



Association of Financial Advisers Limited

Constitution

3 April 2023

A COMPANY LIMITED BY GUARANTEE NOT HAVING A SHARE CAPITAL

**Association of Financial Advisers Limited
ABN 29 008 619 921**

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Interpretation

1. Any replaceable rules contained in the Act relating to companies do not apply to the AFA. In this Constitution, unless contrary to or inconsistent with the context:
- (a) **"Act"** means the *Corporations Act 2001* (Cth) for the time being in force or any replacement of that Act;
 - (b) **"AFA"** or **"Association"** means Association of Financial Advisers Limited, ABN 29 008 619 921;
 - (c) **"AFA Investment Fund"** means the AFA Investment Fund, ABN 58 367 650 818, of which the AFA is the sole beneficiary;
 - (d) **"Affiliate Member"** means a person that is admitted to membership of the AFA as an Affiliate Member;
 - (e) **"AGM"** means an annual general meeting of the AFA;
 - (f) **"Association of Financial Advisers Ancillary Fund"**, also known as the "AFA Foundation", means The Association of Financial Advisers Ancillary Fund, ABN 90 553 387 628, of which the AFA is the trustee;
 - (g) **"Board"** means the Board of Directors of the AFA from time to time;
 - (h) **"By-Laws"** means the by-laws of the AFA prescribed by the Board from time to time;
 - (i) **"Chair"** means the chairperson of the Board as designated under clause 81;
 - (j) **"Chief Executive Officer"** means the chief executive officer of the AFA appointed under clause 64;
 - (k) **"Code of Ethics"** means a Code of Ethics adopted by the Association to govern Members' behaviour;
 - (l) **"Director"** means a person elected or appointed as a Director of the AFA from time to time;
 - (m) **"Executive Committee"** means the Executive Committee of the Board appointed under clause 65;
 - (n) **"External Director"** means a person appointed as an External Director under clause 39(c);
 - (o) **"Financial Benefit"** has the meaning given under Chapter 2E of the Act;
 - (p) **"Life Member"** means a person that is admitted to membership of the AFA as a Life Member;
 - (q) **"Member"** means a member of the AFA under clause 10 and whose name is entered in the Register as a member of the AFA;
 - (r) **"New Adviser Member"** means a person that is admitted to membership of the AFA as a New Adviser Member;
 - (s) **"Officer"** means a Director or Secretary of the AFA;
 - (t) **"Practitioner Member"** means a person that is admitted to membership of the AFA as a Practitioner Member;
 - (u) **"Register"** means the register of Members kept under the Act and in accordance with clause 17;
 - (v) **"Registered Office"** means the AFA's registered office;
 - (w) **"Regulations"** means regulations, policies, procedures, codes (including the Code of Ethics) and rules prescribed by the Board from time to time, including to facilitate the AFA's co-regulator function with regulatory authorities and statutory bodies, but does not include the By-Laws;
 - (x) **"Related Party"** has the meaning given in section 228 of the Act;
 - (y) **"State"** means any State or Territory of the Commonwealth of Australia as set out in clause 40;
 - (z) **"State Director"** means a person elected as a State Director under clause 39(b);
 - (aa) **"Secretary"** means any person appointed under clause 66 of this Constitution to perform the duties of a Secretary of the AFA;

- (bb) references to writing include references to printing, photography and other modes of representing or reproducing words, figures, drawings or symbols in a visible form;
- (cc) words or expressions in this Constitution that are not defined shall be interpreted according to the *Acts Interpretation Act 1901* (Cth);
- (dd) the singular shall include the plural and vice versa;
- (ee) headings do not affect the interpretation of this Constitution;
- (ff) a reference to a section of the Act includes a reference to a corresponding provision of previous or subsequent legislation;
- (gg) in the event of inconsistency between this Constitution and the By-Laws or Regulations prescribed by the Board from time to time, this Constitution will prevail;
- (hh) 'include' or 'including', or 'exclude' or 'excluding', are to be interpreted without limitation; and
- (ii) a reference to a particular Member category is to the category of membership set out in the By-Laws.

