

**AUSTRALIAN MUTUAL BANK LTD**  
**ABN 93 087 650 726**

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**CONSTITUTION**

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## Preamble

The **bank** is a public company limited by shares organised on the basis of Principles of Mutuality:

### Principles of Mutuality

#### Customers must be Members

- (1) Subject to the exceptions in Principles 2 and 3, the bank may not, unless otherwise provided in its constitution accept a deposit from, or grant financial accommodation to, a person who is not a member.
- (2) The bank may accept deposits from, or grant financial accommodation to, a body that does not have the power to acquire, or that the law prohibits from acquiring the bank's shares.
- (3) The bank may accept deposits from, or grant financial accommodation to, another ADI.

#### Membership and Member Shares

##### *How to become a member*

- (4) A person can only become a member by being issued a member share.

##### *How many member shares the bank may issue a person*

- (5) Subject to the exception in Principle 6, the bank may only issue one member share to any person.
- (6) A trustee for an unincorporated association may be issued 1 member share in the trustee's own right, and 1 member share as trustee for the unincorporated association.

##### *Voting*

- (7) A member share must confer the right to 1 vote, and only 1 vote, at meetings of the bank's members.

##### *Dividends and Surplus*

- (8) A member share may confer a right to participate in the bank's surplus through payment of dividends.

##### *Redemption of Transfer*

- (9) A member share must confer on the member a right to redeem the member share on request, subject only to :
  - a) Compliance with prudential standards or prudential regulations; and
  - b) Any period of notice set out in the bank's constitution
- (10) Subject to the exceptions in Principle 11, member shares may not be transferred.
- (11) A trustee for an unincorporated association may transfer the member share that the trustee holds on trust for the unincorporated association.

#### Additional Shares

##### *Definition*

- (12) All shares issued by the bank other than member shares or MCIs are additional shares.

*Issue of additional shares only to members*

- (13) The bank may only issue additional shares to a person who has been a member of the bank continuously for the past 6 months.

*Voting*

- (14) All shares issued by the **Bank** other than member shares and **MCIs** are additional shares.
- (15) Subject to this Constitution an additional share must not confer the right to vote.
- (16) Additional shares may confer the right to vote, at meetings of the holders of additional shares, on questions affecting the continuing existence of the bank.

*Dividends and Surplus*

- (17) An additional share may confer the right to participate in the bank's surplus through payment of dividends.
- (18) An additional share may confer a right to participate in surplus when the bank is wound up but only to the extent of :
- a) Repayment of capital paid on the additional shares, and
  - b) Payment of arrears of cumulative dividends
- (19) The right to participate in any surplus conferred by additional shares may be preferred, equal or deferred to the rights conferred by the member shares.

*Redemption and Transfer*

- (20) An additional share may confer on the holder of the additional share a right to redeem or, subject to Principle 21, to transfer the additional share.
- (21) The holder of additional shares may only transfer additional shares to a person who has been a member of the bank continuously for the past 6 months.

**Accumulation of Securities**

- (22) Accumulation of securities issued by the bank must be restricted so that no person, or group of associated persons, may exercise a significant degree of influence over the affairs of the bank.

**Directors**

- (23) Only a member shareholder may be a director of the bank.

**These Principles of Mutuality are not binding, except to the extent that the Constitution expressly provides otherwise.**

# Constitution

## Division 1. — Introductory Matters

### 1.

#### 1.1 Definitions

In this Constitution, unless the context requires otherwise:

**additional share** means a share as described in Principles of Mutuality 14

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

**AGM** means the annual **general meeting** of the **bank**

**APRA** means the Australian Prudential Regulation Authority

**ASIC** means the Australian Securities and Investment Commission

**bank** means Australian Mutual Bank Ltd

**board** means the board of **directors**

**board appointed director** means a **director** appointed by the **board** in accordance with Rule 9.4.

**common bond** refers to the common bond of membership set out in Appendix 2

**Corporations Act** means the Corporations Act 2001 (Cth)

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

**direct vote** means a vote cast using a **direct voting system**

**direct voting system** means a system if so determined by the **board** in accordance with Rule 8.7 which enables **members** to vote by electronic means either:

- (a) before a **general meeting** or a meeting of a class of **members** on such resolutions nominated by the **board** that are to be considered at the **general meeting**; or
- (b) in an election of **directors**; or
- (c) during a **general meeting** or a meeting of a class of **members** if the **board** has approved the use of an **electronic meeting system**

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

**Director Nominations Committee** means the committee appointed by the **board** in accordance with Appendix 5

**electronic meeting system** means a system if so determined by the **board** in accordance with Rule 8.7 which enables **members** to participate by electronic means, and to cast **direct votes**, in **general meetings** or meetings of a class of **members**

**financial accommodation** means:

- (a) an advance;
- (b) money paid for, on behalf of or at the request of a person (other than by drawing on the person's deposit account with the **bank**);
- (c) a forbearance to require payment of money owing on any account; and



- (d) a transaction that, in substance, effects a loan or is regarded by the parties to the transaction as a loan,

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

**fit and proper policy** means the **board** policy as required by Prudential Standard CPS 520 or any other prudential standard or law applying from time to time

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

**material personal interest** has the same meaning as in Part 2D.1 of the **Corporations Act** **member** means a person whose name the **bank** has entered for the time being in the **register of members** it keeps under the **Corporations Act**

**MCI mutual entity** has the meaning given by section 176AC of the **Corporations Act**

**MCI** and **mutual capital instrument** means a share that is a mutual capital instrument for the purposes of section 167AD of the **Corporations Act** as described in Appendix 3 Division 2

**MCI holder** means a person who holds an **MCI** and whose name the **bank** has entered for the time being in the **register of members**

**member** means a person who is the holder of a **member share** and whose name the **bank** has entered for the time being in the **register of members**

**member elected director** means a **director** elected by **member** in accordance with Rule 9.3.

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

**merger appointed director** means a director appointed under Rule 9.9

**mutual banking institution** means an authorised deposit-taking institution under the Banking Act 1959 (Cth) that meets the requirements of Regulatory Guide 147 “Mutuality – Financial Institutions” issued by **ASIC** and is, or was at any time, entitled to use the term “credit union”, “credit society” or “credit co-operative” in its name

**prudential standard** means any prudential standard or regulation made under the Banking Act 1959 (Cth)

**register of members** means the register of members the **bank** keeps under the **Corporations Act**

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

**share** means a share in the capital of the **bank**

**shareholder** means the holder of a **share**

**subscription price** means:

- (a) in relation to a **member share**, the amount (if any) payable by a person on subscription for a **member share**; and
- (b) in relation to an **MCI**, the amount payable by a person on subscription for an **MCI** or, if the **MCI** is created on conversion of a capital instrument in accordance with **prudential standards**, the nominal value of that capital instrument prior to conversion into the **MCI**

## 1.2 Interpretation

(1) In this Constitution, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;

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

### 1.3 Time

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

### 1.4 Replaceable Rules do not apply

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

### 1.5 Notices

- (1) Subject to the provisions of this Constitution, this Rule applies to all notices and documents that the **Corporations Act** or this Constitution requires a party to this Constitution to send to another party to this Constitution.
- (2) In this Rule, **business day** means a day that is not:
  - (a) a Saturday or Sunday; or
  - (b) a public holiday or bank holiday in the place where the notice is received.
- (3) A person sending a notice must do so in writing and must address it to the recipient at the following respective addresses:
  - (a) if to the **bank** — at its registered office or such other address as the bank specifies to **shareholders** from time-to-time; and
  - (b) if to a **shareholder** — at their physical or electronic address appearing on the **register of members** from time-to-time.

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

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

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

- (5) If a person gives a ***shareholder*** a notice in accordance with this Rule, any person to whom that ***shareholder*** transfers or transmits a ***share*** is taken to receive the notice when the first person gave the ***shareholder*** the notice.

## Division 2. — Objects & Limit on Powers

### 2.

#### 2.1 Objects

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

#### 2.2 Customers Must be Members

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

- (a) bodies that do not have the power to acquire, or that the law prohibits from acquiring, the **bank's shares**; or
- (b) **ADIs**; or
- (c) Any person or class of persons as determined by the **board** from time to time in its absolute discretion provided any **financial accommodation** is on arm's length terms.

#### 2.3 Intention to be MCI mutual entity

The **bank** is intended to be an **MCI mutual entity** as defined in the **Corporations Act**. **MCI holders** may only receive dividends and participate in surplus assets in that capacity to the extent permitted by this Constitution, the **Corporations Act**, the **prudential standards** and the terms of issue of the **MCIs**

## Division 3. — Membership

### 3.

#### 3.1 Admission to Membership

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

#### 3.2 Delegation of Power to Admit Members

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

#### 3.3 Joint Members

- (1) The *bank* may admit 2 or more persons eligible for admission under Subrule 3.1(1) as a joint *member* of the *bank*.
- (2) The persons constituting the joint *member* may determine the order in which their names appear in the *register of members*. If the persons constituting the joint *member* do not do so, the *bank* may determine the order in which their names appear in the *register of members*.
- (3) The person named first in the *register of members* is the primary joint *member*. The *bank* may duly send any notice, certificate or other document to the joint *member* by sending it to the primary joint *member*. Only the primary joint *member* is entitled to vote on behalf of the joint *member*.
- (4) At any time, the joint *member* may give the *bank* a notice requiring the *bank* to change the primary joint *member* or otherwise change the order in which their names appear in the *register of members*. Each person constituting the joint *member* must sign the notice. The *bank* must change the *register of members* as soon as practicable after receiving the notice.
- (5) Any person constituting a joint *member* may give an effective receipt for any dividend, distribution on winding-up or return of capital in relation to the jointly held *member shares*.
- (6) The *bank* may accept *deposits* from, or provide *financial accommodation* to, the joint *member* or to any person constituting the joint *member*.
- (7) The persons constituting a joint *member* are jointly and individually liable for any liability that the joint *member* may have in relation to the jointly held *member shares*.

