



First Option Bank Ltd

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Constitution

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Preamble

The 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

bank means the company described in this Constitution

board means the board of **directors**

candidate means a person whom the **board** 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

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

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

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

elected director means a **director**:

- (a) appointed by the **members** 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 **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 **bank** provides or enters in the ordinary course of its banking business

general meeting means a general meeting of the **members**

material personal interest has the same meaning as in Part 2D.1 of the Corporations Act 2001

member means a person whose name the **bank** has entered for the time being in the Register of Members it keeps under the *Corporations Act 2001*

member share means a share as described in Appendix 3

prudential standard means:

- (a) any prudential standard that **APRA** determines under the *Banking Act 1959* (Cth);
- (b) any prudential regulation made under *Banking Act 1959* (Cth); and
- (c) any **APRA** transitional prudential standard applying to the **bank** under the Financial Sector Reform (Amendments and Transitional Provisions) Regulations 1999 (Cth).

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

subscription price means the amount payable by a person on subscription for a **member share**

[voting procedures](#) means voting procedures for the election of **directors** approved by the **board** under Appendix 5 Clause A5-8

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 2001* 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 bank complying with the *Corporations Act 2001* 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 **bank's** registered office.

1.4 Replaceable Rules do not Apply

The replaceable rules in the *Corporations Act 2001* do not apply.

1.5 Notices

- (1) This Rule applies to all notices and documents that the *Corporations Act 2001* [or this Constitution](#) requires [or allows](#) 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 must do so in writing and must address it to the recipient at the following respective addresses:
- (a) if to the **bank** — at its registered office or such other address as the **bank** specifies to **members** from time-to-time; and
 - (b) if to a **member** — at the **member's** address appearing on the Register of Members from time-to-time [or any other address for receiving notices as provided by the member to the bank from time-to-time](#).

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

- (4) [Without limiting the ways a A](#) person may send a notice or other document to another person, [they may do so](#) 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: (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 third business day after posting unless it is actually delivered earlier
3	Sending the notice by facsimile transmission	The other person receives the notice: (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 This rule does not apply where the person sending the facsimile has evidence that the transmission was unsuccessful
4	Sending the notice by electronic means	The other person receives the notice: (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 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

(5) The **bank** may also send a notice or other document to a **member** by:

(a) making the notice or other document available for the **member** to access electronically; and

(b) sending the **member** sufficient information, via any of the delivery methods set out in column 2 of the table in Subrule (4), to allow the **member** to access the notice or other document electronically,

in which case the **member** receives the notice or other document at the later of:

(c) the time the **bank** makes the notice or other document available for the **member** to access electronically; or

(d) the time the **member** receives the information under paragraph (b), as determined by column 3 of the table in Subrule (4) for the relevant delivery method.

Division 2. — Objects & Limit on Powers

2.1 Objects

The *bank* has the objects set out in Appendix 1.

2.2 ~~Customers-Borrowers~~ Must be Members

The *bank* may only ~~accept *deposits* from, or provide *financial accommodation* to, its *members*, ADIs or bodies that do not have the power to acquire, or that the law prohibits from acquiring, the *bank's* shares.~~ 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 *bank's* shares; or~~
- (b) ~~ADIs.~~

Division 3. — Membership

3.1 Admission to Membership

- (1) Subject to any other Rule allowing admission of *members*, the *bank* may admit a person as a *member* only if:
 - (a) the person makes a written application in a form the *bank* requires;
 - (b) if the *bank* has a *common bond*— the person provides evidence, satisfactory to the *bank*, that the person is eligible to be a *member* under the *common bond*;
 - (c) the person applies for a *member share*; and
 - (d) the person pays ~~in-cash~~ the *subscription price, if any*, for the *member share*.
- (2) The *board* has an absolute discretion in exercising the *bank's* power to admit *members* without any obligation to give a reason for not admitting a person as a *member*.
- (3) When the *bank* admits a person as a *member*, the *bank* must:
 - (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 2001*; 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 *bank*.

3.3 Joint Members

- (1) The *bank* may admit 2 or more persons eligible for admission under Subrule 3.1(1) as a joint *member* of the *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 *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 *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 *bank* a notice requiring the *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** must sign the notice. The **bank** must 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 **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 **bank** can remove the **member's** name from the Register of Members if:

- (a) the **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 **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**.
- (2) If a **member** makes a request under Subrule (1), the **bank** must redeem the **member's member share** as soon as practicable after receiving the request. However, the **bank** may defer redeeming the **member's member share** until the **board** is satisfied that:
 - (a) the member has withdrawn all deposits and repaid all financial accommodation;
 - (b) immediately after redeeming the **member share**, the **bank** will not be in breach of any **prudential standard**;
 - (c) the **bank's** capital base is adequate for purposes of **APRA's** supervision of capital adequacy;
 - (d) if **APRA** has restricted the **bank** redeeming **member shares** (whether by direction or otherwise) - the restriction no longer applies; and
 - (e) the **bank** has sufficient profits available to pay the amount payable on redemption of the **member share**.