Name

2. The name of the Association is "ASSOCIATION OF FINANCIAL ADVISERS LIMITED."

Purposes of the AFA

3. The AFA's objects are:
 - (a) to promote the value of financial advice to the Australian community;
 - (b) to foster public trust in the financial advice profession;
 - (c) to engage constructively with all stakeholders in the financial services community;
 - (d) to develop, maintain and improve the standards of quality advice in the financial advice profession;
 - (e) to maintain the AFA as a professional association or body as recognised by government, regulatory authorities and statutory bodies;
 - (f) to promote education and training of its Members to standards accepted by the financial advice profession, educational institutions, government and regulatory authorities; and to confer professional designations on its Members;
 - (g) to provide forums of various types for the discussion of financial advice, best practice, professional affairs, interests and duties;
 - (h) to undertake and publish research related to financial advice to promote best practice in the financial advice profession and an improved understanding of the needs of consumers of financial advice;
 - (i) to establish and maintain business conduct rules and a Code of Ethics for Members;
 - (j) to promote ethical practice, exercise oversight over professional standards of Members and to support and protect the character, status and interest of the financial advice profession generally and the professional standing of Members;
 - (k) to consider issues affecting the interests of Members and the financial advice profession generally and to cooperate with and advise government, relevant authorities and other professional associations or industry bodies in developing financial services and corporate laws in the public interest and to oppose such laws when they are deemed contrary to public interest;
 - (l) to act as a co-regulator with regulatory authorities and statutory bodies in relation to its Members, and to engage in, regulate and promote all activities to support this role;
 - (m) to receive funding in the form of distributions from the AFA Investment Fund, in the AFA's capacity as sole beneficiary of that fund;
 - (n) to contribute surplus funds to the AFA Investment Fund from time to time in the AFA's absolute discretion;

- (o) to act as trustee, and to support the objectives, of the Association of Financial Advisers Ancillary Fund; and
- (p) to engage in other activities in support of the above objects,

and for these purposes, the AFA has the legal capacity and powers of an individual, and all the powers of a body corporate.

Liability

- 4. The liability of the Members is limited.

Member's Guarantee

- 5. Every Member of the Association agrees and covenants to contribute to the assets of the Association, in the event of the Association being wound up while he/she is a Member, or within one year after he/she ceases to be a Member, such amount as may be required but not exceeding \$100.00 for the payment of the debts and liabilities of the Association and the costs, charges and expenses of winding up the Association.

Assets and Income

- 6. The assets and income of the AFA must be applied solely towards the promotion of the objects of the AFA as set out in this Constitution. No portion is to be distributed directly or indirectly to Members except as bona fide compensation for services rendered or expenses reasonably and properly incurred on behalf of the AFA.

Remuneration of Directors

- 7. Subject to clause 8, the AFA is prohibited from making payments to any Director other than for payment:
 - (a) of out-of-pocket expenses reasonably and properly incurred by the Director in the performance of any duty as a Director where such amount is payable under clause 130;
 - (b) in return for any service rendered to the AFA by the Director in a professional or technical capacity, other than in the capacity as a Director, where the provision of the service and amount payable has been approved by the Board and is not more than an amount the Board considers would be a commercially reasonable amount for the services provided; and
 - (c) of any salary or wage due to the Director as an employee of the AFA where the terms of employment have been approved by the Board.
- 8. The Board may authorise the payment of reasonable Directors' fees (which may vary according to the office held) subject to limits approved by the Members in general meeting from time to time.

Effect of Winding Up

- 9. If the AFA is wound up or dissolved, any property remaining after such dissolution or winding up and after the satisfaction of all its debts and liabilities must be transferred to one or more institutions having objects or purposes substantially similar to the objects of the AFA which is not carried on for the profit or gain of its individual members and which has rules prohibiting the distribution of its assets and income to its members. The institution or institutions will be determined by the Members at or before the time of dissolution and in default by the Supreme Court of New South Wales.

Members

- 10. Subject to this Constitution, the Members of the AFA shall be those persons who are members of the AFA of a particular class and category at the time of adoption of this Constitution and any new persons admitted under the By-Laws.

11. Every Member is and will be a Member of a category of membership set out in the By-Laws.
12. Without limiting the generality of the Board's ability to make By-Laws and Regulations, the Board will set out in By-Laws the criteria for admission to membership in each category. To apply for admission as a Member of a particular category the person must meet the relevant criteria and submit an application to the AFA. Acceptance is subject to the approval of the Board.
13. A Member may use the post-nominal prescribed in the By-Laws for their category of membership.
14. An applicant to be a Member must submit an application to the AFA along with such fees and/or further items as required under the By-Laws.
15. Without limiting the generality of the Board's ability to make By-Laws and Regulations, the Board may prescribe By-Laws changing or adding to procedures for admission of Members.
16. Membership of the AFA is not transferable.