- (8) In this Constitution, the joint **member** is taken to be a person separate to the persons constituting the joint **member**.

### 3.4 Repayment of subscription price

If an existing **member** holds a **member share** with a **subscription price** greater than nil, a request by the **member** to repay the **subscription price** of the **member's member share** without termination of membership is to be regarded by the **bank** as a request by that **member shareholder** for the redemption of his or her **member share** and an application by the **member shareholder** for a new **member share** with a **subscription price** of nil consideration. Redemption by the **bank** and approval of the application for the new **member share** may only be affected by the **bank** simultaneously and as soon as practicable after receiving the request.

The **bank** may defer redeeming the **member share** until the **board** is satisfied that:

- (i) Immediately after redeeming the **member share**, the **bank** will not be in breach of any prudential standards;
- (ii) The **bank's** capital base is adequate for purposes of APRA'S supervision of capital adequacy;
- (iii) The **bank** has sufficient surplus to pay the amount payable on redemption of the **member share**.

The existing **member** is, notwithstanding redemption and issue of the **member shares**, to be regarded as having continuity of membership in the Register of members from the date of original issue of the redeemed **member share**. Any monies payable by the **bank** on the redemption of the **member share** may be paid to the **member** in any manner permitted by Subrule 4.3.2.

## Division 4. — Termination of Membership

### 4.

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

The **bank** can remove the **member's** name from the **register of members** if:

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

#### 4.2 Member's Request for Termination

- (1) A **member** may request termination of membership but only upon withdrawing all **deposits** and repaying all **financial accommodation**.
- (2) If a **member** makes a request under Subrule (1), the **bank** must redeem their **member share** as soon as practicable after receiving the request. However, the **bank** may defer redeeming the **member share** until the **board** is satisfied that:
  - (a) they have withdrawn all **deposits** and repaid all **financial accommodation**;
  - (b) the **bank** has sufficient surplus available to pay the amount payable on redemption of the **member share**; and
  - (c) the **bank's** capital base is adequate for purposes of **APRA's** supervision of capital adequacy.

#### 4.3 Termination by the Board

- (1) The **bank** may redeem a **member's share** by **board** resolution if the **member**:
  - (a) it fails to discharge their obligations to the **bank**;
  - (b) is guilty of conduct that the **board** reasonably considers to be detrimental to the **bank**; or
  - (c) the **member** obtains membership by misrepresentation or mistake.
- (2) On redeeming the **member share**, the **bank** may pay the amount payable on redemption of the **member share** to the **member** by either:
  - (a) sending a cheque to their address as set out in the **register of members**; or
  - (b) crediting any of their accounts with the **bank**, or
  - (c) paying the amount in reduction of any monies owing by them to the **bank**; or
  - (d) Via electronic funds transfer to their nominated accountat the time the **member share** is redeemed.

#### 4.4 Termination Where Accounts Dormant

- (1) This Rule does not apply to a retirement savings account to the extent that the Retirement Savings Account Act 1997 (Cth) provides otherwise.
- (2) The **bank** may:
  - (a) determine that a **member's deposit** accounts are dormant; and
  - (b) redeem their **member share**,

- by **board** resolution if they have not initiated any transactions in relation to any **deposit** account in the [12 month] period before the date of the resolution.
- (3) The **bank** must send notice of the proposed resolution under Subrule (2) to the **member** at their last known address as shown on the **register of members** at least 28 days before considering the proposed resolution unless the **bank** knows the **member** is no longer at that address.
  - (4) On redemption of the **member share**, the **bank** must pay the amount payable on redemption of the **member share** into the **member's** account.
  - (5) If the **bank** redeems a person's **member share** under this Rule, the person may require the **bank** to reinstate the person's **deposit** accounts at any time before the **bank** pays the money in the **deposit** account in accordance with the relevant unclaimed money legislation. If the person requires the **bank** to reinstate the person's **deposit** accounts:
    - (a) the **bank** must reinstate the person's **deposit** accounts as soon as practicable; and
    - (b) if the **bank** has redeemed their **member share** — the **bank** must issue a **member share** to the person and may debit their **deposit** account for the **subscription price**.



## Division 5. — Issue of Shares

### 5.

#### 5.1 Classes of Shares

The **bank** may only issue **member shares** and **MCIs**.

#### 5.2 Board Power to Issue Shares

The **board** may exercise the **bank's** power to issue **shares** on an on-going basis to the exclusion of the **general meeting**.

#### 5.3 Restrictions on Issue of Member Shares

(1) The **bank** must not issue:

- (a) options to subscribe for **member shares**;
- (b) securities that may be converted to **member shares**; or
- (c) securities with pre-emptive rights to **member shares**.

(2) If there is a **subscription price** for **member shares**, the **bank** may only issue them on the basis that the person pays, or undertake to pay, the full **subscription price** on issue.

(3) The **bank** may only issue 1 **member share** to any person.

(4) A **member** may not transfer, sell or assign their **member share** but may require the **member share** to be repaid in accordance with Subrule 4.2.

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

#### 5.4 Certificates for MCIs

(1) This Rule does not apply to **member shares**.

(2) If the **bank** is required by the **Corporations Act** to issue a share certificate to an **MCI holder** in respect of **MCIs**, the **MCI holder** may require the **bank** to issue without charge a certificate for the **MCIs** that complies with the **Corporations Act** and deliver it to the **MCI holder** in accordance with the **Corporations Act**.

(3) Except as otherwise provided in the terms of issue of the **MCIs** the **bank** must issue a new certificate if a certificate is lost or destroyed and the **MCI holder** complies with the **Corporations Act** or if the certificate is defaced or worn and is produced to the **bank**.

#### 5.5 Transfer of MCIs

Subject to this Constitution and the rights and restrictions attached to **MCIs** an **MCI holder** may transfer any of their **MCIs** by an instrument in writing in the form approved by the **board** or in such other manner as the **board** determines. Property in and title to an **MCIs** transfer that is delivered to the **bank** (but not the **MCIs**) passes to the **bank** on delivery.

**Note:** Subrule 5.6 prevents the **bank** registering a transfer of an **MCI** in some circumstances, even though the transfer complies with the requirements.

## 5.6 Registration of MCI Transfer

- (1) The **bank** must not register a transfer of an **MCI** if:
  - (a) the terms of issue prohibit the transfer to the transferee; or
  - (b) the transfer form does not comply with the requirements under Subrule 5.5.;
- (2) The **bank** may refuse to register a transfer of an **MCI** unless the **board** has all information that it reasonably requires to establish the right of the transferee to be registered as the holder of the **MCI**.
- (3) The transferor remains the holder of the **MCI** until the name of the transferee is entered in the register of members.

## 5.7 Powers of Attorney

The **bank** may assume, as against an **MCI holder**, that a power of attorney granted by that member that is lodged with or produced or exhibited to the **bank** remains in force, and may rely on it, until the **bank** receives express notice in writing at its registered office of:

- (a) The revocation of the power of attorney; or
- (b) The death, dissolution or insolvency of the **member**.

## 5.8 Transmission of MCIs

- (1) On the death of an **MCI holder**, the **bank** may recognise either the legal personal representative of the deceased, or another person who appears to the **board** to be entitled to the deceased's estate, as being entitled to the deceased's interest in the **MCIs**.
- (2) If the personal representative gives the **board** the information it reasonably requires to establish an entitlement to be registered as holder of the deceased's **MCIs** the personal representative may elect to be registered as the holder of the **MCIs**.
- (3) Subject to the Bankruptcy Act 1966, if a person entitled to the **MCIs** because of the insolvency or mental incapacity of a **MCI holder** gives the **board** the information it reasonably requires to establish the person's entitlement to be registered as the holder:
  - (a) the person may require the **bank** to register that person as the holder of the **MCIs**; and
  - (b) whether or not registered as the holder of the **MCIs** has the same rights and obligations and restrictions as the insolvent or incapable **MCI holder**.

## 5.9 Clearing and Settlement Facility

Subject to the **Corporations Act**, the provisions of Rules 5.5 to 5.8 (inclusive) do not apply to a transfer or transmission of an **MCI** effected through a licensed CS facility (as defined in the **Corporations Act**) to the extent provided in the terms of issue applicable to the **MCI**.

## Division 6. — Dividends

### 6.

#### 6.1 No Payment of Dividends on Member Shares

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

#### 6.2 Payment of Dividends

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

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

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

(2) If the terms of issue for a *share* require the Annual General Meeting's approval of any payment of a dividend on the *share*, the *board's* determination under Sub-Rule (1) is effective only if the Annual General Meeting approves the dividend before the time for payment of the dividend arrives. The Annual General Meeting may not vary the *board's* determination.

#### 6.3 Differential Dividends

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

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

#### 6.4 Interest on Dividends

Interest is not payable on a dividend.

## Division 7. — Holding General Meetings

### 7.

#### 7.1 Calling Meetings of Members

The **board** may call a **general meeting**.

