

CORPORATIONS LAW

CONSTITUTION

Of

COASTLINE CREDIT UNION LTD

ABN 88 087 649 910

**This Constitution was adopted by a special resolution of the
Credit Union on the 8th day of November 2000**

Amendment 12 October 2004

Number of Directors

Amendment 24 October 2006

Appointment and Eligibility of Directors

Amendment 28 October 2008

Assessing Eligibility, Fitness and Propriety to be a Director

Amendment 25 November 2009

Directors' Meetings

Amendment 27 October 2010

Electronic Voting

Amendment 24 October 2012

Member Shares

Amendments 23 October 2013

Convening a General Meeting

Board Size

Alternate Directors

Excluding former employees from election as director

Nominations Committee

Removing Redundant Rules

Amendment 29 October 2014

Board appointed Director

Amended 11 November 2021

Mutual Capital Instrument

Amendment 29 November 2023

Board Appointed Director

.....

Coastline Credit Union Ltd

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1. Preliminary

In this Constitution, unless the contrary intention appears:

'ASIC' means the Australian Securities Investment Commission;

'APRA' means the Australian Prudential Regulation Authority;

'Auditor' means the Credit Union's auditor;

'Board Appointed Director' means a Director appointed by the Directors under clause 51.3;

'Business day' has the same meaning as in the *Corporations Law*;

'Credit Union' means Coastline Credit Union ABN 88 087 649 910 and before 1 July 1999 means the credit union of the same name incorporated and formed under the *Financial Institutions Code*;

'Constitution' means the constitution of the Credit Union as amended from time to time;

'Director' includes any person occupying the position of director of the Credit Union;

'Directors' means all or some of the Directors acting as a board;

'Electronic voting system' means a system approved by the board which enables members to submit their vote by electronic means

'Eligible Shareholder' means:

- (a) in relation to a general meeting of the Credit Union – a Member (other than a minor) and any other Shareholder entitled to attend and vote at the general meeting;
- (b) in relation to a meeting of Shareholders holding a particular class of Shares– a Shareholder holding the relevant class of Shares who is entitled to attend and vote at the meeting;
- (c) in relation to a ballot for the election of Directors – a Member (other than a minor) and any other Shareholder entitled to vote in the ballot.

'Fit and Proper Policy' means the policy adopted by the Directors in relation to the fitness and propriety of Directors, senior managers and auditors required by APRA Prudential Standard APS 520 or any other prudential standard or law applying from time to time;

'MCI' means a means a Share as described in **clauses 77 to 82**;

'MCI Holder' means any person whose name is entered for the time being in the Register as the holder of one or more MCIs;

'Member' means a person whose name is entered for the time being on the Register as the holder of one or more Member Shares, and 'membership' has a corresponding meaning;

'**Member Shares**' mean Statutory Redeemable Preference Shares, Statutory Membership Shares, Transitional Redeemable Preference Shares and New Redeemable Preference Shares;

'**New Redeemable Preference Shares**' means Redeemable Preference Shares issued in accordance with **clause 7** after the date of adoption of this Constitution;

'**Nominations Committee**' means the committee referred to in Schedule 2A.

'**Office**' means the Credit Union's registered office;

'**Redeemable Preference Shares**' mean Statutory Redeemable Preference Shares, Transitional Redeemable Preference Shares and New Redeemable Preference Shares and redeemable preference shares issued under **clause 7**;

'**Register**' means the register of members (as that term is used in the *Corporations Act*) of the Credit Union;

'**Registered Address**' means the last known address of a Member as noted in the Register;

'**Representative**' means a person appointed by a Shareholder to act as its representative under **clause 43** or under section 250D of the *Corporations Law*;

'**Seal**' means the Credit Union's common seal (if any);

'**Secretary**' means any person appointed by the Directors to perform any of the duties of a secretary of the Credit Union and if there are joint secretaries, any one or more of such joint secretaries;

'**Shareholder**' means a person whose name is entered for the time being on the Register as the holder of one or more Shares;

'**Shares**' means shares of the Credit Union including Member Shares and MCIs;

'**Statutory Membership Share**' means the membership shares referred to in **clause 2.1(c)**;

'**Subscription Price**' means:

- (a) the amount payable by a person for an MCI; or
- (b) for an MCI created by conversion from another security, the amount determined in accordance with **clause 78.3**;

'**Transaction**' in **clause 13** in relation to a Member's deposit account with the Credit Union means a debit or credit to the account, other than for:

- (a) The payment of interest by the Credit Union; or
- (b) The charging of a fee by the Credit Union for keeping the account.

'**Transitional Member Shares**' means shares referred to in **clause 2.3**;

'**Statutory Redeemable Preference Shares**' mean the redeemable preference shares referred to in **clause 2.1(b)**;

'**Transitional Redeemable Preference Shares**' means the shares referred to in **clause 2.2**;

1.1 In this Constitution, unless the contrary intention appears:

- (a) The singular includes the plural and vice versa and words importing a gender include other genders;
- (b) Words importing natural persons include corporations;
- (c) Words and expressions defined in the *Corporations Law* have the same meaning in this Constitution;
- (d) Headings are for ease of reference only and do not affect the construction of this Constitution;
- (e) A reference to the *Corporations Law* is a reference to *Corporations Act 2001* and any regulations made under it as modified or amended from time to time; and
- (f) A reference to writing is a reference to any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile and email transmission and documents in electronic form.

1.2 An expression in a provision of this Constitution has the same meaning as in a provision of the *Corporations Law* that deals with the same matter as the provision, unless the contrary intention appears in this Constitution.

1.3 To the extent permitted by law, the replaceable rules in the *Corporations Law* do not apply to the Credit Union.

1.4 The adoption of this Constitution is not intended to have any of the effects contemplated in clause 29(1) of schedule 4 of the *Corporations Law*. The occurrence of any of those events is referred to as a 'demutualisation'. If the adoption of any provision of this Constitution results in a demutualisation, then that provision is severed from this Constitution and, to the extent permitted by law, is replaced by such of provisions of the repealed constitution which was in force immediately before the adoption of this Constitution as is necessary or required so that the adoption of this Constitution does not cause or result in any demutualisation.

ISSUED SHARES

2. **Statutory Membership Shares, Statutory Redeemable Preference Shares and New Redeemable Preference Shares**

2.1 Prior to 1 July 1999, the Company was a credit union regulated under the *Financial Institutions Code* with withdrawable shares on issue.

On 1 July 1999, the Company was taken to have become registered as a public company limited by shares under the *Corporations Law* and:

- (a) Each person who was a member of the Company immediately before 1 July 1999, became a Member of the Company;
- (b) All withdrawable shares of the Company on issue immediately before 1 July 1999 became redeemable preference shares of the Company ('**Statutory Redeemable Preference Shares**'); and
- (c) Any person who was a member of the Company immediately before 1 July 1999 and who did not hold any shares in the Company, was taken to have been issued with a membership share on 1 July 1999 ('**Statutory Membership Share**').

2.2 After 1 July 1999 but before the date of adoption of this Constitution, the Company issued to persons becoming Members of the Company, shares in the Company pursuant to regulation 12.8.12 of the *Corporations Regulations*. These shares are called 'Transitional Redeemable Preference Shares'.

2.3 Accordingly, the issued shares of the Company as at the date of adoption of this Constitution comprise:

- (a) Statutory Membership Shares;
- (b) Statutory Redeemable Preference Shares; and
- (c) Transitional Redeemable Preference Shares.

The Redeemable Preference Shares issued under **clause 7** after the date of adoption of this Constitution are called '**New Redeemable Preference Shares**'.

2.4 A Statutory Membership Share confers on the holder the following rights and obligations:

- (a) It is taken to have been issued under the *Corporations Law*;
- (b) It carries the rights and obligations that were conferred or imposed on the shareholder in a capacity other than that of shareholder by:
 - (i) The Company's rules (as in force immediately before 1 July 1999); and
 - (ii) The previous Financial Institutions Code;
- (c) No amount is paid or unpaid in respect of the share;
- (d) The share is not:
 - (i) Transferable or transmissible; or
 - (ii) Capable of devolution by will or by operation of law; and

- (e) Can be cancelled at the option of the shareholder or the Company in the circumstances in which the member who holds the share could have had their membership of the Company cancelled immediately before 1 July 1999.
- 2.5 A Redeemable Preference Share confers on the holder those rights and obligations conferred or imposed by the *Corporations Law* from time to time except that:
- (a) Each share is redeemable on the same terms that a withdrawable share was withdrawable under the *Financial Institutions Code* and the Company's rules prior to 1 July 1999; and
 - (b) The holders of the share continue to have the same rights and obligations that they had or would have had by holding a withdrawable share.
- 2.6 Statutory Redeemable Preference Shares, Statutory Membership Shares, Transitional Redeemable Preference Shares and New Redeemable Preference Shares comprise a single class of shares being Member Shares but have been separately identified in this Constitution to reflect the statutory history and origin of the shares.
- 2.7 For so long as permitted by law, no share certificates will be issued in respect of Member Shares.

NEW MEMBER SHARE ISSUES - MEMBERSHIP REQUIREMENTS

3. Eligibility

A person, including a body corporate is only eligible for membership in accordance with this Constitution.

4. Admission to membership

The Directors have the power to admit a person to membership provided:

- (a) The person makes written application in a form as required by the Directors. An application for membership may be made by completing an electronic application form, signing it (whether electronically or otherwise) and returning it to the Credit Union;
- (b) The person submits evidence satisfactory to the Directors as to that person's eligibility under this Constitution;
- (c) The person subscribes for one Member Share at an issue price of \$2 and which are paid up to the amount required by the Directors; and
- (d) Pays any admission fee.

5. Admission to membership - delegation of power

- (a) The Directors may, by resolution, delegate its power to admit Members to offices of the Credit Union;
- (b) Any delegation must not include authority to:

- (i) Reject any application for membership. Such applications must be referred to the Directors for consideration; or
 - (ii) Further delegate the power to admit Members.
- (c) The delegation must be evidenced by a resolution of the Directors and a copy of that resolution must be given to each delegate.