Members Register

17. A Register must be kept in accordance with the Act. The AFA must record the following details in the Register in respect of each Member:
 - (a) the full name, address and contact details of each Member;
 - (b) the category of membership of each Member;
 - (c) the date of admission to, and cessation of, membership of each class and category;
 - (d) Australian Financial Services Licence or Authorised Representative details; and
 - (e) such other information as required by the Act or as determined by the Board from time to time.
18. A Member must notify the AFA in writing of any changes in the following details or circumstances of the Member, within 28 days of the effective date of the change:
 - (a) address and contact details;
 - (b) employment, Authorised Representative status, or Australian Financial Services Licence details; and
 - (c) any other details which may affect the eligibility of the Member to be a Member or to be admitted to the category of membership to which he or she is admitted at the time.
19. A person becomes a Member upon the entry of the person's name in the Register, and their name must be removed from the Register when the person ceases to be a Member.

Privileges and Obligations of Members

20. A Member is entitled to a certificate of membership. The certificate of membership is the property of the AFA and on cessation of membership must be returned to the AFA unless the AFA allows otherwise.
21. Practitioner Members, Affiliate Members, New Adviser Members and Life Members are entitled to attend and vote at general meetings of the AFA. Each Member of any of these categories of membership has one vote. All other Members may attend general meetings of the AFA but may not vote.
22. Without limiting the generality of the Board's ability to make By-Laws and Regulations, the Board may make By-Laws changing, varying or cancelling Members' privileges and obligations (except that the amount of \$100 prescribed in clause 5 may not be increased).

Membership Fees

23. Annual fees will not be payable by a Member admitted as a Life Member or by a Member who is otherwise entitled to ongoing membership without payment of further fees.

24. Any Member who has failed to pay their annual fee or part thereof within 3 months of the due date may be removed from the Register. If the outstanding amount and any additional administrative charges prescribed by the Board is paid before the end of 12 months from the due date of such annual fee, the person removed from the Register may apply for re-instatement in accordance with clauses 33 to 36. In any other case, the person removed from the Register must apply for re-admission in accordance with clause 14.
25. Without limiting the generality of the Board's ability to make By-Laws and Regulations, the Board may make By-Laws governing membership fees and may prescribe the amount and arrangements for payment of fees payable by an applicant or existing Member.

Resignation and Cancellation of Membership

26. Any Member may resign their membership by notice in writing to the AFA accompanied by their certificate of membership (unless the AFA consents to its retention by the resigning Member under clause 20) and all money owing by the Member to the AFA.
27. A resignation has no effect unless and until it is accepted by the AFA. Subject to clauses 28 and 29, the AFA must accept a resignation as soon as reasonably practicable.
28. The AFA must not accept the resignation of a Member where:
 - (a) such Member's conduct is the subject of a current investigation or disciplinary proceedings under the By-Laws or Regulations; or
 - (b) such Member remains liable to pay outstanding fees or other money to the AFA.
29. The AFA may decline to accept the resignation of a Member where the AFA is of the reasonable opinion that such Member's conduct may become the subject of an investigation or disciplinary proceeding under the By-Laws or Regulations.
30. Any Member who resigns remains liable for any fees or other money which was due from the Member to the AFA at the time the Member notified the AFA of his or her resignation under clause 26. A Member who resigns is not entitled to any refund of any fees or other money paid to the AFA and remains liable to contribute to the assets of the AFA in accordance with clause 5.
31. During the period from the Member notifying the AFA of his or her resignation under clause 26 until the AFA's acceptance of that resignation, all of the Member's membership rights are suspended. Until that acceptance, the Member will remain bound by the provisions of this Constitution, the By-Laws and the Regulations.
32. A deceased Member will be removed from the Register as at the date of the death of that Member.
- 32A. The Board may, in its absolute discretion, terminate the membership of a Member and remove the Member's name from the Register. A Member whose membership has been terminated under this clause may not apply, and is not eligible, for reinstatement.

