need not be Members) appointed at the discretion of the Board.

26.2 A Director elected in accordance with clause 28 must be a Financial Member.

27. INITIAL DIRECTORS

27.1 The initial Directors of the Company are the persons specified in the application for registration of the Company as directors.

28. ELECTION OF DIRECTORS

28.1 The election of the Directors by Voting Members will take place at the Annual General Meeting in the manner the Board determines from time to time.

29. TERM OF DIRECTORS

29.1 Except for the initial Directors at incorporation of the Company and Appointed Directors, a Director's term of office commences from the end of the Annual General Meeting in which they were elected.

29.2 Subject to clauses 29.3 and 29.4, a Director's term of office ceases at the end of the third (3rd) Annual General Meeting from the date in which they were elected.

29.3 Each Additional Director holds office for a period determined by the Board and not exceeding three (3) years from the date of their appointment.

29.4 The Board may appoint an Additional Director for one or more consecutive terms (each term not exceeding three (3) years).

30. REMUNERATION OF DIRECTORS

30.1 At an Annual General Meeting the Voting Members may, by Majority resolution, pass a resolution on the remuneration payable to a Director.

30.2 A Director's remuneration must be a fixed sum and not a commission or a percentage of the turnover of the Company basis.

30.3 The Company must also pay travelling and other expenses that a Director properly incurs on the Company's business.

30.4 If a Director performs extra or special services for the Company, the Company may pay to the Director any special remuneration the Board decides, in addition to the Director's normal remuneration.

31. RE-ELECTION

31.1 There is no restriction on the number of times a Director can be re-elected.

32. TERMINATION OF DIRECTOR

32.1 Subject to the Act, the Voting Members may by ordinary resolution remove any Director (including an Appointed Director) before the expiration of his period of office.

32.2 The office of a Director (including an Appointed Director) becomes vacant if the Director –

- (a) becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (b) becomes prohibited from being a Director of a Company by reason of any order made under the Act;
- (c) becomes of unsound mind;
- (d) becomes subject to an order of a court or tribunal that renders the Director's estate liable to be dealt with in any way under the law relating to mental health;
- (e) resigns his office by notice in writing to the Company;
- (f) for more than six (6) months is absent without permission of the Board from meetings of the Board held during that period;
- (g) holds any office of profit under the Company without the Board's consent;
- (h) ceases to be a Member; or
- (i) is directly or indirectly interested in any contract with the Company, except as permitted under this Constitution.

33. CASUAL VACANCY

33.1 The Board may appoint any person as a Director, either to fill a casual vacancy or as an addition to the Directors.

33.2 Any Director appointed under clause 33.1 will hold office until the next Annual General Meeting

33.3 Notwithstanding clause 33.2, a Director under clause 33.1 may continue to hold office if the Voting Members confirm their appointment at the next Annual General Meeting.

POWERS OF DIRECTORS

34. POWERS

34.1 The Board will:

- (a) control and manage the business and affairs of the Company; and
- (b) exercise all such power and do all such things as may be exercised or done by the Company,

except for anything which, by the Constitution or the Act, is required to be exercised or implemented by the Company in General Meeting.

34.2 No action must be taken against the Board for any act or decision it makes in accordance with this Constitution, if there is a subsequent resolution by the Company in General Meeting invalidating the act or decision.

34.3 Without limitation to the power of the Board under clause 34.1 and the other powers conferred by this Constitution, the Board shall have the following powers on behalf of the Company:

- (a) to prescribe standards of behaviour required of Members and to regulate the conduct of Members, including the investigation of the conduct of Members and the imposition of penalties on Members, and the publication of complaints and disciplinary determinations concerning Members;
- (b) to require the Member to submit to such quality assurance and audit process as may be required by the By-Laws;

MEETING OF DIRECTORS

35. BOARD MEETINGS

35.1 The Board must meet at least four (4) times each calendar year to carry out its duties and responsibilities.

35.2 The Board may adjourn and otherwise regulate its meetings and proceedings as it thinks fit.

35.3 A Director may at any time and the Secretary will on the request of a Director summon a meeting of the Board.

35.4 All Directors must be given at least seven (7) days notice of a Board meeting, unless agreed otherwise by the Directors.

35.5 Notice of a Board meeting must be given to each Director and must:

- (a) specify the day, time and place of the meeting; and
- (b) state the business to be transacted.

35.6 A Board meeting may be held using any technology consented to by all the Directors.

35.7 The consent to use of technology may be a standing one and a Director may only withdraw consent within a reasonable period before the meeting.

35.8 The President presides at every Board meeting.

35.9 If:

- (a) there is no President; or
- (b) at any Board meeting he is not present within ten minutes after the time appointed for holding the meeting; or
- (c) being present, he is unwilling to preside,

then the Directors will choose one of the Directors present to be President for that meeting.