6. Admission to membership - absolute discretion

The Directors have an absolute discretion in exercising the power to admit Members without an obligation to assign a reason for not admitting a person as a Member.

7. Issue of new Member Shares

Upon the Directors admitting a person to membership, the Directors must:

- (a) Issue and allot to the person one Redeemable Preference Share;
- (b) Enter particulars in the Register; and
- (c) Give the person written notification that their application for membership has been accepted.

SHARE HOLDINGS GENERALLY

8. Trusts not recognised

- 8.1 Except as required by law or as otherwise provided by this Constitution, the Credit Union will not recognise any person as holding a Share on trust and the Credit Union will not recognise any equitable, contingent, future or partial interest or any other right in respect of a Share except the registered holder's absolute right of ownership.
- 8.2 Subject to the other clauses, this **clause 8** applies even if the Credit Union has notice of the relevant trust, interest or right.

9. Joint holders

- 9.1 If two or more persons are registered as the holders of a Share, they are taken to hold the Share as joint tenants with benefits of survivorship and the person whose name appears first on the Register is the only joint holder entitled to receive notices from the Credit Union.
- 9.2 Any one of the joint holders of a Share may give effectual receipts for any return of capital payable to the joint holders.

MEMBERSHIP CEASING

10. Cessation of membership

A person ceases to be a Member when:

- (a) That person is expelled under **clause 12**;
- (b) That person's membership is cancelled under **clause 13**;
- (c) That person redeems his or her Member Shares from the Credit Union in accordance with **clause 17**;
- (d) The capital paid in relation to that person's Member Shares the amount required to be tendered and held as a deposit under the former rules of the Credit Union, has been appropriated by the Credit Union under **clause 19**;
- (e) The Directors approve an application for cancellation of membership by a holder of a membership share on being satisfied that all financial accommodation and other obligations have been discharged;
- (f) That person becomes a bankrupt or, being a body corporate is wound up; or
- (g) That person dies.

11. Cancellation of shares

The Member Shares of a person who ceases to be a Member are cancelled immediately on that person ceasing to be a Member.

12. Expulsion

- (a) The Directors may expel a Member on the grounds that the Member:
 - (i) Has failed to discharge his or her obligations to the Credit Union;
 - (ii) Has been guilty of conduct detrimental to the Credit Union; or
 - (iii) Has obtained membership by misrepresentation or mistake.
- (b) Before proceedings to consider a resolution to expel a Member, the Directors must give the Member 14 days' notice of the proposed resolution.
- (c) At the time the Directors consider the proposed resolution, the Member is entitled:
 - (i) To be present with or without his or her legal representative; and
 - (ii) To be heard, either in person or through his or her legal representative.
- (d) The Credit Union must pay the expelled Member the amount paid up on that Member's Redeemable Preference Shares after satisfaction of all liabilities and obligations.

13. Dormancy

- (a) The Credit Union may classify a Member's deposit account as a dormant account if:
 - (i) There have been no Transactions in the account for at least 1 year;
 - (ii) The Credit Union has given the Member a written notice stating that, unless the Member gives to the Credit Union a written notice within 1 month stating that the Member wishes the account to remain open, the Credit Union intends to close the account; and
 - (iii) The Credit Union does not receive a written notice from the Member under paragraph (b).
- (b) The Credit Union may cancel that Member's Member Shares if the Member's only account with the Credit Union is a dormant account.
- (c) The Credit Union may transfer the amount held in a dormant account to a suspense account.
- (d) The Credit Union may charge a Member a fee for keeping an account for the Member in suspense account but the fee must not be more than the lesser of:
 - (i) The amount held for the person in the suspense account; or
 - (ii) \$10.00 or such other amount determined by the Board from time to time.
- (e) This clause is subject to any law of unclaimed money.

14. Death of a Member

The estate of a deceased Member:

- (a) Remains liable to the Credit Union for the amount of any unpaid financial accommodation provided by the Credit Union to the deceased Member; and
- (b) Retains any entitlements due from the Credit Union.

15. Bankruptcy or winding-up of a Member

The rights and liabilities of Members made bankrupt or wound-up are as provided in the laws relating to bankruptcy and insolvency.

MEMBER SHARES**16. Ranking of shares**

Each Member Share ranks equally with all other Member Shares.

17. Repayment of share capital

The Credit Union must repay the amount paid up in respect of a Member's Member Share if:

- (a) The Member requests it; and
- (b) The Member has repaid all outstanding financial accommodation and discharged all other obligations to the Credit Union.

18. Shares not transferable

A Member may not transfer, sell or assign Member Shares but may require such Member Shares to be repaid in accordance with **clause 17**.

19. Charge on Member Shares or Deposit Account

19.1 If the Credit Union has informed a Member:

- (a) At the time when the Member took up his or her Redeemable Preference Shares or placed money on deposit under the former rules; and
- (b) At least once a year after that time,

The Credit Union may charge that Member's Member Shares or the credit balance of that Member's deposit account for any debt owed by the Member to the Credit Union.

19.2 If the Credit Union has complied with **clause 19.1**, the Credit Union has in relation to any debt owed by that Member of the Credit Union, a charge on:

- (a) The Member's Member Shares;
- (b) The credit balance of any deposit account of the Member; and
- (c) Any interest, bonus or rebate payable to the Member.

19.3 The Credit Union can exercise its charge by appropriating any capital paid in relation to the Member's Member Shares or any other money subject to the charge. If the Credit Union appropriates the whole of the capital paid in relation to a Member's Member Shares or the credit balance of any deposit account of the Member, the Member Shares held by that person or monies in any such deposit account will be forfeited and any surplus funds must be refunded to the Member.

CALLS**20. General**

20.1 Subject to the *Corporations Act* and the terms on which partly paid Shares are issued, the Directors may make calls on the holders of the Shares for any money unpaid on them.

20.2 A call is made when the resolution of the Directors authorising it is passed.

20.3 The Directors may revoke or postpone a call before its due date for payment.

- 20.4 The Directors may require a call to be paid by instalments.
- 20.5 The Company must comply with the *Corporations Act* in relation to the dispatch and content of notices to Shareholders on whom a call is made.
- 20.6 A Shareholder to whom notice of a call is given in accordance with this **clause 20** must pay to the Company the amount called in accordance with the notice.
- 20.7 Failure to send a notice of a call to any Shareholders or the non-receipt of a notice by any Shareholders does not invalidate the call.
- 20.8 Joint holders of Shares are jointly and severally liable to pay all calls in respect of their Shares.

21. Instalments and amounts which become payable

If:

- (a) The Directors require a call to be paid by instalments; or
- (b) The amount becomes payable by the terms of issue of Shares on allotment, or at a time or in circumstances specified in the terms of issue,

Then:

- (c) Every instalment or the amount payable under the terms of issue is payable as if it were a call made by the Directors and as if they had given notice of it; and
- (d) The consequences of late payment or non-payment of an instalment or the amount payable under the terms of issue are the same as the consequences of late payment or non-payment of a call.

22. Interest and expense

- 22.1 If an amount called is not paid on or before the due date, the person liable to pay the amount must also pay:
- (a) Interest on the amount from the due date to the time of actual payment at a rate determined by the Directors (not exceeding 20% per annum); and
 - (b) All expenses incurred by the Company as a consequence of the non-payment, but the Directors may waive payment of the interest and expenses in whole or in part.

23. Recovery of amounts due

- 23.1 On the hearing of any action for the recovery of money due for any call, proof that:
- (a) The name of the person sued was, when the call was made, entered in the Register as a holder or the holder of Shares in respect of which the call was made;
 - (b) The resolution making the call is duly recorded in the Directors' minute book; and

(c) Notice of the call was given to the person sued,

Will be conclusive evidence of the debt.

24. Payment of calls in advance

24.1 The Directors may accept from a Shareholder the whole or part of the amount unpaid on a Share before the amount accepted has been called.

24.2 The Company may:

(a) pay interest on any amount accepted until the amount is payable under a call and at a rate (not exceeding 20% per annum) agreed between the Shareholder and the Directors; and

(b) Subject to any contract between the Company and the Shareholder, repay all or any of the amount accepted in excess of the amount called on the Share.

24.3 Payment of an amount in advance of a call does not entitle the paying Shareholder to any:

(a) Benefit or advantage, other than the payment of interest under this **clause 24**;

or

(b) Voting right,

To which the Shareholder would not have been entitled if it had paid the amount when it became due.

LIEN AND FORFEITURE

25. Lien

25.1 The Company has a first and paramount lien on every partly paid Share payable in respect of the Share for all money:

(a) Due and unpaid to the Company at a fixed time, in respect of the Share;

(b) Presently payable by a holder or the holder of the Share, or the holder's estate, to the Company in respect of the Share; or

(c) Which the Company is required by law to pay (and has paid) in respect of the Share.

25.2 The lien extends to reasonable interest and expenses incurred because the amount is not paid.

25.3 If any law for the time being of any country, state or place imposes or purports to impose an immediate or contingent liability on the Company to make any payment or authorises a taxing authority of Government official to require the Company to make payment in respect of Shares or dividends or other moneys accruing due to the Member who holds the Shares:

- (a) The Shareholder or, if the Shareholder is deceased, the Shareholder's legal personal representative, indemnifies the Company in respect of any such payment or liability; and
- (b) Subject to the *Corporations Act*, the Company:
 - (i) Has a lien on the Shares and other moneys payable in respect of the Shares, whether the Shares are held by the Shareholder solely or jointly with another person in respect of any payment made or liability incurred by the Company, together with reasonable expenses and interest on any payment made by the Company at a rate to be fixed by the Directors not exceeding 20% per annum from the date of payment by the Company to the date of repayment by the Shareholder;
 - (ii) May set off amounts so paid by the Company against amounts payable by the Company to the Shareholder; and
 - (iii) May recover as a debt due from the Shareholder or its legal personal representative the amount of all payments made by the Company together with reasonable expenses and interest at the rate and for the period referred to in **clause 25.3(b)(i)**.