4.3 Termination by the Board [or its Delegate](#)

- (1) The **bank** may, [by board resolution or under the board's delegated authority](#), redeem a **member's member share** ~~by board resolution if~~, [in the reasonable assessment of the board or its delegate](#):

- (a) the **member** fails to discharge the **member's** obligations to the **bank**;
 - (b) the **member** ~~is guilty of~~engages in conduct ~~that the board reasonably considers to be~~ detrimental to the **bank**; or
 - (c) the **member** obtains membership by misrepresentation or mistake.
- ~~(2) The **bank** must 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.~~
- ~~(2) Subject to Subrule (3), the **bank** may, by **board** resolution or under the **board's** delegated authority, redeem the **member's member share** if the **member** does not hold any account (whether **deposit** account or loan account) with the **bank**.~~
- ~~(3) The **bank** must send notice of the proposed action under Subrule (2) to the **member** at the **member's** last known address as shown on the Register of Members at least 21 days before taking such action.~~
- (4) On redeeming the **member share**, the **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 **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 **bank** may, ~~by **board** resolution or under the **board's** delegated authority:~~
- (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 ~~immediately preceding 12 months~~ ~~period before the date of the resolution~~.
- (3) The **bank** must send notice of the proposed ~~resolution~~ action under Subrule (2) 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~~ taking such action.

- (4) On redemption of the *member share*, the *bank* must pay the amount payable on redemption of the *member share* into the *member's* account.
- (5) If the *bank* redeems a person's *member share* under this Rule, the person may require the *bank* to reinstate the person's *deposit* accounts at any time before the *bank* pays the money in the *deposit* account in accordance with the relevant unclaimed money legislation. If the person requires the *bank* to reinstate the person's *deposit* accounts:
- (a) the *bank* must reinstate the person's *deposit* accounts as soon as practicable; and
 - (b) if the *bank* has redeemed the *member's member share*— the *bank* must 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 **bank** may only issue **member shares**.

5.2 Board Power to Issue Shares

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

5.3 Restrictions on Issue of Member Shares

- (1) The **bank** must 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 **bank** may only issue **member shares** in accordance with Subrule 3.1(3).
- (3) The **bank** may only issue **member shares** on the basis that the person pays the full **subscription price** ~~in cash~~ on issue.
- (4) The **bank** may only issue 1 **member share** to any person.

Note: The **bank** can issue a **member share** to a person who already constitutes a joint member. See Rule 3.2(1)

Division 6. — Calls, Forfeiture and Liens

Note: Not utilised

Division 7. — Dividends

7.1 Payment of Dividends

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

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' Meetings

11.1 Calling Meetings of Members

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

11.2 Adjourning Meetings of Members

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

11.3 Proceedings at Members' Meetings

- (1) The quorum for a **members'** meeting is 10 **members** present in person.
- (2) If a quorum is not present within 30 minutes after the time for the **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 **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 **members** must elect an individual present to chair the meeting.

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

11.4 Holding a Meeting of Members

The **bank** may hold a meeting of **members**.

- (a) at one or more physical venues;
- (b) at one or more physical venues and using virtual meeting technology; or
- (c) using virtual meeting technology only.

11.5 Use of Technology

- (1) Subject to the *Corporations Act*, the **bank** may hold a meeting of **members** using any virtual meeting technology that gives the **members** entitled to attend the meeting, as a whole, a reasonable opportunity to participate in the meeting.
- (2) A person who attends a meeting of **members**, whether at a physical venue or by using virtual meeting technology, is present in person at the meeting.
- (3) If, before or during a meeting of **members**, any technical difficulty occurs where one (1) or more **members** entitled to attend and vote at the meeting may not be able to participate, the chair may:
 - (a) adjourn the meeting until the difficulty is remedied; or
 - (b) where a quorum remains present and able to participate, subject to the *Corporations Act*, continue the meeting.

