



FORD CO-OPERATIVE CREDIT SOCIETY LIMITED
ABN 74 087 651 456 TRADING AS GEELONG BANK

CONSTITUTION

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CONSTITUTION

DIVISION 1 - INTRODUCTORY MATTERS

1.1 Definitions

In this Constitution, unless the context requires otherwise:

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

APRA means the Australian Prudential Regulation Authority

ASIC means the Australian Securities and Investments Commission

Bank means the company described in this Constitution

board means the board of **directors**

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

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

elected director means a **director**:

- (a) appointed by **shareholders** under Rule 15.3; or
- (b) appointed by the **board** to fill a casual vacancy under Rule 15.4

financial accommodation means:

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

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

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

fit and proper policy means the policy adopted by the **board** in relation to the fitness and propriety of directors, senior managers and auditors required by **APRA prudential standard 520** or any other **prudential standard** or law applying from time to time.

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

MCI means a share as described Division 7 of this Constitution

MCI holder means a person whose name the **Bank** has entered for the time being as a holder of one or more **MCIs** in the **Register of Members**

member means a person whose name the **Bank** has entered for the time being as a holder of a **member share** in the **Register of Members**

member share means a share as described in Division 6 of this Constitution

prudential standard means:

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

Register of Members means the register of members of the **Bank** under the **Corporations Act**

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

share means a **member share** or an **MCI**, as context requires

shareholder means a **member** or an **MCI holder**, as context requires

subscription price means:

- (a) the amount (if any) payable by a person on subscription for a **share**;
- (b) for an **MCI** created by conversion from another security, the amount determined in accordance with Rule 7.2(3)

1.2 Interpretation

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

- (a) the singular includes the plural and vice versa and words importing a gender include other genders;
- (b) words importing natural persons include corporations;
- (c) where an expression is defined in this Constitution, any other grammatical form of the expression has a corresponding meaning;
- (d) words and expressions defined in the **Corporations Act** have the same meaning in this Constitution;

- (e) headings are for purposes of convenience only and do not affect the interpretation of this Constitution;
 - (f) a reference to a statute includes all amendments, consolidations, re-enactments or replacements of the statute, and any regulation or statutory instrument made under it;
 - (g) a reference to this Constitution or another instrument includes all amendments or replacements of the Constitution or the other instrument;
 - (h) 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; and
 - (i) a reference to 'in writing' is a reference to any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile and e-mail transmissions and documents in electronic form.
- (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) 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 **members** from time-to-time; and
- (b) if to a **member** — at the **member's** address appearing on the Register of Members from time-to-time or at any alternative address nominated by the **member**, or at any fax number or electronic address nominated by the **member**.

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

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

	<i>Delivery Method</i>	<i>Time Person Receives Notice</i>
1	Hand delivering the notice personally	The other person receives the notice: (i) if hand delivered before 4:00 pm on a business day — on that business day (ii) if hand delivered after 4:00 pm on a business day — on the next business day (iii) if hand delivered on a day other than a business day — on the next business day
2	Sending the notice by pre-paid post	The other person receives the notice on the third business day after posting unless it is actually delivered earlier
3	Sending the notice by facsimile transmission	The other person receives the notice: (i) if sent before 4:00 pm on a business day — on that business day (ii) if sent after 4:00 pm on a business day — on the next business day (iii) if sent on a day other than a business day — on the next business day This rule does not apply where the person sending the facsimile has evidence that the transmission was unsuccessful
4	Sending the notice by electronic means	The other person receives the notice: (i) if sent before 5:00 pm on a business day — on that business day (ii) if sent after 5:00 pm on a business day — on the next business day (iii) if sent on a day other than a business day — on the next business day This rule does not apply where the person sending the notice by electronic means has evidence that the notice did not reach the other person's electronic address

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

1.6 MCI Mutual Entity

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

DIVISION 2 - OBJECTS & LIMIT ON POWERS

2.1 Objects

The **Bank** has the following objects:

- (a) to raise funds by subscription **deposit** or otherwise as authorised by the **Corporations Act** and *Banking Act 1959 (Cth)*;
- (b) to apply the funds in providing **financial accommodation** to **members** subject to the **Corporations Act** and *Banking Act 1959 (Cth)*;
- (c) to encourage savings amongst **members**;
- (d) to promote co-operative enterprise;
- (e) to provide programs and services to **members** to assist them to meet their financial, economic and social needs.

2.2 Customers

- (1) The **Bank** may only provide **financial accommodation** to:
 - (a) its **members**;
 - (b) another **ADI**; or
 - (c) any person or class of persons as determined by the **board** from time to time in its absolute discretion.
- (2) The **Bank** may accept a **deposit** of money from a person who is not a **member**.
- (3) This Rule does not limit the powers of the **Bank** to invest funds, otherwise than by way of **financial accommodation** to **members** and other **ADI's**.

DIVISION 3 - MEMBERSHIP

3.1 Admission to Membership

(1) Subject to any other Rule allowing admission of **members**, the **Bank** may admit a person as a **member** only if:

- (a) the person applies for a **member share**; and
- (b) the person pays the **subscription price** (if any) for the one **member share**.

Note: The **Bank** may also admit a person as a **member** by registering a transfer or transmission of a **member share** to the person under Rule 11.3, Rule 12.1, 12.2 or Rule 12.3.

(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) Upon the **Bank** admitting a person as a **member**, the **Bank** must:

- (a) issue the **member share** to the person;
- (b) enter the person's particulars in the **Register of Members** as required by the **Corporations Act**; and
- (c) give the person notice that their application for membership has been accepted.

3.2 Delegation of Power to Admit Members

- (a) The **board** may delegate its power to admit **members** to officers or employees of the **Bank**.
- (b) Any delegation must not include authority to further delegate the power to admit members.

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 joint **member's** shares.
- (6) The **Bank** may accept **deposits** from, or provide **financial accommodation** to, the joint **member** or to any person constituting the joint **member**.
- (7) The persons constituting a joint **member** are jointly and individually liable for any liability that the joint **member** may have in relation to the joint **member's** shares.