36. QUORUM

36.1 No business can be transacted at a Board meeting unless a quorum is present.

36.2 The quorum for any Board meeting is two (2) Directors or such greater number as determined by the Board from time to time.

36.3 If there are not enough Directors in office to form a quorum, the remaining Directors may act only:

- (a) to increase the number of Directors to a quorum; or
- (b) to call a General Meeting of the Company.

37. BOARD VOTING

37.1 All decisions of the Board are determined by Majority vote of Directors present at the Board meeting.

37.2 The President of the Board meeting has a second or casting vote if the vote on a resolution is tied.

38. RESOLUTION OUTSIDE BOARD MEETING

38.1 A written resolution signed by all Directors entitled to vote is valid and effectual as if it had been passed at a Board meeting duly convened and held.

38.2 Any such resolution may consist of several documents in like form, each signed by one or more Directors.

39. DELEGATION OF POWERS – GENERAL COMMITTEE

39.1 The Board may form any general committees it sees fit.

39.2 The Board must only appoint Voting Members as committee members.

39.3 The Board may delegate to one or more general committees, any of its powers and/or functions (not being duties imposed on the Board as the Directors of the Company by the Act or the general law) as it thinks fit.

39.4 Any general committee must comply with any directions given by the Board.

39.5 The general committee must operate in accordance with the directions of the Board.

40. ADVISORY COMMITTEES

40.1 The Board may appoint one or more advisory committees consisting of such persons as the Board thinks fit.

40.2 An advisory committee must only act in an advisory capacity and cannot bind the Company or the Board.

40.3 Any advisory committee must comply with any directions given by the Board.

40.4 The advisory committee must operate in accordance with the directions of the Board.

OFFICE BEARERS

41. APPOINTMENT OF OFFICE BEARERS

41.1 At the first meeting of the Board following each election or appointment of the Directors the Board must by Majority elect one of the Directors:

(a) President; and

(b) Secretary,

on such terms as they think fit.

42. PRESIDENT

42.1 The Board may suspend or remove the President.

42.2 The Board may vest in the President such powers and authority as it may from time to time determine.

42.3 The President will exercise all such powers and authority in accordance with the Board's direction.

42.4 If the President ceases to be a Director they will also cease to be the President.

42.5 If the President becomes incapable of performing his or her duties, the Board may appoint another Director to act as President on a temporary basis.

43. SECRETARY

43.1 The first Secretary of the Company is the person specified in the application for registration of the Company as Secretary.

43.2 The Board may suspend or remove the Secretary.

43.3 The Secretary must act in accordance with the Act.

43.4 The Secretary must discharge all functions conferred on the Secretary under this Constitution or the Act.

43.5 The Secretary is the public officer of the Company unless the Board determines otherwise.

RECORDS

44. FINANCIAL RECORDS

44.1 The Company must keep the financial records required by the Act.

44.2 The financial records must be audited as required by the Act.

44.3 The audited financial records must be provided to Members as required by the Act.

45. AUDIT

45.1 A properly qualified auditor(s) must be appointed and his or their duties regulated in accordance with the Act.

46. INSPECTION

46.1 A Member is not entitled to inspect the Company's books, unless authorised by:

- (a) the Board;
- (b) the Voting Members by Majority resolution; or
- (c) the Act.

47. REGISTERS

47.1 The Company must keep the registers required by the Act.

47.2 The Company must make the registers available to Members as required by the Act.

47.3 The Secretary must ensure the registers of the Company are accurate and up to date.

OTHER

48. EXECUTION OF DOCUMENTS

48.1 The Company may execute any agreement, deed or other document in accordance with section 127 of the Act.

48.2 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Company must be signed, drawn, accepted, endorsed or otherwise executed as the case may be, by:

- (a) any two Directors; or
- (b) in such other manner as the Board from time to time determines.

49. NOTICES TO MEMBERS

49.1 The Company may give notice to a Member:

- (a) personally;
- (b) by sending it by post to the address of the Member in the register of Members or the alternative address (if any) nominated by the Member;
- (c) by sending it by post to the registered office of the Member if the Member is a company or association; and
- (d) by sending it to the fax number or electronic address (if any) nominated by the Member.

50. NOTICES TO DIRECTORS

50.1 The Company may give notice to a Director:

- (a) personally;
- (b) by sending it by post to the Director's usual residential or business address or any other address nominated by them;
- (c) if a notice calling a meeting – by sending it to the fax or electronic address (if any) nominated by the Director, only if all of the Directors have consented to the use of that technology; and
- (d) if any other notice – by sending it to the fax or electronic address (if any) nominated by the Director.