11.6 Cancelling, Postponing or Changing Meeting of Shareholders

- (1) Subject to the *Corporations Act*, the **board** may, in relation to any meeting of **members** that has been called, do any or all of the following:
 - (a) cancel the meeting;
 - (b) postpone the meeting to a later date and/or time;
 - (c) change whether the meeting is held:
 - (i) at one or more physical venues;
 - (ii) at one or more physical venues and using virtual meeting technology;
 - or
 - (iii) using virtual meeting technology only;
 - (d) change any physical venue for the meeting;
 - (e) change the virtual meeting technology used for the meeting.
- (2) Notice of the cancellation or postponement of, or change to, the meeting of **members** must be given before the date of the meeting:
 - (a) to all persons entitled to receive the notice of the meeting of **members**, and
 - (b) by such means as the law and this Constitution permits for providing the notice of the meeting of **members**.

(3) The accidental omission to give notice under Subrule (2) to, or the non-receipt of any such notice by, any person entitled to notice does not invalidate the cancellation or postponement of, or change to, the meeting or any resolution passed at the postponed or changed meeting.

Division 12. — Voting at Members' Meetings

12.1 Voting

- (1) A resolution put to the vote at a *members'* meeting must be decided on a show of hands unless a poll is demanded.
- (2) Before a *member's* meeting votes by poll on a resolution, the chair must inform the meeting:
 - (a) how many proxy documents the *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.
- (3) The *members'* 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 *members'* meeting.
- (2) A poll on the question of an adjournment must be taken immediately. The chair may direct when and the manner in which any other poll must be taken.
- (3) The *members'* meeting may conduct other business even though a poll is demanded on a resolution.

12.4 Body Corporate Representatives

- (1) A *member* that appoints a body corporate representative must give the *bank*:
 - (a) if the *member* 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

member's meeting at which the representative may exercise the **member's** rights.

- (2) In addition to the rights and powers a **member's** representative may exercise under the *Corporations Act 2001*, the representative may exercise the **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 **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 **member** appoints the chair as the **member's** proxy and directs the chair to vote either in favour of or against the resolution, the chair must demand a poll on the resolution.
- (5) Unless the **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 **member** dies; or
 - (b) the **member** is mentally incapacitated;
 - (c) the **member** revokes the proxy's appointment;
 - (d) the **member** revokes the authority under which the proxy was appointed by a third party; or
 - (e) the **member** transfers the share in respect of which the **member** 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 **members'** meeting or adjourned **members'** meeting at which the vote objected to is cast; and
- (b) must be ruled upon by the chair whose decision is final.

12.7 Direct Voting

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

- (a) that **members** entitled to attend and vote at a **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 **members** has the same effect as if the **members** had cast the vote in person at the meeting.

Division 13. — Directors — Appointment & Vacation of Office

13.1 Number of Directors

- (1) The number of ***elected directors*** is determined by the ***board*** from time to time.
- ~~(2)~~ The ***board*** may appoint up to 3 ***directors*** in addition to ***elected directors***. The ***board*** may only appoint as ***director***:
- ~~(a)~~ the Chief Executive Officer of the ***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***,
- ~~(a)(b)~~ a person who is not an employee of the ***bank***— in which case ~~the~~ term of office for a ***director*** appointed by the ***board*** ends 3 years after appointment, or such earlier date as determined by the ***board*** prior to the person’s appointment as ***director***.
- ~~(2)(3)~~ The majority of ***directors*** must be ***elected 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) has not had a personal representative or trustee appointed to administer the person’s estate or property because of their mental incapacity;
- (c) is not an employee of the ***bank*** ~~(unless nominated by the ***board*** and no other employee is a ***director***);~~
- ~~(d)~~ was not a senior manager of the ***bank*** at any time within the previous 3 years (unless the person is currently an employee of the ***bank***);
- ~~(e)(d)~~ is not disqualified by law from being or acting as a ***director***.
- The condition in paragraph (c) does not apply to a ***director*** appointed under Rule 13.1(2)(a).
- ~~(2)~~ A person is not eligible to be appointed ***elected director*** under Rule 13.3 if:
- ~~(a)~~ the ***board*** 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 was a senior manager of the ***bank*** at any time within the previous 3 years.
- ~~(2)(3)~~ A person is not eligible to be appointed or elected as a ***director*** if they have previously

held office as a **director** of the **bank** for an aggregate period of 12 years or more. In calculating a person's aggregate time as **director** exclude any time in office before 29 September 2023.

13.3 Appointment by Members — Election

The **members** may appoint a person to be an **elected director** by election held under the provisions of Appendix 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 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 at the end of the term of office of the **elected director** whose office has become vacant.:
 - ~~(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 *Corporations Act 2001* and 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 **members** 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 directors'** 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);

~~(a)~~(b) if the ***elected directors*** are appointed by separate resolutions (under Appendix 5 clause A5-3) then the votes for an ***elected director*** in the election is the number of votes FOR their appointment minus the number of votes AGAINST their appointment, on their appointment resolution; and

~~(b)~~(c) 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 ***bank*** and has failed to make arrangements for payment satisfactory to the ***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 ***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 ***bank*** receives the notice of resignation.

