



**INSTITUTE OF FINANCIAL ADVISERS INC.**

**CONSTITUTION**

**1 JUNE 2009**

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# CONSTITUTION

of

## INSTITUTE OF FINANCIAL ADVISERS INCORPORATED

### 1. NAME

1.1 The name of the association is the Institute of Financial Advisers Incorporated.

### 2. APPLICATION

2.1 The provisions of this Constitution and any Bylaws apply to and are binding on all Members.

### 3. OBJECTS

3.1 The objects of the Institute are:

- a. To provide a professional association for practising Financial Advisers.
- b. To promote the interests of Members.
- c. To encourage, promote, reinforce and recognise high standards of advice, service, professional practice and conduct by Members.
- d. To promote and reinforce the values and principles of the Institute, namely:
  - Integrity
  - Objectivity
  - Fairness
  - Competence
  - Confidentiality
  - Professionalism
  - Diligence
- e. To prescribe Bylaws for Members, including in particular, a Code of Ethics and Practice Standards.
- f. To encourage, promote, reinforce and recognise competency, education, qualifications, and continuing professional development for Members.
- g. To provide for comprehensive training programmes and education pathways for Members.
- h. To encourage Members to attain and maintain relevant professional marks and designations, tertiary and other professional qualifications.
- i. To promote to consumers the value of using the services of Members, and to make available to consumers a register of Members, outlining their contact details, claimed areas of competency, qualifications and professional marks or designations.
- j. To promote to consumers the added value provided by using the services of Members who have attained recognised professional marks, designations and qualifications.
- k. To provide and promote opportunities for Members to meet in order to exchange information and ideas, and to encourage fellowship and networking among Members and with other stakeholders.
- l. To advance the financial well-being and literacy of consumers.
- m. To make submissions and representations to Parliament, Government and its agencies, industry, consumer bodies and any other organisation on matters affecting the interests of Members or consumers.
- n. To liaise with entities both in New Zealand and elsewhere that have similar objects to those of the Institute.

#### 4. POWERS OF THE INSTITUTE

- 4.1 In pursuance of the objects set out in 3, the Institute shall have all the powers of a natural person including, but not exclusively, and in each case on any terms and conditions:
- a. To borrow money;
  - b. To enter into General Security Agreements, mortgages or other securities and charge all or any part of the property of the Institute to secure any of its obligations whether or not any part over which such security is given benefits by the secured obligation;
  - c. To give guarantees and indemnities;
  - d. To renew or vary any loan, security, charge, guarantee or indemnity;
  - e. To acquire any property and retain or deal with any property which from time to time belongs to the Institute;
  - f. To invest and control the funds of the Institute.
- 4.2 Provided that the Institute
- (i) Shall not carry on activities for pecuniary gain, except to further the objects of the Institute or for other purposes not prohibited by the Act; and
  - (ii) May not distribute or pay any of its income or property directly or indirectly to any Member or Associated Person – except that it may pay:
    - a. interest on money borrowed at a rate not exceeding the highest non-default rate for the time being charged by registered banks in New Zealand on authorised overdraft accounts.
    - b. no more than market rent for premises let to the Institute.
    - c. reasonable out of pocket expenses.
    - d. remuneration at no more than market rates for services actually rendered to the Institute.
    - e. no more than market rates and terms for insurance cover or other goods or services supplied to it.
    - f. no more than market rates for exhibitions, lectures or work in connection with examinations or competency tests prescribed or required by the Institute.
    - g. prizes or scholarships established and paid to further the objects of the Institute and awarded on a principled basis under this Constitution or Bylaws.
- 4.3 The funds of the Institute shall be controlled by the Chief Executive Officer under the direction of the Board in a manner that meets normal business standards.
- 4.4 The funds of the Institute shall be invested in a prudent manner by the Chief Executive Officer under the direction of the Board.

#### 5. INTERPRETATION

- 5.1 Unless the context otherwise requires:

**“Act”** means the Incorporated Societies Act 1908, any amendments, or any replacement Act, and any regulations made under it.

**“Affiliate Member”** is defined in 8.

**“Associated Person”** means any person, body corporate, trust or other entity in or with which any Member, Officer or employee has a financial or other beneficial interest or immediate family relationship interest.

**“Board”** is defined in 22.

**“Branch”** means groups of Members divided into regions of New Zealand, the boundaries of which are set by the Council in accordance with 13.2.

**“Branch Committee”** is defined in 14.1.

**“Branch Delegate”** is defined in 14.5.

**“Bylaw”** means a regulation made by Council or confirmed by Council. These include Membership Bylaws, Certification Bylaws, the Code of Ethics, Practice Standards, the Code of Procedure, and Disciplinary Bylaws.