25.4 The Company may do all things which the Directors think necessary or appropriate to enforce or protect the Company's lien.

25.5 The Directors may declare a Share to be wholly or partly exempt from a lien.

26. Forfeiture notice

26.1 The Directors may at any time after a call or instalment becomes payable and remains unpaid by a Shareholder, serve a notice on the Shareholder requiring the Shareholder to pay all or any of the following:

- (a) The unpaid amount;
- (b) Any interest that has accrued; and
- (c) All expenses incurred by the Company as a consequence of the non-payment.

26.2 The notice under **clause 26.1** must:

- (a) Specify a day (not earlier than 14 days after the date of the notice) on or before which the payment required by the notice must be made; and
- (b) State that if a Shareholder does not comply with the notice, the Shares in respect of which the call was made or instalment is payable will be liable to be forfeited.

27. Forfeiture

27.1 If a Shareholder does not comply with a notice served under **clause 26**, then any or all of the Shares in respect of which the notice was given may be forfeited under a resolution of the Directors.

- 27.2 The Directors may, at any time before a forfeited Share is cancelled, annul the forfeiture of the Share on conditions determined by them.
- 27.3 On forfeiture, Shares become the property of the Company and forfeited Shares must be cancelled on terms determined by the Directors.
- 27.4 Promptly after a Share has been forfeited:
- (a) Notice of the forfeiture must be given to the Shareholder in whose name the Share was registered immediately before its forfeiture; and
 - (b) The forfeiture and its date must be noted in the Register.
- 27.5 Omission or neglect to give notice of or to note the forfeiture as specified in **clause 27.4** will not invalidate forfeiture.

28. Liability of a former Shareholder

- 28.1 The interest of a person who held Shares which are forfeited is extinguished but the former Shareholder remains liable to pay:
- (a) All money (including interest and expenses) that was payable by the Shareholder to the Company at the date of forfeiture in respect of the forfeited Shares; and
 - (b) Interest from the date of forfeiture until payment of the money referred to in **clause 28.1(a)** at a rate determined by the Directors (not exceeding 20% per annum).
- 28.2 A former Shareholder's liability to the Company ceases if and when the Company receives payment in full of all money (including interest and expenses) payable by the former Shareholder in respect of the Shares.

SHAREHOLDERS' MEETINGS

29. Convening Shareholders' meeting

29.1 The Directors may, at any time, convene a:

- (a) general meeting;
- (b) meeting of Shareholders holding a particular class of Shares.

30. Notice of Shareholders' meeting

- 30.1 A notice of Shareholders' meeting must state the business to be transacted at the meeting such as, where relevant:
- (a) The consideration of the annual financial report, Directors' report and Auditor's report;
 - (b) The election of directors;
 - (c) The appointment and fixing of the remuneration of the Directors.

- 30.2 (a) The Directors may postpone or cancel any Shareholders' meeting whenever they think fit (other than a meeting convened as the result of a request under **clause 20.2**).
- (b) The Directors must give notice of the postponement or cancellation to all persons entitled to receive notices from the Credit Union.
- 30.3 The failure or accidental omission to send a notice of a Shareholders' meeting (including a proxy appointment form) to any Eligible Shareholder or the non-receipt of a notice (or form) by any Eligible Shareholder does not invalidate the proceedings at or any resolution passed at the general meeting.

PROCEEDINGS AT GENERAL MEETINGS

31. Member

In **clauses 33, 34, 36, 37**, 'Eligible Shareholder' includes an Eligible Shareholder present in person or by proxy, attorney or Representative.

32. Quorum

32.1 No business may be transacted at a Shareholders' meeting unless a quorum of Eligible Shareholders is present when the meeting proceeds to business.

32.2 A quorum of Eligible Shareholders is the lesser of:

- (a) 25;
- (b) half the Eligible Shareholders.

32.3 If a quorum is not present within 30 minutes after the time appointed for a meeting:

- (a) If the meeting was convened on the requisition of Eligible Shareholders, it is automatically dissolved; or
- (b) In any other case:
 - (i) It will stand adjourned to the same time and place seven days after the meeting, or to another day, time and place determined by the Directors; and
 - (ii) If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, it is automatically dissolved.

33. Chairman

33.1 The chairperson, or in the chairperson's absence the deputy chairperson of Directors' meetings will be the chairperson at every Shareholders' meeting.

33.2 If:

- (a) There is no chairperson or deputy chairperson; or
- (b) Neither the chairperson nor deputy chairperson is present within 15 minutes after the time appointed for holding the meeting; or
- (c) The chairperson and deputy chairperson are unwilling to act as chairperson of the meeting,

The Directors present may elect a chairperson.

33.3 If no election is made under **clause 34.2**, then:

- (a) The Eligible Shareholders may elect one of the Directors present as chairperson; or
- (b) If no Director is present or is willing to take the chair, the Members may elect one of the Eligible Shareholders present as chairperson.

33.4 If there is a dispute at a general meeting about a question of procedure, the chairperson may determine the question.

34. Adjournment

34.1 The chairperson of a meeting at which a quorum is present:

- (a) In his or her discretion may adjourn a meeting with the meeting's consent; and
- (b) Must adjourn a meeting if the meeting directs him or her to do so.

34.2 An adjourned meeting may take place at a different venue to the initial meeting.

34.3 The only business that can be transacted at an adjourned meeting is the unfinished business of the initial meeting.

34.4 If a general meeting has been adjourned for more than 21 days, at least 3 days written notice (exclusive of the day on which the notice is served or taken to be served and of the day for which notice is given) of the adjourned meeting must be given to Eligible Shareholders.

35. Decision of questions

35.1 Subject to the *Corporations Law* in relation to special resolutions, a resolution is carried if a majority of the votes cast on the resolution are in favour of the resolution.

35.2 A resolution put to the vote of a meeting is decided on a show of hands unless a poll is demanded in accordance with the *Corporations Law*.

35.3 If the credit union has an Electronic Voting System which permits members to vote at or prior to a meeting by electronic means on a show of hands or a poll, a vote cast by

an Eligible Shareholder by electronic means is taken to have been cast on the show of hands or poll and is to be counted accordingly.

- 35.4 If an Eligible Shareholder has voted on a resolution by electronic means prior to a meeting the Eligible Shareholders may not cast another vote on the resolution at the meeting.
- 35.5 Before a Shareholders' meeting votes by a show of hands on a resolution, the chair must inform the meeting if any votes have been received by electronic means prior to the meeting and, if so:
- (a) how many valid votes by electronic means the credit union has received prior to the meeting; and
 - (b) how the votes received by electronic means prior to the meeting have voted on the resolution.
- 35.6 Before a Shareholders' meeting votes by poll on a resolution, the chair must inform the meeting:
- (a) If any proxy votes have been received and, if so:
 - (i) how many proxy documents the credit union has received that validly appoint a person present at the meeting as proxy;
 - (ii) how many of these proxy documents direct the proxies how to vote on the resolution; and
 - (iii) how the proxies are directed to vote on the resolution.
 - (b) If any votes have been received by electronic means prior to the meeting and, if so:
 - (i) how many valid votes by electronic means the credit union has received prior to the meeting; and
 - (ii) how the votes received by electronic means prior to the meeting have voted on the resolution.
- 35.7 The Shareholders' meeting passes an ordinary resolution only if more than half the total number of votes cast on the resolution are in favour of it.
- 35.8 The chairperson does not have a casting vote in addition to the chairperson's votes as an Eligible Shareholder, proxy, attorney or Representative.
- 35.9 Unless a poll is demanded:
- (a) A declaration by the chairperson that a resolution has been carried, carried by a specified majority, or lost; and
 - (b) An entry to that effect in the minutes of the meeting,

Is conclusive evidence of the fact without proof of the number or proportion of the votes in favour of or against the resolution.

35.10 The demand for a poll may be withdrawn.

35.11 A decision of a Shareholders' meeting may not be impeached or invalidated on the ground that a person voting at the meeting was not entitled to do so.

36. Taking a poll

36.1 A poll will be taken when and in the manner that the chairperson directs.

36.2 The result of the poll will be the resolution of the meeting at which the poll was demanded.

36.3 The chairperson may determine any dispute about the admission or rejection of a vote.

36.4 The chairperson's determination, if made in good faith, will be final and conclusive.

36.5 A poll demanded on the election of the chairperson or the adjournment of a meeting must be taken immediately.

36.6 After a poll has been demanded at a meeting, the meeting may continue for the transaction of business other than the question on which the poll was demanded.

VOTES OF ELIGIBLE SHAREHOLDERS

37. Member entitlement to vote

A Member's entitlement to vote may not be exercised if:

- (a) In the case of a Member who is a holder of Member Shares, that Member did not hold the required number of Member Shares required to be held under the former rules of the Credit Union or (where the Shares are issued under this Constitution) under **clause 7**, as paid up shares:
 - (i) In relation to an annual general meeting, on the day before nominations for election of Directors close; and
 - (ii) In relation to a special general meeting, at least seven days before notice of the special general meeting is given; and
- (b) In the case of a Member who is the holder of a Membership Share, that Member did not make a deposit of or does not subsequently hold a deposit of the amount required to be tendered under the previous rules of the Credit Union;
 - (i) In relation to an annual general meeting, on the day before nominations for election of Directors close; and

- (ii) In relation to a special general meeting, at least seven days before notice of the special general meeting is given.

38. Voting Rights

At Shareholders' meetings:

- (a) Each Eligible Shareholder may vote by proxy;
- (b) Subject to:
 - (i) the provisions in this Constitution regarding voting by corporate representatives or proxy; and
 - (ii) any other provisions in this Constitution relating to the voting rights of Shareholders (including **clause 79**),

on a show of hands or on a poll any Eligible Shareholder present either personally or by proxy has one vote, regardless of the number of Shares held.

A Member who is a minor may not vote or hold office in the Credit Union.

