

UNITY BANK LIMITED

ABN 11 087 650 315

AFSL 240399

Constitution

TABLE OF CONTENTS

PREAMBLE	V
CONSTITUTION.....	1
DIVISION 1. — INTRODUCTORY MATTERS.....	1
1.1 Definitions.....	1
1.2 Interpretation	2
1.3 Time.....	3
1.4 Replaceable Rules do not Apply.....	3
1.5 Notices.....	3
DIVISION 2. — OBJECTS & LIMIT ON POWERS.....	65
2.1 Objects	65
2.2 Customers Shall be Members	65
DIVISION 3. — MEMBERSHIP	76
3.1 Admission to Membership	76
3.2 Delegation of Power to Admit Members	76
3.3 Joint Members	76
DIVISION 4. — TERMINATION OF MEMBERSHIP.....	98
4.1 Removal of the Member’s Name from the Register of Members	98
4.2 Member’s Request for Termination	98
4.3 Termination by the Board	98
4.4 Termination Where Accounts Dormant.....	109
DIVISION 5. — ISSUE OF SHARES	1140
5.1 Classes of Shares	1140
5.2 Board Power to Issue Shares	1140
5.3 Restrictions on Issue of Member Shares.....	1140
DIVISION 6. — CALLS, FORFEITURE AND LIENS.....	1241
DIVISION 7. — DIVIDENDS	1342
7.1 No Payment of Dividends on Member Shares.....	1342
7.2 Payment of Dividends.....	1342
7.3 Differential Dividends.....	1342
7.4 Interest on Dividends.....	1342
DIVISION 8. — SHARE CERTIFICATES	1443
DIVISION 9. — TRANSFER OF SHARES	1544
DIVISION 10. — TRANSMISSION OF SHARES	1645
DIVISION 11. — HOLDING MEMBERS’ MEETINGS	1746
11.1 Calling Meetings of Members.....	1746
11.2 Adjourning Meetings of Members.....	1746
11.3 Proceedings at Members’ Meetings	1746
DIVISION 12. — VOTING AT MEMBERS’ MEETINGS	1948
12.1 Voting	1948
12.2 Voting on a Show of Hands.....	1948
12.3 Voting on a Poll	1948

12.4	Body Corporate Representatives	<u>2019</u>
12.5	Proxies	<u>2019</u>
12.6	Objections	<u>2019</u>
12.7	Direct Voting.....	20
DIVISION 13. — DIRECTORS — APPOINTMENT & VACATION OF OFFICE & DIRECTORS' POWERS .		<u>2224</u>
13.1	Number of Directors	<u>2224</u>
13.2	Eligibility to be a Director.....	<u>2224</u>
13.3	Appointment by Members — Election	<u>2224</u>
13.4	Appointment by Board — Casual Vacancies	22
13.5	Term of Office	<u>2322</u>
13.6	Automatic Vacation of Office	23
13.7	Resignation	<u>2423</u>
13.8	Alternate Directors	<u>2423</u>
13.9	Director Nominations Committee	23
DIVISION 14. — DIRECTORS' POWERS.....		<u>2524</u>
14.1	Powers and Duties of the Board.....	<u>2524</u>
14.2	Negotiable Instruments	<u>2524</u>
14.3	Delegation.....	<u>2524</u>
DIVISION 15. — DIRECTORS' MEETINGS.....		<u>2625</u>
15.1	Calling and Conduct of Board Meetings	<u>2625</u>
15.2	Quorum of Board.....	<u>2625</u>
15.3	Chair of Board	<u>2625</u>
15.4	Passing of Directors' Resolutions.....	<u>2625</u>
15.5	Circulating Resolutions.....	<u>2625</u>
15.6	Committees of Directors.....	<u>2726</u>
DIVISION 16. — CONFLICTS OF INTEREST.....		<u>2827</u>
16.1	Director Not in Breach if Acts in Matters Relating to Director's Interests.....	<u>2827</u>
16.2	Director Not in Breach if Does Not Act in Matters Relating to Director's Interests	<u>2827</u>
16.3	Execution of Instruments.....	<u>2928</u>
DIVISION 17. — REMUNERATION, INDEMNITY AND INSURANCE.....		<u>3029</u>
17.1	Remuneration of Directors	<u>3029</u>
17.2	Travelling Expenses and Insurance	<u>3029</u>
17.3	Indemnities for Officers and Former Officers.....	<u>3029</u>
DIVISION 18. — ADMINISTRATION.....		<u>3234</u>
18.1	Seal.....	<u>3234</u>
18.2	Secretary.....	<u>3234</u>
18.3	Resignation of Secretary.....	<u>3234</u>
APPENDIX 1 — OBJECTS		<u>3332</u>
APPENDIX 2 — COMMON BOND		<u>3433</u>
A2-1	Common Bond - Natural Person	33
A2-2	Common Bond - Body Corporate	33
A2-3	Membership - Common Bond adfter Transfer of Business	34
APPENDIX 3 — SHARES		<u>3635</u>
DIVISION 1 - MEMBERS SHARES.....		<u>3635</u>
A3-1	Subscription Price	<u>3635</u>
A3-2	Rights, Obligations and Restrictions Attaching to Member Shares	<u>3635</u>

A3-3	Voting Rights.....	<u>3635</u>
A3-4	Dividend Entitlements.....	<u>3635</u>
A3-5	Distribution on Winding-Up.....	<u>3736</u>
A3-6	Redemption of Member Shares	<u>3736</u>
A3-7	Transfer of Member Shares	7
DIVISION 2 – TIER 1 SHARES		<u>4137</u>
A3-8	Terms of Issue	<u>4137</u>
A3-9	Rights, Obligations and Restrictions Attaching to Tier 1 Shares	<u>4137</u>
A3-10	Voting rights	<u>4137</u>
A3-11	Dividend Entitlements.....	<u>4137</u>
A3-12	Distribution of Winding-Up.....	<u>4137</u>
A3-13	Conversion	39
APPENDIX 4 — STANDING ORDERS		<u>4339</u>
A4-1	Time Limits for Speakers.....	<u>4339</u>
A4-2	Amendment.....	<u>4339</u>
A4-3	Speakers	<u>4339</u>
A4-4	Motions to be in Writing.....	<u>4339</u>
A4-5	Closure of Debate	<u>4339</u>
APPENDIX 5 — ELECTION OF DIRECTORS		<u>4440</u>
A5-1	Election	<u>4440</u>
A5-2	Nominations	<u>4440</u>
A5-3	Proceeding with Election.....	<u>4541</u>
A5-4	Appointment of Returning Officers	<u>4541</u>
A5-5	Voting Procedures.....	41
A5-6	Appointment of Scrutineers	42
A5-7	Ballot Opens.....	42
A5-8	Content of Ballot.....	42
A5-9	Vote.....	<u>4743</u>
A5-10	Closure of the Ballot.....	<u>4743</u>
A5-11	Procedures After Close of the Ballot	<u>4743</u>
A5-12	Voting System	<u>4743</u>
APPENDIX 6 — DIRECTOR NOMINATIONS COMMITTEE		<u>4844</u>
A6-1	Appointment of Director Nominations Committee	<u>4844</u>
A6-2	Role of Committee	<u>4844</u>
A6-3	Duty of Confidentiality	<u>4844</u>

Preamble

The ***mutual bank*** is a public company limited by shares organised on the basis of principles of mutuality.