Reinstatement of Members

33. Subject to clause 24, a person whose name has been removed from the Register may apply in writing to the AFA at any time for reinstatement.
34. An applicant for reinstatement may be reinstated upon such terms and conditions and upon giving such information and explanation to the AFA as the Board may deem fit.
35. The AFA must give notice in writing of its decision to the applicant for reinstatement as soon as practicable after it has made its decision.
36. If the AFA rejects an application for reinstatement, the applicant may, within 28 days after the notice under clause 35 is deemed to have been given, give notice of appeal in writing to the AFA stating the

grounds of appeal. The appeal must be determined in accordance with the appeals process prescribed under the By-Laws and / or Regulations (as applicable).

Discipline of Members

- 37.** Without limiting the generality of the Board's ability to make By-Laws and Regulations, the Board may make By-Laws and / or Regulations setting out the AFA's investigative and disciplinary procedures, including in relation to:
- (a) the circumstances that may give rise to investigative or disciplinary proceedings;
 - (b) the procedures for investigating, handling and resolving complaints and other disciplinary matters against Members, including for breaches of this Constitution, the Act, the By-Laws, Regulations and such other matters as the Board determines from time to time;
 - (c) the nature, and imposition, of sanctions (including monetary penalties) against a Member;
 - (d) the identification, investigation, handling and resolution of academic transgressions by Members;
 - (e) establishing committees or bodies responsible for administering the investigative and disciplinary procedures determined by the Board from time to time;
 - (f) the obligations of Members to assist the AFA in discharging its investigative and disciplinary objects, including obligations to produce and allow access to documents and information in connection with the AFA's investigations or a disciplinary proceeding;
 - (g) the hearing and determination of complaints and other disciplinary matters in relation to Members by an external party (including under an externally approved code or scheme), including the arrangements to facilitate this; and
 - (h) the publication and dissemination of details (including details of the Member(s) involved and the orders or sanctions made in relation to the Member(s)) of any investigations or disciplinary proceedings.

Appointments to the Board and Office Bearers

- 38.** Unless otherwise determined by the AFA in general meeting, the maximum number of Directors is 12. The Directors shall be elected or appointed for various terms as listed below in clause 50.
- 39.** The Board shall comprise:

Board member	Method of election / appointment (other than to fill a casual vacancy)
National President	Elected in accordance with clause 39(a)
National Vice-President	Elected in accordance with clause 39(a)
National Treasurer	Elected in accordance with clause 39(a)
6 State Directors	Elected in accordance with clause 39(b) or appointed under clause 41
Up to 3 External Directors	Appointed in accordance with clause 39(c)

- (a) **National President, National Vice-President and National Treasurer.** The National President, National Vice-President and National Treasurer are each to be elected to that position in a general ballot, first past the post, of all Members entitled to vote prior to an AGM. Each Member entitled to vote shall have one vote in respect of each of the vacant positions of National President, National Vice-President and National Treasurer;
- (b) **State Directors.** A State Director for a particular State will be:
 - i. the person, who at the time of their election obtains the highest number of votes of all candidates whose primary place of residence at the time of the election were in that candidate's State, will be elected as the State Director for that State. Each Member entitled to vote shall have one vote in respect of a vacant State Director's position for

the State in which they have their primary place of residence. The State in which the Member has their primary place of residence will be as recorded in the Register; or

- ii. if there is no candidate with their primary place of residence in a State, a person appointed by the Board under clause 41; and

- (c) **External Directors.** From time to time, the Board may in its absolute discretion appoint up to 3 additional External Directors with voting rights to provide additional expertise to the Board or for any other reason the Board thinks fit. Each such appointment must be approved unanimously by the Board (other than any External Directors).

- 40. For the purposes of electing or appointing State Directors in clause 39(b) or 41 (as the case may be), the six States are defined as:
 - (a) Tasmania;
 - (b) collectively, New South Wales and the Australian Capital Territory;
 - (c) Victoria;
 - (d) Queensland;
 - (e) collectively, South Australia and the Northern Territory; and
 - (f) Western Australia.
- 41. If in an election, there is no candidate with their primary place of residence in a State, the position of State Director will be filled by the Board seeking a suitable candidate from that State. Such a person, if appointed, will serve until the next AGM when nominations will be called for the position.
- 42. Subject to clause 47, an election of Directors shall be held before every AGM for those positions which will become vacant due to the retirement of Directors under clause 49.
- 43. The results of each election of Directors shall be announced by the Chair at the AGM following the election and those declared elected shall take office from the conclusion of that AGM.
- 44. The Board may, by resolution, fill a casual Board vacancy until the close of the AFA's next AGM. Where a State Director held a vacated position, the Board shall fill the vacated office with a person from the same State.
- 45. Without limiting the generality of the Board's ability to make By-Laws and Regulations, the Board may make By-Laws with respect to the conduct of elections.
- 46. The closing date for nominations for election of Directors is 42 days prior to the relevant AGM.
- 47. If the number of nominations received is equal to or less than the number of positions available under clauses 39 and 49, no ballot is required and those persons nominated shall be declared elected at the AGM.