51. TIME OF SERVICE OF NOTICE

51.1 A notice sent by post is taken to be given 3 business days after posting.

51.2 A notice sent by fax or other electronic means, is taken to be given on the business day after it is sent (if the sender's transmission report shows that the whole notice was sent to the correct facsimile number or electronic address).

52. APPLICATION OF INCOME

52.1 The income and property of the Company must be applied solely towards the promotion of the Objects.

52.2 The Company must not pay or transfer (directly or indirectly) by way of dividend, bonus or otherwise any portion of the income or property to any Member.

52.3 Notwithstanding clause 52.2, the Company may pay in good faith to any Member or Director:

- (a) for any services rendered or goods supplied in the ordinary and usual course of business to the Company;
- (b) for any out of pocket expenses incurred by any Member on behalf of the Company;
- (c) for any other bona fide reason or purpose for the attainment of the Objects.

52.4 Notwithstanding clause 52.2, the Company may pay in good faith to any Director:

- (a) for out of pocket expenses incurred by the Director in the performance of any duty as a Director where the amount payable does not exceed an amount previously approved by the Board; and
- (b) for any service rendered to the Company by the Director in a professional or technical capacity as approved by the Board, other than in their capacity as Director.

52.5 Any payment under this clause must be commercially reasonable for the service.

53. MEMBERS LIABILITY

53.1 The liability of the Members is limited.

54. MEMBERS CONTRIBUTION

54.1 Every Member of the Company agrees to contribute to the assets of the Company in the event of the Company being wound up:

- (a) while they are a Member; or
- (b) within one year after ceasing to be a Member,

for:

- (c) payment of the debts and liabilities of the Company (contracted before the time at which the Member ceases to be a Member);
- (d) the costs, charges and expenses of winding up; and
- (e) the adjustment of the rights of the contributories among themselves.

54.2 The maximum a Member is required to contribute under clause 54.1 is one hundred dollars (\$100).

55. WINDING UP

55.1 If, upon the winding-up or dissolution of the Company, there remains any property whatsoever, after satisfaction of all its debts and liabilities, the property must:

- (a) be given or transferred to some other organisation:
 - (i) having Objects similar to the Objects of the Company; and

- (ii) whose constitution prohibits the distribution of its income and property among its Members to an extent at least as great as is imposed on the Company under this Constitution,
- (b) not be paid to or distributed among the Members.

55.2 The Members must determine before the time of the winding-up or dissolution the organisation which the property will be transferred to under clause 55.1.

55.3 If no organisation is determined by the Members in accordance with clause 55.2, a Director must apply to the Supreme Court for a determination on the organisation which the property will be transferred to.

56. INDEMNITY

56.1 Every person who is or has been a:

- (a) Director;
- (b) Auditor;
- (c) Secretary;
- (d) Treasurer; or
- (e) other officer of the Company,

is indemnified, to the maximum extent permitted by the Act and law, out of the property of the Company.

56.2 Subject to clause 56.4, the Company indemnifies the persons referred to in clause 56.1 against any liability for costs and expenses incurred by that person:

- (a) in defending any proceedings (whether civil or criminal) relating to that person's position with the Company; or
- (b) in connection with any administrative proceedings (whether civil or criminal) relating to that person's position with the Company; or
- (c) in connection with any application in relation to any proceedings (whether civil or criminal) relating to that person's position with the Company.

56.3 The indemnity in clause 56.2 only applies if:

- (a) judgment is given in that person's favour; or
- (b) the person is acquitted; or
- (c) the proceedings is withdrawn before judgment; or
- (d) relief is granted to that person under the Act by a court.

56.4 The indemnity in this clause does not apply to a liability arising out of conduct involving a lack of good faith or dishonesty.

57. INSURANCE

57.1 To the maximum extent permitted under the Corporations Act, the Company may pay or agree to pay a premium in respect of a contract insuring a person who is or has been an Officer against a liability (including a liability for legal costs) incurred by the person as an Officer.

58. CONFIDENTIALITY

58.1 Subject to the Constitution, the By-Laws (including the complaints and disciplinary procedures and quality assurance and audit processes) and to the law, every person who by reason of his office in the Company or association with the Company is exposed to, learns of or has access to information or knowledge concerning Members of the Company, must keep confidential all such information and knowledge and is not entitled to communicate or divulge those affairs or any part of them in such a way that the name of the Member concerned is identified unless with the prior consent in writing of that Member.

59. ALTERATIONS TO CONSTITUTION

59.1 The Constitution may be altered, repealed and expanded by the Voting Members in General Meeting in accordance with the Act.

60. BY-LAWS

60.1 The Board may formulate, approve, issue, adopt, interpret and amend such by-laws for:

- (a) the proper advancement, management and administration of the Company; and
- (b) the advancement of the Objects,

as it thinks necessary or desirable.