#### 7.2 Adjourning General Meetings

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

#### 7.3 Proceedings at General Meetings

- (1) The quorum for a **general meeting** is 10 **members** present in person, by proxy or through an **electronic meeting system**;
- (2) If a quorum is not present within 30 minutes after the time for the **general meeting** set out in the notice of meeting, the **general meeting** is adjourned to the date, time and place the **board** specifies. If the **board** does not specify 1 or more of those things, the meeting is adjourned to:
  - (a) if the date is not specified — the same day in the next week;
  - (b) if the time is not specified — the same time; and
  - (c) if the place is not specified — the same place.
- (3) If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the **general meeting** is dissolved.
- (4) If a **general meeting's** attention is drawn to the absence of a quorum and a quorum is not present within ten minutes:-
  - (a) after the time appointed for consideration of an item of ordinary business, the meeting stands adjourned to either the same day in the next week at the same time and place or to such other day or place as the **board** determines and so notifies **members**; and
  - (b) after the time appointed for consideration of an item of special business, the item lapses.
- (5) The chair of general meetings is:
  - (a) the chair of meetings of the **board**; or
  - (b) if the chair of meetings of the **board** is not present or declines to act for the meeting (or part of it) — the deputy chair of meetings of the **board**.

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

- (6) The Standing Orders in Appendix 4 apply to the conduct of debate at **general meetings** with such modifications the Board may determine in order to facilitate the use of an **electronic meeting system**.
- (7) **General meetings** may be held at any one or more places and/or held using an **electronic meeting system**.
- (8) The provisions of this Constitution relating to **general meetings** apply with any necessary modifications to meetings of a class of **members**.

## Division 8. — Voting at General Meetings

### 8.

#### 8.1 Voting

- (1) A resolution put to the vote at a **general meeting** must be decided on a show of hands unless a poll is demanded.
- (2) If the **bank** has a **direct voting system** on a show of hands or a poll, a **direct vote** cast during the **general meeting** is taken to have been cast on the show of hands or poll and is to be counted accordingly.
- (3) If a **member** has cast a **direct vote** prior to a **general meeting** the **member** may not cast another vote on the resolution at the **general meeting** whether in person, by proxy, attorney or representative.
- (4) Before a **general meeting** votes 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 **bank** 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 the **board** has approved the use of a **direct voting system**— the number of valid **direct votes** cast before the **general meeting**:
    - (i) on the resolution in total;
    - (ii) in favour of the resolution;
    - (iii) against the resolution; and
    - (iv) abstaining from voting
- (5) The **general meeting** passes an ordinary resolution only if more than half the total number of valid votes cast on the resolution are in favour of it.
- (6) The chair does not have a casting vote in addition to his or her deliberative vote.
- (7) If a **member** is also an **MCI holder** that **member** has no more than one vote at a **general meeting**, regardless of the terms of issue of the **MCI**.

#### 8.2 Voting on a Show of Hands

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

#### 8.3 Voting on a Poll

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

## 8.4 Body Corporate Representatives

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

## 8.5 Proxies

- (1) The **board** may determine the form of proxy document from time-to-time.
- (2) An appointment of a proxy is not invalid merely because it does not contain all the information required for a valid proxy appointment, so long as it contains:
  - (a) the **member's** name; and
  - (b) the proxy's name or the name of the office that the proxy holds.
- (3) A proxy does not have a right to vote on a show of hands.
- (4) If a **member** appoints the chair as their proxy and directs the chair to vote either in favour of or against the resolution, the chair must demand a poll on the resolution.
- (5) Unless the **bank** receives written notice of the matter before the meeting at which a proxy votes starts or resumes, the proxy's vote at that meeting will be valid if, before the proxy votes the appointing **member**:
  - (a) dies; or
  - (b) is mentally incapacitated;
  - (c) revokes the proxy's appointment;
  - (d) revokes the authority under which the proxy was appointed by a third party.
- (6) If:
  1. an appointment of a proxy specifies the way the proxy is to vote on a particular resolution at a **general meeting**; and
  2. the appointed proxy is not the chair of the meeting; and
  3. at the meeting, a poll is duly demanded on the question that the resolution be passed; and
  4. either of the following apply:
    - (i) if a record of attendance is made for the meeting—the proxy is not recorded as attending;
    - (ii) the proxy does not vote on the resolution;

the chair of the meeting is taken, before voting on the resolution closes, to have been appointed as the proxy for the purposes of voting on the resolution at that meeting.

## 8.6 Objections

An objection to the qualification of a voter:

- (a) may only be made at the **general meeting** or adjourned **general meeting** at which the vote objected to is cast; and
- (b) must be ruled upon by the chair whose decision is final.

## 8.7 Electronic Meeting System and Direct Voting System

- (1) If the **board** determines to use a **direct voting system** or an **electronic meeting system** the **board** may develop such procedures as they consider appropriate including procedures for:
  - (a) the form, method, and the manner of access and use; and
  - (b) the time by which the **direct votes** cast before a **general meeting** must be received by the **bank** in order for the **direct vote** to be effective. This time must be no later than the time appointed for the commencement of the **general meeting** or, in the case of an adjournment, the resumption of the **general meeting** and in the case of an election of **directors** when the ballot closes in accordance with Appendix 5.
- (2) If the **board** allows a **direct vote** in an election of **directors**:
  - (a) the order in which the **candidates** appear on the **direct voting** instrument must be the same as the ballot papers;
  - (b) the **board** must have procedures in place to prevent a **member** voting more than once in the election;
  - (c) the **board** must ensure the anonymity of the voter;
  - (d) the returning officer must destroy any submitted **direct votes**, or records of submitted **direct votes**, in relation to the election three months after the declaration of the ballot.
- (3) A valid **direct vote** cast by a **member** before a **general meeting** has the same effect as if the **member** had cast the vote in person at the meeting.
- (4) Unless the **direct vote** is withdrawn, the receipt of a **direct vote** from a **member** has the effect of suspending the right of a proxy, attorney or representative to cast a vote on behalf the **member** on the matter the **member shareholder** or **voting MCI shareholder voted on**.
- (5) A **direct vote** received by the company before a **general meeting** may be withdrawn by the **member** by notice, given to the **bank** in writing or in electronic form, before the time appointed for commencement of the **general meeting** or, in the case of an adjournment, the resumption of the **general meeting** or, in the case of an adjournment, the resumption of the **general meeting**. A **direct vote** in an election of **directors** can be withdrawn at any time up to the close of the ballot in accordance with Appendix 5.
- (6) Where an **electronic meeting system** is used for a **general meeting**, the right of a proxy, attorney or representative to vote is suspended while the **member** continues to attend the meeting by electronic means.



## Division 9. — Directors — Appointment & Vacation of Office

### 9.

#### 9.1 Number of Directors

The **bank** must have such number of **directors** as the **board** from time to time determines provided:

- (a) not less than 5 may be appointed by **members** as **member elected directors** under Rule 9.3;
- (b) not more than 2 may be appointed by the board as **board appointed directors** under Rule 9.4; and
- (c) such number of **merger appointed directors** as determined in accordance with Rule 9.9.

#### 9.2 Eligibility to be a Director

An individual is eligible to act, or to be appointed as a **director** if:

- (a) the person is a **member**;
- (b) the person is not disqualified or prevented by law from being a director;
- (c) the person has not had a personal representative or trustee appointed to administer the person's estate or property because of their mental incapacity;
- (d) the person is not an employee of the bank; and
- (e) the **board**, having reference to a report from the **Director Nomination Committee** has resolved that the person is fit and proper to be and act as a director, after conducting a fit and proper assessment in accordance with the **fit and proper policy**.

#### 9.3 Appointment by Members — Member Elected Director

- (1) The **members** may appoint a person to be a **member elected director** by an election held under the provisions of Appendix 5.

#### 9.4 Appointment by Board — Board Appointed Director

- (1) The **board** may at any time appoint up to 2 persons who are eligible to be a **director** under paragraphs (a) to (e) of Rule 9.2 to be **board appointed directors** if it resolves that the appointment would assist the **bank**.
- (2) Any such appointment must specify the **board appointed director's** term of office. An initial appointment must be for not more than 3 years and any re-appointment must be for not more than 3 years.
- (3) The provisions of Rules 9.5 and 9.6 do not apply to a **board appointed director**.

#### 9.5 Appointment by Board — Casual Vacancies of Member Elected Directors

- (1) The **board** may appoint a person to be a casual **director**.
  - (a) if a **member elected director's** office becomes vacant other than because the **director's** term of office has ended; or
  - (b) if, for any other reason, the number of **member elected directors** is less than the maximum under Rule 9.1.

The **board** may only appoint a person who is eligible to be a **director** under paragraphs (a) to (e) of Rule 9.2.

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

## 9.6 Term of Office of Member Elected Directors

- (1) Subject to the **Corporations Act** and the rotation provisions in this Rule, a **member elected director's** term of office:
- (a) starts at the end of the **AGM** at which the **director's** election is announced; and
  - (b) ends at the end of the third **AGM** after the **AGM** at which the **director's** election is announced.
- (2) If the number of **directors** that **member** elect is more than a third of the number of **member elected directors** determined under Rule 9.1 at that time:
- (a) the term of office for the third of the **member elected directors** that receives the most votes at the election, ends at the end of the third **AGM** after the **AGM** at which the **directors'** election is announced; and
  - (b) the term of office for the remainder ends at the end of earlier **AGMs** where less than a third of the board is due to retire at those earlier **AGMs**.
- (3) **Directors** with less votes retire at earlier **AGMs** than those with more votes.
- (4) For purposes of Subrule (2):
- (a) if the number of **member elected directors** on the board is not divisible by 3 — round fractions up to the nearest whole number in determining how many directors there are in a third or in two thirds of the board; and
  - (b) if 2 or more **member elected directors** have the same number of votes — the order of retirement amongst them is determined by lot.