**“Certification Committee”** means the Committee responsible for administering and overseeing requirements for certification to any professional mark or designation awarded by the Institute.

**“Chief Executive Officer”** is defined in 36.

**“Compliance Manager”** is the person responsible for the administration and processes of the Professional Conduct Committee, the Disciplinary Tribunal and the Certification Committee.

**“Council”** is defined in 17.

**“Councillor”** means a member of the Council.

**“Director”** means a member of the Board.

**“Disciplinary Tribunal”** means the committee responsible for discipline established by 31.

**“Financial Adviser”** includes Financial Planner, Insurance Adviser, Investment Adviser and other advisers in the financial services community.

**“Financial Planner”, “Insurance Adviser” and “Investment Adviser”** refers to a person practising in the areas of financial planning advice, insurance advice and investment advice respectively.

**“Financial Year”** means a year commencing on 1 July and ending on the following 30 June.

**“General Member”** is defined in 8.

**“Independent Director”** is defined in 23.3.

**“Institute”** means the Institute of Financial Advisers Incorporated.

**“Member”** means a person admitted to membership of the Institute.

**“Membership”** means membership of the Institute.

**“National Office”** means the management and administrative headquarters of the Institute.

“**Officer**” includes the President, Councillors, Directors, Chief Executive Officer, Chairs, Deputy Chairs, Vice-Chairs, Branch Secretaries and Treasurers and members of all Institute committees.

“**Practitioner Director**” is defined in 23.2.

“**Practitioner Member**” is defined in 8.

“**President**” means the person appointed under 21.

“**Professional Conduct Committee**” means the committee responsible for complaints established by 30.

“**Provisional Member**” is defined in 8.

“**Special Interest Group**” means a professional interest group formally recognised by the Institute in 35.

“**Special Resolution**” is defined in 19.10.

- 5.2 This Constitution is to be given such wide and liberal interpretation as is necessary to give effect to the objects of the Institute.

## 6. CODE OF ETHICS AND PRACTICE STANDARDS

- 6.1 The Council is to provide and maintain a Code of Ethics and Practice Standards.

## 7. BYLAWS

- 7.1 The Council is to make, repeal or amend such other Bylaws, not contrary to law or inconsistent with the provisions of this Constitution, as it deems necessary to achieve the objects of the Institute.
- 7.2 All Bylaws are to be notified to Members in such manner as the Board from time to time determines and all Members will be deemed to have knowledge of such Bylaws when they have been so notified and published on the Institute’s website.
- 7.3 Breaches of the Constitution, Code of Ethics and Practice Standards or other Bylaws and any complaints shall be handled by the Professional Conduct Committee and the Disciplinary Tribunal in accordance with 30 and 31.

## 8. CLASSES OF MEMBERSHIP

- 8.1 Members may be Practitioner Members or Affiliate Members.
- 8.2 Practitioner Members may be:
- a. Provisional Members, or
  - b. General Members or
  - c. Retired Members, or
  - d. Inactive Members.
- 8.3 In special circumstances as outlined in 8.11 and 8.12, Members may also be accorded special recognition through the award of Fellow or Life Membership.

- 8.4 To be eligible for and to maintain any class of Membership (including Fellows and Life Membership) Members shall satisfy the requirements prescribed in the Institute's Membership Bylaws and Certification Bylaws. This includes compliance with the Institute's Constitution, and Bylaws (which includes compliance with the Code of Ethics and Practice Standards) and payment of the appropriate Membership subscription for that classification and any other required fees or charges.
- 8.5 A Provisional Member is a Member practising as a Financial Adviser, who has been accepted as a Member, but who has not completed all educational and practical experience requirements to become a General Member.
- 8.6 A General Member is a Member practising as a Financial Adviser, who has been accepted as a Member, and who has completed all educational and practical experience requirements prescribed for a General Member.
- 8.7 To gain and maintain Practitioner Membership, a Member shall satisfy the Institute that they have undertaken sufficient continuing professional development in the manner prescribed in the Bylaws.
- 8.8 Affiliate Members are Members who are not practising but are involved or interested in one or more areas of financial advice.
- 8.9 Retired Members are former Practitioner or Affiliate Members who are no longer actively involved in the industry but who wish to retain Membership.
- 8.10 Inactive Members are former Practitioner or Affiliate Members who are temporarily not actively involved in the industry but who intend to return to full Membership in the future.
- 8.11 Fellows must:
- a. have been a Practitioner Member for over ten years; and
  - b. have contributed significantly to the profession; and
  - c. have given special service to the Institute at Council, Board, or Committee level for more than ten years; and
  - d. be approved as a Fellow by the Council on the recommendation of the Board.
- 8.12 Life Members must:
- a. have a record of extraordinary service to the Institute at Council, Board, or Committee level for more than ten years; and
  - b. be approved as a Life Member by the Council on the recommendation of the Board.
- 8.13 The number of Practitioner Members who are Life Members immediately prior to the appointment of any new Life Member shall be not more than 1% of current Practitioner Members. No more than five Affiliate Members may be Life Members immediately prior to the time of appointment of any Affiliate Member as a Life Member.
- 8.14 Applications for Membership are to be made in such manner and in such form as prescribed in the Bylaws.
- 8.15 Applications for certification are to be made in such manner and in such form as prescribed in the Bylaws.
- 8.16 Those members holding the designation Certified Financial Planner may on requisition signed by 10% of those members call a meeting of all such members to propose a motion requesting the Financial Planning