~~13.8 Alternate Directors~~

~~(1) — In this Rule, unless the context requires otherwise:~~

~~***alternate*** means a person that a ***director*** appoints as his or her alternate ***director*** under Subrule (2), but only in the person's capacity as the alternate ***director***.~~

~~**appointor** means the **director** who appoints an **alternate** under Subrule (2)~~

~~(2) — A person is eligible to be an **alternate** for a **director** if the person:~~

~~(a) — is eligible to be a **director** under Rule 13.2(1);~~

~~(b) — is not a **director**, and~~

~~(c) — is not an **alternate** for another **director**.~~

~~(3) — A **director** (but not an **alternate**) may give the **bank** a notice appointing a person eligible under Subrule (2) to be his or her **alternate**. The notice must set out:~~

~~(a) — the name of the person to be appointed as **alternate**;~~

~~(b) — the term of the **alternate's** appointment (or that the appointment is for an indefinite term);~~

~~(c) — whether or not the **appointor** requires the **bank** to give notices of **board** meetings to the **alternate**;~~

~~(d) — whether or not the **alternate** can sign circulating resolutions instead of the **appointor**.~~

~~The notice of appointment only takes effect if the **board** approves the **alternate's** appointment.~~

~~(4) — The **alternate** is not the **appointor's** agent, but a **director** of the **bank**. The **alternate** has all the duties, powers and rights of the **appointor** as a **director**. Except to the extent that this Rule provides otherwise, all references to **directors** in this Constitution include references to the **alternate**.~~

~~(5) — The **bank** only has to give notice of **board** meetings to the **alternate** if the **appointor** has given the **bank** a notice requiring it to do so.~~

~~**Note:** See Rule 15.1 in relation to notice of **board** meetings.~~

~~(6) — The **alternate** may only be present at meetings of **directors** at which the **appointor** is absent. The **alternate**:~~

~~(a) — may be present and may vote on a matter even though the **appointor** has a **material personal interest** in the matter; and~~

~~(b) — does not breach his or her duties to the **bank** by reason of any matter considered or voted on at a meeting at which the **alternate** was absent because the **appointor** was present.~~

~~**Note:** See Rule 15.2 in relation to quorum at a **board** meeting. See Rule 15.4 in relation to voting on resolutions at **board** meetings. See Rule 16.2 in relation to **directors** not being present or voting on matters in relation to which they have a **material personal interest**.~~

~~(7) — The reference to 'all **directors**' in Rule 15.5 refers to:~~

- (a) — if the ~~appointor~~ notifies the ~~bank~~ that the ~~alternate~~ can sign circulating resolutions instead of the ~~appointor~~ — the ~~alternate~~ and other ~~directors~~ but not the ~~appointor~~;
- (b) — otherwise — the ~~appointor~~ and other ~~directors~~ but not the ~~alternate~~.
- (8) — The ~~bank~~ must not provide remuneration to the ~~alternate~~ (in his or her capacity as ~~alternate~~) except out of remuneration that it has allocated to the ~~appointor~~. The ~~alternate~~ has no right to remuneration against the ~~bank~~. This does not affect any right to remuneration that the ~~alternate~~ may have against the ~~appointor~~.

Note: See Rule 17.1 in relation to remuneration of ~~directors~~.

- (9) — The ~~alternate's~~ office automatically becomes vacant if:
- (a) — the ~~appointor~~ revokes the ~~alternate's~~ appointment; or
- (b) — the ~~appointor's~~ office as a ~~director~~ becomes vacant (except where the ~~appointor's~~ term as a director ends at the end of an AGM under Rule 13.5 and the ~~members~~ re-elect the ~~appointor~~ as a ~~director~~ at that AGM).

The ~~alternate's~~ office may also become vacant in the circumstances set out in Rule 13.6 and Rule 13.7.

Division 14. — Directors' Powers

14.1 Powers and Duties of the Board

The **board**:

- (a) manages the **bank's** business; and
- (b) may exercise all the powers of the **bank** except any powers that the *Corporations Act 2001* 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 **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** must 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 **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) Subject to Subrule (2), the quorum for a **board** meeting is the greater of:
 - (a) half the total number of **directors** (rounded down if the total number of **directors** is an odd number);
 - (b) 3 **directors**,
 and the quorum must be present at all times during the meeting.