Terms of Office and Retirement of Directors

- 48. The Directors to retire under clause 49 shall be determined by the Board prior to calling for nominations.
- 49. The following Directors automatically retire from office at the conclusion of each AGM:
 - (a) any Director filling a casual vacancy;
 - (b) any Director appointed in general meeting under clause 56; and
 - (c) any other Director who at the conclusion of that AGM, will have held office for their maximum term permitted under clause 50.
- 50. The terms of office for the various positions are as follows, provided that a person must not hold office as a Director for more than 10 years (continuously or cumulatively):

Position	Maximum term of office
National President	Initial term of two years, and can be re-elected for one further two-year term only, provided that the person does not hold office as National President for more than 4 years (continuously or cumulatively)
National Vice President	Initial term of two years, and can be re-elected for one further two-year term only, provided that the person does not hold office as National Vice President for more than 4 years (continuously or cumulatively)
National Treasurer	Initial term of two years, and can be re-elected for one further two-year term only, provided that the person does not hold office as National Treasurer for more than 4 years (continuously or cumulatively)
State Director	Initial term of two years, and can be re-elected for two further two-year terms, provided that the person does not hold office as a State Director for more than 6 years (continuously or cumulatively)
External Director	Initial term of up to two years, and can be re-appointed for further terms of up to two years

- 51.** Any prior service of a person to fill a casual vacancy of the Board will not be included for the purpose of calculating the person's maximum term of office under clause 50.

Qualifications for Directorship

- 52.** To be eligible for election or appointment to the Board, a candidate must be a Practitioner Member (except an appointment as an External Director, which may but does not need to be a Member). Unless there are no such qualified candidates, a person may only be nominated for election as the National President or National Vice President if that person has previously served on the Board.
- 53.** Without limiting the generality of the Board's ability to make By-Laws and Regulations, the Board may make By-Laws with respect to the nomination and election of Directors, including prescribing the candidate's required minimum qualifications, skills and experience and the requirements needed to be satisfied by Practitioner Members for election or re-election to the Board.
- 54.** A person who has served one term of office as National President and is not re-elected, or who has served the maximum term of office under clause 50 as the National President, ceases to be eligible for election or appointment as a Director for one two-year term immediately following the completion of his or her term of service as the National President.

Removal from the Board

- 55.** A person ceases to be a Director if they:
- cease to be a Practitioner Member (other than a Director who is an External Director);
 - are suspended or excluded for any period from being a Member (other than a Director who is an External Director and who is not a Member);
 - fail to attend 3 meetings of the Board or 3 meetings of a committee of the Board of which the Director is a member in the period between the holding of an AGM and the holding of the subsequent AGM, without the leave of the Board or relevant committee, and the Board agrees that the person should cease to be a Director;
 - become prohibited from being a director of a company by reason of any order made under the Act;
 - resign as a Director by notice in writing to the AFA, effective upon receipt of that notice or such other time nominated in the notice;
 - are removed as a Director pursuant to clause 56; or

- (g) in respect of External Directors, are removed from office by a resolution approved by a majority of the Directors.

56. The AFA in general meeting may by a majority vote:

- (a) remove a Director from office in accordance with the Act; and
- (b) by resolution fill the office vacated by a Director who is removed under clause 56(a) by appointing another eligible Member to that office until the next AGM.