Standards Board to uplift the license designation from the Institute. A 75% majority of all such members is required to pass the motion. Such a meeting may be called only once in each financial year.

## 9. MEMBERSHIP SUBSCRIPTION

- 9.1 A general subscription for Membership is to be recommended by the Board and approved by the Council.
- 9.3 Subscriptions are due at the start of the Financial Year.
- 9.4 Subject to 9.8, where a Member's subscriptions are not paid in full at the end of the third month of the Financial Year, that Member shall be deemed "non-financial" and their Membership shall cease, unless their subscriptions are being paid by regular instalments in a manner approved by the Board.
- 9.5 Subject to 9.8, if a Member's subscriptions are being paid by regular instalments and they miss three or more of the agreed payments, that Member shall be deemed "non-financial" and their Membership shall cease.
- 9.6 A non-financial Member shall be entitled to be reinstated to their previous Membership class on payment of the full subscriptions (plus any penalty set by the Board) before the end of that Financial Year.
- 9.7 A non-financial Member may not advertise their Membership or vote at any meeting.
- 9.8 A non-financial Member's Membership shall not cease under 9.4 or 9.5 if a complaint has been received about that Member or disciplinary action has commenced in relation to that Member, until:
- a. the complaint or disciplinary proceedings has been resolved, or any hearing in relation to the complaint or disciplinary action has been concluded and a decision made by the Professional Conduct Committee or the Disciplinary Tribunal, as the case may be; and
  - b. any resulting action, disciplinary measure, fine or other penalty has been imposed; and
  - c. any appeal period relating to the matters set out in (a) or (b) has expired without an appeal being lodged, or any appeal lodged within the relevant appeal period has been determined; and
  - c. all subscriptions, fines, penalties, levies and other payments due to the Institute have been paid.
- 9.9 The cessation of a non-financial Member's Membership under 9.4 or 9.5 does not affect that non-financial Member's liability for any outstanding subscriptions, fees or other charges lawfully due and payable to the Institute at the date on which the Membership ceases. For the avoidance of doubt, this includes any outstanding subscriptions, fees or other charges incurred in the period during which a non-financial Member's Membership is continued under 9.8.

## 10. RESIGNATION OF MEMBERSHIP

- 10.1 A Member may resign from Membership at any time by writing to the Institute. Any notice of resignation given after any complaint is lodged against the Member or after any disciplinary proceedings are commenced against the Member shall not take effect until the hearing of the complaint or the disciplinary proceedings and related appeals have been disposed of and any resulting action or disciplinary measure, fine or penalty has been settled.
- 10.2 Resignation from the Institute does not affect liability for any outstanding subscriptions, fees or other charges lawfully due and payable to the Institute.

- 10.3 Any certificate or other device signifying or denoting Membership is to be returned to the Institute at the time of resignation.
- 10.4 Notification of the cessation of Membership may be made to other Members and the public in such manner as the Board sees fit.

## **11. CANCELLATION OR SUSPENSION OF MEMBERSHIP**

- 11.1 The Board may cancel or suspend Membership as prescribed by this Constitution or Bylaws and may delegate this power as it sees fit.
- 11.2 Any Member who ceases to be eligible for Membership is to have their Membership cancelled unless special dispensation has been granted by the Board.

## **12. BRANCHES**

- 12.1 The Council shall authorise the establishment, dissolution, amalgamation or reconstruction of Branches of the Institute.

## **13. BRANCH MEMBERSHIP**

- 13.1 The Council shall determine the minimum number of members required to constitute a Branch.
- 13.2 The Council is to describe generally the geographic area from which a Branch is to draw its members and may amend that description.
- 13.3 Notwithstanding 13.2, an individual Member may elect to belong to any one Branch.
- 13.4 Only Members may participate in formal activities of a Branch.