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DIVISION 4 - TERMINATION OF MEMBERSHIP

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

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

- (a) the **Bank** redeems the **member's member share** under Rule 4.2, Rule 4.3 or Rule 4.4;
- (b) the **Bank** forfeits the **member's member share** under Subrule 8.3(2);
- (c) the **member** surrenders the **member's member share** under Subrule 8.3(5);
- (d) if the **member** is an individual — the **member**:
 - (i) dies;
 - (ii) becomes a bankrupt and the **Bank** registers the **member's** trustee in bankruptcy as the holder of the **member's member share** under Rule 12.2; or
 - (iii) becomes mentally incapable and the **Bank** registers the **member's** trustee or guardian as the holder of the **member's member share** under Rule 12.3;
- (e) if the **member** is a body corporate — the **member** is deregistered or dissolved; or
- (f) if the **member** is a trustee for an unincorporated association — the **Bank** registers the transfer of the **member's member share** to another person who is to act as trustee for the unincorporated association.

4.2 Member's Request for Termination

- (1) A **member** may request termination of membership but only upon withdrawing all **deposits** and repaying all **financial accommodation**.
- (2) If a **member** makes a request under Subrule (1), the **Bank** must redeem the **member's member share** as soon as practicable after receiving the request. However, the **Bank** may defer redeeming the **member's member share** until the **board** is satisfied that:
 - (a) the **member** has withdrawn all **deposits** and repaid all **financial accommodation**;
 - (b) immediately after redeeming the **member share**, the **Bank** will not be in breach of any **prudential standard**; and
 - (c) the **Bank's** capital base is adequate for purposes of **APRA's** supervision of capital adequacy;
 - (d) if **APRA** has restricted the **Bank** redeeming **member shares** (whether by direction or otherwise) – the restriction no longer applies; and

- (e) the **Bank** has sufficient profits available to pay the amount payable on redemption of the **member share**.

4.3 Termination by the Board

- (1) The **Bank** may, by **board** resolution or under the **board's** delegated authority, redeem a **member's member share** if:
 - (a) the **member** fails to discharge the **member's** obligations to the **Bank**;
 - (b) the **member** has engaged in conduct that could reasonably be considered to be detrimental to the **Bank**; or
 - (c) the **member** obtains membership by misrepresentation or mistake.
- (2) The **Bank** must give notice of the proposed redemption under Subrule (1) to the **member** at least 14 days before redemption.
- (3) On redeeming the **member share**, the **Bank** may pay the amount (if any) payable on redemption of the **member share** to the **member** by either:
 - (a) sending a cheque to the **member's** address as set out in the **Register of Members**; or
 - (b) crediting any of the **member's** accounts with the **Bank**.

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 the **member's deposit** accounts are dormant; and
 - (b) redeem the member's member share,by board resolution if the **member** has not initiated any transactions in relation to any **deposit** account in the 12 month period before the date of the resolution.
- (3) The **Bank** must send notice of the proposed resolution under Subrule (2) to the **member** at the **member's** last known address as shown on the **Register of Members** at least 28 days before considering the proposed resolution.
- (4) On redemption of the **member share**, the **Bank** must pay the amount payable on redemption of the **member share** into the **member's** account.
- (5) If the **Bank** redeems a person's **member share** under this Rule, the person may require the **Bank** to reinstate the person's **deposit** accounts at any time before the **Bank** pays the money in the **deposit** account in accordance with the relevant unclaimed money legislation. If the person requires the **Bank** to reinstate the person's **deposit** accounts:

- (a) the **Bank** must reinstate the person's **deposit** accounts as soon as practicable; and
- (b) if the **Bank** has redeemed the **member's member share** — the **Bank** must issue a **member share** to the person and may debit the **member's deposit** account for the subscription amount.

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4.5 Substitution of Member Shares

- (1) The **Bank** may, on application from a **member** who holds a **member share** issued with a **subscription price** other than \$nil,:
 - (a) redeem the **member's member share**;
 - (b) pay the amount payable on redemption of the **member share** to the **member** by:
 - (i) crediting any of the **member's** accounts with the **Bank**;
 - (ii) sending a cheque to the **member's** address as set out in the **Register of Members**; or
 - (iii) such other means as agreed to by the **member**; and
 - (c) on redemption, issue to the **member** a substitute **member share** with a \$nil **subscription price**.
- (2) Redemption of a **member share** under this Rule 4.5 is permitted in addition to, and not subject to the conditions of, redemption under any other Rules in this Constitution.
- (3) Redemption under this Rule 4.5 does not terminate the **member's** membership, which continues as the same membership, without interruption or break, despite the substitution of **member shares**.

DIVISION 5 - ISSUE OF SHARES

5.1 Classes of Shares

- (a) The only shares the **Bank** may issue are: **member shares**; and
- (b) **MCIs**.

5.2 Board Power to Issue Shares

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

5.3 Restrictions on Issue of Member Shares

- (1) The **Bank** must not issue:
 - (a) options to subscribe for **member shares**;
 - (b) securities that may be converted to **member shares**; or
 - (c) securities with pre-emptive rights to **member shares**.
- (2) The **Bank** may only issue 1 **member share** to any person. However, the **Bank** may issue to a trustee for an unincorporated association:
 - (a) 1 **member share** to the trustee in the trustee's own right; and
 - (b) 1 **member share** to the trustee as trustee for the unincorporated association.

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

5.4 Issue of Securities Convertible to MCIs

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

DIVISION 6 - MEMBER SHARES

Rights, Obligations and Restrictions Attaching to Member Shares

6.1 Subscription Price

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

6.2 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 Rule 6.3;
 - (b) the right to participate in dividends on the terms set out in Rule 6.4;
 - (c) the right to participate in the distribution of profits or assets on a winding-up on the terms set out in Rule 6.5; and
 - (d) the right to redeem the **member shares** on the terms set out in Rule 6.6.
- (2) The obligation to pay any unpaid **subscription price** on the terms set out in Rule 6.7 attaches to each **member share**.
- (3) The restriction on transfer of **member shares** in Rule 6.8 attaches to each **member share**.
- (4) 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.