## 9.7 Automatic Vacation of Office

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

- (a) dies;
- (b) ceases to be eligible to be a **director** under paragraphs (a), (b) and (c) of Rule 9.2;
- (c) is absent from 3 consecutive ordinary meetings of the **board** without leave; or
- (d) is 3 months in arrears in relation to money due to the **bank** and has failed to make arrangements for payment satisfactory to the **bank**.

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

## 9.8 Resignation

- (1) A **director** may resign by giving the **bank** notice of the **director's** resignation.
- (2) The **director's** office becomes vacant:

- (a) if the notice of resignation specifies a date of resignation — on the date of resignation; or
- (b) otherwise — on the date the **bank** receives the notice of resignation.

### 9.9 Merger Appointed Directors

- (1) The **board** may appoint **merger appointed directors** where there is a transfer of business between the **bank** and another financial institution where the **bank** is the receiving body within the meaning of the Financial Sector (Transfer and Restructure) Act 1999 (Cth).
- (2) **Merger appointed directors** hold office for either:
  - (a) the term specified under the terms of the transfer of business (if applicable); or
  - (b) three years;whichever is shorter.
- (3) A **merger appointed director** must be eligible to be a **director** under Subrule 9.2.

## Division 10. — Directors' Powers

### 10.

#### 10.1 Powers and Duties of the Board

The **board**:

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

#### 10.2 Negotiable Instruments

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

#### 10.3 Delegation

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

#### 10.4 Board Committees

- (1) The **board** may establish one or more committees as required by any prudential standard or by the **board**, consisting of such number of **directors** as the **board** thinks fit.
- (2) Each board committee established in accordance with 10.4 (1) will be constituted by a charter approved by the board
- (3) The members of a committee may appoint one of their number as chair of their meetings.
- (4) Subject to any restrictions that the board imposes, a committee may meet, adjourn and otherwise regulate its meetings as it thinks fit.
- (5) Questions arising at a meeting of a committee are to be determined by a majority of votes of those present and voting.
- (6) The chair does not have a casting vote in addition to his or her deliberative vote.

#### 10.5 Duty to consider

In discharging their duties under this constitution, the Corporations Act and the general law, the directors of the **bank**:

- (a) must consider, and cause the other officers of the bank to consider:

- (i) the likely consequences of any decision or act of the bank in the long term; and
  - (ii) the interests of the bank's employees; and
  - (iii) the need to foster the bank's business relationships with suppliers, customers and others; and
  - (iv) the impact of the bank's operations on the community and the environment; and
  - (v) the desirability of the bank maintaining a reputation for high standards of business conduct; and
  - (vi) the interests of the members of the bank; and
  - (vii) the ability of the bank to create an overall positive impact on society and the environment; and
- (b) need not give priority to a particular matter referred to in paragraph (a) over any other matter, unless the bank has stated in this Constitution that the directors of the bank must give priority to certain matters related to the pursuit or creation of any objects listed in this Constitution.

## Division 11. — Directors' Meetings

### 11.

#### 11.1 Calling and Conduct of Board Meetings

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

#### 11.2 Quorum of Board

- (1) The quorum for a **board** meeting is one half the number of **directors** from time to time determined under rule 9.1 or such other number as the **board** determines and the quorum must be at all times during the meeting whether in person or by electronic means approved by the **board**.
- (2) If, at any time, the number of **directors** is less than the quorum:
  - (a) the **board** may meet only for the purpose of filling any casual vacancies or for calling a **general meeting**; and
  - (b) the **board** may conduct business by circulating resolution under Rule 11.5.

#### 11.3 Chair of Board

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

#### 11.4 Passing of Directors' Resolutions

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

#### 11.5 Circulating Resolutions

- (1) A resolution in writing signed by all **directors**, or a resolution in writing of which notice has been given to all **directors** and which is signed by a majority of the **directors** entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of the **board**), is a valid resolution of the **board**. The resolution may consist of several documents in the same form each signed by one or more of the **directors**.
- (2) For the purposes of rule 11.5(1) a reference to "all **directors**" does not include a reference to:
  - (a) a **director** who, at a meeting of **directors**, would not be entitled to vote on the resolution;
  - (b) a **director** who disqualifies himself or herself from considering the resolution in question; and
  - (c) any **director** on leave of absence approved by the **board**.

- (3) For the purposes of rule 11.5(1):
- (a) a message sent electronically by a **director** to an agreed electronic address stating that they are in favour of a specified resolution shall be taken to be a document containing that statement and duly signed by the **director**. Such document shall be taken to have been signed by the **director** at the time of its receipt at the agreed electronic address; and
  - (b) a **director** may consent to a resolution by telephoning the Secretary and signifying assent to the resolution and clearly identifying its terms.
- (4) A resolution in writing under this Rule shall be deemed to have been passed at a meeting of the **directors** held on the day and at the time at which the document was last signed or consented to by a **director** and the document shall be deemed to constitute a minute of that meeting and shall be recorded by the **secretary** in the minute book.

## Division 12. — Conflicts of Interest

### 12.

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

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

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

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



### 12.3 Execution of Instruments

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

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

## Division 13. — Remuneration, Indemnity and Insurance

### 13.1 Remuneration of Directors

- (1) The **member elected directors'** aggregate remuneration:
  - (a) must not exceed the amount that the **general meeting** has determined from time to time;
  - (b) may be allocated by the **board** among the **member elected directors** but if the **board** does not determine the allocation it must be allocated equally among the **member elected directors**; and
  - (c) accrues from the day that the **general meeting** approves the remuneration to the day that the **general meeting** next determines the **member elected directors'** remuneration.
- (2) The remuneration of each **board appointed director** shall be determined by the **board**.

### 13.2 Travelling Expenses and Insurance

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

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

### 13.3 Indemnities for Officers and Former Officers

- (1) In this Rule indemnified person means an officer or agent, or former officer or agent, of the **bank**.
- (2) To the extent that the **Corporations Act** permits:
  - (a) the **bank** must indemnify an indemnified person against any liability that the indemnified person incurs in conducting the **bank's** business or exercising the **bank's** powers as an officer or agent of the **bank**; and
  - (b) the **bank** may indemnify, agree to indemnify or enter into (and pay premiums on) a contract of insurance in relation to an indemnified person or any other person.
- (3) The indemnity in paragraph 2(a) applies in relation to an indemnified person for all incidents occurring during the period that person is an officer or agent of the bank, even though a claim is made against the indemnified person after they have ceased to be an officer or agent of the bank.

## Division 14. — Administration

### 14.

#### 14.1 Seal

- (1) The **board** is to provide for the safe custody of the seal.
- (2) The seal is to be used only by the authority of the **directors**.
- (3) The **board** may authorise:
  - (a) 2 **directors**;
  - (b) a **director** and a **secretary**;
  - (c) a director and another person appointed by the directors;
  - (d) a **secretary** and another person appointed by the **directors**; or
  - (e) 2 persons appointed by the **directors**, to witness the affixing of the seal on a document of a class specified in the resolution.

#### 14.2 Secretary

Subject to Rule 14.3, the **board** may determine a **secretary's** terms of appointment, powers, duties and remuneration. At any time, the **board** may vary or revoke a determination, or an appointment, whatever the terms of the appointment.

#### 14.3 Resignation of Secretary

- (1) A **secretary** may resign by giving the **bank** a minimum of 4 (four) weeks' notice of the **secretary's** resignation.
- (2) The **secretary's** office becomes vacant:
  - (a) if the notice of resignation specifies a date of resignation which is more than 4 (four) weeks after the notice is given - on the date specified; or
  - (b) otherwise — on the date which is 4 (four) weeks after the date the **bank** receives the notice of resignation.

## Division 15. — Board after Transfer of Business

### 15.

#### 15.1 Definitions

In this Division:

**EMB** means Endeavour Mutual Bank Limited [ABN 43 087 650 011]

**SCU** means Sydney Credit Union Limited [ABN 93 087 650 726] being the bank as it was named immediately prior to the transfer

**Transfer** means the transfer of business from EMB to SCU under the Financial Sector (*Transfer and Restructure*) Act 1999 (Cth)

#### 15.2 Directors Following Transfer of Business

- (1) Immediately on the transfer taking effect, each person listed in Column 1 of the table below, if he or she was a director of the company listed in Column 2 immediately before the transfer took effect, is a **director** of the **bank** with a term ending at the end of the **AGM** of the **bank** as listed in Column 3.

| Column 1<br>Director | Column 2<br>Pre-transfer company | Column 3<br>Term ends |
|----------------------|----------------------------------|-----------------------|
| Hans Roger Kludass   | <b>SCU</b>                       | 2022 <b>AGM</b>       |
| Mark Edwin Sawyer    | <b>SCU</b>                       | 2021 <b>AGM</b>       |
| Kerrie Anne Daynes   | <b>SCU</b>                       | 2021 <b>AGM</b>       |
| Anton William Usher  | <b>SCU</b>                       | 2020 <b>AGM</b>       |
| Fiona Louise Bennett | <b>EMB</b>                       | 2022 <b>AGM</b>       |
| Alexander Claassens  | <b>EMB</b>                       | 2020 <b>AGM</b>       |
| John Anthony Cottee  | <b>EMB</b>                       | 2022 <b>AGM</b>       |
| Kristen Julie Watts  | <b>EMB</b>                       | 2021 <b>AGM</b>       |

- (2) Any other person who was a director of SCU immediately before the transfer took effect, immediately ceases to be a director on the transfer taking effect.