## **14. BRANCH COMMITTEE AND COUNCIL DELEGATES**

- 14.1 Each Branch is to have a Branch Committee responsible for the proper functioning of Branch affairs. The Branch Committee is to have a minimum of four members, including a Chair, a Vice-Chair, a Secretary and a Treasurer or a Secretary/Treasurer.
- 14.2 All Branch Committee members are to be elected by the members of the Branch at a General Meeting. The Branch Committee may fill any casual vacancies.
- 14.3 Branch Committee members hold office for the forthcoming Financial Year.
- 14.4 The quorum for a Branch Committee meeting is half of the Branch Committee members plus one.
- 14.5 Branch Committees shall appoint two Branch Delegates from amongst Branch members to sit on the Council. At least one of the delegates must be a Practitioner Member. Branch Delegates may be, but do not have to be, the Branch Chair and/or other Branch Committee member(s). Directors or Special Interest Group Chairs may not be Branch Delegates.

## 15. FUNCTIONS AND POWERS OF A BRANCH

- 15.1 Branches have only those powers conferred on them by this Constitution and any Bylaws.
- 15.2 Anything done by a Branch beyond the powers conferred on it shall be, to the extent of that excess, a nullity.
- 15.3 Subject to the provisions of this Constitution and any Bylaws, the functions of a Branch are those normally and ordinarily associated with a Branch of any association of persons whether incorporated or not, provided that such functions are consistent with the objects of the Institute.
- 15.4 All Branches are to hold a General Meeting of members to elect the Officers of the Branch Committee within two months prior to the commencement of each Financial Year, as prescribed by the Code of Procedure.
- 15.5 The quorum for a Branch General Meeting is to be the greater of four persons or 10% of the current membership of that Branch.
- 15.6 At meetings of the Branch and of the Branch Committee, voting shall be by members present and in the manner specified by the Code of Procedure.
- 15.7 Members of a Branch may requisition a Special General Meeting of the Branch by gaining the signatures of at least 10% of Branch Members.

## 16. BRANCH FINANCES

- 16.1 Funds raised by Branches shall be used by the Branch in accordance with the objects and powers of the Institute.
- 16.2 Any funds raised by Branches and all Branch assets are the property of the Institute.

## 17. COUNCIL

- 17.1 The Council is the primary policy-making authority and Member representative body of the Institute.
- 17.2 Without limiting the generality of 17.1, the Council has the power to do all or any of the following:
  - a. make Bylaws for the proper governance of the Institute and to attain its aims and objects;
  - b. elect the President in accordance with 21 and Directors in accordance with 23;
  - c. care for the interests and rights of those Members holding any mark or designation granted or recognised by the Institute;
  - d. ratify, review, amend or revoke any decision of the Board;
  - e. remove an Officer from office in accordance with 29;
  - f. consider remits and requests from the Board, Branches, Special Interest Groups or Councillors;
  - g. amend this Constitution by Special Resolution;
  - h. delegate such powers as this Constitution permits to the Board;
  - i. create ad hoc bodies whether consisting of Members or not;
  - j. all those things which may be necessary or desirable in carrying out the objects and policies of the Institute.

## 18. MEMBERSHIP OF THE COUNCIL

18.1 The Council shall consist of the following:

- President
- Directors
- Branch Delegates
- The Chair of any Special Interest Group.

18.2 Branch Delegates and Special Interest Group Chairs may appoint in writing a substitute from his or her Branch or Special Interest Group respectively for any meeting of the Council. Such substitute may vote and take all such action as the appointor could take.

## 19. MEETINGS OF THE COUNCIL

19.1 The President is to be Chair at all meetings of the Council.

19.2 In the absence of the President, the Councillors are to elect one of their number to be Chair for that meeting.

19.3 The Council shall meet in ordinary or special meeting as prescribed by Bylaw or this Constitution.

19.4 Notice of meeting:

- a. The Chief Executive Officer is to notify all Councillors by reasonable means not less than twenty one days before a meeting of the Council is due to commence. Such notice is to contain at least the following information:
  - the time and date of the meeting;
  - the place of the meeting;
  - the type of meeting; and
  - the business of the meeting.
- b. Such notice may contain other information and particulars as the President, Board or Council shall direct.
- c. Failure to receive such notice shall not invalidate the proceedings of the meeting.

19.5 Meeting procedure:

- a. Members are entitled to attend Council meetings as observers,
- b. Any agenda for and record of proceedings of Council meetings are to be circulated only amongst Members,
- c. The Council may deliberate on any matter in committee as it thinks fit.

19.6 If in its opinion anyone's conduct is disturbing its proceedings the Council may order that person to leave the room and enforce its order by any lawful means.

19.7 The Council is to have an ordinary meeting twice each Financial Year. The first ordinary meeting is to be held no later than 30 November and the second no later than 15 June the following year. Notwithstanding 17.2(g), this provision in respect of the number and dates of ordinary meetings may be changed by the Council by ordinary resolution.