6.3 Voting Rights

- (1) Holders of **member shares** may participate and vote:
 - (a) at a **general meeting**;
 - (b) at a meeting of the class of holders of **member shares**; and
 - (c) in a ballot to appoint **directors** by election.
- (2) Subject to Rule 6.3(4) at a **general meeting** or a meeting of the class of holders of **member shares**:
 - (a) on a show of hands — each holder of **member shares** other than a minor has 1 vote; and
 - (b) on a poll — each holder of **member shares** other than a minor has 1 vote.
- (3) A **member** who is a minor has no vote.
- (4) Except as provided in Rule 14.4(2) (Body Corporate Representatives) and Rule 14.5 (Proxies) a **member** may exercise only one vote at a **general meeting** or a meeting of the class of holders of **member shares** or on an election of **directors** regardless of the fact that the **member** may hold more than one membership.

6.4 Dividend Entitlements

- (1) A holder of a **member share** has a right to participate in any dividend that the **Bank** pays only if the **general meeting** approves the payment of the dividend on **member shares**.
- (2) A **general meeting** may only approve a dividend at a rate that does not exceed 50% of the **Bank's** after tax profit for the financial year to which the dividend relates.
- (3) The entitlements of holders of **member shares** to dividends are subject to any preferred entitlements to dividends that holders of any other class of shares may have.
- (4) Each **member share** carries a right to participate in dividends equally with every other **member share**.

6.5 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) and any payments holders of **MCIs** are entitled to — to any surplus assets of the **Bank**.
- (2) Each **member share** carries a right to participate in surplus assets equally with every other **member share**.
- (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.

6.6 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** under Rule 4.2;
 - (ii) the **board** has resolved to terminate the **member's** membership of the **Bank** under Rule 4.3;
 - (iii) the **board** has determined that the **member's deposit** accounts with the **Bank** are dormant under Rule 4.4; or
 - (iv) the **member** is issued with a substitute **member share** under Rule 4.5;

- (b) the **board** reasonably believes that, immediately after redeeming the **member share**, the **Bank** will not be in breach of any **prudential standards**; and
 - (c) the **Bank** can redeem the **member share** out of:
 - (i) the profits of the **Bank**; or
 - (ii) the proceeds of a new issue of shares made for the purpose of the redemption.
- (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**. However, the **Bank** does not have to pay a **member** anything on redeeming the **member's member share** if, at the time of the redemption:
- (a) the **Bank** is in breach of any **prudential standard** dealing with capital adequacy;
 - (b) **APRA** has given the **Bank** a direction not to pay **members** anything on redeeming their **member shares** and has not yet revoked the direction; or
 - (c) an administrator that **APRA** has appointed controls the **Bank's** business.
- In these situations, the **member** has no claim against the **Bank** for payment.
- (3) On redemption, the **member shares** are cancelled.
- (4) This Rule does not affect the terms on which **member shares** may be cancelled under a reduction of capital or a share buy-back under **Corporations Act** Part 2J.1.

6.7 Payment for Member Shares by Minors

- (1) This clause applies to a **member** who was a minor when he or she became a **member** and who holds a **member share** with some of its **subscription price** unpaid.
- (2) While a **member** remains a minor, except when the **Bank** is being wound up, the **Bank** must not:
- (a) call for payment of the unpaid amount in respect of the minor's **member share**;
 - (b) credit any dividend to the unpaid amount in respect of the minor's **member share**; or
 - (c) otherwise set off against the unpaid amount any amounts owing by the **Bank** to the minor.
- (3) After reaching the age of 18, the **member** must pay the unpaid amount of the **subscription price** for the **member share** applicable as at the time he or she became a **member**. Any time after the **member** reaches the age of 18, the **board** may:
- (a) call for payment of all or part of the unpaid amount in respect of the **member share**; or

(b) debit any of the **member's** deposit accounts with the **member's** consent.

- (4) After reaching the age of 18, the **member** may not exercise any of the rights attaching to his or her **member share** until the **member** pays the amount of the unpaid **subscription price**.

Note: In relation to calls, see Rule 8.1, Rule 8.2 and Rule 8.3.

6.8 Transfer of Member Shares

- (1) Subject to Subclause (2), a **member** may not transfer their **member share**.
- (2) A trustee for an unincorporated association may transfer the **member share** that they hold as trustee for the unincorporated association to another person who is to act as trustee for the unincorporated association.

DIVISION 7 - MCIs

7.1 Terms of Issue

- (1) Subject to any conditions in this Constitution, including this Division 7, the **Bank** may issue **MCIs** on such terms of issue, including the rights and obligations attaching to the **MCIs**, as determined by the **board** from time to time. The terms of issue may include, without limitation:
 - (a) **subscription price;**
 - (b) voting rights;
 - (c) entitlement to dividends
 - (d) entitlement to share in surplus assets and profits in the winding-up of the **Bank**.
- (2) Subject to any conditions in this Constitution, the **Bank** may issue different classes of **MCIs**:
 - (a) that may carry rights and obligations that differ from those carried by other classes of **MCIs**;
 - (b) with entitlements that may be preferred, equal, or deferred to entitlements carried by other classes of **MCIs** or **member shares**.
- (3) The **Bank** may issue more **MCIs** at any time. The issue of more **MCIs** does not vary the rights attached to **MCIs** or **member shares** that the **Bank** has already issued except to the extent expressly provided for in the terms of issue of the already issued **shares** or as required by the **Corporations Act**.