Constitution

Division 1. — Introductory Matters

1.1 Definitions

In this Constitution, unless the context requires otherwise:

ADI means a body corporate that **APRA** has authorised to conduct banking business in Australia under the *Banking Act 1959* (Cth)

APRA means the Australian Prudential Regulation Authority

ASIC means the Australian Securities and Investments Commission

board means the board of **directors**

candidate means a person whom the **Director Nominations Committee** determines to be a candidate under Appendix 5 Clause A5-2(5)

common bond refers to the common bond of membership, if any, set out in [Appendix 2](#)

~~**Demutualisation Event** means an event that triggers the application of the provisions of clause 29(1) of Part 5 of Schedule 4 to the Corporations Act 2001 (Cth) (except to the extent ASIC has exempted the mutual bank from the operation of that Part in relation to that event) or is a demutualisation for the purposes of section 63 of the Banking Act 1959 (Cth)~~

deposit means the placement of money in an account that the **mutual bank** conducts in the ordinary course of its banking business

direct vote means a vote delivered to the **mutual bank** by such means as approved by the **board**.

director means a director for the time being of the **mutual bank**

Director Nominations Committee means the committee appointed by the **board** in accordance with Appendix 6

elected director means a **director** :

- (a) appointed by [members-shareholders](#) under Rule 13.3 ;or
- (b) appointed by the **board** to fill a casual vacancy under Rule 13.4

financial accommodation means:

- (a) an advance;

- (b) money paid for, on behalf of or at the request of a person (other than by drawing on the person's **deposit** account with the **mutual bank**);
- (c) a forbearance to require payment of money owing on any account; and
- (d) a transaction that, in substance, effects a loan or is regarded by the parties to the transaction as a loan,

that the **mutual bank** provides or enters in the ordinary course of its banking business

general meeting means a general meeting of the **members** and **MCI holders** eligible to vote in general meeting

material personal interest has the same meaning as in Part 2D.1 of the *Corporations Act*

MCI means a means a share as described in Appendix 3 Division 2

MCI holder means a person whose name the **mutual bank** has entered for the time being as a holder of one or more **MCIs** in the Register of Members it keeps under the *Corporations Act*

~~**MEI** means a share in the capital of the mutual bank issued or arising from the conversion of a Regulatory Capital Security and which meets the requirements of the Mutual Equity Requirements~~

member means a person whose name the **mutual bank** has entered for the time being as a holder of a **member share** in the Register of Members it keeps under the *Corporations Act*

member share means a share as described in Appendix 3 Division 1

mutual bank means Unity Bank Limited

~~**Mutual Equity Requirements** means the requirements of APRA's prudential standards for a mutual equity interest and the requirements of ASIC for the issue of the MEI not to be a Demutualisation Event~~

~~**Regulatory Capital Security** means a share, note or other security eligible for inclusion as Tier 1 Capital or Tier 2 Capital, in each case as defined by APRA from time to time~~

secretary means a secretary for the time being of the **mutual bank**

shareholder means a **member** or an **MCI holder**

subscription price means:

- (a) _____ the amount payable by a person on subscription for a **member share** or **MCI**, or
- (b) _____ for an **MCI** created by conversion from another security, the amount determined in accordance with Appendix 3 Division 2 clause A3-9(3).

~~**Tier 1 share** means a share (other than a member share) which is eligible for inclusion as Tier 1 Capital as defined by APRA from time to time as described in Appendix 3 Division 2~~

voting procedures mean the procedures approved by the **board** under Appendix 5 clause A5-5

1.2 Interpretation

- (1) In this Constitution, unless the context requires otherwise:
 - (a) the singular includes the plural and vice versa;
 - (b) where an expression is defined in this Constitution, any other grammatical form of the expression has a corresponding meaning;
 - (c) words and expressions defined in the *Corporations Act* have the same meaning in this Constitution;
 - (d) headings are for purposes of convenience only and do not affect the interpretation of this Constitution;
 - (e) a reference to a statute or regulation includes all amendments, consolidations or replacements of the statute or regulation;
 - (f) a reference to this Constitution or another instrument includes all amendments or replacements of the Constitution or the other instrument; and
 - (g) a reference to a statutory or other body that ceases to exist or the powers and functions of which are transferred to another body includes a reference to the body:
 - (i) that replaces it; or
 - (ii) to which substantially all the powers and functions relevant to this Constitution are transferred.
- (2) The notes to this Constitution are for purposes of convenience only and do not affect the interpretation of this Constitution. The notes do not form part of this Constitution and may be removed or modified without the mutual bank complying with the *Corporations Act* requirements that apply to removal or modification of constitutional provisions.

1.3 Time

Unless expressly provided otherwise, when this Constitution, or any notice given under this Constitution, states a time or a period of time, the time stated is, or the period of time is calculated by reference to, Standard Time or Summer Time, as the case may be, at the **mutual bank's** registered office.

1.4 Replaceable Rules do not Apply

The replaceable rules in the *Corporations Act* do not apply.

1.5 Notices

- (1) This Rule applies to all notices and documents that the *Corporations Act* or this Constitution requires a party to this Constitution to send to another party to this Constitution.
- (2) In this Rule, **business day** means a day that is not:
 - (a) a Saturday or Sunday; or
 - (b) a public holiday or bank holiday in the place where the notice is received.

- (3) A person sending a notice shall do so in writing and shall address it to the recipient at the following respective addresses:
- (a) if to the **mutual bank** — at its registered office or such other address as the **mutual bank** specifies to ~~members~~ shareholders from time-to-time; and
 - (b) if to a shareholdermember — at the shareholder'smember's address appearing on the Register of Members from time-to-time.

Note: Subrule 3.3(3) deals with sending notices to joint members.

- (4) A person may send a notice or other document to another person in any of the ways set out in column 2 of the table. The other person receives the notice at the time set out in column 3:

Delivery Method		Time Person Receives Notice
1	Hand delivering the notice personally	The other person receives the notice: <ol style="list-style-type: none"> (i) if hand delivered before 4:00pm on a business day — on that business day (ii) if hand delivered after 4:00pm on a business day — on the next business day (iii) if hand delivered on a day other than a business day — on the next business day
2	Sending the notice by pre-paid post	The other person receives the notice on the first business day after posting unless it is actually delivered earlier
3	Sending the notice by facsimile transmission	The other person receives the notice: <ol style="list-style-type: none"> (i) if sent before 5:00pm on a business day — on that business day (ii) if sent after 5:00pm on a business day — on the next business day (iii) if sent on a day other than a business day — on the next business day <p>This rule does not apply where the person sending the facsimile has evidence that the transmission was unsuccessful</p>
4	Sending the notice by electronic means	The other person receives the notice: <ol style="list-style-type: none"> (i) if sent before 5:00pm on a business day — on that business day (ii) if sent after 5:00pm on a business day — on the next business day (iii) if sent on a day other than a business day — on the next business day <p>This rule does not apply where the person sending the notice by electronic means has evidence that the notice did not reach the other person's electronic address</p>

1.6 MCI Mutual Entity

The **mutual bank** is intended to be an MCI mutual entity for the purposes of the *Corporations Act*.

Division 2. — Objects & Limit on Powers

2.1 Objects

The *mutual bank* has the objects set out in [Appendix 1](#)~~Appendix 1~~.

2.2 Customers Shall be Members

The *mutual bank* may only accept *deposits* from, or provide *financial accommodation* to, its *members*. However, this Rule does not apply to the following persons who are not *members*:

- (a) bodies that do not have the power to acquire, or that the law prohibits from acquiring, the *mutual bank's* shares;
- (b) *ADIs*; or
- (c) any person or class of persons as determined by the *board* from time to time.

Division 3. — Membership

3.1 Admission to Membership

- (1) Subject to any other Rule allowing admission of *members*, the *mutual bank* may admit a person as a *member* only if:
 - a) The person provides evidence, satisfactory to the *mutual bank*, that the person is eligible to be a *member* under the *common bond*;
 - b) the person applies for a *member share*;
 - c) The person pays in cash the *subscription price* for the *member share*; and
 - d) The person pays in cash an amount equal to the *subscription price* for the *member share*.
- (2) The *board* has an absolute discretion in exercising the *mutual bank's* power to admit *members* without any obligation to give a reason for not admitting a person as a *member*.
- (3) When the *mutual bank* admits a person as a *member*, the *mutual bank* shall:
 - (a) issue the *member share* to the person;
 - (b) enter the person's particulars in the Register of Members as required by the *Corporations Act*; and
 - (c) give the person notice that it has admitted the person as a *member*.

3.2 Delegation of Power to Admit Members

The *board* may delegate its power to admit *members* to officers of the *mutual bank*.