- (2) If:
 - (a) a **director** (Interested Director) has a **material personal interest** in relation to a matter (Relevant Matter) to be considered at a **board** meeting; and
 - (b) the Interested Director must not, under the *Corporations Act 2001*, be present or vote on the Relevant Matter without the prior approval of other **directors** without a **material personal interest** in the Relevant Matter,

then the quorum for the **board** meeting is 3 **directors** in relation to:

- (c) considering and voting on whether or not the Interested Director may participate and vote on the Relevant Matter; and
- (d) considering and voting on the Relevant Matter in the absence of the Interested Director.

~~(2)~~(3) 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 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** must 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** must 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 a **majority** of the **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
 - (a)(b) provide the **bank** with written approval of the resolution in such form and by such method as approved by the **board** from time to time, which may include by electronic means.
- (2) The **directors** may:
- (a) sign Sseparate copies of a document; and
 - (b) provide written approval in a form or by a method that differs from that provided by other **directors**.
- (1)(3) may be used for signing by different **directors** if so long as the wording of the resolution signed or approved and statement is identical in each copy.
- (2)(4) The resolution is passed when the conditions in Subrule (1) are met last **director** signs.

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 bank's affairs:
 - (i) complies with the requirements of the *Corporations Act 2001* in relation to disclosure of the nature and extent of the interest and its relation to the **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 2001*.
- (2) The **director** is not in breach of his or her duties to the **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 **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 2001* in relation to disclosure of the nature and extent of the interest and its relation to the **bank's** affairs; but
 - (b) must not be present and vote on the matter under the *Corporations Act 2001*.

- (2) The **director** is not in breach of duty to the **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 **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 **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 2001* in relation to disclosure of the nature and extent of the interest and its relation to the **banks** 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 2001*.

Division 17. — Remuneration, Indemnity and Insurance

17.1 Remuneration of Directors

- (1) ~~In any financial year for the *bank*, t~~he *elected directors*' remuneration may not exceed the aggregate amount that the *general meeting* determines ~~for that year~~from time to time.
- (2) The *board* may determine the allocation of the aggregate amount of remuneration among the *elected directors*. If the *board* does not determine the allocation, the aggregate amount of remuneration must be allocated equally among the *elected directors*.
- (3) The *elected directors*' remuneration accrues daily from the day that the *general meeting* approves the remuneration to the day that the *general meeting* next determines the *elected directors*' remuneration.
- ~~(3)~~(4) A *director* appointed under Subule 13.1(2) may be paid such remuneration as determined by the *board*.

17.2 Travelling Expenses and Insurance

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

- (a) 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'* meetings; and
 - (iii) otherwise in connection with the *bank's* business; and
- (b) subject to the *Corporations Act 2001*, insurance premiums for a contract that insures the *director* against liabilities that the *director* incurs as an officer of the *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 *bank*.
- (2) To the extent that the *Corporations Act 2001* permits:
 - (a) the *bank* must indemnify an *indemnified person* against any liability that the *indemnified person* incurs in conducting the *bank's* business or exercising the *bank's* powers as an officer or agent of the *bank*; and
 - (b) the *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 ***bank***, even though a claim is made against the ***indemnified person*** after they have ceased to be an officer or agent of the ***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~~18.1 Secretary

Subject to Rule 18.2~~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~~18.2 Resignation of Secretary

- (1) A **secretary** may resign by giving the **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 **bank** receives the notice of resignation.

Appendix 1 — Objects

The **bank** has the following objects:

- (a) to raise funds by subscription, **deposit** or otherwise, as authorised by the *Corporations Act 2001* and *Banking Act 1959* (Cth);
- (b) to apply the funds in providing **financial accommodation** to **members**, subject to the *Corporations Act 2001* 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 credit unions, co-operatives and other mutuals; and
 - (ii) associations of credit unions, co-operatives and other mutuals,

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:

	Category	Description
1	Employment Agent	An <u>owner</u> , employee, officer, or agent of: <u>(a) the Public Service</u> (a)(b) a corporation or business in the <u>recreation services, energy, telecommunications or manufacturing gaming and leisure industry</u> (b) a general industrial corporation or business (c) the bank <u>(d) a corporation or business approved by the board (or its delegate under Rule 3.2)</u> (d)(e) a corporation or business in an industry that is approved by the board (or its delegate under Rule 3.2).
2	Family	The spouse, defacto spouse, widow or widower, or whether by blood or marriage, the daughter, son, mother, father, sister, brother, grandparent, grandchild, aunt, uncle, niece or nephew <u>A family member of a person who is admitted to membership under (1)</u>
3	Family of Family	The wife or husband or whether by blood or marriage, the daughter, son, mother, father, sister, brother, grandparent, grandchild, aunt, uncle, niece or nephew of a person who is admitted to membership under (2) and who has been a member for a period of at least 12 months
4 3	Ex Members	A person who was but has ceased to be entitled to be admitted to membership under (1), <u>or (2) or (3) above provided that he or she was a member for a period of at least 12 months prior to having ceased to be a member</u>
5 4	Approved Persons	The person has an affinity with the bank and is approved by the board <u>(or its delegate under Rule 3.2)</u>
6 5	Continuing Members	The person is a member but has ceased to be eligible to be a member in accordance with the above categories
7 6	Transferring Members	The person was a member of another ADI that transferred its business and members to the bank under the <i>Financial Sector (Transfer and Restructures of Business) Act 1999 (Cth)</i>

A2-2 Common Bond — Body Corporate

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

	Category	Description
1	Corporate Body	A body corporate is eligible for membership where the body corporate is owned or controlled by the registered company of a person eligible for membership under A2-1 registered organisation associated with Tab Limited, Tabcorp Holdings Ltd and UniTAB Limited.
2	Approved Body Corporate	the body corporate has an affinity with the bank and is approved by the board (or its delegate under Rule 3.2)
3	Continuing Members	the body corporate is a member but has ceased to be eligible to be a member in accordance with the above categories
4	Transferring Members	the body corporate was a member of another ADI that transferred its business and members to the bank under the <i>Financial Sector (Transfer and Restructures of Business) Act 1999</i> (Cth)
5	Trustee	The body corporate is trustee of a trust of which a member is a beneficiary
6	Corporate Group	The body corporate is a related body corporate of a body corporate admitted as a member under (5) above

Appendix 3 — Shares

Member Shares

A3–1 Subscription Price

The subscription price for a member share is \$~~2.00~~nil

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;
 - (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.
- (2) The restriction on transfer of *member shares* in clause A3-7 attaches to each *member share*.
- (3) The *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 *bank* has already issued.

Note: For the holder of a *member share's* entitlement to make *deposits* with, and receive *financial accommodation* from, the *bank*, see Rule 2.2 and Subrule 3.1(3).

A3–3 Voting Rights

- (1) Holders of *member shares* may participate and vote:
 - (a) at a *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 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.
- (3) 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

- (2) On a winding-up of the *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) — to any surplus assets of the *bank*.
- (3) 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 *bank*, may resolve that any surplus be transferred to another bank or company organised on the basis of principles of mutuality.
- (4) The *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 *bank*.
- (5) 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

- (6) The *bank* may redeem a *member share* only if the following conditions are satisfied:
- (a) either:
 - (i) the *member* has given the *bank* notice requesting termination of the *member's* membership of the *bank*;
 - (ii) the *board or its delegate* has resolved or decided to terminate the *member's* membership of the *bank*; or
 - (iii) the *board or its delegate* has determined that the *member's deposit* accounts with the *bank* are dormant; and
 - (b) the *bank* can redeem the *member share* out of the profits of the *bank*.
- (7) On redemption, the *bank* must 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*. However, the *bank*

does not have to pay a **member** anything on redeeming the **member's member share** if, at the time of the redemption:

- (a) the **bank** is in breach of any **prudential standard** dealing with capital adequacy;
- (b) **APRA** has given the **bank** a direction not to pay **members** anything on redeeming their **member shares** and has not yet revoked the direction; or
- (c) an administrator that **APRA** has appointed controls the **bank's** business.

In these situations, the **member** has no claim against the **bank** for payment.

- (8) On redemption, the **member shares** are cancelled.

A3–7 Transfer of Member Shares

- (9) A **member** may not transfer their **member share**.

Appendix 4 — Standing Orders

A4–1 Time Limits for Speakers

- (1) The mover of a motion may speak for no more than 10 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

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

A4–3 Speakers

- (8) The mover of an original motion has a right of reply.
- (9) The mover of an amendment does not have a right of reply.
- (10) Otherwise, a *member* 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 must be submitted in writing as and when the chair of the meeting requests.