7.2 Issue of MCIs

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

7.3 Voting Rights

- (1) Subject to subclause (2), an **MCI** may be issued on terms that give the holder a right to vote:
 - (a) in **general meetings** of the **Bank**;
 - (b) in the ballot to appoint **directors** by election.
- (2) An **MCI holder** with:
 - (a) a right to vote in **general meetings**, cannot cast more than 1 vote on any resolution in **general meeting**;
 - (b) a right to vote in the ballot to appoint directors by election, cannot cast more than 1 ballot in the election,irrespective of the number of **MCIs** held. An **MCI holder** who is also a **member** cannot cast a vote or ballot as an **MCI holder** in addition to a vote as a **member**.
- (3) In a meeting of **MCI holders**, or of **MCI holders** holding a particular class of **MCIs**, the right to vote of each relevant **MCI holder** is:
 - (a) as determined by the terms of issue of the relevant **MCIs**; or
 - (b) if not determined by the terms of issue of the relevant **MCIs**, in a vote by poll, 1 vote for each relevant **MCI** held by the **MCI holder**.

7.4 Dividends

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

7.5 Distribution on Winding-Up

- (1) Subject to the terms of issue of the **MCI**, in a winding-up of the **Bank** an **MCI holder** is:
 - (a) entitled to payment of the **subscription price** of the **MCI**;
 - (b) not otherwise entitled to share in surplus assets and profits.
- (2) Subject to the terms of issue of the **MCI**, the right each **MCI** carries to payment under paragraph (1) ranks behind and after payment of the **subscription price** on **member shares** but before **members** are otherwise entitled to share in surplus assets.
- (3) Despite paragraph (2), classes of **MCIs** may be issued on terms that the right to payment under paragraph (1) ranks ahead, behind, or equal and proportionate to, the right to payment of **subscription price** in a winding-up of the **Bank** held by:
 - (a) **member shares**;
 - (b) other **MCIs**.

- (4) Each **MCI** in a class of **MCIs** carries a right to payment under paragraph (1) that is:
- (a) equal and proportionate with every other **MCI** in that class; and
 - (b) subject to any preferred entitlements to payment under paragraph (1) that holders of any other class of **MCIs** may have pursuant to paragraph (3).

7.6 Variation of Rights

The rights attaching to an **MCI** can be varied or cancelled only by special resolution of the **Bank** and either:

- (a) by special resolution passed at a meeting of **MCI holders** holding **MCIs** in the same class; or
- (b) with the written consent of **MCI holders** holding **MCIs** in the same class with at least 75% of the votes in that class.

DIVISION 8 - CALLS, FORFEITURE AND LIENS

8.1 Payment of Calls on Shares

- (1) This Rule applies if some or all of the **subscription price** for a share is payable on the **Bank** calling up payment of some or all of the unpaid **subscription price**. This Rule applies in relation to a share subject to:
 - (a) any restriction in the terms of issue for the share; and
 - (b) any **special resolution** providing that the **Bank** can only call up some or all of the **subscription price** for shares if the **Bank** becomes an externally-administered body corporate
- (2) The **Bank** may call for payment of any amount of the unpaid **subscription price** for a share by **board** resolution. The **Bank** must give a **shareholder** holding a share on which the **Bank** has made a call a notice setting out how much, when and how the **shareholder** must make the payment. The **Bank** must give the notice at least 14 days before the time the **shareholder** must pay the call.
- (3) The **Bank** may revoke or postpone a call on a share by **board** resolution. The **Bank** must give notice as soon as practicable after the **board** resolution to each **shareholder** holding a share for which the **Bank** has revoked or postponed a call.
- (4) In any proceeding to recover unpaid instalments, a **shareholder** is conclusively presumed to be liable for a call if:
 - (a) the **Bank's** minutes record the **board** resolution calling for payment of the amount of the call;
 - (b) the **shareholder's** name appeared in the **Register of Members** as holder of the share on the date of the **board** resolution; and
 - (c) the **Bank** gave the **shareholder** a notice in accordance with Subrule (2).
- (5) At any time, the **Bank** may accept from a **shareholder** prepayment of any amount of the unpaid **subscription price** on a share.

8.2 Effect of Failure to Pay Unpaid Amounts

- (1) This Rule applies if a **shareholder** does not pay any amount of the unpaid **subscription price** for a share at the time the amount becomes due. This Rule does not limit any other remedies that the **Bank** may have against the **shareholder**.
- (2) The **shareholder** must pay:
 - (a) the amount due on the share; and
 - (b) all costs and expenses that the **Bank** incurs (including, without limitation, legal expenses on a solicitor and own client basis or full indemnity basis, whichever is the higher) because the **shareholder** did not pay the amount when it became due.

The **Bank** may waive all or part of the expenses payable under this Subrule by **board** resolution.

- (3) At any time while the amount payable under Subrule (2) remains unpaid in respect of a share, the **Bank** may give the **shareholder** a default notice:

- (a) setting out:
 - (i) how much is due; and
 - (ii) when the **shareholder** must pay the amount due; and
- (b) stating that, if the **shareholder** does not pay the amount due by that date, the **shareholder** will forfeit the share.

The date for payment must be at least 14 days after the date on which the **Bank** gives the **shareholder** the default notice. In the absence of any manifest error, the default notice is conclusive evidence of the amount that the **shareholder** must pay the **Bank** as at the date the **Bank** issues the default notice.

8.3 Forfeiture and Surrender

- (1) If a **shareholder** does not comply with the default notice issued under Rule 8.2(3), the **Bank** may forfeit any share to which the default notice relates by **board** resolution. However, the **shareholder** may always comply with the default notice at any time before forfeiture occurs.
- (2) The **Bank** may give the **shareholder** a notice of forfeiture. In the absence of a manifest error, the notice is conclusive evidence of the facts stated in the notice against all persons claiming to be entitled to the share.
- (3) The forfeited shares become the **Bank's** property. The **Bank** may redeem, sell or otherwise dispose of the forfeited shares on the terms and in the manner that the **board** determines.
- (4) The transferee's title is not affected by any irregularity or invalidity in connection with the forfeiture, sale or disposal of the shares. The transferee is not required to see the application of the purchase money.
- (5) A **shareholder** may surrender any share to which a default notice relates. The **Bank** may deal with surrendered shares in the same way as it deals with forfeited shares.
- (6) A **shareholder** whose shares have been forfeited remains liable to pay the **Bank** the amounts due:
 - (a) less any amount that the **Bank** must pay the **shareholder** on redemption of the shares; and
 - (b) less any amount that the **Bank** receives on sale or disposal of the forfeited shares.