3.3 Joint Members

- (1) The *mutual bank* may admit 2 or more persons eligible for admission under Subrule 3.1(1) as a joint *member* of the *mutual bank*.
- (2) The persons constituting the joint *member* may determine the order in which their names appear in the Register of Members. If the persons constituting the joint *member* do not do so, the *mutual bank* may determine the order in which their names appear in the Register of Members.
- (3) The person named first in the Register of Members is the primary joint *member*. The *mutual bank* may duly send any notice, certificate or other document to the joint *member* by sending it to the primary joint *member*. Only the primary joint *member* is entitled to vote on behalf of the joint *member*.
- (4) At any time, the joint *member* may give the *mutual bank* a notice requiring the *mutual bank* to change the primary joint *member* or otherwise change the order in which their names appear in the Register of Members. Each person constituting the joint *member* shall sign the notice. The *mutual bank* shall change the Register of Member as soon as practicable after receiving the notice.

- (5) Any person constituting a joint **member** may give an effective receipt for any dividend, distribution on winding-up or return of capital in relation to the joint **member's** shares.
- (6) The **mutual bank** may accept **deposits** from, or provide **financial accommodation** to, the joint **member** or to any person constituting the joint **member**.
- (7) The persons constituting a joint **member** are jointly and individually liable for any liability that the joint **member** may have in relation to the joint **member's** shares.
- (8) In this Constitution, the joint **member** is taken to be a person separate to the persons constituting the joint **member**.

Division 4. — Termination of Membership

4.1 Removal of the Member's Name from the Register of Members

The **mutual bank** can remove the **member's** name from the Register of Members if:

- (a) the **mutual bank** redeems the **member's member share** under Rule 4.2, Rule 4.3 or Rule 4.4;
- (b) if the **member** is an individual — the **member**:
 - (i) dies; or
 - (ii) becomes a bankrupt.
- (c) if the **member** is a body corporate — the **member** is deregistered or dissolved.

Note: Rule 2.2 restricts the **mutual bank** from accepting further **deposits** from, or providing further **financial accommodation** to, persons who cease to be **members**.

4.2 Member's Request for Termination

- (1) A **member** may request termination of membership but only upon withdrawing all **deposits** and repaying all **financial accommodation**.

4.3 Termination by the Board

- (1) The **mutual bank** may redeem a **member's member share** by **board** resolution if:
 - (a) the **member** fails to discharge the **member's** obligations to the **mutual bank**;
 - (b) the **member** is guilty of conduct that the **board** reasonably considers to be detrimental to the **mutual bank**; or
 - (c) the **member** obtains membership by misrepresentation or mistake.
- (2) The **mutual bank** shall give notice of the proposed resolution under Subrule (1) to the **member** at least 14 days before considering the proposed resolution.
- (3) At the time the **board** considers the proposed resolution, the **member** is entitled:
 - (a) to be present with or without the **member's** legal representative; and
 - (b) to be heard, either in person or through the **member's** legal representative.

- (4) On redeeming the **member share**, the **mutual bank** may pay the amount payable on redemption of the **member share** to the **member** by either:
- (a) sending a cheque to the **member's** address as set out in the Register of Members; or
 - (b) crediting any of the **member's** accounts with the **mutual bank**,
- at the time the **member share** is redeemed.

4.4 Termination Where Accounts Dormant

- (1) This Rule does not apply to a retirement savings account to the extent that the *Retirement Savings Account Act 1997* (Cth) provides otherwise.
- (2) The **mutual bank** may:
- (a) determine that the **member's deposit** accounts are dormant; and
 - (b) redeem the **member's member share**,
- by board resolution if the **member** has not initiated any transactions in relation to any **deposit** account in the 12 month period before the date of the resolution.
- (3) The **mutual bank** shall send notice of the proposed resolution under Subrule (1) to the **member** at the **member's** last known address as shown on the Register of Members at least 28 days before considering the proposed resolution.
- (4) On redemption of the **member share**, the **mutual bank** shall pay the amount payable on redemption of the **member share** into the **member's** account.
- (5) If the **mutual bank** redeems a person's **member share** under this Rule, the person may require the **mutual bank** to reinstate the person's **deposit** accounts at any time before the **mutual bank** pays the money in the **deposit** account in accordance with the relevant unclaimed money legislation. If the person requires the **mutual bank** to reinstate the person's **deposit** accounts:
- (a) the **mutual bank** shall reinstate the person's **deposit** accounts as soon as practicable; and
 - (b) if the **mutual bank** has redeemed the **member's member share** — the **mutual bank** shall issue a **member share** to the person and may debit the **member's deposit** account for the subscription amount.

Division 5. — Issue of Shares

5.1 Classes of Shares

The *mutual bank* may only issue:

- (1) *member shares*; and
- (2) ~~Tier 1 shares~~ MCIs.

5.2 Board Power to Issue Shares

The *board* may exercise the *mutual bank's* power to issue shares to the exclusion of the *general meeting*.

5.3 Restrictions on Issue of Member Shares

- (1) The *mutual bank* shall not issue:
 - (a) options to subscribe for *member shares*;
 - (b) securities that may be converted to *member shares*; or
 - (c) securities with pre-emptive rights to *member shares*.
- (2) The *mutual bank* may only issue *member shares* in accordance with Subrule 3.1(3).
- (3) The *mutual bank* may only issue member shares to persons who pay the full *subscription price* in cash on issue
- (4) The *mutual bank* may only issue 1 *member share* to any person.

Note: The *mutual bank* can issue a *member share* to a person who already constitutes a joint *member*. See Rule 3.3.

5.4 Issue of Securities Convertible to MCIs

For the avoidance of doubt, the *mutual bank* may issue securities that may be converted to *MCIs*.

Division 6. — Calls, Forfeiture and Liens

Note: Not utilised

Division 7. — Dividends

7.1 No Payment of Dividends on Member Shares

No dividend is payable in respect of any *member share*.

7.2 Payment of Dividends

The *board* may determine that the *mutual bank* pay a dividend on shares to which a right to participate in dividends attaches and may determine:

- a) The amount of the dividend;
- b) The time for payment of the dividend; and
- c) The method of payment of the dividend.

The method of payment may include the payment of cash, the issue of securities and the transfer of assets. Where the *mutual bank* pays the dividend other than in cash, the *board* may fix the value of any securities issued or assets transferred.

7.3 Differential Dividends

Subject to the terms on which shares in a class are issued, the *board* may determine dividends to different ~~members~~ shareholders in a class that differ:

- a) In amount; and
- b) In the method of payment (whether cash, securities, assets or any combination of them).

7.4 Interest on Dividends

Interest is not payable on a dividend.

Division 8. — Share Certificates

Note: Not utilised

Division 9. — Transfer of Shares

Note: Not utilised

Division 10. — Transmission of Shares

Note: Not utilised

Division 11. — Holding Members' Shareholders' Meetings

11.1 Calling Meetings of Members Shareholders

The **board** may call a meeting of shareholders, including, without limitation:

- (a) a general meeting;
- (b) a meeting of shareholders holding a particular class of shares.

The **board** may call a members' meeting.

11.2 Adjourning Meetings of Members Shareholders

- (1) The chair of a members'—shareholders' meeting at which a quorum is present:
 - (a) may adjourn the meeting with the consent of the meeting by ordinary resolution; and
 - (b) shall adjourn the meeting if directed by ordinary resolution.
- (2) The **mutual bank** shall give notice of an adjourned members'—shareholders' meeting if the adjournment is for 1 month or more.
- (3) The only business that an adjourned shareholders'—members' meeting may deal with is business unfinished at the shareholders'—members' meeting that was adjourned.

11.3 Proceedings at Members' Shareholders' Meetings

- (1) The quorum for a shareholders'—members' meeting is:
 - (a) 25 shareholders who are entitled to attend and vote at the meeting, members present in person; or
 - (b) if less than 50 members—shareholders are eligible to attend and vote at a shareholders'—member's meeting — 50% of the shareholders—members eligible to attend and vote at the shareholders'—member's meeting,

Note: Paragraph (b) may apply in relation to meetings of classes of members—shareholders, where the only members—shareholders eligible to attend the meeting are members—shareholders of the relevant class.

- (2) If a quorum is not present within 30 minutes after the time for the shareholders'—members' meeting set out in the notice of meeting, the meeting is adjourned to the date, time and place the **board** specifies. If the **board** does not specify 1 or more of those things, the meeting is adjourned to:
 - (a) if the date is not specified — the same day in the next week;
 - (b) if the time is not specified — the same time; and
 - (c) if the place is not specified — the same place.