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## Appendix 1 — Objects

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The **bank's** purpose is to have an overall positive impact on society and the environment whilst pursuing the following objects:

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

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## Appendix 2 – Common Bond

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### A2-1 Common bond for individuals

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

(a) Community:

Any person residing in Australia who expresses an interest in being a **member** of the **bank**.

(b) Family:

The person is a spouse, partner or relative of a person admitted as a **member** of the **bank**.

(c) Transferring Members:

The person was a member of another ADI that transferred its business to the **bank** under the Financial Sector (Transfer and Restructure) Act 1999 (Cth).

### A2-2 Common bond for Bodies Corporate

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

(a) Trustee:

The body corporate is trustee of a trust of which a **member** is a beneficiary.

(b) Employer:

The body corporate is the employer of a **member**.

(c) Approved Body Corporate:

The body corporate has an affinity with the **bank**.

(d) Transferring Members:

The body corporate was a member of another ADI that transferred its business to the **bank** under the Financial Sector (Transfer and Restructure) Act 1999 (Cth)

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## Appendix 3 — Shares

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### Division 1 - Member Shares

#### A3-1 Subscription Price

The **subscription price** for a member **share** is \$nil or such other amount as determined by the **board** from time to time.

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

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

#### A3-3 Voting Rights

- (1) Holders of **member shares** may participate and vote:
  - (a) at a **general meetings**;
  - (b) at a meeting of the class of holders of **member shares**; and
  - (c) in a ballot to appoint **directors** by election.
- (2) At a **general meetings** or a meeting of the class of holders of **member shares**:
  - (a) on a show of hands — each **member** other than a minor has 1 vote regardless of the number of **members shares** held; and
  - (b) on a poll — each **member** other than a minor has 1 vote regardless of the number of **member shares** held.
- (3) A **member** who is a minor has no vote.

#### A3-4 Dividend Entitlements

No Dividend is payable in respect to any **member share**.

#### A3-5 Distribution on Winding-Up

- (1) On a winding-up of the **bank** the holder of a **member share** is entitled:
  - (a) to payment of the **subscription price** for the **member share** when the **member** subscribed for the **member share**; and
  - (b) if any assets remain after the payments in paragraph (a) — to any surplus assets of the **bank** subject to the other provisions of this Constitution.
- (2) Subject to the other provisions of this Constitution holders of **member shares** are entitled to participate in any surplus equally without regard to the number of **member shares** held.

- (3) The **bank** may offset against the amount payable under this clause:
  - (a) any amount unpaid on the **member share**; and
  - (b) any other amount payable by the **member** to the **bank**.
- (4) The entitlements of holders of **member shares** to payment on winding-up are subject to any preferred entitlements to payment on winding-up that holders of any other class of shares may have.

### **A3-6 Redemption of Member Shares**

- (1) The **bank** may redeem a **member share** only if the following conditions are satisfied:
  - (a) either:
    - (i) the **member** has given the **bank** notice requesting termination of the **member's** membership of the **bank** in accordance with rule 4.2;
    - (ii) the **board** has resolved to terminate the **member's** membership of the **bank** in accordance with rule 4.3; or
    - (iii) the **board** has determined that the **member's deposit** accounts with the **bank** are dormant in accordance with rule 4.4; and
  - (b) the **bank** can redeem the **member share** out of any surplus of the **bank**.
- (2) On redemption, the **bank** must pay the **member** an amount equal to the **subscription price** for the **member share** when the **member** subscribed for the **member share** less any amount unpaid on the **member share**
- (3) On redemption, the **member shares** are cancelled.

### **A3-7 Transfer of Member Shares**

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

## **Division 2 – Mutual Capital Instruments**

### **A3-8 Share Capital from MCIs**

- (1) Subject to compliance with the **Corporations Act** and satisfying the requirements of the **prudential standards** where applicable, the **bank** may issue **MCIs** or capital instruments convertible into **MCIs**.
- (2) The **bank** may create or issue more **MCI** at any time. The creation or issue of more **MCIs** does not vary the rights attached to **MCI** or any other shares that the **bank** has already issued.

### **A3-9 Issue**

- (1) The subscription price for an **MCI**, or capital instrument convertible to an **MCI**, will be determined by the **board**.
- (2) Each **MCI** must only be issued as a fully paid up share.
- (3) Any dividends in respect of **MCIs** are non-cumulative.



### A3-10 Rights of MCI Holders

- (1) Subject to this Constitution, the **Corporations Act** and the **prudential standards**, the terms of issue of an **MCI** will be determined by the **board** in its sole discretion.
- (2) Subject to the terms of issue of an **MCI**, an **MCI** is entitled to a claim on the surplus assets of the **bank** on winding-up after all senior claims, including the aggregate subscription price paid for **member shares** have been paid and:
  - (a) the **MCI holders** claim ranks equally and proportionately with the claims of all other **MCI holders**; and
  - (b) the amount of the **MCI holder's** claim cannot exceed the subscription price for the **MCI**.
- (3) Notwithstanding anything to the contrary in this Constitution, but subject to the requirements of the **Corporations Act**, the **board** may determine that the terms of issue of any **MCI** contain such terms and conditions or attach such rights as the **board** considers necessary for **MCIs** to be eligible to be included as regulatory capital under the **prudential standards**.
- (4) The rights attached to **MCIs** (or a class of **MCIs**) may only be varied or cancelled:
  - (a) by special resolution passed by a **general meeting** and;
  - (b) by a special resolution passed at a meeting of **MCI holders** of the relevant class of **MCIs** or with the written consent of **MCI holders** holding at least 75% of the relevant class of **MCI**; and
  - (c) with the prior written approval of **APRA** but only if the variation affects the eligibility of the **MCI** being counted towards common equity Tier 1 capital of the **bank**.

### A3-11 Registration as holder of MCI

- (1) Except as provided by the rules of a clearing and settlement facility which apply to an **MCI**, a person becomes registered as the holder of the **MCI** upon entry of their holding in the **register of members**.

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## Appendix 4 — Standing Orders

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### A4-1 Time Limits for Speakers

- (1) The mover of a motion may speak for no more than 10 minutes.
- (2) Subsequent speakers may speak for no more than 5 minutes.
- (3) The mover of the motion may reply for no more than 5 minutes.
- (4) The meeting is free to extend the time a speaker may speak.

### A4-2 Amendment

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

### A4-3 Speakers

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

### A4-4 Motions to be in Writing

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

### A4-5 Closure of Debate

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

## Appendix 5 — Election of Directors

### Postal or Electronic Ballot

#### A5-1 Holding of Election

An election of **member elected directors** of the **bank** is to be held in the manner set out in this Appendix or as it may be modified by the **board** under Rule 8.7 to allow a **direct vote** in addition to or substitution for a postal ballot.

If an election is not held, the nominees shall be declared to be duly appointed as **member elected directors** by the **secretary** at the **AGM**.

The following table sets out the timetable for an election:

| Steps in Election Procedure                            | Timeframe  |
|--|--|
| Call for nominations                                   | At least 56 days before AGM                      |
| Nominations close                                      | At least 21 days after the call for nominations. |
| Conduct of ballot and announcement of <b>directors</b> | AGM  |

#### A5-2 Director Nominations Committee

- (1) The board must establish and maintain a Director Nominations Committee.
- (2) The function of the Director Nominations Committee is to assess whether a person, including an existing director, is fit and proper under the terms of the fit and proper policy to be appointed or elected as a director.
- (3) The Director Nominations Committee shall consist of not less than three persons as the board determines provided that:
  - (a) no employee of the **bank** shall be appointed to the **Director Nominations Committee**; and
  - (b) no **director** shall be appointed to the **Director Nominations Committee** if such **director** is a candidate for re-appointment or re-election.
- (4) The **board** may, at any time, and in its absolute discretion:
  - (a) suspend or terminate the appointment of a person as a member of the **Director Nominations Committee**; and
  - (b) give directions to the **Director Nominations Committee** as to the procedures it is to follow.

#### A5-3 Nominations

- (1) At least 56 days before the AGM, the **board** must give **members** a notice:
  - (a) calling for the nomination of candidates; and
  - (b) specifying the date nominations close (which must be no earlier than 21 days after the notice calling for nominations).

The **board** may give this notice, in addition to, or in substitution for, any of the methods allowed in Rule 1.5, by notice:

- (a) displayed at the **bank's** offices; or
  - (b) displayed in newspapers; or
  - (c) displayed on the **bank's** website.
- (2) Nominations close on the date specified in the notice given under paragraph (1).
- (3) A person may nominate as a candidate by giving the **bank** a notice of nomination before nominations close. The notice of nomination must:
- (a) include or be accompanied by a declaration from the candidate that the candidate is eligible to be a **director** under Rule 9.2
  - (b) state the candidate's age; and
  - (c) be signed by the candidate.
- (4) Each candidate must provide to the **Director Nominations Committee** such information, consents, and documentation as the **Director Nominations Committee** may request to assist it to determine if the candidate appears to be fit and proper to be a **director** by reference to the **fit and proper policy** and has skills that allow him or her to make an effective contribution to **board** deliberations and processes.
- (5) Each candidate must attend an interview with the **Director Nominations Committee**. The **Director Nominations Committee** and the candidate must use their best endeavours to arrange for the interview to be at a mutually suitable time.
- (6) If a candidate fails to attend an interview with the **Director Nominations Committee** then he or she ceases to be a candidate.
- (7) The **Director Nominations Committee** must report to the **board** on its assessment of whether or not a candidate appears to meet the **fit and proper policy** and to have the skills that would allow him or her to make an effective contribution to **board** deliberations and processes.
- (8) If the **Director Nominations Committee** reports to the **board** that a person does not appear to meet the requirements of the **fit and proper policy** and to have the skills that would allow him or her to make an effective contribution to **board** deliberations and processes and the **board** adopts the report, then the person ceases to be a candidate.
- (9) Notwithstanding that the **Director Nominations Committee** reports that a candidate appears to have the skills that would allow him or her to make an effective contribution to **board** deliberations and processes, the **board** must review the **Director Nominations Committee** report to assess for itself whether a candidate has the necessary skill sets and experience that will allow him or her to make an effective contribution to the **bank** and the **board** on the future direction of the **bank**. A candidate who the **board** resolves does not possess the required skill sets or experience ceases to be a candidate.
- (10) Only a candidate whose nomination to become a **member elected director** has been accepted by the **board** under subclause (9) becomes a candidate for election as a **member elected director** to whom the remainder of this Appendix 5 applies.