39. Joint holders

- 39.1 If two or more joint holders purport to vote, the vote of the joint holder whose name appears first in the Register will be accepted, to the exclusion of the other joint holder or holders.
- 39.2 For the purposes of this **clause 39**, several executors or administrators of a deceased Eligible Shareholder in whose sole name any Shares are registered will be taken to be joint holders of those Shares.

40. Objections

- 40.1 An objection to the qualification of a voter may be raised only at the meeting or adjourned meeting at which the voter tendered its vote.
- 40.2 An objection must be referred to the chairperson of the meeting, whose decision made in good faith is final.
- 40.3 A vote, which the chairperson does not disallow pursuant to an objection, is valid for all purposes.

41. Votes by operation of law

A person who has satisfied the Directors not less than 24 hours before a Shareholders' meeting that the person is entitled to a Share by operation of law may exercise all rights attached to the Share in relation to a Shareholders' meeting, as if the person were the registered holder of the Share.

42. Validity of proxy

A vote cast in accordance with an appointment of proxy or power of attorney is valid even if before the vote was cast the appointor:

- (a) Died;
- (b) Became of unsound mind;
- (c) Revoked the proxy or power; or
- (d) Transferred the Shares in respect of which the vote was cast,

Unless any written notification of the death, unsoundness of mind, revocation or transfer was received by the Credit Union before the relevant meeting or adjourned meeting.

43. Representatives of corporations

- 43.1 Any Eligible Shareholder, which is a corporation, may appoint an individual as its representative as provided by the *Corporations Law*.
- 43.2 The chairperson of a Shareholders' meeting may permit a person claiming to be a Representative to exercise his or her powers even if he or she has not produced a certificate evidencing his or her appointment, or may allow the Representative to vote on the condition that he or she subsequently establishes to the satisfaction of the chairperson of the general meeting his or her status as a Representative within a period prescribed by the chairperson of the general meeting.
- 43.3 The appointment of a Representative may set out restrictions on the Representative's powers.

44. Consideration of any Resolution that may alter the Company's Mutual Structure

Schedule 3 applies to any Demutualisation Resolution (as defined in Schedule 3) to be submitted to members.

APPOINTMENT AND REMOVAL OF DIRECTORS

45. Number of Directors

- 45.1 The number of Directors is determined by the Directors from time to time.

46. Qualification

- 46.1 A person is not eligible to be a Director if the person:
 - (a) Is neither:
 - (i) a Member of the Credit Union; nor
 - (ii) the representative of a body corporate member of the Credit Union,
or
 - (b) Is a minor; or
 - (c) Is an employee of the Credit Union (except where **clause 58** applies); or

- (d) Is bankrupt, has applied to take the benefit of any law for the relief of bankrupt of insolvent debtors, compounded with his or her creditors, or made an assignment of his or her remuneration for their benefit; or
- (e) is disqualified or prevented by law from being a Director; or
- (f) has been convicted in the last ten years of:
 - (i) an indictable offence in relation to the promotion, formation or management of a body corporate; or
 - (ii) an offence involving fraud or dishonesty; or
- (g) is a Member whose voting rights have been suspended under clause 28.

46.2 A person is not eligible to be appointed Director under clause 47 if:

- (a) the Nominations Committee has determined that the person does not have the appropriate fitness and propriety to be and act as a Director, by reference to the Fit and Proper Policy; or
- (b) the person was an employee of the Credit Union at any time in the 3 years immediately preceding the date nominations close under Schedule 2.

Corporations Law Commentary

Section 201B(1) provides that only individuals (not bodies corporate) who are at least 18 may be directors.

47. Election of Directors and the appointment and removal of Directors

- 47.1 The rules in Schedule 2 apply to the election of Directors.
- 47.2 The Credit Union may by resolution passed in general meeting:
 - (i) Remove any Director; and
 - (ii) Appoint another person in the Director's place.

48. Additional and casual Directors

- 48.1 Subject to **clause 46.1**, the Directors may appoint any person as a Director to fill a casual vacancy or as an addition to the existing Directors.
- 48.2 A person appointed as Director under clause 48.1 holds office until the conclusion of the Credit Union's next annual general meeting.
- 48.3 In addition the Directors may appoint a Board Appointed Director for a term of office determined by the Directors that does not exceed 3 years. A Board Appointed Director may receive, and the Credit Union may pay the Board Appointed Director, such reasonable remuneration as determined by the Directors. The Credit Union may only have two Board Appointed Director at any time. Clauses 49 and 50 do not apply to a Board Appointed Director.

49. Retirement by rotation and nominations of directors

- 49.1 At each annual general meeting one-third of the Directors or, if their number is not a multiple of three, then the number nearest to but not more than one-third of the Directors must retire from office.
- 49.2 (a) The Directors to retire by rotation at an annual general meeting are those Directors who have been longest in office since their last election or appointment.
- (b) Directors elected or appointed on the same day may agree among themselves or determine by lot which of them must retire.
- 49.3 A Director must retire from office at the conclusion of the third annual general meeting after the Director was last elected, even if his or her retirement results in more than one-third of all Directors retiring from office.
- 49.4 A retiring Director will be eligible for re-election.
- 49.5 A person other than a Director retiring by rotation or seeking re-election is not eligible for election as a Director at a general meeting unless the person complies with the rules relating to the nomination of candidates set out in **Schedule 2**.

50. Period of office

Subject to this Constitution, a Director is elected for a term of three years, commencing at the end of the annual general meeting at which his or her election is announced and ending at the end of the third annual general meeting happening after his or her election. Subject to this clause, a Director will continue to hold office until he or she dies or until his or her office is vacated pursuant to **clause 54**.

51. Vacation of office

The office of a Director immediately becomes vacant if the Director:

- (a) Dies;
- (b) Ceases to be eligible to be a Director under clause 46.1;
- (c) As a representative of a body corporate member of the Credit Union whose eligibility for election to the office was based on being that representative, ceases to be so eligible;
- (d) Having been elected as an Employee Director ceases to be an employee of the Credit Union;
- (e) Is absent from three consecutive ordinary meetings of the Board of Directors without its leave;
- (f) Resigns by written notice given to the Board of Directors;

- (g) Is three months in arrears in relation to money due to the Credit Union and has failed to make arrangement for payment satisfactory to the Credit Union;
- (h) Cannot manage the Company because of his or her mental incapacity and is a person whose estate or property has had a personal representative or trustee appointed to administer it.

REMUNERATION OF DIRECTORS

52. Remuneration of Directors

- 52.1 The Directors (other than any Employee Director) may be paid as remuneration for their services the aggregate maximum sum from time to time determined by the Credit Union in general meeting.
- 52.2 Unless otherwise resolved by the Credit Union in general meeting, the remuneration will be divided between the Directors in such proportion and manner as the Directors agree and, in default of agreement, equally and the Directors may determine how and when it is to be paid. The remuneration accrues from day to day.
- 52.3 If a Director is required to perform services for the Credit Union which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, then the Credit Union may pay the Director a fixed sum determined by the Directors in addition to or instead of the Director's remuneration under **clause 55.1**.
- 52.4 In addition to remuneration, the Directors may be paid all reasonable expenses incurred by them in connection with the business of the Credit Union.
- 52.5 The Credit Union may also pay a premium in respect of a contract insuring a person who is or has been a Director against a liability incurred by the person as a Director, except in circumstances prohibited by the *Corporations Law*.

53. Remuneration of Employee Director

- 53.1 The remuneration of an Employee Director may from time to time be fixed by the Directors.
- 53.2 The Credit Union may pay a premium in respect of a contract insuring a person who is or has been an Employee Director against a liability incurred by the person as a Director, except in circumstances prohibited by the *Corporations Law*.

POWERS AND DUTIES OF DIRECTORS

54. Directors to manage Credit Union

- 54.1 The business of the Credit Union is managed by the Directors who may exercise all powers of the Credit Union that this Constitution and the *Corporations Law* do not require to be exercised by the Credit Union in general meeting.
- 54.2 Without limiting the generality of **clause 57.1**, subject to any applicable prudential standards (including standards issued by the Australian Prudential Regulations Authority) the Directors may exercise all the powers of the Credit Union to:
 - (a) Borrow money;

- (b) Charge any property or business of the Credit Union or all or any of its uncalled capital;
- (c) Issue debentures or give any other security for a debt, liability or obligation of the Credit Union or of any other person; and
- (d) Guarantee or to become liable for the payment of money or the performance of any obligation by or of any other person.

54.3 Every Director and other agent or officer of the Credit Union must:

- (a) Keep secret all aspects of all transactions of the Credit Union, except:
 - (i) To the extent necessary to enable the person to perform his or her duties to the Credit Union;
 - (ii) As required by law; and
 - (iii) When requested to disclose information by the Directors, to the auditors of the Credit Union or a general meeting of the Credit Union; and
- (b) If requested by the Directors, sign and make a declaration that he or she will not disclose or publish any aspect of any transaction of the Credit Union.

PROCEEDINGS OF DIRECTORS

55. Directors' meetings

- 55.1 A Director may at any time, and the Secretary must on the request of a Director, convene a Directors' meeting.
- 55.2 It is not necessary to give notice of a meeting of the Directors to a Director whom the Secretary, when giving notice to the other Directors, reasonably believes to be outside Australia.
- 55.3 (a) Subject to the *Corporations Law*, a Directors' meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
- (b) The Directors need not all be physically present in the same place for a Directors' meeting to be held.
- (c) A Director who participates in a meeting held in accordance with this **clause 58.3** is taken to be present and entitled to vote at the meeting.

A Director can only withdraw his or her consent to the means of communication between Directors proposed for a Director's Meeting if the Director does so at least 48 hours before the meeting, **Clause 58.3** applies to meetings of Directors' committees as if all committee members were Directors.

55.4 The Directors may meet together, adjourn and regulate their meetings as they think fit.

55.5 The quorum for a Board meeting is a majority of Directors. If within 30 minutes of the time appointed for a meeting of the Board, a quorum is not present the meeting will stand adjourned to the same day in the next week at the same time and place.