60.2 All by-laws must be consistent with this Constitution and the Act.

60.3 All by-laws made under this clause are binding on the Company and its Members.

61. GENUINELY INDEPENDENT LOGO PROGRAM

61.1 The Board must, as soon as it is practical and financially responsible to do so develop one or more logos for Independent Financial Adviser Members to use in their business to advertise their genuine independence.

61.2 The Board may, subject to clause 12.1(b), develop one or more logos for Associate Members to use in their business to promote their membership in the Associate Member class.

61.3 The Board must establish by-laws to regulate the use of any logo approved by the Board for use by Members.

61.4 Despite clause 61.3, the Board cannot prescribe fees for use of any Board approved logo by Members, as use of a Board approved logo is a right of membership.

61.5 Except as provided in clause 62.1, the By-Laws must prohibit the Board from allowing people other than Members to use the relevant Logo.

62. AFFILIATES

62.1 The Board may make By-Laws establishing arrangements for entities that have a genuine interest in promoting the objects of the Company to be granted affiliate status, provided:

- (a) Affiliates are not Members and have no voting rights, nor any right to stand for nomination to the Board;
- (b) the entity pays such fee or fees as determined by the Board from time to time;
- (c) the affiliate agrees to be bound by an agreement on such terms and conditions consistent with the objects of the Company as the Board may require from time to time.

63. REGULATION OF MEMBER CONDUCT

63.1 In regulating the conduct of a Member pursuant to clause 34.3(a), the Board may impose on a person any one or more of the penalties set out in clause 63.1 (c) if, in the opinion of the Board:

- (a) A Member has:
 - (i) Obtained admission as a Member by improper means including, without limitation, making a false declaration on the application for membership; or
 - (ii) Renewed his or her membership of the Company by improper means including, without limitation, making a false declaration on the renewal form for membership;
- (b) A person while a Member has:
 - (i) breached this Constitution, the By-Laws, or Professional Requirements
 - (ii) been guilty of:
 - a. dishonourable practice in any profession or undertaking; or
 - b. any conduct which, in the opinion of the Board, is unbecoming of a Member or prejudicial to the interest of the Company; or
 - (iii) failed to observe a proper standard of professional care, skill or competence;
 - (iv) failed to comply with any reasonable and lawful direction of the Board or its delegate which relates to a matter concerning the good order and administration of the Company including a failure to comply with a Determination including relating to costs;
- (c) The Board may impose any one or more of following sanctions in accordance with clause 34.1 of this Constitution:
 - (i) forfeiture of membership on such terms and conditions as to Readmission (or non-Readmission) as may be prescribed;

- (ii) suspension from membership for any period not exceeding 5 years on such terms and conditions as to Reinstatement as may be prescribed;
- (iii) a fine not exceeding \$100,000;
- (iv) admonishment;
- (v) a severe reprimand;
- (vi) for such period and upon such terms as may be imposed:
 - a. cancellation or suspension of any certificate, privilege, right or benefit issued or granted to the Member; and/or
 - b. prohibition on the use of any designation permitted to be used by the Member;
 - c. restriction for any period not exceeding 5 years for and upon such terms and conditions as may be imposed on the permission or ability of the Member or any entity under which the Member carries on a financial services business or provides a financial service (whether or not on behalf of another person) to trade under, display or utilise any Intellectual Property of the Company including any status or designation;
 - d. the substitution of membership in one class for membership in a lesser class for any period not exceeding 5 years for and upon such terms and conditions as may be imposed on the Member
 - e. a direction to undertake such additional number of hours in such course of Continuing Professional Development as may be described;
 - f. a direction to undertake such quality assurance and audit as may be required by the Board under sub-clause 34.3 (b); and/or
 - g. such other penalty as may be deemed appropriate in the circumstances.

63.2 If in the reasonable opinion of the Board a Member has committed a breach referred to in clause 63.1(b)(ii) a, b or 63.1(b)(iii) which is serious, the Board may suspend the membership of that Member. Such suspension shall have immediate effect, pending a subsequent hearing at the discretion of the Board as to the merits. The Member shall be given the opportunity to be heard at such a hearing, in such manner as the Board determines.

63.3 The Board may require a Member to pay all or any costs and expenses in an amount not exceeding the Maximum Costs incurred by the Company in carry out any investigation or concerning any determination issued pursuant to clause 34.3.

64. COOPERATION WITH REGULATORS AND OTHERS

64.1 To discharge the objects of the Company, the Board may in its absolute discretion agree to share and exchange information with relevant regulators, a Member's (including a former Member's) Australian Financial Services licensee, a business associated with the Member or former Member and any code compliance scheme concerning the Member or former Member.