8.4 Liens

- (1) The **Bank** may at any time exempt a share wholly or in part from this Rule by **board** resolution.
- (2) The **Bank** has a first and paramount lien on:
 - (a) every partly-paid share that a **shareholder** holds; and
 - (b) the proceeds of sale of every partly paid share that the **shareholder** holds; and
 - (c) dividends payable on every partly-paid share that the **shareholder** holds, for all amounts, whether presently due or not:
 - (d) payable in relation to the share; or
 - (e) that the **shareholder** or the **shareholder's** estate otherwise owes to the **Bank**.
- (3) If an amount secured by a lien in Subrule (2) is presently due, the **Bank** may give the holder of the share a sale notice:
 - (a) setting out:
 - (i) how much is due; and
 - (ii) when the **shareholder** must pay the amount due; and
 - (b) stating that, if the **shareholder** does not pay this amount by that date, the **Bank** may sell the share.

The date for payment must be at least 14 days after the date on which the **Bank** gives the **shareholder** the sale notice. In the absence of any manifest error, the sale notice is conclusive evidence of the amount that the **shareholder** must pay the **Bank** as at the date the **Bank** issues the sale notice.

- (4) If a **shareholder** does not pay the amount due by the date stated in the sale notice under Subrule (3), the **Bank** may sell the shares on the terms and in the manner that the **board** determines. The **Bank** may:
 - (a) execute a share transfer to give effect to a sale of the shares; and
 - (b) register the transferee as the holder of the shares.

The transferee's title is not affected by any irregularity or invalidity in connection with the sale of the shares. The transferee is not required to see the application of the purchase consideration.

- (5) A **shareholder** whose shares have been sold remains liable to pay the **Bank** all amounts that the **shareholder** or the **shareholder's** estate owes to the **Bank**, whether or not presently due, less any consideration that the **Bank** receives on sale of the shares.

DIVISION 9 - DIVIDENDS

9.1 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 **general meeting's** approval to any payment of a dividend on the share, the **board's** determination under Subrule (1) is effective only if the **general meeting** approves the dividend before the time for payment of the dividend arrives. The **general meeting** may not vary the **board's** determination.

9.2 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).

9.3 Interest on Dividends

Interest is not payable on a dividend.

DIVISION 10 - SHARE CERTIFICATES

10.1 Share Certificates

- (1) This Rule does not apply in relation 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 to them without charge 1 certificate for each class of **MCIs** in the **Bank** that the **MCI holder** holds, unless the terms of issue of the **MCIs** otherwise provide.

DIVISION 11 - TRANSFER OF SHARES (BY MEMBERS)

11.1 Form of Share Transfer

A **member** wishing to transfer the **member's** shares must use a share transfer that complies with the following requirements:

- (a) the share transfer relates to 1 class of shares only;
- (b) the share transfer is in writing; and
- (c) the share transfer is:
 - (i) in a form that the **board** approves; or
 - (ii) in any other usual or common form

Note: Subrule 11.3(1) prevents the **Bank** registering share transfers in some situations, even though the share transfer complies with the requirements set out in this Rule.

11.2 Ownership of Share Transfer

On receiving a share transfer (or a document that appears to be a share transfer), the **Bank** becomes the owner of the share transfer and has a right to exclusive possession of the share transfer.

11.3 Registration of Share Transfer

(1) The **Bank** must not register a share transfer if:

- (a) the terms of issue for the shares prohibit the transfer of the shares to the transferee;
- (b) the share transfer is not in the form set out in Rule 11.1; or
- (c) if the transfer of shares is dutiable — the share transfer is not duly stamped.

(2) The **Bank** may refuse to register a share transfer unless:

- (a) the shares are fully-paid;
- (b) the **Bank** does not have a lien on the shares;
- (c) the transferor has executed the share transfer;
- (d) the transferee has executed the share transfer;
- (e) a certificate for the shares accompanies the share transfer;
- (f) the **board** has all information that it reasonably requires to establish the right of the transferor to transfer the shares; and

(g) the **board** has all information that it reasonably requires to establish that the transferee agrees to be a **shareholder** of the **Bank**.

(2) The transferor of shares remains the holder of those shares until the **Bank** enters the transferee's name as holder of those shares in the **Register of Members**.

11.4 Transfer of an MCI through a Licensed Clearing and Settlement Facility

Subject to the **Corporations Act**, the provisions of this Division 11 do not apply to the transfer 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**.

11.5 Powers of Attorney

(1) The **Bank** may assume that a power of attorney authorising the attorney to transfer some or all of the **shareholder's** shares that a **shareholder** appears to have granted:

(a) is a valid and effective grant of the power it appears to grant; and

(b) continues in full force and effect.

(2) The **Bank** may rely on the power of attorney until it receives a notice informing it that:

(a) the power of attorney has been revoked; or

(b) the **shareholder** has died.

11.6 Suspension of Registration

The **board** may suspend the registration of share transfers at the times and for the periods it determines. The periods of suspension must not exceed 30 days in any 1 calendar year.

DIVISION 12 - TRANSMISSION OF SHARES

12.1 Transmission of Shares on Death

- (1) On the death of a **shareholder**, the **Bank** may recognise either the personal representative of the deceased **shareholder** or another person who appears to the **board** to be entitled to the deceased **shareholder's** estate as being entitled to the deceased **shareholder's** interest in the shares.
- (2) If the personal representative gives the **board** the information it reasonably requires to establish an entitlement to be registered as holder of the **shareholder's** shares, the personal representative may elect to:
 - (a) be registered as the holder of the shares; or
 - (b) in relation to a **member share**, apply to terminate the membership.