55.6 Notice of a meeting of Directors may be given in writing, or the meeting may be otherwise called using any technology consented to by all the Directors.

56. Decision of questions

56.1 Subject to this Constitution, questions arising at a meeting of Directors are to be decided by a majority of votes of the Directors present and voting and, subject to this **clause 59**, each Director has one vote.

56.2 The chairperson of a meeting does not have a casting vote in addition to his or her deliberative vote if there is an equality of votes.

57. Directors' interests

57.1 A Director and any firm, body or entity in which a Director has a direct or indirect interest may in any capacity:

- (a) Enter into any contract or arrangement with the Credit Union;
- (b) Be appointed to and hold any office or place of profit under the Credit Union, other than the office of auditor; and
- (c) Act in a professional capacity, other than as auditor, for the Credit Union,

And may receive and retain for his or her own benefit any remuneration, profits or benefits as if he or she were not a Director.

57.2 Each Director must disclose his or her interests to the Credit Union in accordance with the *Corporations Law* and the Secretary must record all declarations in the minutes of the relevant Directors' meeting.

57.3 A Director's failure to make disclosure under this clause does not render void or voidable a contract or arrangement in which the Director has a direct or indirect interest.

57.4 A Director must not vote in respect of a contract or arrangement or proposed contract or arrangement in which the Director has a direct or indirect material interest.

57.5 (a) If the Director does purport to vote, the Director's vote will not be counted.

(b) The requirement in this **clause 60.5(a)** is in addition to any requirements of the *Corporations Law* in relation to voting by an interested director of a public Credit Union.

57.6 A Director may join in executing on behalf of the Credit Union any document relating to a contract or arrangement or proposed contract or arrangement in which the Director has an interest.

58. Employee Directors

The Eligible Shareholders may elect one employee of the Credit Union, otherwise qualified under **clause 46** to be a Director the Credit Union. Only the Directors may nominate an employee for election.

59. Remaining Directors

59.1 The Directors may act even if there are vacancies on the board.

59.2 If the number of Directors is not sufficient to constitute a quorum at a Directors' meeting, the Directors may act only to:

- (a) Appoint a Director; or
- (b) Convene a general meeting.

60. Chairperson

60.1 The Directors may elect a Director as chairperson of Directors' meetings and may determine the period for which the chairperson will hold office.

60.2 If no chairperson is elected or if the chairperson is not present at any Directors' meeting within 10 minutes after the time appointed for the meeting to begin, the Directors present must elect a Director to be chairperson of that meeting only.

60.3 The Directors may elect a Director as deputy chairperson to act as chairperson in the chairperson's absence.

61. Directors' committees

61.1 (a) The Directors may delegate any of their powers to a committee or committees.

(b) A committee must include at least one Director.

(c) The Directors may at any time revoke any delegation of power to a committee.

61.2 A committee must exercise its powers in accordance with any directions of the Directors and a power exercised in that way is taken to have been exercised by the Directors.

61.3 A committee may be authorised to sub-delegate all or any of the powers for the time being vested in it.

61.4 Meetings of any committee will be governed by the provisions of this Constitution which deal with Directors' meetings so far as they are applicable and are not inconsistent with any directions of the Directors.

61.5 Nominations Committee

The Directors shall establish a Nominations Committee in accordance with Schedule 2A.

62. Written resolutions

- 62.1 The Directors may pass a resolution without a directors' meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Director signs.
- 62.2 For the purposes of **clause 66.1**, separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.
- 62.3 Any document referred to in this clause may be in the form of a facsimile transmission or electronic notification.
- 62.4 This clause applies to meetings of Directors' committees as if all members of the committee were Directors.

63. Validity of acts of Directors

If it is discovered that:

- (a) There was a defect in the appointment of a person as a Director or member of a Directors' committee; or
- (b) A person appointed to one of those positions was disqualified,

All acts of the Directors or the Directors' committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

64. Minutes and registers

64.1 The Directors must cause minutes to be made of:

- (a) The names of the Directors present at all general meetings, Directors' meetings and meetings of Directors' committees;
- (b) All proceedings and resolutions of general meetings, Directors' meetings and meetings of Directors' committees;
- (c) All resolutions passed by the Directors in accordance with **clause 66**;
- (d) All orders made by the Directors and Directors' committees; and
- (e) All disclosures of interests made pursuant to **clause 60**.

64.2 Minutes must be signed by the chairperson of the meeting or by the chairperson of the next meeting of the relevant body, and if so signed will as between the members be conclusive evidence of the matters stated in such minutes.

65. Appointment of attorneys and agents

65.1 The Directors may from time to time appoint any person to be the agent or attorney of the Credit Union:

- (a) For the purposes;
 - (b) With the powers, authorities and discretions (not exceeding those exercisable by the Directors under this Constitution);
 - (c) For the period; and
 - (d) Subject to the conditions, determined by the Directors.
- 65.2 An appointment by the Directors of an attorney or agent of the Credit Union may be made in favour of:
- (a) Any Credit Union;
 - (b) The members, directors, nominees or managers of any Credit Union or firm; or
 - (c) Any fluctuating body of persons whether nominated directly or indirectly by the Directors.
- 65.3 A power of attorney may contain such provisions for the protection and convenience of persons dealing with an attorney as the Directors think fit.
- 65.4 The Directors may appoint attorneys or agents by facsimile transmission, telegraph or cable to act for and on behalf of the Credit Union.
- 65.5 An attorney or agent appointed under this **clause 69** may be authorised by the Directors to sub-delegate all or any of the powers authorities and discretions for the time being vested in it.

SECRETARY

66. Secretary

- 66.1 There must be at least one secretary of the Credit Union appointed by the Directors for a term and at remuneration and on conditions determined by them.
- 66.2 The Secretary is entitled to attend and be heard on any matter at all Directors' and general meetings.
- 66.3 The Directors may, subject to the terms of the Secretary's employment contract, suspend, remove or dismiss the Secretary.

SEALS

67. Common Seal

If the Credit Union has a Seal:

- (a) The Directors must provide for the safe custody of the Seal;
- (b) The Seal must not be used without the authority of the Directors or a Directors' committee authorised to use the Seal; and

- (c) Every document to which the Seal is affixed must be signed by a Director and be countersigned by another Director, the Secretary or another person appointed by the Directors to countersign the document.

68. Duplicate Seal

- 68.1 If the Credit Union has a Seal, the Credit Union may have one or more duplicate Seals of the Seal each of which:
- (a) Must be a facsimile of the Seal with the addition on its face of the words 'Duplicate Seal';
 - (b) Must only be used with the authority of the Directors or a Directors' Committee.

INSPECTION OF RECORDS

69. Times for inspection

- 69.1 Except as otherwise required by the *Corporations Law*, the Directors may determine whether and to what extent, and at what times and places and under what conditions, the financial records and other documents of the Credit Union or any of them will be open for inspection by Shareholders other than Directors.
- 69.2 A Shareholder other than a Director does not have the right to inspect any financial records or other documents of the Credit Union unless the Shareholder is authorised to do so by a court order or a resolution of the Directors.

RESERVES

70. Calculation and Distribution of reserves

The Credit Union's profit or loss in any one financial year arising from its operations must be determined and dealt with in accordance with any applicable prudential standards. The Directors may resolve in each financial year the amount of profit to be carried to a reserve. Reserves can be used in the business of the Credit Union or can be distributed on a winding up in accordance with this Constitution. No dividend is payable in respect of any Member Shares. Dividends may be paid in respect of MCIs.

NOTICES

71. Service of notices

- 71.1 Notice may be given by the Credit Union to any person who is entitled to notice under this Constitution by:
- (a) Serving it on the person;
 - (b) Sending it by post, facsimile transmission or electronic notification to the person at the person's address shown in the Register or the address supplied by the person to the Credit Union for sending notices to the person; or

- (c) If the notice is to a Member and the Member has no registered address, posting it on a notice board at the Office.

71.2 A notice sent by post is taken to be served:

- (a) By properly addressing, prepaying and posting a letter containing the notice; and
- (b) On the day after the day on which it was posted.

71.3 A notice sent by facsimile transmission or electronic notification is taken to be served:

- (a) By properly addressing the facsimile transmission or electronic notification and transmitting it; and
- (b) On the day after its despatch.

71.4 A notice posted on a notice board is taken to be served 24 hours after it is posted on the board.

71.5 A notice may be given by the Credit Union to joint holders by giving the notice to the joint holder whose name appears first in the Register.

71.6 Every person who is entitled to a Share by operation of law and who is not registered as the holder of the Share is taken to receive any notice served in accordance with this clause on the person from whom it derives its title.

71.7 A Member whose registered address is not in Australia may specify in writing an address in Australia as the Member's registered address within the meaning of this clause.

71.8 A certificate in writing signed by a Director, Secretary or other officer of the Credit Union that a document or its envelope or wrapper was addressed and stamped and was posted is conclusive evidence of posting.

71.9 Subject to the *Corporations Law* the signature to a written notice given by the Credit Union may be written or printed.

71.10 All notices sent by post outside Australia must be sent by prepaid airmail post.

WINDING UP

72. Liability on Winding Up

72.1 Subject to this **clause 78**, on the winding up of the Credit Union:

- (a) A Member's liability is limited to the amount unpaid in relation to the Member's contractual obligations with the Credit Union; and

- (b) The liability of a holder of Member Shares extends to the amount unpaid in relation to those shares.

72.2 Any deposit paid by the holder of a Membership Share for the purposes of becoming a Member of the Credit Union held by the Credit Union at the date of commencement of any winding up will be subordinated to the claims of other creditors.

73. Surplus

On a winding up, Members are entitled to:

- (a) repayment of the amount paid up on their Member Shares; and
- (b) if any assets remain after the payments in paragraph (a) and any payments MCI Holders are entitled to – participate in any surplus equally and without regard to the number of Shares held by any Member.

In the case of a voluntary winding-up, the Members at the time they resolve to wind up the Credit Union may resolve that any surplus be transferred to any Credit Union which has a mutual structure in accordance with any current policy of the Australian Securities and Investments Commission or the Australian Prudential Regulation Authority.