Powers and Duties of the Board

- 57.** The business and affairs of the AFA are to be managed by and under the control of the Board. The Board may exercise all the powers of the AFA, except any powers that the Act or this Constitution require that the AFA exercise in general meeting. No resolution made by the Members in general meeting shall invalidate any prior act of the Board that would have been valid if that resolution had not been made.
- 58.** If the number of Directors falls below the quorum fixed in this Constitution for Board meetings, the continuing Directors may only act, except in the case of an emergency, for the purpose of increasing the number of Directors to at least the quorum or of summoning a general meeting of the Company.
- 59.** Without limiting the generality of the Board's ability to make By-Laws and Regulations, the Board may from time to time prescribe such By-Laws and Regulations, not inconsistent with this Constitution or the Act, as the Board deems fit, to govern the affairs of the AFA. The Board may amend and cancel any such By-Laws or Regulations as it sees fit. The Board shall take reasonable steps to ensure that a copy of the By-Laws and Regulations are available to interested Members.

Delegation

- 60.** The Board may delegate any of its powers to a committee or committees of the Board.
- 61.** A committee to which any powers of the Board have been so delegated must exercise the powers in accordance with any special directions of the Board.
- 62.** Subject to any specific By-Laws or Regulations governing a committee, the provisions of this Constitution applying to meetings and resolutions of the Board apply, so far as they can, to meetings and resolutions of a committee appointed under clause 61.
- 63.** The Board may delegate any of their powers to one Director or to one or more employees. A Director or employee to whom any power has been so delegated must exercise the power delegated in accordance with any directions of the Board and must conform to the Act, this Constitution, the By-Laws and the Regulations.

Chief Executive Officer

- 64.** The Board may appoint a Chief Executive Officer of the AFA and the Board may delegate to him/her such powers of the Board as the Board thinks fit and, subject to the rights of the parties to under any contract, may revoke, suspend or vary any powers so delegated and or, remove a person so appointed from that office. The Chief Executive Officer will report to the Board.

Executive Committee

- 65.** The Board will appoint an Executive Committee to oversee the day to day activities of the Association as well as preparing other matters for discussion and consideration by the Board. The persons eligible for appointment to the Executive Committee include:
 - (a) the National President;

- (b) the National Vice President;
- (c) the National Treasurer;
- (d) the Chief Executive Officer; and
- (e) any other person considered appropriate by the Board.

Secretary

- 66.** The Board must appoint a person as Secretary and may at any time terminate the appointment.

Advisory Boards

- 67.** In addition to its power to appoint committees under clause 61, the Board may from time to time convene advisory boards or boards of reference, or a task force, made up of persons who may or may not be Members, to provide advice to the Board on particular matters. Any such advisory boards, boards of reference or task forces will follow any applicable By-Laws or Regulations.

Board Meetings

- 68.** The Directors will meet together for the dispatch of business and may regulate their meetings as they think fit.
- 69.** Meetings of the Board shall be called by the Secretary at the request of the National President, National Vice-President or of any 3 Directors.
- 70.** The Board may require the Chief Executive Officer to attend Board meetings from time to time, but the Chief Executive Officer will not be able to vote at such meetings.
- 71.** The Board may invite the immediate past National President to attend the first two Board meetings following an AGM where a new National President has been elected. The immediate past National President will not be able to vote at such meetings.
- 72.** Notice of a meeting of the Board must be given to each Director:
- (a) specifying the time and place of the meeting and stating the nature of the business to be transacted at that meeting;
 - (b) at least 3 clear days before the meeting (except in emergencies where shorter notice of at least 24 hours' may be given);
 - (c) in person, by post, telephone, facsimile transmission, electronic mail or by any other method of written, audio or electronic communication to the Director; and
 - (d) at the Director's address or number last notified to the AFA.
- 73.** Failure to give notice of the meeting of the Board to a Director does not invalidate anything done, or any resolution passed at the Board meeting if the failure occurred by accident or where the Director concerned waives notice of that meeting or attends the meeting.
- 74.** 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. If a quorum is not present within 30 minutes of the time appointed for the Board meeting and if at any time a quorum ceases to exist, then the meeting will be adjourned until the same time and place next week. If a quorum is not present within 30 minutes of the time of the adjourned meeting and if at any time a quorum ceases to exist, the meeting is dissolved. The quorum is 6 Directors from at least three States. In determining whether a quorum is constituted, the National President, National Vice President, National Treasurer and each External Director who is also a Member will be taken to be from the State in which he or she has their primary place of residence as recorded in the Register, and each External Director who is not also a Member will be taken to be from the State in which he or she ordinarily resides.