If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

(3) The chair of shareholders' members' meetings is:

(a) the chair of meetings of the **board**; or

(b) if the chair of meetings of the **board** is not present or declines to act for the meeting (or part of it) — the deputy chair of meetings of the **board**.

If the chair or deputy chair of meetings of the **board** is not available within 30 minutes of the appointed start of the meeting, or declines to act, the shareholders members shall elect an individual present to chair the meeting.

(4) The Standing Orders in Appendix 4 apply to the conduct of debate at shareholders' members' meetings.

Division 12. — Voting at ~~Members'~~ Shareholders' Meetings

12.1 Voting

- (1) A resolution put to the vote at a shareholders' members' meeting shall be decided on a show of hands unless a poll is demanded.
- (2) Before a shareholders' member's meeting votes on a resolution, the chair shall inform the meeting:
 - (a) how many proxy documents the *mutual bank* has received that validly appoint a person present at the meeting as proxy;
 - (b) how many of these proxy documents direct the proxies how to vote on the resolution; and
 - (c) how the proxies are directed to vote on the resolution; and
 - (d) if the *board* has determined that shareholders members can vote by *direct vote* on the resolution – the number of valid *direct votes* cast:
 - (i) on the resolution in total;
 - (ii) in favour of the resolution; and
 - (iii) against the resolution.
- (3) The ~~members'~~ shareholders' meeting passes an ordinary resolution only if more than half the total number of votes cast on the resolution are in favour of it.
- (4) The chair does not have a casting vote in addition to his or her deliberative vote.

12.2 Voting on a Show of Hands

On a show of hands, the chair's declaration is conclusive evidence of the result, so long as the declaration reflects the show of hands. Neither the chair nor the minutes need to state the number or proportion of the votes recorded in favour or against the resolution. The minutes only need to record that the resolution was passed or not passed.

12.3 Voting on a Poll

- (1) A poll cannot be demanded on any resolution concerning the election of a person to chair the shareholders' members' meeting.
- (2) A poll on the question of an adjournment shall be taken immediately. The chair may direct when and the manner in which any other poll shall be taken.
- (3) The shareholders' members' meeting may conduct other business even though a poll is demanded on a resolution.

12.4 Body Corporate Representatives

- (1) A member shareholder that appoints a body corporate representative shall give the **mutual bank**:
 - (a) if the shareholdermember appointed the representative by board resolution — a certified copy of the board resolution appointing the representative; and
 - (b) otherwise — a copy of the instrument appointing the representative, as soon as practicable after appointing the representative, and in any event before any shareholders' members' meeting at which the representative may exercise the shareholder's member's rights.
- (2) In addition to the rights and powers a shareholder's member's representative may exercise under the *Corporations Act*, the representative may exercise the shareholder's member's right to vote in a ballot to appoint **directors** by election.

12.5 Proxies

- (1) The **board** may determine the form of proxy document from time-to-time.
- (2) An appointment of a proxy is not invalid merely because it does not contain all the information required for a valid proxy appointment, so long as it contains:
 - (a) the shareholder's member's name; and
 - (b) the proxy's name or the name of the office that the proxy holds.
- (3) A proxy does not have a right to vote on a show of hands.
- (4) If a shareholdermember appoints the chair as the shareholder's member's proxy and directs the chair to vote either in favour of or against the resolution, the chair shall demand a poll on the resolution.
- (5) Unless the **mutual bank** receives written notice of the matter before the meeting at which a proxy votes starts or resumes, the proxy's vote at that meeting will be valid if, before the proxy votes:
 - (a) the appointing shareholdermember dies; or
 - (b) the shareholdermember is mentally incapacitated;
 - (c) the shareholdermember revokes the proxy's appointment;
 - (d) the shareholdermember revokes the authority under which the proxy was appointed by a third party; or
 - (e) the shareholdermember transfers the share in respect of which the shareholdermember or a third party appointed the proxy.

12.6 Objections

An objection to the qualification of a voter:

- (a) may only be made at the shareholders' members' meeting or adjourned shareholders' members' meeting at which the vote objected to is cast; and

(b) shall be ruled upon by the chair whose decision is final.

12.7 Direct Voting

(1) The **board** may determine:

- (a) that shareholdersmembers entitled to attend and vote at a shareholders'members' meeting may cast a **direct vote**;
- (b) the form, method and timing of giving a **direct vote** in order for the vote to be valid at a meeting;
- (c) whether **direct votes** are counted where the vote is by show of hands.

(2) A valid **direct vote** cast by a shareholdermember has the same effect as if the shareholdersmember had cast the vote in person at the meeting.

Division 13. — Directors — Appointment & Vacation of Office & Directors' Powers

13.1 Number of Directors

- (1) The number of **electd directors** is determined by the **board** from time to time.
- (2) Subject to subrule (3), the **board** may appoint as many **directors** as it determines in addition to **electd directors**.
 - (a) the Chief Executive Officer of the **mutual bank** - in which case the term of office ends when the person ceases to be Chief Executive Officer , or such earlier date as determined by the **board** prior to the person's appointment as **director** ;
 - (b) a person who is not an employee of the **mutual bank** – in which case the term of office ends 3 years after appointment, or such earlier date as determined by the **board** prior to the person's appointment as **director**;
- (3) The majority of **directors** must be **electd directors**.

13.2 Eligibility to be a Director

- (1) An individual is eligible to be a **director** if the person:
 - (a) is a **member**
 - (b) is not disqualified or prevented by law from being or acting as a **director** ; and
 - (c) has not had a personal representative or trustee appointed to administer the person's estate or property because of their mental incapacity .
- (2) A person is not eligible to be appointed **electd director** under Rule 13.3 if:
 - (a) the **Director Nominations Committee** has determined that the person does not have the appropriate fitness and propriety to be and act as a **director**, by reference to the **board's** Fit and Proper Policy; or
 - (b) the person has not been a **member** continuously for a period of at least 2 years as at the date nominations close.

For the purposes of this subrule (2) if a person became a **member** as a result of a transfer of business from another company under the *Financial Sector (Business Transfer and Group Restructure) Act 1999 (Cth)* then in calculating the **member's** period of continuous **membership** include the period of the person's continuous membership with the other company immediately prior to the transfer of business as if it were **membership** with the **mutual bank**.

13.3 Appointment by Members Shareholders — Election

The shareholdersmembers may appoint a person to be an **electd director** by election held under the provisions of Appendix 5Appendix-5.

13.4 Appointment by Board — Casual Vacancies

- (1) The **board** may appoint a person to be an **elected director**:
- (a) if an **elected director's** office becomes vacant other than because the **elected director's** term of office has ended; or
 - (b) if, for any other reason, the number of **elected directors** is less than the number determined by the **board** from time to time under Rule 13.1(1).

The **board** may only appoint a person who is eligible to be a **director** under Rule 13.2(1)

- (2) The term of office for an **elected director** appointed to fill a vacancy in paragraph (1)(a) ends:
- (a) if the **general meeting** approves the appointment before the end of the next AGM after the **elected director's** appointment — at the end of the term of office of the **elected director** whose office has become vacant; and
 - (b) otherwise — at the end of the next AGM after the **elected director's** appointment.
- (3) The term of office for an **elected director** appointed to fill a vacancy in paragraph (1)(b) ends at the end of the next AGM after the **elected director's** appointment.

13.5 Term of Office

- (1) Subject to the rotation provisions in this Rule, an **elected director's** term of office:
- (a) starts at the end of the AGM at which the **elected director's** election is announced; and
 - (b) ends at the end of the third AGM after the AGM at which the **elected director's** election is announced.
- (2) If the number of **elected directors** that [shareholdersmembers](#) appoint, is more than a third of the number determined under Rule 13.1(1):
- (a) the term of office for the third of the number determined under Rule 13.1(1) that receives the most votes at the election, ends at the end of the third AGM after the AGM at which the **elected director's** election is announced; and
 - (b) the term of office for the remainder ends at the end of earlier AGMs where less than a third of the number of **elected directors** determined under Rule 13.1(1) are due to retire at those earlier AGMs.