PAYMENTS BY THE CREDIT UNION

74. Indemnity and Insurance

74.1 To the extent permitted by law and that the officer or auditor is not indemnified by directors' and officers' liability insurance maintained by the Credit Union, the Credit Union indemnifies every person who is or has been an officer or auditor of the Credit Union against any liability:

- (a) Incurred by that person as such an officer or auditor to another person other than the Credit Union or a related body corporate of the Credit Union unless the liability arises out of conduct involving a lack of good faith; and
- (b) For costs and expenses incurred by the person as such an officer or auditor:
 - (i) In defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
 - (ii) In connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the Law.

74.2 The Credit Union may pay or agree to pay a premium in respect of a contract insuring a person who is or has been an officer or auditor of the Credit Union against a liability:

- (a) Incurred by the person as such an officer or auditor unless the liability arises out of conduct involving:
 - (i) A wilful breach of duty in relation to the Credit Union; or

(ii) Without limiting **subparagraph (i)**, a contravention of sections 182 or 183 of the *Corporations Law*; or

(b) For costs and expenses incurred by the person as such an officer or auditor in defending proceedings, whether civil or criminal and whatever their outcome.

75. General

75.1 The Credit Union must not provide financial accommodation to or **accept deposits of money from** a person who is not a Member. This clause however does not limit the powers of the Credit Union to invest funds, subject to any particular laws and prudential standards, otherwise than by way of financial accommodation to its Members. Nothing in this clause prohibits or prevents the Credit Union from accepting a deposit of money from a non-Member in accordance with any applicable laws and prudential standards.

MCI MUTUAL ENTITY

76. MCI Mutual Entity

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

MCI

77. Terms of Issue

77.1 Subject to any conditions in this Constitution, the Credit Union may issue MCIs on such terms of issue, including the rights and obligations attaching to the MCIs, as determined by the Directors from time to time. The terms of issue may include, but are not limited to:

- (a) Subscription Price;
- (b) voting rights;
- (c) entitlement to dividends
- (d) entitlement to share in surplus assets and profits in the winding-up of the Credit Union.

77.2 Subject to any conditions in this Constitution, the Credit Union may issue different classes of MCIs:

- (a) that may carry rights and obligations that differ from those carried by other classes of MCIs;
- (b) with entitlements that may be preferred, equal, or deferred to entitlements carried by other classes of MCIs or any other Shares.

77.3 The Credit Union may issue more MCIs at any time. The issue of more MCIs does not vary the rights attached to MCIs or other Shares that the Credit Union has already issued except to the extent expressly provided for in the terms of issue of the already issued Shares or as required by the *Corporations Act*.

78. Issue of MCIs

- 78.1 An MCI may only be issued as a fully paid share.
- 78.2 MCIs are issued by the Credit Union for a Subscription Price as determined from time to time by the Directors.
- 78.3 MCIs may also be created by conversion from other securities issued by the Credit Union, in accordance with the terms of issue of the converting securities. The Subscription Price for an MCI created by conversion is:
- (a) as determined by the terms of issue of the converting security; or
 - (b) if not determined by the terms of issue of the converting security, the nominal dollar value of the converting security immediately before the conversion.

79. Voting Rights

- 79.1 Subject to **clause 79.2**, an MCI may be issued on terms that give the holder a right to vote:
- (a) in general meetings of the Credit Union;
 - (b) in a ballot to appoint Directors by election.
- 79.2 An MCI Holder with:
- (a) a right to vote in general meetings, cannot cast more than 1 vote on any resolution in general meeting;
 - (b) a right to vote in the ballot to appoint Directors by election, cannot cast more than 1 ballot in the election,
- irrespective of the number of MCIs held. An MCI Holder who is also a Member cannot cast a vote or ballot as an MCI Holder in addition to a vote or ballot as a Member.
- 79.3 In a meeting of MCI Holders, or of MCI Holders holding a particular class of MCIs, the right to vote of each relevant MCI Holder is:
- (a) as determined by the terms of issue of the relevant MCIs; or
 - (b) if not determined by the terms of issue of the relevant MCIs, in a vote by poll, 1 vote for each relevant MCI held by the MCI Holder.
- 79.4 An MCI Holder is not entitled to vote on a Demutualisation Resolution, as defined in Schedule 3 of this Constitution. This does not prevent a person who is both an MCI Holder and a Member from voting in their capacity as a Member.

80. Dividends

- 80.1 Any dividends in respect of an MCI are non-cumulative.

81. Distribution on Winding-Up

- 81.1 Subject to the terms of issue of the MCI, in a winding-up of the Credit Union an MCI Holder is:
- (a) entitled to payment of the Subscription Price of the MCI;
 - (b) not otherwise entitled to share in surplus assets and profits.
- 81.2 Subject to the terms of issue of the MCI, the right each MCI carries to payment under **clause 81.1** ranks behind and after payment of the amount paid up on Member Shares but before Members are otherwise entitled to share in surplus assets.
- 81.3 Despite **clause 81.2**, classes of MCIs may be issued on terms that the right to payment under **clause 81.1** ranks ahead, behind, or equal and proportionate to, the right to payment of Subscription Price in a winding-up of the Credit Union held by:
- (a) other classes of MCIs;
 - (b) other Shares (including Member Shares).
- 81.4 Each MCI in a class of MCIs carries a right to payment under **clause 81.1** that is:
- (a) equal and proportionate with every other MCI in that class; and
 - (b) subject to any preferred entitlements to payment under **clause 81.1** that holders of any other class of MCIs may have pursuant to **clause 81.3**.

82. Variation of Rights

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

SCHEDULE 1**ELECTION OF DIRECTORS****Holding of Election**

An election of Directors of the Credit Union is to be held by postal ballot except where nominations equal or are less than the number of positions to be filled. If a ballot is not held, Directors shall be elected by separate resolution for each candidate.

Appointment of Returning Officers

The Board must appoint a Returning Officer who may appoint an Assistant Returning Officer, none of whom can be a Director of the Credit Union or a person who intends to accept a nomination for the office of Director.

Electoral Roll

The Secretary must prepare and give the Returning Officer a list of Eligible Shareholders, made up to the day before nominations for the election close.

Nominations

The Board must call for nominations at least 56 days prior to the annual general meeting.

Nominations close at least 35 days before the annual general meeting

In order to be nominated, a candidate must:

- Be eligible for election under **Rule 46.1**
- Be nominated by two (2) members; and
- Consent to the nomination
- State the candidate's Age

A retiring Director may stand for re-election without nomination but must be eligible for election under **Rule 46**. A reference to 'candidate' in the remainder of this Schedule includes a retiring Director seeking re-election.

Declaration by Candidate

A candidate must furnish to the Credit Union a declaration in such form as the Board may require:

As to his or her eligibility for election under **Rule 46.1**; and

As to whether he or she:

Has any interest in a contract or a proposed contract, with the Credit Union; or
Holds an office or has an interest in property, whereby, whether directly or indirectly, duties or interests may be created that could conflict with a Director's duties or interests as a Director of the Credit Union.

Assessment of Fitness and Propriety

The candidate must:

- provide the Credit Union with all information and consents the Credit Union reasonably requests to determine if the candidate is disqualified by law from acting as a Director;
- provide the Nominations Committee with all information and documentation that the Nominations Committee reasonably requests to assess the fitness and propriety of the candidate to be and act as a Director by reference to the Fit and Proper Policy.

If the Nominations Committee determines that a candidate does not have the appropriate fitness and propriety to be and act as a Director, by reference to the Fit and Proper Policy, that candidate immediately ceases to be a candidate.

Appointment of Scrutineer

A candidate may appoint a scrutineer and the Board may appoint a maximum of three scrutineers, none of whom is a candidate or an employee of the Credit Union.

The duties and responsibilities of scrutineers are to:

- Observe the sorting, counting and recording of ballot papers;
- Ensure that the votes of unrejected ballot papers are correctly credited to the appropriate candidates; and
- Raise any query with the Returning Officer regarding any of the ballot papers.

Ballot Papers

After nominations have closed the Returning Officer is to prepare ballot papers for the election.

The order in which the candidates appear on the ballot paper is to be determined by the Returning Officer by lot.

The Returning Officer must cause some authenticating mark to appear on each ballot paper prior to their distribution to Eligible Shareholders.

Postal Ballot

The Returning Officer must send to each Eligible Shareholder at least 21 days before the annual general meeting:

- A ballot paper;
- An unsealed envelope marked "Ballot Paper";
- An unsealed envelope marked "Returning Officer", the reverse side of which shall bear the following:

Name of Eligible Shareholder, Eligible Shareholder's Address, and Eligible Shareholders's Signature

A "Reply Paid" postal envelope addressed to the Returning Officer.

2. Ballot papers may be delivered personally or posted to Eligible Shareholders at their addresses shown in the Register.

Any Eligible Shareholders exercising a right to vote must:

- Complete the ballot paper in accordance with these Rules;
 - Place the ballot paper in the envelope marked "Ballot Paper";
 - Place the sealed "Ballot Paper" envelope in the envelope marked "Returning Officer", complete it and return it to the Returning Officer.
4. An Eligible Shareholder must ensure that his or her ballot papers are received by the Returning Officer by the day fixed for the closing of the ballot.
 5. Any ballot paper not received by the Returning Officer prior to the closing of the ballot is excluded from the ballot.
 6. Any ballot paper not received by the Returning Officer is to be kept in secured ballot boxes until the closure of the ballot.
 7. An Eligible Shareholder who has not received a ballot paper or has spoiled it may send to the Returning Officer a declaration to that effect and the Returning Officer must:
 - Send a duplicate ballot paper to that Eligible Shareholder;
 - Mark the envelope "Returning Officer" "Duplicate"; and
 - Keep a record of all duplicate ballot papers issued.

Closure of the Ballot

The ballot closes at least 7 days before the annual general meeting.