A4–5 Closure of Debate

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

Appendix 5 — Election of Directors

Postal Ballot

Division 1 – General Procedures

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 **members**.~~

Steps in Election Procedure	Time
Call for nominations (see clause A5-2(1))	Not less than 56 days before AGM
Nominations close (see clause A5-2(2))	Not less than 21 days after call for nominations
Returning officer must send ballot papers to members (see clause A5-7(1)) together with notice of the AGM	Not less than 21 days before AGM
Announcement of directors (see clause A5-9(4))	AGM

A5-2 Nominations

- (1) The **board** must give **members** a notice calling for nominations not less than 56 days before the AGM. The **board** may give this notice, in addition to any of the methods allowed in Rule 1.5, by advertisement:
- ~~(a)~~ on the **bank's** website;
- ~~(a)~~~~(b)~~ at the **bank's** offices; or
- ~~(b)~~~~(c)~~ in newspapers.
- (2) The date nominations close:
- (a) is determined by the **board**;
- (b) must be no earlier than 21 days after 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. To nominate a person, the 2 **members** must give the **bank** a notice of nomination before 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 **bank** with all information and consents the **bank** reasonably requests to determine if the person is disqualified by law from acting as a **director**;
 - (b) provide the **board** with all information and documentation that the **board** 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 **board**:
- (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; and
 - (b) the election process otherwise set out in this Appendix is discontinued.

A5-4 Appointment of Returning Officers

- (1) The **board** must appoint a returning officer, who may appoint assistant returning officers, none of whom can be a **candidate**.
- (2) The **secretary** must prepare and give the returning officer a roll of **members** ~~made up to the day before nominations for the election close.~~

A5-5 Conduct of Ballot

- (1) Voting in the election of directors will be conducted by ballot according to:
 - (a) if the **board** has approved **voting procedures** to apply to the election – those **voting procedures**.
 - (b) otherwise – the postal ballot procedures set out in Division 3 of this Appendix.

A5-96 Procedures After Close of the Ballot

(1) As soon as practicable after the ballot closes, the returning officer must ~~ensure that the ballots are dealt with as follows:~~

~~(a) for each set of ballot papers, mark the **member's** name off a roll of **members**;~~

~~(b)(a) if a duplicate set of ballot papers has been sent to a **member** and the original Outer Envelope received — mark the original Outer Envelope “rejected”;~~

~~(c)(a) if the **member** or the **member's** corporate representative has not signed the Outer Envelope, or there is insufficient detail to identify the **member** — mark the Outer Envelope “rejected”;~~

~~(d)(a) extract the Inner Envelopes containing the ballot papers from all unrejected Outer Envelopes, separating the contents from the Outer Envelopes in such a way that no Inner Envelope can be identified with any particular **member**;~~

~~(e)(a) when all the Outer Envelopes have been so dealt with, open all the Inner Envelopes and take out the ballot papers;~~

~~(f)(a) supervise the scrutinising of the ballots **s** papers and reject informal ballots **s** papers;~~

~~(g)(b) count the votes;~~

~~(h)(c) sign a declaration of the ballot as to the:~~

(i) names of the **candidates** appointed as **directors**;

(ii) votes cast for each **candidate**; and

(iii) number of votes rejected as informal; and

~~(i)(d) (i) deliver the declaration to the **secretary**.~~

~~(2)(1) A ballot paper is informal if:~~

~~(a) it is not authenticated by the returning officer;~~

~~(b)(a) it has no vote indicated on it; or~~

~~(c)(a) it does not indicate the **member's** preference for a **candidate**.~~

~~(3)(2) The **candidates** that the returning officer declares to have been appointed are appointed.~~

~~(4)(3) The **secretary** must announce the results of the ballot at the **next** AGM.~~

~~(5)(4) If a **member** gives the **bank** a written request, the **bank** must make available to any **member** a copy of the returning officer's declaration of the ballot.~~

~~(6)(1) The returning officer must destroy the ballot papers three months after the declaration of the ballot.~~

A5-107 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.

Division 2 – Board Approved Voting Procedures

A5-8 Voting Procedures

- (1) The ***board*** may approve ***voting procedures*** to apply to the election of ***directors***.
The ***board's*** approval may be standing approval.
- (2) To avoid any doubt, the ***voting procedures*** may allow for ***members*** entitled to vote in the election to cast votes in the ballot by electronic means.
- (3) In determining the ***voting procedures***, the ***board*** must take reasonable steps to address the following matters:
 - (a) each ***member*** entitled to vote should have a reasonable opportunity to participate in the ballot;
 - (b) precautions to ensure that each ***member*** entitled to vote in the election may only vote once in the ballot;
 - (c) procedures enabling the returning officer to detect fraud or impropriety in the voting process;
 - (d) procedures to protect the anonymity of the voter;
 - (e) instructions for voting must be legible and clearly expressed so as to accurately inform ***members*** entitled to vote in the election how to complete and cast a vote;
 - (f) to the extent applicable – provisions for issuing a duplicate ballot when the original has been lost or spoiled;
 - (g) rules to apply to determine if a ballot is informal;
 - (h) procedures for receiving, checking, scrutinising and counting votes cast;
 - (i) the conduct, duties and responsibilities of the returning officer;
 - (j) the conduct, duties and responsibilities of scrutineers; and
 - (k) the retention and destruction of documents and records relating to the ballot after the election.
- (4) The ***bank*** must provide a copy of the ***voting procedures*** applying to an election:
 - (a) to each ***candidate***;

(b) to a **member** entitled to vote in the election on request.