Elected directors with less votes retire at earlier AGMs than those with more votes.

- (3) For purposes of Subrule (2):
- (a) if the number determined under Rule 13.1(1) is not divisible by 3 - round fractions up to the nearest whole number in determining how many **elected directors** there are in a third or in two thirds of the number determined under Rule 13.1(1); and

- (b) if 2 or more **elected directors** have the same number of votes - the order of retirement amongst them is determined by lot.

13.6 Automatic Vacation of Office

The office of a **director** automatically becomes vacant if the **director**.

- (a) dies;
- (b) ceases to be eligible to be a **director** under Rule 13.2(1);
- (c) is absent from 3 consecutive ordinary meetings of the **board** without leave; or
- (d) is 3 months in arrears in relation to money due to the **mutual bank** and has failed to make arrangements for payment satisfactory to the **mutual bank**.

Neither the **board** nor the **general meeting** may waive the operation of this Rule.

13.7 Resignation

- (1) A **director** may resign by giving the **mutual bank** notice of the **director's** resignation.
- (2) The **director's** office becomes vacant:
 - (a) if the notice of resignation specifies a date of resignation — on the date of resignation; or
 - (b) otherwise — on the date the **mutual bank** receives the notice of resignation.

13.8 Alternate Directors

A Director may not appoint an alternate.

13.9 Director Nominations Committee

The **board** must establish a **Director Nominations Committee** in accordance with Appendix 6.

Division 14. — Directors' Powers

14.1 Powers and Duties of the Board

The **board**:

- (a) manages the **mutual bank's** business; and
- (b) may exercise all the powers of the **mutual bank** except any powers that the *Corporations Act* or this Constitution expressly allocates to the **general meeting**.

14.2 Negotiable Instruments

The **board** may authorise a person or persons to sign, draw, accept, endorse or otherwise execute negotiable instruments for the **mutual bank**. The **board** may authorise the application of signatures to negotiable instruments by machine or other facsimile method.

14.3 Delegation

- (1) The **board** may delegate any of its powers to any committee or any other person or persons.
- (2) The **board** shall establish policies for the guidance of delegates in the exercise of any powers so delegated.
- (3) Without limiting its powers, the **board** may appoint a person to be the **mutual bank's** attorney for purposes, with powers (being the **board's** powers), for the period and on terms the **board** determines. In particular, the power of attorney may:
 - (a) include terms protecting persons dealing with the attorney, as the **board** determines; and
 - (b) authorise the attorney to delegate any or all of the attorney's powers.

Division 15. — Directors' Meetings

15.1 Calling and Conduct of Board Meetings

- (1) A **director** or the secretary (upon the authority of a **director**) may call a **board** meeting by giving reasonable notice to every other **director**.
- (2) The **board** may meet, adjourn and otherwise regulate its meetings as it thinks fit.

15.2 Quorum of Board

- (1) The quorum for a **board** meeting is 4 or such other number as the **board** determines and the quorum must be present at all times during the meeting.
- (2) If, at any time, the number of **directors** is less than the quorum:
 - (a) the **board** may meet only for the purpose of filling any casual vacancies or for calling a general meeting~~general meeting of members~~; and
 - (b) the **board** may conduct business by circulating resolution under Rule 15.5..

15.3 Chair of Board

- (1) The **board** may appoint a **director** to chair its meetings. The **board** may determine the period for which the **director** is to be the chair. The **board** may remove the chair from the position of chair at any time.
- (2) The **board** shall elect a **director** present to chair a meeting (or part of it) if:
 - (a) a **director** has not already been appointed to chair the meeting; or
 - (b) a previously appointed chair is not available, or declines to act, for the meeting (or part of it).

15.4 Passing of Directors' Resolutions

- (1) A resolution of the **board** shall be passed by a majority of the votes cast by **directors** entitled to vote on the resolution.
- (2) The chair has a casting vote in addition to his or her deliberative vote.

15.5 Circulating Resolutions

- (1) The **board** may pass a resolution without a board meeting if at least 75% of the **eligible directors** entitled to vote on the resolution either:
 - (a) sign a document containing a statement that they are in favour of the resolution set out in the document; or
 - (b) provide the **mutual bank** with approval of a resolution in such form and by such method as approved by the **board** from time to time, which, without limitation, may include by electronic means.

-
- (2) The **directors** may:
- (a) sign separate copies of a document;
 - (b) provide approval in a form or by a method that differs from that provided by other **directors**, so long as the wording of the resolution signed or approved is identical.
- (3) The resolution is passed when at least 75% of the **eligible directors** have signed or given approval.
- (4) In this Rule:
- eligible director** means a **director** who:
- (a) is entitled to vote on the resolution; and
 - (b) is not on **board** approved leave of absence.

15.6 Committees of Directors

- (1) The **board** may establish one or more committees consisting of such number of **directors** as the **board** thinks fit.
- (2) The members of a committee may appoint one of their number as chair of their meetings.
- (3) Subject to any restrictions that the **board** imposes, a committee may meet, adjourn and otherwise regulate its meetings as it thinks fit.
- (4) Questions arising at a meeting of a committee are to be determined by a majority of votes of those present and voting.
- (5) The chair does not have a casting vote in addition to his or her deliberative vote.

Division 16. — Conflicts of Interest

16.1 Director Not in Breach if Acts in Matters Relating to Director's Interests

- (1) This Rule applies if:
 - (a) a **director** has an interest or duty in relation to a matter that is not a **material personal interest**; or
 - (b) if a **director** with a **material personal interest** in relation to the **mutual bank's** affairs:
 - (i) complies with the requirements of the *Corporations Act* in relation to disclosure of the nature and extent of the interest and its relation to the **mutual bank's** affairs before acting in a matter that relates to the interest; and
 - (ii) may be present and vote on the matter under the *Corporations Act*.
- (2) The **director** is not in breach of his or her duties to the **mutual bank** merely because he or she acts in matters that relate to the **director's** interest.
- (3) The **director** may vote on matters that relate to the **director's** interest.
- (4) In relation to any transactions that relate to the **director's** interest:
 - (a) the transactions may proceed;
 - (b) the **mutual bank** cannot avoid the transactions merely because of the **director's** interest; and
 - (c) the **director** may retain benefits under the transactions despite the **director's** interest.

16.2 Director Not in Breach if Does Not Act in Matters Relating to Director's Interests

- (1) This Rule applies if a **director** with a **material personal interest** in relation to a matter:
 - (a) complies with the requirements of the *Corporations Act* in relation to disclosure of the nature and extent of the interest and its relation to the **mutual bank's** affairs; but
 - (b) shall not be present and vote on the matter under the *Corporations Act*.
- (2) The **director** is not in breach of duty to the **mutual bank** merely because he or she does not act in relation to the matter.
- (3) The **board** may vote on matters that relate to the **director's** interest in the **director's** absence.
- (4) In relation to any transactions that relate to the **director's** interest:
 - (a) the transactions may proceed;
 - (b) the **mutual bank** cannot avoid the transactions merely because of the **director's** interest; and

- (c) the **director** may retain benefits under the transactions despite the **director's** interest.

16.3 Execution of Instruments

A **director** may participate in the execution of an instrument for the **mutual bank**, regardless of any interest or duty that the **director** may have:

- (a) whether or not the **director** has complied with the requirements of the *Corporations Act* in relation to disclosure of the nature and extent of the interest and its relation to the **mutual bank's** affairs; and
- (b) whether or not the **director** may be present and vote in relation to the execution of the instrument under the *Corporations Act*.

Division 17. — Remuneration, Indemnity and Insurance

17.1 Remuneration of Directors

- (1) In any financial year for the **mutual bank**, the **directors'** remuneration may not exceed the aggregate amount that the **general meeting** determines for that year.
- (2) The **board** may determine the allocation of the aggregate amount of remuneration among the **directors**. If the **board** does not determine the allocation, the aggregate amount of remuneration shall be allocated equally among the **directors**.
- (3) The **directors'** remuneration accrues daily from the day that the **general meeting** approves the remuneration to the day that the **general meeting** next determines the **directors'** remuneration.
- (4) If a person becomes a **director** under, or as a result of, a transfer of business to the **mutual bank** under the *Financial Sector (Business Transfer and Group Restructure) Act 1999* (Cth) then:
 - (a) Subrules (1) to (3) do not apply in relation to that **director**; and
 - (b) the **board** may determine the remuneration of the **director** as amounts separate from, and in addition to, the remuneration approved by ~~members~~ the general meeting under Subrule (1), but only in relation to the **director's** initial term of office after the transfer of business.