Procedures after Close of the Ballot

As soon as practicable after the close of the ballot, the Returning Officer must deal with the ballot as follows:

- Open all postal envelopes and extract envelopes marked "Returning Officer";
- For each envelope marked "Returning Officer", mark the Eligible Shareholder's name as shown on the envelope off the electoral roll;
- Where a duplicate ballot paper has been issued and the original envelope marked "Returning Officer" received, mark the original envelope "rejected".
- If the envelope marked "Returning Officer" has not been signed, or the signature is identified as not being the Eligible Shareholder's or there is sufficient detail to identify the Eligible Shareholder, mark the envelope "rejected".

- Extract the envelopes marked “Ballot Paper” from all unrejected envelopes marked “Returning Officer”, ensuring that no envelope marked “Ballot Paper” could subsequently be identified with any particular Eligible Shareholder;
- When all the envelopes marked “Returning Officer” have been so dealt with, cause all the envelopes marked “Ballot Paper” to be opened and the ballot papers taken out.
- Cause the ballot papers to be scrutinised under his or her supervision and reject such ballot papers as he or she finds to be informal.

Count the votes in accordance with the voting system

Prepare and sign a declaration of the ballot as to:

- The number of ballot papers lodged
- The number of formal votes
- The number of informal votes
- The number of votes cast for each candidate; and
- The names of those persons elected.
- Deliver the statement to the Credit Union’s Secretary.

2. A ballot paper is informal if:

- It is not authenticated by the authenticating mark of the Returning Officer; or
- It has no vote indicated on it or it does not indicate the Eligible Shareholder’s preference for a candidate.
- The Returning Officer must destroy the ballot papers three months after the declaration of the ballot.
- No election shall be void on account of any error or omission of the Returning Officer that did not affect the results of the election.

Voting System

1. On any ballot, the person receiving the highest number of votes in accordance with the number of vacancies to be filled are elected directors.
2. In the case of an equality of votes, the person to be elected must be decided by lot.

Electronic Voting

1. If the credit union has an Electronic Voting System which permits Eligible Shareholders to vote for the election of directors by electronic means, then the board may determine:
 - (a) that the Eligible Shareholders may record their votes in the election by electronic means; and

(b) the manner in which Eligible Shareholders will be identified for the purposes of voting in the election.

(2) If the board makes such a determination:

(a) Eligible Shareholders may vote by post or by electronic means, but may only vote once.

(b) the information referred to in Rule A5-5(2) may be made available for access by Eligible Shareholders by electronic means.

(c) the returning officer shall provide an interactive copy of the ballot paper in a secure online system to facilitate voting by electronic means and make available to Eligible Shareholders all information reasonably necessary to facilitate voting by electronic means. Requirements for an authenticating mark of the returning officer on the ballot paper shall not apply, but the returning officer must ensure that an Eligible Shareholder cannot vote by electronic means more than once in the election.

(d) an Eligible Shareholder who votes by electronic means must ensure that his or her vote is submitted to the returning officer in accordance with any instructions given for voting by electronic means.

(e) in respect of any vote received by the returning officer by electronic means, the returning officer must ensure that the fact that the Eligible Shareholder has voted is recorded.

(f) the returning officer must cause all votes received by electronic means to be recorded in such a way that they cannot subsequently be identified with any particular Eligible Shareholder.

(g) if an Eligible Shareholder lodges both a vote by post and a vote by electronic means, then the returning officer must:

(i) if one of the votes is informal, accept the formal vote; and

(ii) if both votes are formal, accept the vote received first.

(h) the election procedures set out in the preceding Rules of Appendix 5 are deemed to be otherwise modified to the extent necessary to permit voting by electronic means.

Vote Counting

Counting of votes may be undertaken manually, electronically or by using scanning technology and equipment or a combination of such methods.

SCHEDULE 2A**NOMINATIONS COMMITTEE****1. Appointment**

1.1 The Directors shall establish a Nominations Committee comprising such persons as the Directors determine.

1.2 The Directors may at any time and in their absolute discretion:

- (a) Suspend or terminate the appointment of a person as a member of the Nominations Committee; and
- (b) Give directions to the Nominations Committee as to the procedures it is to follow.

2. Role

The Nominations Committee shall assess persons for election or appointment as a Director under clause 47, prior to election or appointment, to determine their fitness and propriety for appointment in accordance with the requirements of the Fit and Proper Policy.

SCHEDULE 3

CONSIDERATION OF DEMUTUALISATION RESOLUTIONS

1. Interpretation

In this Schedule, unless the contrary intention appears:

‘Additional Costs’ means all costs reasonably incurred by the Company in complying with its obligations under clauses 4 and 5.1(b) of this Schedule.

‘Additional Information’ means:

- (a) an explanation as to how the Demutualisation Resolution will affect Member rights as a holder of Shares and as a customer of the Company;
- (b) an explanation as to the effect of the Demutualisation Resolution on the Company and Members with respect to:
 - (i) the rights of Members to vote and to participate in the distribution of profits and reserves of the Company and the loss of any such rights; and
 - (ii) the effect on the business, operations, employees, products, services, pricing and distribution network of the Company;
- (c) an explanation of the mutuality benefits to Members that will be lost if the Demutualisation Resolution is passed; and
- (d) an explanation of the availability and effect of other alternatives to Demutualisation Resolution.

‘**Ballot Closing Date**’ means the date upon which a Direct Ballot closes, being a date fixed by the Returning Officer under clause 4.6 of this Schedule and specified in the notice referred to in clause 4.7(e) of this Schedule.

‘Demutualisation Resolution’ means a proposed resolution, or combination of proposed resolutions:

- (a) which, if passed, will or may result in:
 - (i) the Company ceasing to be an authorised deposit-taking institution that can or could assume or use the expressions “Credit Union”, “Credit Society” or “Credit Co-operative” without committing an offence under the *Banking Act 1959*; or
 - (ii) a voluntary transfer of the Company’s business, pursuant to the *Financial Sector (Transfers of Business) Act 1999*, to an Entity that is not an authorised deposit taking institution that can or could assume or use the expressions “Credit Union”, “Credit Society” or “Credit Co-

operative” without committing an offence under the *Banking Act 1959*; or

- (iii) Membership Shares or Redeemable Preference Shares becoming transferable or capable of sale or assignment; or
 - (iv) a Member becoming entitled to hold more than one Membership Share or more than **[insert number]** Redeemable Preference Shares; or
 - (v) a right to vote attaching to any Share other than a Membership Share, Redeemable Preference Share or an MCI; or
- (b) in relation to which the consent of the Treasurer is required pursuant to either section 63 of the *Banking Act 1959* or section 11 of the *Financial Sector (Shareholdings) Act 1998*, unless the consent is required for the purposes of a voluntary transfer of the Company’s business, pursuant to the *Financial Sector (Transfers of Business) Act 1999*, to an Entity that is an authorised deposit taking institution that can or could assume or use the expressions “Credit Union”, “Credit Society” or “Credit Co-operative” without committing an offence under the *Banking Act 1959*; or
- (c) the effect of which would be to modify or repeal any clause in this Schedule; or
- (d) the effect of which would be to modify or repeal the Constitution where the effect of the modification or repeal is to modify, exclude or restrict the operation of the clauses in this Schedule.

‘Direct Ballot’ means a ballot of Members in respect of a Demutualisation Resolution that is conducted in accordance with clause 4 of this Schedule.

‘Directors’ Statement’ means a statement by the Directors containing:

- (a) the recommendation of each Director as to whether the Demutualisation Resolution should be passed and their reasons for making that recommendation;
- (b) details of any benefit to be received by the Directors if the Demutualisation Resolution is passed.

‘Entity’ includes any:

- (a) incorporated or unincorporated bodies;

trust or partnership; or

- (c) any legal, administrative or fiduciary arrangement, organisational structure or other party (including a person) having the capacity to deploy scarce resources in order to achieve objectives.

'Information' means:

- (a) a disclosure statement that:
 - (i) contains all the information that Members would reasonably require and expect to be given to make an informed decision about the Demutualisation Resolution, including but not limited to the Additional Information;
 - (ii) states that the Demutualisation Resolution may alter the Company's mutual structure and outlines the intentions of the Member or Entity seeking to convene or convening a meeting of the Company:
 - (I) in relation to the future of the Company if the Demutualisation Resolution is passed;
 - (II) in relation to Members' interests if the Demutualisation Resolution is passed;
 - (III) in relation to the Directors if the Demutualisation Resolution is passed; and
 - (iii) explains the effect that the passing of the Demutualisation Resolution is likely to have on the business, operations, employees, products, services, pricing and distribution network of the Company;
- (b) an estimate of the financial benefits (if any) the Members, the Directors and/or other officers of the Company will be offered if the Demutualisation Resolution is passed;
- (c) a report by an expert that:
 - (i) states whether, in the expert's opinion:
 - (I) the Demutualisation Resolution is in the best interests of the Members of the Company as a whole;
 - (II) whether the Demutualisation Resolution is fair and reasonable to Members having regard to any change of voting rights and the right to participate in profits and reserves; and
 - (ii) sets out the expert's opinions in relation to the Additional Information; and
 - (iii) gives the expert's reasons for forming those opinions; and
- (iv) complies with the requirements of clause 33 of Schedule 4 of the Corporations Act;
- (v) contains any additional information required to be provided under the Corporations Act.

‘Requisitionists’ means the Members who request the convening of a general meeting that is convened by the Directors at the request of Members made under clause 22.2 or who call the meeting in accordance with sections 249E or 249F of the *Corporations Act*.

‘Returning Officer’ means a person appointed by the Directors as a Returning Officer under clause 4.1 of this Schedule.

‘Special Resolution’ means a resolution:

- (a) in relation to which notice as set out in paragraph 249L(1)(c) of the *Corporations Act* has been given; and
- (b) that has been passed by at least 75% of the votes cast by Members entitled to vote on the resolution.

2. Application of Schedule 3

Notwithstanding any provision contained in this Constitution to the contrary, this Schedule will apply if a meeting of the Company is convened, or is to be convened, at which a Demutualisation Resolution will be considered.