19.8 The quorum for a Council meeting is 60% of Councillors.

19.9 Voting:

- a. At Council meetings the Branch Delegates from each Branch shall be jointly entitled to two votes for every 10 Members (or part thereof) of his/her Branch,
  - b. The Branch Delegates from each Branch present at each meeting shall share the number of votes for their Branch between them equally,
  - c. Where Branch Delegates are given directions from their Branch they shall vote in accordance with such directions,
  - d. The President, Directors and Special Interest Group Chairs shall each be entitled to one vote,
  - e. Any person who has more than one role shall be entitled to vote in each role independently.
- 19.10 "Special resolution" means a resolution of the Council approved by a majority of 66% of the votes given at a meeting at which not less than 80% of Councillors are present.
- 19.11 A special meeting of the Council may be called by:
- a. the President; or
  - b. a majority of Councillors; or
  - c. a requisition signed by not less than 10% of Members.
- 19.12 If the President calls the special meeting under 19.11 a. the President shall speak to that requisition. Where a special meeting is called under 19.11 b. or c. those calling the meeting are to appoint two of their number to speak to that requisition.

## 20. CODE OF PROCEDURE

- 20.1 The Council is to establish and may from time to time amend a Code of Procedure to be followed by itself, the Board, Special Interest Group, Branches and all other Institute committees.

## 21. THE PRESIDENT

- 21.1 The President is the professional leader of the Institute. Candidates for President must be a General Member and have been a General Member for the three consecutive years immediately prior to their nomination.
- 21.2 Subject to the provisions of 29.1, the President is appointed for a period of two years from the beginning of the next Financial Year following appointment, and may be reappointed for one further term of two years.
- 21.3 The President shall be elected by the Council at its last ordinary meeting prior to the expiry of the then President's term of appointment.
- 21.4 The election of President shall be from nominations lodged by Branch Committees with National Office no later than 30 days prior to the Council ordinary meeting at which an election is required. The first election shall be in 2008.
- 21.5 The President may resign from office at any time by notice in writing to the Institute. Such resignation is to be accepted without inquiry.
- 21.6 Upon vacation of the office of President for any reason, the Board shall appoint a new President to hold office until the expiry of the current Financial Year. The new President shall meet the requirements of 21.1.
- 21.7 The President has such powers as are expressly conferred in this Constitution.

21.8 The Board may appoint a Director as an acting President to cover the temporary absence or availability of the President and may also appoint a Director as a temporary Vice President if they are representing the Institute at international meetings.

## 22. BOARD

22.1 Subject to the Council being the primary policy making authority of the Institute and the Council's powers under clause 17.2, the governance functions of the Institute are vested in the Board.

22.2 The Board shall oversee and support the Special Interest Group and Board Committees.

22.3 The Board is to meet at least four times in every Financial Year.

22.4 The quorum for a meeting of the Board is half the current Directors plus one.

22.5 The Chief Executive Officer is to forward to each Director the agenda for each meeting together with other relevant information not less than seven days before the meeting.

## 23. BOARD MEMBERSHIP AND ELECTIONS

23.1 The Board shall consist of the President, 4 Practitioner Directors, and 2 Independent Directors.

### 23.2 Practitioner Directors

a. **Election process and eligibility:**

- i. Practitioner Directors shall be elected by the Council at its second ordinary meeting each Financial Year.
- ii. The election of Practitioner Directors shall be from nominations lodged by Branch Committees with National Office no later than 30 days prior to the Council ordinary meeting at which an election is required.
- iii. Practitioner Director candidates must be a General Member and have been a General Member for the three consecutive years immediately prior to their nomination.
- iv. If there are insufficient nominations for the Practitioner Directors, the Council may appoint any qualified Member to fill vacancies.
- v. Practitioner Directors are appointed for a two-year term from the beginning of the next Financial Year and shall be eligible for re-election. Practitioner Directors shall not be on the Board for longer than three consecutive terms, but after absence from office for a term of one year may be re-elected.
- vi. Any vacancy that may occur on the Board shall be filled by appointment made by the Board and the appointee shall hold office until the end of the current Financial Year.

b. **Retirement in rotation:**

Notwithstanding 23.2 A. Practitioner Directors will retire at the end of each Financial Year as follows:

- i. First, any Practitioner Director whose term has expired.
- ii. Second, any Practitioner Director who wishes to retire.
- iii. Third, sufficient other Practitioner Directors to ensure that at least two Practitioner Director positions are subject to election. The Practitioner Directors to retire under this clause shall be selected as follows:
  - a. First, the Practitioner Director who has served the longest consecutive time; and
  - b. Second, by drawing lots, the result of which shall be conclusively determined by the Board Chair.