- 75.** All acts of the Board, or a committee of the Board, or any Director to whom powers, duties or discretions have been delegated, shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any such Director or person, or that one or more Directors were disqualified, be as valid as if every such person had been duly appointed and every such Director was qualified.
- 76.** Questions arising at a meeting of the Board are to be decided by a majority of votes of the Directors present and entitled to vote.
- 77.** In an equality of votes, the Chair has a second or casting vote.
- 78.** A resolution in writing signed by all Directors entitled to vote on the matter is as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted on the date and at the time the last Director signed. That resolution may consist of several copies of a document each signed by one or more Directors.
- 79.** The Directors may meet in person or by telephone or other instantaneous means of conferring for the dispatch of business (or by any combination of those means) which allows each person present to hear and be heard by each other person present, and regulate such meetings as they determine.
- 80.** A minute of any Board meeting shall be sufficient evidence of such proceedings and of the observance of all necessary formalities if signed as a correct record by the Chair of the meeting.

Chair

- 81.** The person elected as National President from time to time will be the Chair.
- 82.** The Chair:
- (a) exercises such powers and performs such duties as customarily are exercised and performed by the office of the Chair;
 - (b) subject to this Constitution, presides as Chair at all meetings of the Board and all general meetings of the AFA; and
 - (c) performs such other duties and has such other powers as may be prescribed from time to time by the Board.
- 83.** If at any meeting the Chair is not present within 15 minutes after the time appointed for holding the meeting or is unwilling to act, the National Vice President will chair that meeting. If the National Vice President is not present within 15 minutes after the time appointed for holding the meeting or is unwilling to act, the Directors present must choose one of their number to chair that meeting.

Conflicts of Interest

- 84.** Subject to the Act and clauses 85 and 86:
- (a) no Director or proposed Director is disqualified by that office from:
 - i. entering into a contract, agreement or arrangement with the AFA;
 - ii. becoming or remaining a Director of any company in which the AFA is in any way interested or which is in any way interested in the AFA;
 - (b) no contract, agreement or arrangement in which a Director is in any way interested, entered into by or on behalf of the AFA can be avoided; and
 - (c) no Director who:
 - i. enters into a contract, agreement or arrangement in which the Director has an interest; or
 - ii. is a Director of the other company with which the AFA has entered into the contract, agreement or arrangement,

is liable to account to the AFA for any profits or remuneration realised by that Director as a result of their being interested or being a director of the other company.

- 85.** Subject to the Act:
- (a) the nature of a Director's interest in any contract, agreement or arrangement must be declared by that Director at a meeting of the Board in accordance with the Act as soon as practicable after the relevant facts have come to that Director's knowledge;
 - (b) a Director who holds an office or possesses property whereby duties or interests might be created directly or indirectly in conflict with their duties as Director must declare at a meeting of the Board the fact and the nature, character and extent of the conflict; and
 - (c) a general notice that a Director is a member of any specified firm, partnership, entity or corporation and is to be regarded as interested in all transactions with that firm or corporation is a sufficient declaration under this clause as regards the Director and the transactions. The Secretary must record in the minutes any declaration made or any general notice given by a Director pursuant to this clause.
- 86.** Subject to the Act, a Director who has a material personal interest in a matter that is being considered at a meeting of Directors:
- (a) must not be present while the matter (or a proposed resolution of that kind) is being considered at the meeting, unless:
 - i. the matter applies to an interest that the Director has as a Member in common with the other Members; or
 - ii. the Directors who do not have a material personal interest in the matter have passed a resolution that specifies the Director, the material personal interest and the matter, and states that the Directors voting for the resolution are satisfied that the interest should not disqualify the Director from considering or voting on the matter; and
 - (b) must not vote on the matter (or in relation to a proposed resolution under clause 86(a) in relation to the matter, whether in relation to themselves or a different Director).

Alternate Directors

- 87.** A Director may nominate a person to be an alternate Director by giving written notice to the Board. The Board may appoint that person to be an alternate in the Director's place, during the period that the Board thinks fit, which must not be longer than the period commencing from the date the appointment takes effect under clause 90 until the earlier to occur of an event under clause 89 and the conclusion of the following AGM.
- 88.** Unless otherwise determined by the Board, an alternate director is entitled:
- (a) to exercise all of the powers of the nominating Director;
 - (b) receive notice of, attend and vote at meetings of Directors in the absence of the nominating Director, and
 - (c) to be paid the expenses payable to the nominating Director for acting as a director provided for in this Constitution, but is not entitled to receive director's fees.
- 89.** An alternate Director vacates that office if:
- (a) the nominating Director ceases to be a Director;
 - (b) the nominating Director advises the Board that he or she no longer requires the appointment of an alternate director;
 - (c) the Board withdraws or cancels the appointment of the alternate Director; or
 - (d) upon expiry of the alternate Director's period of appointment.
- 90.** The appointment of an alternate Director takes effect from the date on which such appointment is approved by the Board.