#### **A5-4 Proceeding with Election**

If the number of candidates accepted by the **board** under clause A5-3(9) is equal to or less than the number of positions to be filled, the election process otherwise set out in remainder of this Appendix is discontinued and those candidates shall be duly appointed as **member elected directors** by the declaration of the **secretary** at the **AGM**.

**A5-5 Appointment of Returning Officers**

- (1) The **board** must appoint a returning officer, who may appoint assistant returning officers, none of whom can be an officer of the **bank** or a candidate.
- (2) The **secretary** must prepare and give the returning officer a roll of **member**.

**A5-6 Appointment of Scrutineer**

- (1) A candidate may appoint a scrutineer.
- (2) The duties and responsibilities of scrutineers are:
  - (a) to observe the sorting, counting and recording of ballot papers;
  - (b) to ensure that the votes of unrejected ballot papers are correctly credited to the appropriate candidates; and
  - (c) to raise any query with the returning officer regarding any of the ballot papers.

**A5-7 Ballot Papers**

- (1) After nominations have closed the returning officer is to prepare ballot papers for the election in such form approved by the **board**.
- (2) The order in which the candidates appear on the ballot paper is to be determined by the returning officer by lot.
- (3) The returning officer must cause some authenticating mark to appear on each ballot paper prior to their distribution to **members**.
- (4) The **board** must advise **members** in such manner as it determines that ballot papers are available for **members** who wish to vote in the election.

**A5-8 Postal Vote**

- (1) The returning officer must send to each **member** who makes a request, and who is eligible to vote on an election of directors:
  - (a) a ballot paper;
  - (b) an unsealed envelope, in this Rule referred to as the security envelope bearing the following:

\_\_\_\_\_  
 Name of member  
 Member's address  
 Member's signature  
 \_\_\_\_\_

- (c) a "Reply Paid" envelope addressed to the returning officer.
- (2) Ballot papers are to be posted to **member** at their addresses shown in the **register of members** at their addresses shown in the register of members. .
- (3) Any **member** exercising a right to vote must:
  - (a) complete the ballot paper in accordance with these Rules;
  - (b) place the ballot paper in the security envelope and sign it ; and
  - (c) return the security envelope intact to the returning officer in the "Reply Paid" envelope.
- (4) A **member** must ensure that his or her ballot paper is received by the returning officer by 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 received by the returning officer is to be kept in secured ballot boxes until the closure of the ballot.
- (7) A member 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:
  - (a) send a duplicate ballot paper to that member;
  - (b) mark the security envelope "Duplicate"; and
  - (c) keep a record of all duplicate ballot papers issued.

#### **A5-9 Closure of the Ballot**

The ballot closes at the time the returning officer specifies.

#### **A5-10 Procedures After Close of the Ballot**

- (1) As soon as practicable after the ballot closes, the returning officer must ensure that the ballots are dealt with as follows:
  - (a) supervise the scrutinising of the ballot papers and reject informal ballot papers;
  - (b) count the votes;
  - (c) sign a declaration of the ballot as to the:
    - (i) names of the candidates appointed as **directors**;
    - (ii) votes cast for each candidate; and
    - (iii) number of votes rejected as informal; and
  - (d) deliver the declaration to the **secretary**.
- (2) A ballot paper is informal if:
  - (a) it is not authenticated by the returning **officer**; or
  - (b) it has no vote indicated on it or it does not indicate the **member** preference for a candidate.
- (3) The **secretary** must announce the results of the ballot at the AGM.
- (4) If a **member** gives the **bank** a written request, the **bank** must make available to any **member** a copy of the returning officer's declaration of the ballot.
- (5) The returning **officer** must destroy the ballot papers three months after the declaration of the ballot.

#### **A5-11 Voting System**

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

#### **A5-12 Irregularity in the Conduct of an Election**

- (1) The candidates that the returning officer declares to have been appointed are appointed unless the **secretary** receives an objection to the ballot within 7 days of the **secretary's** notifying **members** of the result of the ballot.
- (2) If the **board** is of the opinion that the objection is reasonable, it may resolve to declare the returning **officer's** declaration void.

- (3) The returning officer must then conduct a further scrutiny in accordance with the Constitution the results of which prevail unless the **board** resolves to call a new poll by a unanimous resolution of all **directors** other than those appointed as a result of the ballot to which the objection relates.

### **A5-13 Direct Voting**

- (1) The vote will be conducted by postal ballot before the **AGM**
- (2) If the **board** has determined to provide a **direct voting system** in addition to a postal ballot:
- (a) 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 **members** 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 a **member** cannot **direct vote** more than once in the election;
  - (b) a **member** who votes by **direct vote** must ensure that his or her vote is submitted to the returning officer in accordance with any instructions given for voting by electronic means;
  - (c) in respect of any **direct vote** received by the returning officer, the returning officer must ensure that the fact that the **member** has voted is recorded;
  - (d) the returning officer must cause all **direct votes** to be recorded in such way that they cannot subsequently be identified with any particular **member**;
  - (e) the election procedures set out in the preceding Rules of Appendix 5 are deemed to be otherwise modified to the extent necessary to permit a **direct vote**.

### **A5-14 Vote Counting**

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

## Appendix 6 — Demutualisation Approval Procedure Rules

### Division 1 — Introduction

#### A6-1 When the Demutualisation Approval Procedure Rules Apply

(1) This Appendix applies in the following situations:

|            |   |   |
|------------|---|---|
| <p>(1)</p> | <p><b>Modification or Repeal of Constitution</b></p>  | <p>the <b>bank</b> proposes to modify or repeal this Constitution where the effect of the modification or repeal is:</p> <ul style="list-style-type: none"> <li>(a) to vary any of: <ul style="list-style-type: none"> <li>(i) the terms on which it issues shares; or</li> <li>(ii) the rights and restrictions attaching to its shares, so that they are inconsistent with those set out in the <b><i>Principles of Mutuality</i></b>;</li> </ul> </li> <li>(b) to enable the <b>bank</b> to issue shares where: <ul style="list-style-type: none"> <li>(i) the terms on which it issues the shares; or</li> <li>(ii) the rights and restrictions attaching to the shares, are inconsistent with those set out in the <b><i>Principles of Mutuality</i></b> (whether or not any shares are so issued);</li> </ul> </li> <li>(c) to vary any of the rights, obligations or restrictions attaching to membership so that they are inconsistent with those set out in the <b><i>Principles of Mutuality</i></b>;</li> <li>(d) to enable the <b>bank</b> to admit members where the rights, obligations or restrictions attaching to membership are inconsistent with those set out in the <b><i>Principles of Mutuality</i></b> (whether or not any members are so admitted)</li> <li>(e) that the <b>bank's</b> Constitution is otherwise inconsistent with the <b><i>Principles of Mutuality</i></b>.</li> </ul> |
| <p>(2)</p> | <p><b>Issue of Shares or Admission of Members</b></p> | <p>the <b>bank</b> (whether acting through its <b>board</b>, its <b>members</b> or otherwise) proposes:</p> <ul style="list-style-type: none"> <li>(a) to issue <b>additional shares</b> where: <ul style="list-style-type: none"> <li>(i) the terms on which it issues them; or</li> <li>(ii) the rights and restrictions attaching to them, are inconsistent with those set out in the <b><i>Principles of Mutuality</i></b>;</li> </ul> </li> <li>(b) to issue <b>securities</b> which confer the right or obligation to subscribe for <b>additional shares</b> (whether on conversion of the <b>securities</b> or exercise of any option) where: <ul style="list-style-type: none"> <li>(i) the terms on which it issues them; or</li> <li>(ii) the rights and restrictions attaching to them, are inconsistent with those set out in the <b><i>Principles of Mutuality</i></b>; or</li> </ul> </li> </ul>  |



|     |  |   |
|-----|--|---|
|     |  | (c) to admit members with rights, obligations or restrictions attaching to membership inconsistent with those set out in the <b><i>Principles of Mutuality</i></b> .  |
| (3) | <b>Restructure</b>                             | <p>the <b>bank</b> (whether acting through its <b>board</b>, its <b>members</b> or otherwise) proposes to conduct a reduction of capital, scheme of arrangement, deed of arrangement, transfer of business, or any other form of corporate restructure, where after completion of the restructure:</p> <p>(a) the <b>bank</b> no longer complies with the <b><i>Principles of Mutuality</i></b>;</p> <p>(b) one person, other than a person that is a mutual banking institution, holds more than 90% of the shares in the <b>bank</b> other than shares fitting the description of 'additional shares' in the <b><i>Principles of Mutuality</i></b>;</p> <p>(c) a group of <b>associates</b>, other than a group all of the members of which are mutual banking institutions, between them hold more than 90% of the shares in the <b>bank</b> other than shares fitting the description of 'additional shares' in the <b><i>Principles of Mutuality</i></b>;</p> <p>(d) a person not a mutual banking institution has a legal or equitable interest in more than 20% of the <b>bank's</b> gross assets, based on the latest report that the <b>bank</b> has given APRA as at the time of the transfer;</p> <p>(e) a group of <b>associates</b>, other than a group all of the members of which are mutual banking institutions, between them have a legal or equitable interest in more than 20% of the <b>bank's</b> gross assets, based on the latest report that the <b>bank</b> has given APRA as at the time of the transfer; or</p> <p>(f) the successor to the <b>bank's</b> business is not a mutual banking institution.</p> |
| (4) | <b>Modification or Repeal of this Appendix</b> | <p>the <b>bank</b> proposes to modify or repeal:</p> <p>(a) any of the Clauses in this Appendix;</p> <p>(b) any of the <b><i>Principles of Mutuality</i></b>; or</p> <p>(c) this Constitution where the effect of the modification or repeal is to modify, exclude or restrict the operation of the Clauses in this Appendix.</p>   |