### 23.3 Independent Directors

- i. Independent Directors shall be appointed by the Council on the recommendation of the Appointments Committee (which shall comprise the President, Chair of the Board and the immediate past President) provided that where any member of the Appointments Committee is unable or unwilling to act in the matter the Board may appoint any other person in their place.
- ii. Independent Directors shall be appointed for a term of two years from the beginning of the next Financial Year following appointment and may be reappointed for one further term of two years.
- iii. The Council may on the recommendation of the Appointments Committee fill any casual vacancy which arises among the Independent Directors, and the period served in filling such casual vacancy shall not prevent such person being later appointed to the Board for a full term and subsequently being reappointed to the Board.
- iv. Independent Directors shall not be Members.
- v. Notwithstanding 23.3 i. to iv., at least one Independent Director shall retire at the end of each Financial Year, selected as follows:
  - a. First, any Independent Director whose term has expired,
  - b. Second, any Independent Director who wishes to retire,
  - c. Third, the Independent Director who has served the longest consecutive time,
  - d. Fourth, by drawing lots, the result of which shall be conclusively determined by the Board Chair.
- vi. An Independent Director who retires under v. shall be eligible for reappointment under 23.3 ii.

### 24. BOARD CHAIR

- 24.1 At the first Board meeting of each Financial Year the Directors shall elect a Chair. Any director may be elected Board Chair.
- 24.2 The Board shall elect a Chair to fill any casual vacancy.

## **25. POWERS OF THE BOARD**

- 25.1 The Board has such powers as may be necessary to fulfil the requirements of 22.1. In addition to any powers expressly conferred in this Constitution it may also exercise any or all of the powers contained in 17.2 c., e., f. and i.
- 25.2 In addition, the Board has power to act with regard to any significant matter where in its opinion it would be inadvisable to delay action until a Council meeting. Such acts are to be submitted for ratification at the next meeting of the Council. Actions taken by the Board up until the Council meeting will remain valid and effective even if not ratified.
- 25.3 Subject to 25.2, the Board is to give effect to and is to be bound by the provisions of any resolution passed at a meeting of the Council.
- 25.4 The Board may delegate such of its powers as may be necessary to ensure the proper and efficient conduct of the Institute's affairs.

## **26. ANNUAL GENERAL MEETING OF MEMBERS**

- 26.1 There is to be an Annual General Meeting of Members in each Financial Year. It is to be held immediately prior to an ordinary Council meeting and at the same venue. It must be held within five months of the close of the previous Financial Year.
- 26.2 Notice of the Annual General Meeting shall be forwarded to each Member at least 21 days prior to the meeting.
- 26.3 The Notice shall include the place, day and hour of the meeting and the nature of the business to be conducted including presentation of the accounts of the Institute.
- 26.4 The accidental omission to give notice of a general meeting to, or the non-receipt of notice of a general meeting by, any Member or Members shall not invalidate the proceedings at that meeting.

## **27. SPECIAL GENERAL MEETINGS**

- 27.1 The Council or Board may call for a Special General Meeting of Members to be held.
- 27.2 A Special General Meeting must be called upon the Institute receiving a written request signed by at least 10% of Members.

## **28. POSTAL VOTING**

- 28.1 The Council may from time to time permit voting by Members on any resolution to be conducted by post.
- 28.2 The result of voting on any resolution conducted by post shall be as valid as if the resolution was passed at a general meeting duly convened and held.
- 28.3 Postal voting includes voting by post, telephone, email or other form approved by the Board from time to time.

## 29. REMOVAL FROM OFFICE

- 29.1 The Council on its own motion and by a Special Resolution may remove the President from such office where it is satisfied that he or she is incapable or unable to perform or is not adequately performing the duties of that office or has brought, or is likely to bring, the Institute into disrepute.
- 29.2 The Council by majority may remove a Director from such office for any of the reasons specified in 29.1.
- 29.3 The Board by majority may remove its Chair from such office for any of the reasons specified in 29.1.
- 29.4 The Board may remove a member of any committee or other committee appointed by it for any of the reasons specified in 29.1.
- 29.5 The Council may remove a member of any committee appointed by it from such membership for any of the reasons specified in 29.1.
- 29.6 The members of any Branch by majority may remove any member of their Branch Committee from such Branch Committee membership for any of the reasons specified in 29.1.
- 29.7 Any Officer who ceases to be a Member shall also cease to hold that Office. This does not apply to the positions of Chief Executive Officer or Independent Director.
- 29.8 The position of any Officer shall be vacated if the Officer:
- a. becomes bankrupt or makes any arrangement or composition with his or her creditors generally; or
  - b. becomes of unsound mind, or becomes a protected person under the Protection of Personal and Property Rights Act 1988; or
  - c. dies or resigns his or her office by notice in writing to the Chief Executive Officer; or
  - d. is removed from office under this Constitution for any reason; or
  - e. becomes unable or unwilling to fulfil his or her duties as such officer, or
  - f. is convicted of any criminal offence.