3. Requirement for General Meeting and Direct Ballot

If a meeting of the Company is convened, or is to be convened, at which a Demutualisation Resolution will be considered:

- (a) A general meeting must be convened and conducted in accordance with this Constitution to consider the Demutualisation Resolution as a Special Resolution;
- (b) The information required by clause 5 of this Schedule must be provided to Members in convening the general meeting to consider the Demutualisation Resolution;
- (c) The Demutualisation Resolution may not be moved at the general meeting, or passed at the general meeting, if the Demutualisation Resolution, or a substantially similar Demutualisation Resolution, was moved at a general meeting held within the 3 years prior to the general meeting and:
 - (i) not passed; or
 - (ii) passed but its adoption was not subsequently approved by a Direct Ballot;
- (d) The Demutualisation Resolution shall only be passed at the general meeting if at least 75% of the votes cast by Members entitled to vote on the Demutualisation Resolution approve the Demutualisation Resolution;

- (e) The Demutualisation Resolution, if passed at the general meeting, shall not have any effect unless and until:
 - (i) a Direct Ballot is held within 4 months of the date of the general meeting to consider whether the adoption of the Demutualisation Resolution should be approved; and
 - (ii) by the Ballot Closing Date the Company has received votes from 25% of Members; and
 - (iii) of the votes received from Members by the Ballot Closing Date, 75% of the votes are in favour of approving the adoption of the Demutualisation Resolution.

4. Conduct of Direct Ballot

- 4.1 Within 7 days of a Demutualisation Resolution being passed at a general meeting the Directors must appoint a Returning Officer, who must not be a Director or Officer of the Company, and who must then conduct a Direct Ballot in accordance with this clause 4.
- 4.2 The Returning Officer must prepare a roll of the full names and addresses of the Members of the Company, as disclosed by the register of members as at midnight on the day before the general meeting referred to in Clause 3(a) of this Schedule.
- 4.3 Only Members as at midnight on the day before the general meeting referred to in clause 3(a) of this Schedule are entitled to vote in the Direct Ballot.
- 4.4 The Returning Officer must cause ballot papers to be prepared for the Direct Ballot.
- 4.5 Each ballot paper must be initialled or marked by the Returning Officer or an appointed assistant.
- 4.6 The Returning Officer must fix a Ballot Closing Date, which must be a date not more than 4 months after the date of the general meeting at which the Demutualisation Resolution was passed.
- 4.7 The Returning Officer must, at least 30 days prior to the Ballot Closing Date, send by post or otherwise deliver to every Member one set of the following material:
 - (a) one ballot paper;
 - (b) an envelope (in this Schedule referred to as the outer envelope) addressed to the Returning Officer;
 - (c) a smaller envelope (in this Schedule referred to as the middle envelope), the reverse side of which contains provision for the name, membership number and signature of the Member;
 - (d) a small envelope marked "Ballot Paper" (in this Schedule referred to as the inner envelope) into which the ballot paper is to be enclosed;

- (e) a notice which sets out:
 - (i) details of the Demutualisation Resolution upon which the decision of the Members is to be sought;
 - (ii) details of the number of Members who were eligible to vote at the general meeting at which the Demutualisation Resolution was passed and of the number of those Members who voted;
 - (iii) the Ballot Closing Date;
 - (iv) instructions for voting; and
- (v) such further information, if any, as the Directors consider appropriate; and
- (f) the Information supplied to the Company and the Directors Statement.

4.8 the Returning Officer may send a duplicate ballot paper to any Member if the Returning Officer is satisfied:

- (a) that the Member has not received a ballot paper; or
- (b) that the ballot paper received by the Member has been lost, spoilt or destroyed and the Member has not already voted.

4.9 A Member casts a vote in the Direct Ballot by:

- (a) firstly, completing the ballot paper according to the instructions on the ballot paper;
- (b) secondly, placing the completed ballot paper in the inner envelope;
- (c) thirdly, completing the details on the reverse side of the middle envelope and signing the middle envelope;
- (d) fourthly, placing the middle envelope in the outer envelope; and
- (e) fifthly, sending the outer envelope to the Returning Officer so that it is received by noon on the Ballot Closing Date.

4.10 The Returning Officer must:

- (a) provide a ballot box or boxes which must be locked immediately before the ballot papers are delivered to Members in accordance with clause 4.7 and must remain locked until noon on the Ballot Closing Date; and
- (b) place all outer envelopes received from Members in the ballot box or boxes as they are received.

- 4.11 The counting of votes received by Direct Ballot shall be supervised by the Returning Officer.
- 4.12 The Returning Officer may be assisted in the performance of his or her duties by any person (who would be eligible to be a Returning Officer) appointed by the Returning Officer.
- 4.13 Ballot papers received after noon on the Ballot Closing Date are informal and must not be taken into account in the Direct Ballot.
- 4.14 As soon as practicable after noon on the Ballot Closing Date, the Returning Officer must, in the presence of such scrutineers as may be appointed by the Directors, open the ballot box or boxes and deal with the contents in accordance with clause 4.15.
- 4.15 The Returning Officer must:
- (a) remove the middle envelope from the outer envelope;
 - (b) if a duplicate outer envelope has been issued and the original outer envelope is received, reject the original envelope and mark it "Rejected"; and
 - (c) according to the information on the middle envelope, for each set of voting papers returned, mark the Member's name on the roll;
 - (d) if a Member's name has already been marked on the roll, reject the vote and mark it "Rejected"; and
 - (e) if the middle envelope has not been signed, or if the details shown on the envelope are not sufficient to disclose by whom the vote is being exercised, reject the envelope and mark it "Rejected"; and
 - (f) extract the inner envelopes containing the ballot papers from all un-rejected middle envelopes, separating the contents from the middle envelopes in such a way that no inner envelope could subsequently be identified with any particular Member; and
 - (g) when all the middle envelopes have been dealt with in the above manner, open all un-rejected inner envelopes and take the ballot papers from them.
- 4.16 The ballot papers must be scrutinised by the Returning Officer who must reject as informal any ballot paper that:
- (a) is not duly initialled or marked by the Returning Officer; or
 - (b) is so imperfectly completed that the intention of the Member cannot be ascertained by the Returning Officer; or
 - (c) has any mark or writing not authorised by this Schedule which, in the opinion of a Returning Officer, will enable the Member to be identified; or
 - (d) has not been completed as prescribed on the ballot paper itself.

- 4.17 No meeting of Members is required to be held for the counting of the votes received by the Company by Direct Ballot.
- 4.18 The Returning Officer must count all votes cast and make out and sign a statement of:
- (a) the number of formal votes in favour of approving the adoption of the Demutualisation Resolution;
 - (b) the number of formal votes against approving the adoption of the Demutualisation Resolution;
 - (c) the number of informal votes;
 - (d) the number of middle envelopes marked "Rejected";
 - (e) the proportion of the formal votes that were in favour of approving the adoption of the Demutualisation Resolution.
- 4.19 The Returning Officer must forward a copy of the statement to the Chairperson of the Company.
- 4.18 Following the counting of votes in the Direct Ballot the Company:
- (a) will display the result on the notice board at the Office and on the Company's website;
 - (b) will notify Members of the result of the Direct Ballot within 21 days; and
 - (c) retain the Direct Ballot votes in the possession of the Company for a period of 3 months, at the end of which period they will be destroyed.
5. Disclosure Requirements
- 5.1 If a meeting of the Company at which a Demutualisation Resolution will be considered is convened or is to be convened in accordance with Clause 22.2(a), or otherwise than in accordance with Clause 22.2(b):
- (a) the Member or Members requesting the convening of the meeting shall at the time of requesting the convening of the meeting provide the Information to the Company; and
 - (b) the Company shall at the time of convening the meeting provide the Members with:
 - (i) notice of the Demutualisation Resolution and of the intention to consider the Demutualisation Resolution as a special resolution in accordance with section 249L(1)(c) of the Corporations Act;
 - (ii) the Information supplied to the Company;

- (iii) the Directors' Statement; and
- (iv) such further information, if any, as the Directors consider appropriate.

5.2 If a meeting of the Company at which a Demutualisation Resolution will be considered is convened or is to be convened in accordance with clause 22.2(b), the Member or Members requesting the convening of the meeting shall at the time of convening the meeting provide the Information to the Members.

6. Costs

6.1 If a meeting of the Company at which a Demutualisation Resolution will be considered is convened by the Directors at the request of Members made under clause 22.2 or by Members in accordance with sections 249E or 249F of the *Corporations Act*, then the Requisitionists will, at the time of making the request or convening the meeting:

- (a) provide to the Company an indemnity in respect of the liability that the Requisitionists may incur to the Company for the Additional Costs in a form satisfactory to the Directors; and

if so requested by the Company, deposit with the Company an amount of \$30,000 on account of the liability that the Requisitionists may incur to the Company for Additional Costs, which sum the Company may set off against the Requisitionists' liability to the Company for Additional Costs if and when the Requisitionists become liable to pay the Additional Costs to the Company;

and, if the Demutualisation Resolution is not passed at a general meeting, or if the Demutualisation Resolution is passed at a general meeting but its adoption is not approved by a Direct Ballot, the Requisitionists will be jointly and severally liable to the Company for the Additional Costs and will pay the Additional Costs to the Company within 7 days of the Company making a written demand for payment.

6.2 The Company will refund to the Requisitionists:

- (a) if the Demutualisation Resolution is passed at a general meeting and its adoption is approved by a Direct Ballot, the whole of any amount deposited with the Company pursuant to clause 6.1(b) of this Schedule;
- (b) if the Demutualisation Resolution is not passed at a general meeting, or if the Demutualisation Resolution is passed at a general meeting but its adoption is not approved by a Direct Ballot, any amount by which the amount deposited with the Company pursuant to clause 6.1(b) of this Schedule exceeds the Additional Costs.

7. Termination of this Schedule

7.1 This Schedule will cease to have effect if and when the Australian Securities and Investments Commission or its successor publishes a notice to that effect and gives a copy of the notice to the Company.