- (2) This Appendix does not apply to proposed modifications or repeals set out in item (4) of the Table in Subclause A6–1(1) that:
- (a) increase the range of ***proposed transactions*** (including any changes to this Appendix so that it applies to the increased range of ***proposed transactions***);
  - (b) impose, modify or repeal additional restrictions on the conduct of ***proposed transactions*** other than those set out in this Appendix;
  - (c) impose, modify or repeal additional obligations that must be complied with in relation to ***proposed transactions*** other than those set out in this Appendix;
  - (d) require disclosure of additional types of information other than those set out in Clause A6–5 to Clause A6–8; or
  - (e) modify or repeal any requirement specified in this Constitution, apart from this Appendix or the ***Principles of Mutuality***, in relation to a ***proposed transaction***.

However, this Appendix does apply to:

- (f) a proposed modification or repeal that makes more than 1 change, and 1 or more of the changes is within the scope of item (4) of the Table in Subclause A6-1(1) but not excluded by this Clause; or
  - (g) a proposed modification or repeal where some other Rule in this Constitution applies this Appendix to the modification or repeal.
- (3) This Appendix, other than Subclause A6-1(4), ceases to have effect immediately upon the following conditions both being met:
- (a) the Australian Securities and Investments Commission publishes a written notice that this Appendix ceases to have effect in relation to the **bank**; and
  - (b) the Australian Securities and Investments Commission delivers a copy of the written notice to the **bank**.

This Subclause is subject to any terms and conditions in the written notice.

- (4) If this Appendix ceases to have effect by reason of Subclause A6-1(3), it will again come into effect by **board** resolution upon the Australian Securities and Investments Commission doing any of the following:
- (a) withdrawing the written notice referred to in Subclause A6-1(3)(a);
  - (b) making an order or exemption that permits the **bank** to adopt or recommence the operation of this Appendix or provisions to the effect of this Appendix; or
  - (c) otherwise permitting the **bank** to recommence the operation of this Appendix.

## **A6-2 Definitions**

- (1) In this Appendix:

**associate** means, in relation to a primary person:

- (a) a spouse or de facto spouse of the primary person;
- (b) a parent, son or daughter of the primary person, spouse or de facto spouse;
- (c) a person who is a partner of the primary person;
- (d) a person who is a director of a body of which the primary person is a director;
- (e) a person who is a trustee of a trust in relation to which a person or entity of a kind referred to in paragraphs (a), (b), (c), (d), (f) or (g) benefits or is capable of benefiting;
- (f) any **entity**, other than the **bank**, over which:
  - (i) a person of a kind referred to in paragraphs (a), (b), (c), (d) or (e) has **control**;
  - (ii) 2 or more persons of a kind referred to in paragraphs (a), (b), (c), (d) or (e) together have **control**;
- (g) any **entity**, other than the **bank**, in which:
  - (i) a person of a kind referred to in paragraphs (a), (b), (c), (d), (e) or (f) is beneficially entitled to more than 20% of any class of **securities**;
  - (ii) 2 or more persons of a kind referred to in paragraphs (a), (b), (c), (d) or (f) together are beneficially entitled to more than 20% of any class of **securities**

**control** means the ability or power of an **entity**:

- (a) whether direct or indirect;
- (b) whether or not enforceable; and
- (c) whether presently exercisable by means of, in breach of or by revocation of any combination of the following:
  - (i) trusts;
  - (ii) relevant agreements; and
  - (iii) practices,

to dominate decision-making, directly or indirectly, in relation to the financial and operating policies of any other **entity** so as to enable that other **entity** to operate with it in pursuing those objectives of the controlling **entity**

**entity** means any:

- (a) incorporated or unincorporated body;
- (b) 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

**independent expert** means an expert who is not an officer of the **bank** or an associate of an officer of the **bank**

**Principles of Mutuality** refers to Principles 4 to 21 and 23 of the Principles of Mutuality in the Preamble to this Constitution to the extent that any of those Principles are not inconsistent with ASIC Policy Statement 147: Mutuality – Financial Institutions

**proposed transaction** means any of the modifications, repeals, issues, admissions, restructures or other transactions referred to in Subclause A6–1(1)

**securities** has the same meaning as in the **Corporations Act** from time to time, but also includes options

- (2) Unless the context requires otherwise, terms that are not expressly defined in this Constitution, but that are defined in the **Corporations Act** from time to time, have the same meaning as in the **Corporations Act**.

### **A6–3 Demutualisation Approval Procedure**

- (1) If this Appendix applies, the **bank** must comply with the procedure set out in Divisions 2 and 3 before:
  - (a) convening a **general meeting** to vote on the proposed modification or repeal of the Constitution set out in items (1) and (4) of the Table in Subclause A6–1(1);
  - (b) issuing the **securities** or admitting the members as set out in item (2) of the Table in Subclause A6–1(1); or
  - (c) either convening, or, where relevant, applying for a court or other order to convene, one or more meetings (whichever is the earlier) to vote on the proposed restructuring or to appoint an administrator as set out in item (3) of the Table in Subclause A6–1(1).
- (2) If a **general meeting** approves a proposed modification of the Constitution set out in items (1) and (4) of the Table in Subclause A6–1(1):

- (a) the resolution is of no effect until the procedure set out in Divisions 2 and 3 is complied with; and
  - (b) the **bank** must send each member a notice that the resolution has been passed in breach of this Appendix, together with the other documents required to be sent in Clause A6–5.
- (3) The procedures in this Appendix apply in addition to any requirements specified in the **Corporations Act** or this Constitution in relation to the **proposed transaction**.
- (4) If the **proposed transaction** is proposed by:
- (a) the **board** — the **bank** bears all costs associated with disclosure and conduct of the postal ballot;
  - (b) a member or a group of members — the member or group of members must pay all costs associated with disclosure, including printing and postage.

The **board** is not required to assist any member or group of members proposing the **proposed transaction** unless they give the **bank** an indemnity in a form satisfactory to the **board**.

- (5) If Subclause A6-3(4)(b) applies, a **general meeting** may resolve that:
- (a) the **bank** pay all costs associated with disclosure and conduct of the postal ballot;
  - (b) the **bank** reimburse the members proposing the **proposed transaction** for the costs associated with disclosure and conduct of the postal ballot they incur.

#### **A6–4 Approval of Demutualisation**

- (1) If this Appendix applies, the **bank** may only act upon the **proposed transaction** if:
- (a) it has complied with the procedure set out in Divisions 2 and 3; and
  - (b) not less than:
    - (i) 25% of the members have voted at the postal ballot conducted under Division 3; and
    - (ii) 75% of the members who have voted approved of the proposed transaction;
- (2) For purposes of this Clause, members entitled to repayment of different amounts on redemption of their member shares are to be treated as in different classes.

## Division 2 — Disclosure

### A6–5 Disclosure Documents Sent With Ballot Paper

The **bank** must send the following documents with the ballot paper that it must send each member under Clause A6–14:

- (a) a disclosure statement as described in Clause A6–6;
- (b) a director's statement from each director as described in Clause A6–7; and
- (c) an **independent expert's** report, commissioned by the **bank**, as described in Clause A6–8.

### A6–6 Disclosure Statement

- (1) The disclosure statement must adequately set out or explain the following (if relevant):
  - (a) the procedural steps required in relation to the **proposed transaction**;
  - (b) how members' rights will change as a result of the proposed transaction and the consequences of the **proposed transaction** for members, including any:
    - (i) loss of rights;
    - (ii) change as to voting rights and rights to participate in any surplus of the **bank**;
  - (c) what benefits (if any) will be offered to members if the **proposed transaction** occurs, and why the benefits are considered appropriate, taking into account, among other things, the extent to which the benefits compensate the members for loss of rights;
  - (d) the basis upon which members' entitlement to the benefits will be determined, including:
    - (i) any minimum period of membership that a member must satisfy to receive benefits;
    - (ii) whether members must pay any amount or provide other value to receive benefits;
  - (e) any preferential allocation of benefits to members, or a class of members, and how that allocation is to be determined;
  - (f) any benefits that officers of the **bank** (including retiring officers) or any **associates** of any officers may receive (whether directly or indirectly) in connection with the **proposed transaction**, other than in their capacity as a member on the same terms as are available to other members, including without limitation:
    - (i) any money or goods;
    - (ii) any preferential allocation of **securities**;
    - (iii) any retirement or superannuation benefits;
    - (iv) any compensation for loss of office;
    - (v) any concessional loans or other favourable or non-arm's length transactions;
  - (g) the implications of the **proposed transaction** in relation to:
    - (i) the continuation of the **bank's** business;