## 30. PROFESSIONAL CONDUCT COMMITTEE

- 30.1 The Board shall establish a Professional Conduct Committee, appoint its Members and determine which of the Members is to be Chair of the committee. The membership of the Professional Conduct Committee shall comprise not less than six General Members selected from the main areas of advice within the membership and one independent person who is not a Member. The Chair may be one of the General Members or the independent person.
- 30.2 The Professional Conduct Committee members shall be appointed for two year terms and may be reappointed as often as the Board sees fit. The Board may fill any casual vacancies from persons qualified in terms of this clause and such casual appointees shall hold office as determined by the Board.
- 30.3 The quorum for a meeting of the Professional Conduct Committee shall not be less than three comprising (at minimum): the Chair (whether a General Member or the independent person) and two General Members. The Chair will be responsible for selecting the names of persons to sit on any particular matter. In the event of an inability to achieve a quorum, the Board may appoint substitutes for committee Members from persons qualified in terms of this clause.

- 30.4 In the event the Chair is unable to sit on a particular matter (whether by virtue of conflict of interest or unavailability for other reasons), an acting Chair may be appointed by committee Members for that matter.
- 30.5 The Professional Conduct Committee must observe the rules of natural justice in carrying out its work.

### **31. DISCIPLINARY TRIBUNAL**

- 31.1 The Board shall establish a Disciplinary Tribunal, appoint its members and determine which of the members is to be Chair of the tribunal. The membership of the Disciplinary Tribunal shall comprise not less than three independent persons who are not Members (one of whom shall be Chair) and not less than three General Members selected from the main areas of advice within the membership.
- 31.2 The Disciplinary Tribunal members shall be appointed for two year terms and may be reappointed as often as the Board sees fit. The Board may fill any casual vacancies from persons qualified in terms of this clause and such casual appointees shall hold office as determined by the Board.
- 31.3 The quorum for a meeting of the Disciplinary Tribunal shall be not less than three comprising (at minimum): the Chair, an independent person and a General Member. The Chair will be responsible for selecting the members of the Disciplinary Tribunal to sit on any particular matter. In the event of an inability to achieve a quorum, the Board may appoint substitutes for tribunal members from persons qualified in terms of this clause.
- 31.4 In the event the Chair is unable to sit on a particular matter (whether by virtue of conflict of interest or unavailability for other cause), an acting Chair may be appointed by tribunal Members for that matter. The acting Chair shall be an independent person who is not a Member of the Institute.
- 31.5 The Disciplinary Tribunal must observe the rules of natural justice in carrying out its work.

### **32. FUNCTIONS AND POWERS OF DISCIPLINARY BODIES**

- 32.1 The functions of the Professional Conduct Committee are:
- a. to inquire into and investigate matters of professional conduct of Members whether arising from complaint or on its own volition;
  - b. to promote, in appropriate cases, the resolution of complaints by negotiation, conciliation, mediation or written undertaking (requiring a Member to do or abstain from doing certain things);
  - c. to make final determinations in relation to complaints and investigations;
  - d. to refer matters to the Disciplinary Tribunal for final determination.
- 32.2 The functions of the Disciplinary Tribunal are to hear matters referred to it by the Professional Conduct Committee and to make final determinations in relation to such referrals.
- 32.3 The Professional Conduct Committee and Disciplinary Tribunal may:
- a. require Members to cooperate in the disciplinary process including the provision of information and explanations whether in writing or in person;
  - b. decide their own procedures for the hearing and determination of matters;
  - c. impose sanctions on Members including (in the case of the Disciplinary Tribunal) the termination of membership, the suspension of membership and the imposition of monetary penalties.

### **33. CERTIFICATION COMMITTEE**

- 33.1 The Board shall establish a Certification Committee.

- 33.2 The Chair shall be an independent person and not a Member. The Board shall nominate the Chair and the Council shall appoint the Chair. The Chair shall be appointed for a 3 year term from the beginning of the next Financial Year and may be reappointed.
- 33.3 Should the position of Chair become vacant for any reason, the Board shall make an appointment to complete the balance of the current Financial Year.
- 33.4 The members of the Certification Committee, other than the Chair, shall be appointed by the Board from each of the major areas of advice within the membership, after consultation with any relevant Special Interest Group.
- 33.5 The members of the Certification Committee shall serve a term of 2 years from the beginning of the next Financial Year and may be reappointed for 2 further terms of 2 years.
- 33.6 The quorum for a meeting shall be one fewer than the total number of Certification Committee members. In the event of an inability to achieve a quorum the Board may appoint substitutes for Committee members from Members qualified in terms of this clause.