17.2 Travelling Expenses and Insurance

In addition to any remuneration to which a **director** may be entitled, the **mutual bank** may also pay:

- (1) the **director's** travelling and other expenses that they properly incur:
 - (i) in attending **board** meetings or any meetings of committees of **directors**; and
 - (ii) in attending any ~~members'~~ shareholders' meetings; and
 - (iii) otherwise in connection with the **mutual bank's** business; and
- (2) subject to the *Corporations Act*, insurance premiums for a contract that insures the **director** against liabilities that the **director** incurs as an officer of the **mutual bank**.

17.3 Indemnities for Officers and Former Officers

- (1) In this Rule **indemnified person** means an officer or agent, or former officer or agent, of the **mutual bank**.
- (2) To the extent that the *Corporations Act* permits:
 - (a) the **mutual bank** shall indemnify an **indemnified person** against any liability that the **indemnified person** incurs in conducting the **mutual bank's** business or exercising the **mutual bank's** powers as an officer or agent of the **mutual bank**; and

- (b) the **mutual bank** may indemnify, agree to indemnify or enter into (and pay premiums on) a contract of insurance in relation to an **indemnified person** or any other person.
- (3) The indemnity in paragraph 2(a) applies in relation to an **indemnified person** for all incidents occurring during the period that person is an officer or agent of the **mutual bank**, even though a claim is made against the **indemnified person** after they have ceased to be an officer or agent of the **mutual bank**.

Division 18. — Administration

18.1 Seal

- (1) The **board** is to provide for the safe custody of the seal.
- (2) The seal is to be used only by the authority of the **directors**.
- (3) The **board** may authorise:
 - (a) 2 **directors**; or
 - (b) a **director** and a **secretary**,

to witness the affixing of the seal on a document of a class specified in the resolution.

18.2 Secretary

Subject to Rule 18.3, the **board** may determine a **secretary's** terms of appointment, powers, duties and remuneration. At any time, the **board** may vary or revoke a determination, or an appointment, whatever the terms of the appointment.

18.3 Resignation of Secretary

- (1) A **secretary** may resign by giving the **mutual bank** notice of the **secretary's** resignation.
- (2) The **secretary's** office becomes vacant:
 - (a) if the notice of resignation specifies a date of resignation — on the date of resignation; or
 - (b) otherwise — on the date the **mutual bank** receives the notice of resignation.

Appendix 1 — Objects

The **mutual bank** has the following objects:

- (a) to raise funds by subscription, **deposit** or otherwise, as authorised by the *Corporations Act* and *Banking Act 1959* (Cth);
- (b) to apply the funds in providing **financial accommodation** to **members**, subject to the *Corporations Act* and *Banking Act 1959* (Cth);
- (c) to encourage savings amongst **members**;
- (d) to promote co-operative enterprise;
- (e) to provide programs and services to **members** to assist them to meet their financial, economic and social needs;
- (f) to promote, encourage and bring about human and social development among individual **members** and within the larger community within which **members** work and reside; and
- (g) to further the interests of **members** and the communities within which they work and live through co-operation with:
 - (i) other mutual bank and co-operatives; and
 - (ii) associations of mutual bank and co-operatives, locally and internationally.

Appendix 2 — Common Bond

A2-1 Common Bond – Natural Person

An individual is eligible to be a **member** under any one of the following categories:

- (1) Employment
 - (a) an employee of the Maritime Union of Australia.
 - (b) an employee of the Mutual Bank.
 - (c) a person who in the opinion of the Board, is employed in employment associated with the stevedoring or shipping industries and who is a member of his or her appropriate trade union or association.
 - (d) a paid full-time officer or employee of a trade union or association, which has a significant number of members whose employment is , in the opinion of the Board, associated with the stevedoring or shipping industries and who is a member of his or her appropriate trade union or association.
- (2) Trade Union or Professional Association
 - (a) a member of the Maritime Union of Australia
- (3) Family
 - (a) the spouse, child, parent or brother or sister, uncle, aunt, nephew, niece and in-law of a person admitted to the membership.
- (4) Non-members
 - (a) any person who was a depositor or in receipt of financial accommodation without being a member of the Mutual bank as at 1 July 1999.
- (5) Specified
 - (a) a person who has an affinity with the Mutual bank and is approved by the Board.

A2-2 Common Bond – Body Corporate

A body corporate is eligible to be a member under any of the following categories:

- (1) has an employee who is a member of the Mutual bank;
- (2) acts as a trustee of a trust in which a member is a beneficiary; or
- (3) has an affinity with the Mutual bank and is approved by the Board.

A2-3 Membership – Common Bond after Transfer of Business

Upon transfer of business from another ADI taking effect classes of persons who were eligible for membership of the transferring ADI are eligible for membership of the Mutual bank.

Appendix 3 — Shares

Division 1 - Members Shares

A3-1 Subscription Price

The *subscription price* for a *member share* is \$10.00.

A3-2 Rights, Obligations and Restrictions Attaching to Member Shares

- (1) The following rights attach to each *member share*:
 - (a) the right to vote on the terms set out in clause ~~A3-3~~A3-3;
 - (b) the right to participate in the distribution of profits or assets on a winding-up on the terms set out in clause A3-5; and
 - (c) the right to redeem the *member shares* on the terms set out in clause ~~A3-6~~A3-6.
- (2) The restriction on transfer of *member shares* in clause A3-7 attaches to each *member share*.
- (3) The *mutual bank* may issue more *member shares* at any time. The issue of more *member shares* does not vary the rights attached to *member shares* that the *mutual bank* has already issued.

A3-3 Voting Rights

- (1) Holders of *member shares* may participate and vote:
 - (a) at a ~~general meeting~~ *members' meeting*;
 - (b) at a meeting of the class of holders of *member shares*; and
 - (c) in a ballot to appoint *directors* by election.
- (2) At a ~~members' meeting~~ *general meeting* or a meeting of the class of holders of *member shares*:
 - (a) on a show of hands — each *member* other than a minor has 1 vote regardless of the number of *member shares* held; and
 - (b) on a poll — each *member* other than a minor has 1 vote regardless of the number of *member shares* held.

A *member* who is a minor has no vote.

A3-4 Dividend Entitlements

- (1) No dividend is payable in respect of any *member share*.

A3-5 Distribution on Winding-Up

- (1) On a winding-up of the **mutual bank** the holder of a **member share** is entitled:
 - (a) to payment of the **subscription price** for the **member share** when the **member** subscribed for the **member share**; and
 - (b) if any assets remain after the payments in paragraph (a) [and any payments holders of MCIs are entitled to](#) — to any surplus assets of the **mutual bank**.
- (2) Holders of **member shares** are entitled to participate in any surplus equally without regard to the number of **member shares** held by the **member**. Alternatively, on a voluntary winding up, the **members** at the time they resolve to wind up the mutual bank, may resolve that any surplus be transferred to another mutual bank
- (3) The **mutual bank** may offset against the amount payable under this clause:
 - (a) any amount unpaid on the **member share**; and
 - (b) any other amount payable by the **member** to the **mutual bank**.
- (4) The entitlements of holders of **member shares** to payment on winding-up are subject to any preferred entitlements to payment on winding-up that holders of any other class of shares may have.

A3-6 Redemption of Member Shares

- (1) The **mutual bank** may redeem a **member share** only if the following conditions are satisfied:
 - (a) either:
 - (i) the **member** has given the **mutual bank** notice requesting termination of the **member's** membership of the **mutual bank** in accordance with the Rules;
 - (ii) the **board** has resolved to terminate the **member's** membership of the **mutual bank** in accordance with the Rules; or
 - (iii) the **board** has determined that the **member's deposit** accounts with the **mutual bank** are dormant in accordance with the Rules; and
 - (b) the **mutual bank** can redeem the **member share** out of the profits of the **mutual bank**.
- (2) On redemption, the **mutual bank** shall pay the **member** an amount equal to the **subscription price** for the **member share** when the **member** subscribed for the **member share** less any amount unpaid on the **member share**.
- (3) On redemption, the **member shares** are cancelled.
- (4) This Rule does not affect the terms on which **member shares** may be cancelled under a reduction of capital or a share buy-back under *Corporations Act* Part 2J.1.