- (ii) any major changes to be made to the **bank's** business; and
    - (iii) changes to benefits, products and services;
    - (iv) the future employment of the present employees of the **bank**;
  - (h) whether the **bank's** financial position has changed materially since the last balance sheet put before members at the last AGM;
  - (i) the availability and consequences of other alternatives; and
  - (j) any other information that the members and their professional advisers would reasonably require to make an informed assessment whether to approve the **proposed transaction**.
- (2) If the **proposed transaction** involves the allocation of **securities** (whether by the **bank** or some other entity) the disclosure statement must adequately set out or explain the following (if relevant):
- (a) who will and will not be allocated **securities**;
  - (b) the rights and obligations attaching to the **securities** being allocated, including voting rights and rights to participate in any surplus;
  - (c) the class and approximate number of **securities** being allocated;
  - (d) the allocation formula for the **securities** (including the implications of any undersubscription or oversubscription of **securities** offered), including, without limitation:
    - (i) the manner in which the allocation formula will apply as between members; and
    - (ii) the basis on which the allocation formula has been determined;
  - (e) if rights to **securities** are allocated — whether the rights are renounceable or non-renounceable;
  - (f) the consideration payable for the **securities**, including, if the **securities** are partly paid, any call dates and amounts payable on calls;
  - (g) if the allocation of **securities** is underwritten:
    - (i) the name of the underwriters;
    - (ii) the amount of the underwriting fee or commission payable;
    - (iii) details of clauses in the underwriting agreement that may affect the underwriter's rights and obligations under the underwriting agreement;
  - (h) whether the **securities** will be listed on a securities exchange or exempt market; and
  - (i) the implications of allocation of **securities** for the structure of the **bank**.
- (3) If the **proposed transaction** involves the modification or repeal, as set out in item (4) of the Table in Subclause A6–1, and the person proposing the modification or repeal is aware of any proposal to conduct any of the transactions set out in items (1) to (3) of the Table in Subclause A6–1(1), then the disclosure statement must disclose the matters set out in Subclause A6–6(1) and Subclause A6–6(2) in relation to:
- (a) the proposed modification or repeal; and
  - (b) each proposed transaction set out in items (1) to (3) of the Table in Subclause A6–1(1) of which the person is aware (to the extent that the person is aware of the matters relating to those transactions).

## A6-7 Director's Statement

The director's statement must contain:

- (a) a statement:
  - (i) recommending that the **proposed transaction** be approved or not approved, and giving reasons for the recommendation; or
  - (ii) giving reasons why a recommendation is not made;
- (b) a statement whether the director proposes to approve or not approve the **proposed transaction**;
- (c) a statement confirming that neither the director nor any **associate** of the director will receive any pay, other valuable consideration or any other benefit in connection with the **proposed transaction** other than as disclosed in the disclosure statement; and
- (d) particulars of any agreement between the director and any other person in connection with, or conditional upon, the outcome of the **proposed transaction**.

## A6-8 Independent Expert's Report

- (1) The **independent expert's** report must adequately set out or explain the following (if relevant):
  - (a) whether, in the **independent expert's** opinion, the **proposed transaction** is in the best interests of the members, and giving reasons for that opinion;
  - (b) whether, in the **independent expert's** opinion, the benefits being provided to the members are fair and reasonable, having regard to any:
    - (i) loss of rights; and
    - (ii) change as to voting rights and rights to participate in any surplus of the **bank**;and giving reasons for that opinion; and
  - (c) details of:
    - (i) any relationship between the **independent expert** and the **bank**, including any circumstances in which the **independent expert** gives it advice or acts on its behalf, in the proper performance of the functions attaching to the **independent expert's** professional capacity or business relationship with the **bank**;
    - (ii) any financial or other interest of the **independent expert** that could reasonably be regarded as being capable of affecting the **independent expert's** ability to give an unbiased opinion; and
    - (iii) any benefit that the **independent expert** or any **associate** of the **independent expert** may receive (whether directly or indirectly) in connection with making the report or in connection with the **proposed transaction**.
- (2) If the **bank** commissions more than 1 **independent expert's** report, all of the reports must be sent to each member.

## Division 3 — Postal Ballot

### A6–9 Appointment of Returning Officer

- (1) The **board** must appoint as returning officer for the ballot a person having the qualifications, experience or standing appropriate for appointment.
- (2) The returning officer may, if necessary, appoint 1 or more persons to act as assistant returning officers or clerical assistants.
- (3) A member is not eligible to be appointed as a returning officer or assistant returning officer.
- (4) The returning officer may delegate any of the returning officer's functions in this Division to an assistant returning officer having the qualifications, experience or standing to exercise those functions.
- (5) A person ceases to hold office as a returning officer or assistant returning officer if the person:
  - (a) dies; or
  - (b) resigns by notice of resignation delivered to the **bank**; or
  - (c) is removed from office by the members.

### A6–10 Roll

As soon as practicable after the **board** appoints the returning officer for the postal ballot, the secretary must give the returning officer a roll showing, as at the time the roll is given:

- (a) the members and the number of shares each member holds; and
- (b) if the shares are divided into different classes — the members who hold shares in each class and the number of shares of each class each member holds.

### A6–11 Notice of Proposed Postal Ballot

- (1) As soon as practicable after being appointed as returning officer for a postal ballot, the returning officer must cause notice of the proposed ballot to be:
  - (a) sent to each member entitled to vote; or
  - (b) published in a newspaper circulating generally throughout all jurisdictions in which the **bank** has members.
- (2) The notice must:
  - (a) state that a postal ballot is to be held;
  - (b) state the proposed transaction that is to be put to voters at the ballot; and
  - (c) state the closing date for the ballot.

### A6–12 Postponement of Closing Date

- (1) The returning officer may postpone (for not more than 7 days on any 1 occasion) the date for the close of the ballot by notice published in a newspaper circulating generally throughout all jurisdictions in which the **bank** has members.
- (2) The returning officer may exercise the power conferred by this Clause more than once in respect of a ballot.



### **A6–13 Printing of Ballot Papers**

The returning officer must ensure that a sufficient number of ballot papers is printed for the purposes of the ballot.

### **A6–14 Postal Voting Procedures**

- (1) Postal voting will be conducted according to procedure specified by the returning officer as approved by the **board**.
- (2) In approving postal voting procedures the **board** must have regard to these matters:
  - (a) the extent to which the procedures are efficient in enabling the returning officer to detect any fraud or impropriety in the voting process;
  - (b) the extent to which the procedures protect the anonymity of the voter;
  - (c) instructions for voting are legible and clearly expressed so as to accurately inform members how to complete and lodge a ballot paper;
  - (d) provisions for issuing a duplicate ballot paper when the original has been lost or spoiled;
  - (e) the extent to which procedures for receiving, checking, scrutinising and counting ballot papers are efficient; and
  - (f) the conduct and functions of scrutineers appointed by candidates.
- (3) The **board** must cause the postal voting procedures, as approved, to be displayed at the **bank's** registered office and every branch office from the day before ballot papers are sent to members until the day after closure of the ballot.
- (4) A member is entitled to a copy of the postal voting procedures, on request.

### **A6–15 Distribution of Ballot Papers**

Not less than 28 days before the closing date for the ballot, the returning officer must cause to be sent to each member on the roll, at the address specified in respect of the member in the roll:

- (a) a ballot paper that bears the initials of the returning officer or a deputy returning officer;
- (b) any other documents as required by the postal voting procedure.

### **A6–16 Replacement of Ballot Papers**

- (1) If any member to whom a ballot paper has been sent satisfies the returning officer that the ballot paper has been spoilt, lost or destroyed, the returning officer may issue the member with a replacement ballot paper.
- (2) The returning officer must keep a record of all replacement ballot papers so issued.

### **A6–17 Voting**

- (1) A member who wishes to vote in a postal ballot must:
  - (a) complete the ballot papers in accordance with the postal voting procedures; and
  - (b) subsequently deal with the ballot paper in accordance with the postal voting procedures.
- (2) A member's vote in the postal ballot may be counted only if:
  - (a) the member has voted in the way required by this Clause; and

- (b) the returning officer receives the ballot paper in accordance with the postal voting procedures on or before the date for the close of the postal ballot.

#### **A6–18 Appointment of Scrutineers**

- (1) The **board** may appoint a scrutineer to monitor the scrutiny and the counting of postal votes.
- (2) Any other interested person, with the consent of the returning officer, may appoint a scrutineer to monitor the scrutiny and counting of the postal votes.
- (3) A scrutineer is entitled to be present at the scrutiny and counting of postal votes.

#### **A6–19 Scrutiny**

- (1) As soon as practicable after the ballot closes, the returning officer must check, scrutinise and deal with the ballots in accordance with the postal voting procedures.
- (2) A ballot paper is informal if:
  - (a) it is not authenticated as required by the postal voting procedures;
  - (b) it has not been completed so as to show a vote.

#### **A6–20 Counting of Votes**

- (1) The returning officer must then proceed to count the votes.
- (2) The returning officer may make use of electronic data processing equipment in the counting of votes.
- (3) On completing the count, the returning officer must make out a return to the **bank** certifying:
  - (a) if the **bank** has only one class of members:
    - (i) the number and percentage of members who voted in the postal ballot; and
    - (ii) the number and percentage of votes in favour of the proposed transaction; and
  - (b) if the **bank** has more than one class of members:
    - (i) the number and percentage of members in each class who voted in the postal ballot; and
    - (ii) the number and percentage of votes in each class in favour of the proposed transaction.
- (4) For purposes of this Clause, members entitled to repayment of different amounts on redemption of their member shares are to be treated as in different classes.