#### **34. COMMITTEES**

- 34.1 The Council or Board may establish such other committees as are considered necessary.
- 34.2 A committee holds no inherent powers and has only those specifically delegated to it.
- 34.3 The Chair and the members of any committee shall be appointed by and be responsible to the body setting up the committee whether it be the Council or the Board, and, unless an appointment has been made for a fixed term, shall serve until a successor is appointed.

#### **35. SPECIAL INTEREST GROUPS**

- 35.1 The Council shall establish and may disestablish Special Interest Groups to reflect areas of advice or specialisation within the membership of the Institute.
- 35.2 The Chair of a Special Interest Group shall be nominated by the Board and appointed by the Council for the next two Financial Years and may be reappointed for two further terms of two years.
- 35.4 A Special Interest Group Chair candidate must have suitable professional status approved by the Board and must have been a General Member for the three consecutive years immediately prior to their nomination.
- 35.5 Each Special Interest Group will have a committee comprising up to five members, in addition to the Chair. Each Special Interest Group Committee member will be appointed for a term of 2 years from the start of the next Financial Year and may be appointed for as many terms of 2 years as the Board thinks fit.
- 35.6 The Special Interest Group Chair shall nominate suitable members to be Committee members and the Board shall appoint the Committee members.
- 35.7 Each Special Interest Group Committee shall be responsible for the professional interests of the area of financial advice of its area of interest.

- a. "Professional interests" shall include such matters as education, recommendations on practices and ethics, the development of promotional activity aimed at promoting the interests of members of the area of financial advice concerned. Any policy, system, activity or promotion proposed by a Committee shall be approved by the Board before publication or implementation.
  - b. Each Committee shall have due consideration for the interests and programmes of other Special Interest Groups.
- 35.8 The quorum for a meeting of a Special Interest Group Committee is half the current members of the committee plus one.
- 35.9 Each Special Interest Group Committee shall prepare an annual budget which is to be approved by the Board.
- 35.10 Each Special Interest Group Chair shall report regularly to the Board and Council.

### **36. CHIEF EXECUTIVE OFFICER**

- 36.1 The Board is to appoint a Chief Executive Officer for the Institute who is to head its management functions.
- 36.2 The Chief Executive Officer is to be appointed on such terms and conditions as the Board considers appropriate.
- 36.3 The Chief Executive Officer is to be the Secretary to the Council and the Board and otherwise works under the direction of the Chair of the Board or such other Director as may be appointed by the Chair from time to time.
- 36.4 The Board has the power to dismiss the Chief Executive Officer for just cause.
- 36.5 The Chief Executive Officer may appoint other staff for the Institute.
- 36.6 The Board is to set the policies and parameters for the fees, remuneration, wages and other employment benefits to be received by Institute staff.

### **37. COMMON SEAL AND SIGNING DOCUMENTS**

- 37.1 The Institute shall have a Common Seal which is to be kept in the custody of the Chief Executive Officer.
- 37.2 Documents shall be signed on behalf of the Institute as follows:
- a. Documents that are required to be signed as a deed shall be signed by the affixing of the Common Seal;
  - b. All other documents may be signed either by the affixing of the Common Seal or by two Directors or by the Chief Executive Officer and one Director.
- 37.2 Documents shall be signed on behalf of the Institute only following a resolution of the Board to that effect.
- 37.3 The affixing of the Common Seal is to be witnessed by two Directors or by the Chief Executive Officer and one Director.

37.2 A register is to be maintained recording all significant details of documents signed on behalf of the Institute. Additions to the register shall be recorded at each meeting of the Board.

### **38. AUDITOR**

38.1 At each Annual General Meeting of the Institute an auditor is to be appointed for the next Financial Year on terms and provisions approved by the meeting.

### **39. WINDING UP**

39.1 The Institute shall not wind up except in accordance with the Act.

39.2 The Institute may be put into liquidation at a General Meeting of the Council by passing a resolution appointing a liquidator and the resolution is confirmed at a subsequent general meeting called for that purpose and held not earlier than 30 days after the date on which the resolution to be confirmed was passed.

39.3 If upon winding up there remains any property after the satisfaction of all liabilities, the same shall not be paid to or distributed amongst the Members, but shall be given or transferred to some other institution or society having objects similar to the objects of the Institute, chosen in accordance with 39.4.

39.4 The institution or society to receive the Institute's property under 39.3 is to be determined by a simple majority of a Council meeting or, in default thereof, by the High Court of New Zealand.

### **40. PRIVACY ACT**

40.1 All Members in joining the Institute are deemed to have consented to the Institute using the names, business addresses and business details of the Member for membership lists and for other purposes reasonably appropriate for the Institute and its purposes.