12.2 Transmission of Shares on Bankruptcy

If the trustee of a bankrupt **shareholder's** estate gives the **board** the information it reasonably requires to establish the trustee's entitlement to be registered as holder of the **shareholder's** shares, the trustee may require the **Bank** to register the trustee as holder of the **shareholder's** shares.

12.3 Transmission of Shares on Mental Incapacity

If a person entitled to shares because of a **shareholder's** mental incapacity gives the **board** the information it reasonably requires to establish the person's entitlement to be registered as a holder of the **shareholder's** shares:

- (a) the person may require the **Bank** to register the person as holder of the **shareholder's** shares; and
- (b) whether or not registered as the holder of the shares, the person has the same rights, obligations and restrictions as the **shareholder**.

DIVISION 13 - MEMBERS' MEETINGS

13.1 Calling Meetings of Shareholders

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

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

13.2 Conduct at a Shareholders' meeting

- (1) Subject to the provisions of the **Corporations Act**, the Chair of the meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting.
- (2) The Chair may, at any time the Chair considers it necessary or desirable for the efficient and orderly conduct of the meeting, impose a limit on the time that a person may speak on each motion or other item of the business and terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the **shareholders** present
- (3) A decision by the Chair under subrule (2) is final.

13.3 Adjourning Meetings of Shareholders

- (1) The chair of a **shareholders'** 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 **shareholders'** meeting if the adjournment is for 1 month or more, to each **shareholder** to whom notice of the meeting was given.
- (3) The only business that an adjourned **shareholders'** meeting may deal with is business unfinished at the **shareholders'** meeting that was adjourned.

13.4 Proceedings at Shareholders' Meetings

- (1) No business may be transacted at a **shareholders'** meeting unless a quorum of **shareholders** is present when the meeting proceeds to business.
- (2) The quorum for a **general meeting** is
 - (a) 17 **shareholders** eligible to attend and vote at the **general meeting** present in person (including via electronic means), or via proxy, attorney, or representative; or
 - (b) if less than 34 **shareholders** are eligible to attend and vote at a **general meeting** — 50% of the **shareholders** eligible to attend and vote at the **general meeting**.

- (3) Subject to the terms of issue of the relevant **shares**, the quorum for a meeting of **shareholders** other than a **general meeting** is 2 **shareholders** eligible to attend and vote at the meeting, present in person (including via electronic means), or via proxy, attorney, or representative.
- (4) If a quorum is not present within 30 minutes after the time for the **shareholders'** meeting set out in the notice of meeting, the meeting is adjourned to the date, time and place the **board** specifies. If the **board** does not specify 1 or more of those things, the meeting is adjourned to:
- (a) if the date is not specified — the same day in the next week;
 - (b) if the time is not specified — the same time; and
 - (c) if the place is not specified — the same place.

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

- (5) If after the commencement of a meeting at which a quorum is present the attention of the meeting 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 is adjourned to the same time and place seven days after the meeting or to the date, time and place the **board** specifies.

If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved;
 - (b) after the time appointed for consideration of an item of special business, the item lapses.
- (6) The chair of **shareholders'** meetings is:
- (a) the chair of meetings of the **board**; or
 - (b) if the chair of meetings of the **board** is not present or declines to act for the meeting (or part of it) — the deputy chair of meetings of the **board**.

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

13.5 Use of Technology for a Shareholders' Meeting

- (1) The **Bank** may:
- (a) hold a meeting of **shareholders** at more than one venue;

- (b) allow a person to attend a meeting of **shareholders** via electronic means approved by the **board**;

using any technology that gives the **shareholders** as a whole a reasonable opportunity to participate.

- (2) A **shareholder** or other person who attends a meeting at a venue, or via electronic means, in accordance with subrule (1) is present in person at the meeting.

- (3) If, before or during a meeting of **shareholders** any technical difficulty occurs where one or more **shareholders** (or their proxies, attorneys or representatives) who are eligible to attend and vote at the meeting are not able to participate, the chair may:

- (a) adjourn the meeting until the difficulty is remedied; or

- (b) where a quorum remains present and able to participate, subject to the **Corporations Act**, continue the meeting.

DIVISION 14 - VOTING AT SHAREHOLDERS' MEETINGS

14.1 Voting

- (1) If the **Bank** has an electronic voting system which permits **shareholders** to vote at or prior to a **shareholders'** meeting by electronic means on a show of hands or a poll, a vote cast by a **shareholder** by those electronic means is taken to have been cast on the show of hands or poll and is to be counted accordingly.
- (2) If a **shareholder** has voted on a resolution by electronic means prior to a meeting the **shareholder** may not cast another vote on the resolution at the meeting.
- (3) Before a **shareholders'** meeting votes on a resolution, the chair must inform the meeting if any votes have been received by electronic means prior to the meeting and, if so:
 - (a) how many valid votes by electronic means the **Bank** has received prior to the meeting; and
 - (b) how the votes received by electronic means prior to the meeting have voted on the resolution.
- (4) Before a declaration of a vote on a resolution, the chair must inform the meeting:
 - (a) how many proxy documents the **Bank** has received that validly appoint a person present at the meeting as proxy;
 - (b) how many of these proxy documents direct the proxies how to vote on the resolution; and
 - (c) how the proxies are directed to vote on the resolution.
- (5) The **shareholders'** meeting passes an ordinary resolution only if more than half the total number of votes cast on the resolution are in favour of it.
- (6) The chair does not have a casting vote in addition to his or her deliberative vote.

14.2 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.

14.3 Voting on a Poll

- (1) A poll cannot be demanded on any resolution concerning the election of a person to chair the **shareholders'** 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 **shareholders'** meeting may conduct other business even though a poll is demanded on a resolution.