A3-7 Transfer of Member Shares

A **member** may not transfer their **member share**.

Division 2 — MCIs

A3-8 Terms of Issue

- (1) Subject to any conditions in this Constitution, including this Division 2, the *mutual bank* may issue *MCIs* on such terms of issue, including the rights and obligations attaching to the *MCIs*, as determined by the *board* from time to time. The terms of issue may include, but are not limited to,:
 - (a) *subscription price*;
 - (b) voting rights;
 - (c) entitlement to dividends;
 - (d) entitlement to share in surplus assets and profits in the winding-up of the *mutual bank*.
- (2) Subject to any conditions in this Constitution, the *mutual bank* may issue different classes of *MCIs*:
 - (a) that may carry rights and obligations that differ from those carried by other classes of *MCIs*;
 - (b) with entitlements that may be preferred, equal, or deferred to entitlements carried by other classes of *MCIs* or *member shares*.
- (3) The *mutual bank* may issue more *MCIs* at any time. The issue of more *MCIs* does not vary the rights attached to *MCIs* or *member shares* that the *mutual bank* has already issued.

A3-9 Issue of MCIs

- (1) An *MCI* may only be issued as a fully paid share.
- (2) *MCIs* are issued by the *mutual bank* for a *subscription price* as determined from time to time by the *board*.
- (3) *MCIs* may also be created by conversion from other securities issued by the *mutual bank*, in accordance with the terms of issue of the converting securities. The *subscription price* for an *MCI* created by conversion is:
 - (a) as determined by the terms of issue of the converting security; or
 - (b) if not determined by the terms of issue of the converting security, the nominal dollar value of the converting security immediately before the conversion.

A3-10 Voting Rights

- (1) Subject to subclause (2), an *MCI* may be issued on terms that give the holder a right to vote:
 - (a) in *general meetings* of the *mutual bank*;
 - (b) in the ballot to appoint *directors* by election.

(2) An **MCI holder** with:

- (a) a right to vote in **general meetings**, cannot cast more than 1 vote on any resolution in **general meeting**;
- (b) a right to vote in the ballot to appoint **directors** by election, cannot cast more than 1 ballot in the election.

irrespective of the number of **MCIs** held. An **MCI holder** who is also a **member** cannot cast a vote or ballot as an **MCI holder** in addition to a vote as a **member**.

(3) In a meeting of **MCI holders**, or of **MCI holders** holding a particular class of **MCIs**, the right to vote of each relevant **MCI holder** is:

- (a) as determined by the terms of issue of the relevant **MCIs**; or
- (b) if not determined by the terms of issue of the relevant **MCIs**, in a vote by poll, 1 vote for each relevant **MCI** held by the **MCI holder**.

A3-11 Dividends

(1) Any dividends in respect of an **MCI** are non-cumulative.

A3-12 Distribution on Winding-Up

(1) Subject to the terms of issue of the **MCI**, in a winding-up of the **mutual bank** an **MCI holder** is:

- (a) entitled to payment of the **subscription price** of the **MCI**;
- (b) not otherwise entitled to ~~ate~~ share in surplus assets and profits.

(2) Subject to the terms of issue of the **MCI**, the right each **MCI** carries to payment under paragraph (1) ranks behind and after payment of the **subscription price** on **member shares** but before **members** are otherwise entitled to share in surplus assets.

(3) Despite paragraph (2), classes of **MCIs** may be issued on terms that the right to payment under paragraph (1) ranks ahead, behind, or equal and proportionate to, the right to payment of **subscription price** in a winding-up of the **mutual bank** held by:

- (a) **member shares**;
- (b) other **MCIs**.

(4) Each **MCI** in a class of **MCIs** carries a right to payment under paragraph (1) that is:

- (c) equal and proportionate with every other **MCI** in that class; and
- (d) subject to any preferred entitlements to payment under paragraph (1) that holders of any other class of **MCIs** may have pursuant to paragraph (3).

A3-13 Variation of Rights

- (1) The rights attaching to an **MCI** can be varied or cancelled only by special resolution of the **mutual bank** and either:
- (a) by special resolution passed at a meeting of **MCI holders** holding **MCIs** in the same class; or
 - (b) with the written consent of **MCI holders** holding **MCIs** in the same class with at least 75% of the votes in that class.

Division 2 – Tier 1 Shares

A3-8 Terms of Issue

~~The *mutual bank* may issue *Tier 1 shares* on terms the *board* approves but subject to the rights and restrictions contained in this Division.~~

A3-9 Rights, Obligations and Restrictions Attaching to Tier 1 Shares

~~The following rights attach to each *Tier 1 share*:~~

- ~~a) The right to vote on the terms set out in clause A3-10;~~
- ~~b) The right to participate in the dividends on the terms set out in clause A3-11; and~~
- ~~c) The right to participate in the distribution of profits or assets on a winding up on the terms set out in clause A3-12.~~

A3-10 Voting rights

~~Except as required by law, *Tier 1 shares* carry no voting rights.~~

A3-11 Dividend Entitlements

- ~~1) Each *Tier 1 share* carries a right to participate in dividends as specified in its terms of issue.~~
- ~~2) Dividends on the *Tier 1 shares* are non-cumulative.~~
- ~~3) Each *Tier 1 share* (other than an MEI) confers a right to receive dividends in priority to dividends (if any) which may become payable on *member shares*.~~
- ~~4) Each MEI confers a right to receive a dividend payable if and when determined by the directors in their discretion ranking equally with any dividends which may become payable on member shares (or such lesser right, if any, as may be provided in the terms of issue of the MEI).~~
- ~~5) Each *Tier 1 share* (other than an MEI) may be entitled to payment of dividends equally with or behind any other share, the terms of whose issue specify a ranking equally with, or in priority to, the *Tier 1 share*.~~
- ~~6) The dividend rate applicable in respect of an MEI shall be the rate specified in the terms of issue and shall be limited to the amount determined in accordance with the Mutual Equity Requirements.~~

A3-12 Distribution of Winding-Up

- ~~1) On a winding-up of the *mutual bank* each *Tier 1 share*:
 - ~~a) (other than an MEI) is entitled to repayment of the amount of capital paid up on the *Tier 1 share* equally with every other *Tier 1 share* and is not otherwise entitled to share in any surplus assets of the *mutual bank*; and~~
 - ~~a)~~~~

b) ~~in the case of an MEI, is entitled to a share in the surplus assets of the mutual bank which remain after the repayment of the subscription price on any member share and after the repayment of capital paid up on any Tier 1 Share which is not an MEI, such share to be determined in accordance with the Mutual Equity Requirements and to be paid from such surplus rateably with payments from such surplus on member shares.~~

2) ~~**Tier 1 shares** rank behind **member shares** for repayment of capital on a winding up.~~

3) ~~**Tier 1 shares** may rank equally with or behind any other shares the terms of whose issue specify a ranking equally with, or in priority to, the **Tier 1 shares**.~~

~~**A3-13 Conversion**~~

~~The terms of a Tier 1 Share (other than an MEI) may provide for it to convert into an MEI (and for further MEIs to be issued in connection with that conversion) as approved by the **board** in the terms of issue.~~

Appendix 4 — Standing Orders

A4-1 Time Limits for Speakers

- (1) The mover of a motion may speak for no more than 5 minutes.
- (2) Subsequent speakers may speak for no more than 5 minutes.
- (3) The mover of the motion may reply for no more than 5 minutes.
- (4) The meeting is free to extend the time a speaker may speak.

A4-2 Amendment

- (1) On an amendment being proposed to an original motion, no second amendment may be considered until the first amendment has been dealt with.
- (2) An amendment, when carried, displaces the original motion and becomes the motion to which any further amendment may be moved.
- (3) If the amendment is not carried, then further amendments to the original motion may be considered.