A5-9 Application of Voting Procedures

(1) If **voting procedures** apply to the election of **directors**, then:

(a) the ballot opens on a day determined by the **board** that, other than for a ballot conducted at the AGM, is at least 21 days before the AGM;

(b) the ballot paper, or other method under the **voting procedures** by which **members** entitled to vote in the election may cast a vote in the ballot, must list all the **candidates** in an order determined by the returning officer by lot;

(c) a **member** entitled to vote in the election may only cast a vote in the ballot in accordance with the **voting procedures**;

(d) the ballot closes on a day and time determined by the **board** that, other than for a ballot conducted at the AGM, is on a date at least:

(i) 14 days after the ballot opens; and

(ii) 7 days before the AGM;

(e) the ballots are to be checked, scrutinised, counted and dealt with in accordance with the **voting procedures**.

Division 3 – Postal Ballot

A5-10 Application of Division

(1) This Division 3 only applies to the election of **directors** if the **board** has not approved **voting procedures** to apply to the election.

A5-11 Appointment of Scrutineer

(1) A **candidate** may appoint a scrutineer.

(2) The duties and responsibilities of scrutineers are:

(a) to observe the sorting, counting and recording of ballot papers;

(b) to ensure that the votes of unrejected ballot papers are correctly credited to the appropriate **candidates**, and

(c) to raise any query with the returning officer regarding any of the ballot papers.

A5-12 Ballot Papers

(1) After nominations have closed, the returning officer must prepare ballot papers for the election.

(2) The order in which the **candidates** appear on the ballot paper is to be determined by the returning officer by lot.

- (3) The returning officer must ensure some authenticating mark appears on each ballot paper before sending them to the **members**.

A5-13 Postal Vote

- (1) The returning officer must send to each **member** at least 21 days before the AGM:
- (a) a ballot paper;
 - (b) an unsealed envelope, called the "Outer Envelope" addressed to the returning officer, the reverse side of which bears the following:

Name of member

*Signature of member or corporate member's
representative*

- (c) a smaller plain envelope, called the "Inner Envelope", in which the **member** must enclose its completed ballot papers.
- (2) The returning officer must send ballot papers by mail or prepaid post and addressed to each **member** at the address shown in the Register of Members for the purposes of giving notices.
- (3) A **member** exercising a right to vote must:
- (a) first complete the ballot papers in accordance with this Constitution;
 - (b) secondly, place the ballot papers in the Inner Envelope; and
 - (c) thirdly, place the Inner Envelope in the Outer Envelope, complete the Outer Envelope and return it by post to the returning officer.
- (4) A **member** must ensure that the returning officer receives the **member's** ballot papers by 5.00pm on the day fixed for the closing of the ballot.
- (5) Any ballot paper that the returning officer receives after the ballot closes is informal.
- (6) A **member** who does not receive the **member's** ballot papers or who spoils them must give the returning officer a declaration to that effect. The returning officer must then send duplicate ballot papers to that **member**.

A5-14 Closure of the Ballot

- (1) The ballot closes 7 days before the AGM.

A5-15 Dealing with Ballot Papers

- (1) As soon as practicable after the ballot closes, the returning officer must ensure that the ballots are dealt with as follows:

 - (a) for each set of ballot papers, mark the **member's** name off a roll of **members**;
 - (b) if a duplicate set of ballot papers has been sent to a **member** and the original Outer Envelope received — mark the original Outer Envelope "rejected";
 - (c) if the **member** or the **member's** corporate representative has not signed the Outer Envelope, or there is insufficient detail to identify the **member** — mark the Outer Envelope "rejected";
 - (d) extract the Inner Envelopes containing the ballot papers from all unrejected Outer Envelopes, separating the contents from the Outer Envelopes in such a way that no Inner Envelope can be identified with any particular **member**;
 - (e) when all the Outer Envelopes have been so dealt with, open all the Inner Envelopes and take out the ballot papers;
- (2) A ballot paper is informal if:

 - (f) it is not authenticated by the returning officer;
 - (g) it has no vote indicated on it; or
 - (h) it does not indicate the **member's** preference for a **candidate**.
- (3) The returning officer must destroy the ballot papers three months after the declaration of the ballot.