14.4 Body Corporate Representatives

- (1) A **shareholder** that appoints a body corporate representative must give the **Bank**:
- (a) if the **shareholder** 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 **shareholder's** meeting at which the representative may exercise the **shareholder's** rights.
- (2) In addition to the rights and powers a **shareholder's** representative may exercise under the **Corporations Act**, the representative may exercise the **shareholder's** right to vote in a ballot to appoint **directors** by election.

14.5 Proxies

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

14.6 Objections

An objection to the qualification of a voter:

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

DIVISION 15 - DIRECTORS — APPOINTMENT & VACATION OF OFFICE

15.1 Number of Directors

- (1) The **Bank** must have not less than five **directors** comprising:
 - (a) such number of **elected directors** as determined by the **board** from time to time; and
 - (b) not more than three **directors** appointed by the **board** under Rule 15.5.
- (2) In addition to, and not counting towards, the minimum number of **directors** required under subrule (1), the **board** may appoint the Chief Execution Officer of the **Bank** as a **director** for a term ending when the person ceases to be Chief Executive Officer, or such earlier date as determined by the **board**.
- (3) The majority of **directors** must be **elected directors**.

15.2 Eligibility to be a Director

- (1) Subject to subrule (2), an individual is eligible to be a **director** if the person:
 - (a) is not a minor;
 - (b) has not had a personal representative or trustee appointed to administer the person's estate or property because of their mental incapacity;
 - (c) is not disqualified, prevented or prohibited by law from being or becoming a **director**;
 - (d) provides all information and consents the **board** reasonably requests to determine if the person is of appropriate fitness and propriety to be and act as a **director** by reference to the **fit and proper policy**; and
 - (e) is assessed as being of appropriate fitness and propriety to be and act as a **director** by reference to the **fit and proper policy**.
- (2) A person is not eligible to be appointed **elected director** if the person:
 - (a) is not a **member**;
 - (b) is a current employee of the **Bank**; or
 - (c) was an employee of the **Bank** within the 3 year period immediately prior to the appointment of **directors** under Rule 15.3.

15.3 Appointment by Shareholders — Election

- (1) The **shareholders** may appoint a person to be a **director** by election held in accordance with this Rule.

- (2) In order to be nominated, a **member** ("the nominee") must:
 - (a) be eligible under Rule 15.2 (other than paragraphs (1)(d) & (e));
 - (b) other than a retiring **director** standing for re-election, be nominated by two **members**;
 - (c) consent to the nomination.
- (3) Nominations close 60 days before the AGM.
- (4) A nominee only becomes a candidate after they have been assessed as eligible under Rule 15.2, including being assessed as of appropriate fitness and propriety under Rule 15.2(1)(e).
- (5) An election of **directors** must be held by ballot except where the number of candidates is equal to or less than the number of positions to be filled. If a ballot is not held **directors** are appointed at the AGM by separate resolution for each candidate and the remainder of this Rule does not apply.
- (6) If a ballot is held it is to be conducted at or at some time before the AGM in accordance with procedures approved by the **board**, which may include, without limitation, conducting the ballot by postal ballot or by electronic means.
- (7) The candidates with the highest number of votes in accordance with the number of vacancies are appointed as **directors**.
- (8) If 2 or more candidates have the same number of votes, the candidate appointed as a **director** is determined by lot.
- (9) The **secretary** must announce the results of the ballot at the AGM.

15.4 Appointment by Board — Casual Vacancies

- (1) The **board** may appoint a person to be a **director**:
 - (a) if an **elected director's** office becomes vacant other than because the **elected director's** term of office has ended; or
 - (b) if, for any other reason, the number of **elected directors** is less than the number of **elected directors** determined by the **board** under Rule 15.1(1)(a).

The **board** may only appoint a person who is eligible to be an **elected director** under Rule 15.2.

- (2) The term of office for a **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 **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 **director's** appointment.

- (3) The term of office for a **director** appointed to fill a vacancy in paragraph (1)(b) ends at the end of the next AGM after the **director's** appointment.

15.5 Board Appointed Directors

The **board** may appoint an eligible person as **director** for a term of office that ends 3 years after appointment, or such earlier date as determined by the **board**.

15.6 Term of Office

- (1) This rule only applies to **elected directors** who are elected by **shareholders** under Rule 15.3.

- (2) Subject to the **Corporations Act** and the rotation provisions in this Rule, an **elected director's** term of office:

- (a) starts at the end of the AGM at which the **elected director's** election is announced; and
- (b) ends at the end of the third AGM after the AGM at which the **elected director's** election is announced.

- (3) If the number of **elected directors** that **shareholders** appoint is more than a third of the number of **elected directors** determined by the **board** under Rule 15.1(1)(a):

- (a) the term of office for the third of the number determined under Rule 15.1(1)(a) that receives the most votes at the election, ends at the end of the third AGM after the AGM at which the **elected directors'** election is announced; and
- (b) the term of office for the remainder ends at the end of earlier AGMs where less than a third of the number of **elected directors** determined by the **board** under Rule 15.1(1)(a) are due to retire at those earlier AGMs.

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

- (4) For purposes of Subrule (3):

- (a) if the number of **elected directors** determined by the **board** under Rule 15.1(1)(a) is not divisible by 3 — round fractions up to the nearest whole number in determining how many **elected directors** there are in a third or in two thirds of the number determined under Rule 15.1(1)(a); and
- (b) if 2 or more **elected directors** have the same number of votes — the order of retirement amongst them is determined by lot.

15.7 Maximum time in office

- (1) Subject to subrule (3), a person is not eligible to be appointed **elected director** under Rule 15.3 if at the time of the appointment the person has been a **director** for a cumulative period of 9 years or more (whether or not served continuously).