A4-3 Speakers

- (1) The mover of an original motion has a right of reply.
- (2) The mover of an amendment does not have a right of reply.
- (3) Otherwise, a [member-shareholder](#) may speak only once on the same question except to raise a point of order or, with the consent of the chair of the meeting, to give an explanation.

A4-4 Motions to be in Writing

Every motion and every amendment to a motion shall be submitted in writing as and when the chair of the meeting requests.

A4-5 Closure of Debate

- (1) Debate on a motion or an amendment may be brought to a close by a resolution 'that the question be now put'.
- (2) The motion 'that the question be now put' shall be put to the meeting without debate.

Appendix 5 — Election of Directors

A5-1 Election

- (1) An election of **directors** is held by secret ballot to which the provisions of this Appendix apply.
- (2) The following table sets out the timetable for election of **directors** by membersshareholders:

Steps in Election Procedure	Time
Call for nominations (see clause A5-2 A5-2(1))	Not less than 56 days before AGM
Nominations close (see clause A5-2 A5-2(2))	Not less than 21 days after call for nominations
Ballot opens (see clause A5-7)	Not less than 21 days before AGM
Ballot closes (see clause A5-10)	4.00pm 7 days before AGM
Announcement of directors (see clause A5-11(2))	AGM

A5-2 Nominations

- (1) The **board** shall call for nominations not less than 56 days before the AGM. The **board** may call for nominations by advertisement:
 - (a) at the mutual bank’s offices; or
 - (b) in newspapers.
- (2) The date nominations close:
 - (a) is determined by the **board**;
 - (b) must be no earlier than 21 days after the notice is given under paragraph (1); and
 - (c) must be specified in the notice given under paragraph (1).
- (3) **2 members** together have the right to nominate a person who is eligible to be a **director** under Rule 13.2(1) and Rule 13.2(2)(b). To nominate a person, the 2 **members** must give the **mutual bank** a notice of nomination before the nominations close. The notice of nomination must:
 - (a) Declare that the nominated person is eligible to be a **director** under Rule 13.2(1);
 - (b) Declare that the nominated person is at least 18 ;and
 - (c) Be signed by the nominating **members** and the nominated person
- (4) The nominated person must:

- (a) provide the **mutual bank** with all information and consents the **mutual bank** reasonably requests to determine if the person is disqualified by law from acting as a **director**;
 - (b) provide the **Director Nomination Committee** with all information and documentation that the **Director Nominations Committee** reasonably requests to determine if the person is of appropriate fitness and propriety to be and act as a **director** by reference to the **board's** Fit and Proper Policy.
- (5) A nominated person becomes a *candidate* if and when the *Director Nominations Committee*:
- (a) has assessed the person's fitness and propriety to be and act as a **director** by reference to the **board's** Fit and Proper Policy; and
 - (b) has determined that there is no material reason to find that the person does not have the appropriate fitness and propriety to be and act as a **director** by reference to the **board's** Fit and Proper Policy.

A5-3 Proceeding with Election

- (1) If the number of **candidates** is equal to or less than the number of positions to be filled:
- (a) the **general meeting** may appoint each **candidate** as a **director** by passing a separate resolution at the AGM;
 - (b) the election process otherwise set out in this Appendix is discontinued.

A5-4 Appointment of Returning Officers

- (1) The **board** shall appoint a returning officer, who may appoint assistant returning officers, none of whom can be a **candidate**.

A5-5 Voting Procedures

- (1) The **board** must, prior to the call for nominations under clause A5-2, approve **voting procedures** to apply to the ballot. The **board's** approval may be a standing approval.
- (2) Voting will be conducted by ballot according to the **voting procedures**.
- (3) The **voting procedures** must ensure that, by the date the ballot opens, each **shareholdermember** entitled to vote [in the election](#):
- (a) is given a ballot paper;
 - (b) can obtain a ballot paper and is given notice how to obtain a ballot paper; or
 - (c) has access to a method of casting a vote and is given notice how to cast a vote.
- (4) To avoid any doubt, the **voting procedures** may allow for **shareholders members** to cast votes in the ballot electronically.
- (5) In approving the **voting procedures** the **board** must have regard to these matters:

- (a) the extent to which each shareholdermember entitled to vote in the election has a practical opportunity to participate in the ballot;
 - (b) the extent to which the procedures ensure that each shareholder entitled to vote in the election~~member~~ may only vote once in the ballot;
 - (c) the extent to which the procedures are efficient in enabling the returning officer to detect any fraud or impropriety in the voting process;
 - (d) the extent to which the procedures protect the anonymity of the voter;
 - (e) instructions for voting are legible and clearly expressed so as to accurately inform shareholders~~members~~ how to complete and cast a vote;
 - (f) to the extent applicable – provisions for issuing a duplicate ballot paper when the original has been lost or spoiled;
 - (g) rules to apply to determine if a ballot paper or other method of casting a vote is informal;
 - (h) the extent to which procedures for receiving, checking, scrutinising and counting votes cast are efficient, having regard to paragraphs (b), (c), (d) & (g);
 - (i) the conduct, duties and responsibilities of the returning officer;
 - (j) the conduct, duties and responsibilities of scrutineers appointed by **candidates**; and
 - (k) the retention and destruction of documents and records relating to the ballot after the election.
- (6) The **board** must cause the **voting procedures**, as approved, to be displayed at the **mutual bank's** registered office and every branch office from the day before the ballot opens until the day after closure of the ballot.
- (7) The **mutual bank** must provide a copy of the **voting procedures**:
- (a) to each **candidate**;
 - (b) to a shareholder eligible to vote in the election, ~~member~~ on request.

A5-6 Appointment of Scrutineers

A **candidate** may appoint a scrutineer.

A5-7 Ballot Opens

The ballot opens on a day determined by the **board** that is at least 21 days before the Annual General Meeting.

A5-8 Content of Ballot

The ballot paper, or other method under the **voting procedures** by which a shareholdermember may cast a vote in the ballot, must:

- (a) list all the **candidates** in an order determined by the returning officer by lot;

- (b) allow the shareholdermember to vote for up to the number of **candidates** equal to the number of vacancies to be filled.

A5-9 Vote

- (1) A person who becomes a shareholdermember on or after the date the ballot opens is not entitled to vote in the ballot.
- (2) A shareholder entitled to vote in the electionmember may only cast a vote in the ballot in accordance with the **voting procedures**.

A5-10 Closure of the Ballot

The ballot closes at 4.00pm on the day that is 7 days before the Annual General Meeting.

A5-11 Procedures After Close of the Ballot

- (1) After the close of the ballot, the returning officer must check, scrutinise and count votes cast in accordance with the **voting procedures**.
- (2) The **secretary** must announce the results of the ballot at the next Annual General Meeting.
- (3) No election shall be voided on account of any error or omission of the returning officer which did not affect the results of the election.

A5-12 Voting System

- (1) The **candidates** with the highest number of votes in accordance with the number of vacancies are appointed as **directors**.
- (2) If 2 or more **candidates** have the same number of votes, the **candidate** appointed as a **director** is determined by lot.

Appendix 6 — Director Nominations Committee

A6-1 Appointment of Director Nominations Committee

- (1) The **board** must appoint at least 1 person to form the **Director Nominations Committee**.
- (2) Employees of the **mutual bank** are not eligible to be appointed to the **Director Nominations Committee**.
- (3) Each person on the **Director Nominations Committee** must enter into an agreement with the **mutual bank** to keep confidential their assessments under Clause A6-2, during and after their appointment.

A6-2 Role of Committee

The **Director Nominations Committee** must assess all persons, including existing **directors**, prior to appointment or election as **director** under Rule 13.3, as to their fitness and propriety to be and act as a **director**, by reference to the **board's** Fit and Proper Policy.

A6-3 Duty of Confidentiality

Each **director** must keep confidential any assessment of any other **director**, or person seeking appointment as **director**, during and after their term of office, except to the extent where disclosure is required by law, for example, to **APRA**.

November 2020 marked up amendments as per Agenda Item 4 of the 2020 Notice of Annual General Meeting



Mick Doleman
Chair