- (2) Subject to subrules (3) & (4), the **board** must not appoint a person as **director** for a term that, if held for the full term, would mean the **person** had been a **director** for a cumulative period of more than 12 years (whether or not served continuously).
- (3) The **board** may extend the maximum cumulative period in office permitted under subrules (1) or (2) by no more than 12 months in relation to an existing director who is the Chair or Deputy Chair.
- (4) Subrule (2) does not apply to the appointment of the Chief Executive Officer as **director** under Rule 15.1(2).

15.8 Automatic Vacation of Office

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

- (a) dies;
- (b) ceases to be eligible to be a **director** under Rule 15.2;
- (c) is absent from 3 consecutive ordinary meetings of the **board** without leave;
- (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**;
- (e) is disqualified or prevented by law from holding office or continuing as a **director**; or
- (f) is the subject of a direction under Section 23 of the *Banking Act 1959 (Cth)*.

15.9 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.

DIVISION 16 - DIRECTORS' POWERS

16.1 Powers and Duties of the Board

The **board**:

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

16.2 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.

16.3 Delegation

- (1) The **board** may delegate any of its powers to one **director**, a committee of the **board** or any other person or persons, subject to Rule 3.2 and the **fit and proper policy**. The **board** may permit the delegate to sub-delegate any powers delegated to them.
- (2) A **director**, committee of the **board**, or person to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the **board**.
- (3) The **board** must establish policies for the guidance of delegates in the exercise of any powers so delegated.
- (4) Without limiting its powers, the **board** may appoint a person to be the **Bank's** attorney for purposes, with powers (being the **board's** powers), for the period and on terms the **board** determines. In particular, the power of attorney may:
 - (a) include terms protecting persons dealing with the attorney, as the **board** determines; and
 - (b) authorise the attorney to delegate any or all of the attorney's powers.

DIVISION 17 - DIRECTORS' MEETINGS

17.1 Conduct of meetings of the Board

- (1) The **directors** may meet together to attend to business and adjourn and otherwise regulate their meetings as they decide.
- (2) A meeting by telephone or other electronic means is to be taken to be held at the place where the chairperson of the meeting is or at such other place the chairperson of the meeting decides, as long as at least one of the **directors** involved was at that place for the duration of the meeting.
- (3) A **director** taking part in a meeting by telephone or other electronic means is to be taken to be present in person at the meeting and all **directors** participating in the meeting will (unless there is a specific statement otherwise) be taken to have consented to the holding of the meeting by the relevant electronic means
- (4) If, before or during a meeting, any technical difficulty occurs where one or more **directors** cease to participate, the chair may adjourn the meeting until the difficulty is remedied or may, where a quorum of **directors** remains present, continue the meeting.

17.2 Calling meetings of the Board

- (1) A **director** may, whenever the **director** thinks fit, call a meeting of the **board**.
- (2) A **secretary** must, if requested by a **director**, call a meeting of the **board**.
- (3) The **board** may meet, adjourn and otherwise regulate its meetings as it thinks fit.

17.3 Quorum at meetings of the Board

- (1) Subject to subrule (3), no business may be transacted at a meeting of the **board** unless a quorum of **directors** is present at the time the business is dealt with.
- (2) The number of directors required to constitute a quorum is the greater of:
 - (a) a majority of **directors** at the time being in office; or
 - (b) 3 **directors**.
- (3) If, at any time, the number of **directors** is less than the quorum:
 - (a) the remaining **directors** may meet only in an emergency or for the purpose of filling any casual vacancies to a number sufficient to constitute a quorum or for calling a **general meeting**; and
 - (b) the **board** may conduct business by circulating resolution under Rule 17.6.

17.4 Chair of Board

- (1) The **board** may appoint a **director** (other than a **director** who is also an employee of the **Bank**) to the office of Chair of the **board** and may appoint one or more **directors** to the office of Deputy Chair of the **board**.

- (2) The **board** may determine the period for which the **director** is to be the Chair or Deputy Chair. The **board** may remove the Chair or Deputy Chair from the position at any time.
- (3) The **board** must elect a **director** present to chair a meeting (or part of it) if neither the Chair nor the Deputy Chair is available and willing to chair the meeting (or part of it).

17.5 Decisions of the Board

- (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 does not have a casting vote in addition to his or her deliberative vote.

17.6 Circulating Resolutions

- (1) The **board** may pass a resolution without a **board** meeting if a majority of **directors** at the time being in office :
 - (a) sign a document containing a statement that they are in favour of the resolution set out in the document; or
 - (b) consent to the resolution in accordance with this Rule.
- (2) For the purpose of subrule (1) a **director** may consent to a resolution by:
 - (a) sending a statement to an agreed electronic address stating that they are in favour of a specified resolution and such consent is taken to have been given at the time of its receipt at the agreed electronic address; or
 - (b) telephoning the **secretary** or chair and signifying assent to the resolution and clearly identifying its terms.

17.7 Committees of Directors

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

DIVISION 18 - CONFLICTS OF INTEREST

18.1 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.

18.2 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**.
- (1) The **director** is not in breach of duty to the **Bank** merely because he or she does not act in relation to the matter.
- (2) The **board** may vote on matters that relate to the **director's** interest in the **director's** absence.
- (2) 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.

18.3 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 19 - REMUNERATION, INDEMNITY AND INSURANCE

19.1 Remuneration of Directors

- (1) The **elected directors** may be paid such annual remuneration as approved by the **general meeting** from time to time.
- (2) The **board** may determine the allocation of the aggregate amount of remuneration among the **elected directors**. If the **board** does not determine the allocation, the aggregate amount of remuneration must be allocated equally among the **elected directors**.
- (3) The **elected directors'** remuneration accrues daily from the day that the **general meeting** approves the remuneration to the day that the **general meeting** next determines the **elected directors'** remuneration.
- (4) The **board** may determine **director's** remuneration for any **director** appointed by the **board** under Rule 15.1(2) or Rule 15.5.

19.2 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**.

19.3 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 20 - ADMINISTRATION

20.1 Secretary

Subject to Rule 20.2, 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.

20.2 Resignation of Secretary

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