- 91.** Other than in relation to External Directors, the alternate Director must be a Practitioner Member. The alternate Director for a State Director must be from the same State.

Related Party Transactions

- 92.** The AFA must not give a Financial Benefit to a Related Party of AFA other than in accordance with the Act.

General Meetings

- 93.** An AGM of the AFA shall be held in accordance with the Act. All general meetings other than the AGM shall be called extraordinary general meetings.
- 94.** An extraordinary general meeting of the AFA shall be convened by the Secretary on a resolution of the Board or may otherwise be called or requisitioned in accordance with the Act.
- 95.** The Board may, subject to the Act, postpone, cancel or change the venue for a general meeting.
- 96.** The Secretary must cause notice of any general meeting to be given in accordance with the Act. A person entitled to notice of any general meeting may waive that notice by a notice in writing to the Secretary.
- 97.** The non-receipt of notice of a general meeting or proxy form, or of a ballot paper or a failure to give one of these to someone entitled to notice of a general meeting does not invalidate anything done or resolutions passed at the general meeting if the non-receipt or failure occurred by accident or the member waives notice or attends the meeting.
- 98.** No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business. The quorum for a general meeting of voting Members is 5 members present in person or represented by their nominated representative, proxy, or attorney; and entitled to vote. If, at any such meeting a quorum is not present within half an hour of the time appointed for holding the meeting, the meeting shall stand adjourned to a day and hour and at a place fixed by a majority of the Members present, and at such adjourned meeting there must be present a quorum of 5 voting Members within half an hour of the time appointed for holding the adjourned meeting, failing which the meeting is cancelled.
- 99.** The Chair of any general meeting may, with the consent of the meeting and shall if directed by the meeting adjourn a general meeting in accordance with the Act.
- 100.** No business is to be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 101.** Notice of any adjourned meeting is not required to be given unless the meeting is adjourned for 30 days or more in which case notice of the adjourned meeting is to be given as if the adjourned meeting were an original meeting.

Proceedings at General Meetings

- 102.** The Chair of a general meeting may require the adoption of any procedures, which are in his or her opinion necessary or desirable for proper and orderly debate, discussion or voting, and for the casting or recording of votes.
- 103.** The Chair of an AGM must allow a reasonable opportunity for Members at the meeting to ask questions or make comments on subjects permitted by the Act.

- 104.** Subject to clause 102, the Chair of a general meeting may refuse to allow a debate or discussion on any business, question, motion or resolution which is not within the business referred to in the notice of meeting and not otherwise required by the Act to be considered at the meeting.
- 105.** Subject to the Act, the decision of the Chair of a general meeting on any matter relating to the conduct of or procedures to be followed at the meeting is final.
- 106.** Without limiting the generality of the Board's ability to make By-Laws and Regulations, the Board may prescribe such By-Laws regarding proceedings and votes at general meetings, including the exclusion of persons from meetings, as it sees fit subject to the Act and this Constitution.

Votes of Members

- 107.** At any general meeting, each Member entitled to vote may vote in person or by proxy or by attorney.
- 108.** On a show of hands and on a poll, each Member entitled to vote has one vote.
- 109.** No Member is entitled to vote at any general meeting unless any outstanding fees, or other money due and payable to the AFA by that Member as at the date that is 10 business days prior to the date of the meeting have been paid.
- 110.** A Member who is of unsound mind or whose person or estate may be dealt with in any way under the law relating to mental health may only vote by his or her trustee, his or her committee or such other person as properly has the management of his or her estate and any such trustee, committee or other person may vote by proxy or attorney.
- 111.** At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded. A poll may not be demanded on an adjournment or a procedural motion.
- 112.** A poll must be taken if it is demanded before a vote is taken or before or immediately after the declaration of the result of the show of hands by:
 - (a) the Chair;
 - (b) at least 5 Members present in person or by proxy and entitled to vote; and
 - (c) Members with at least 5% of the votes that may be cast on the resolution.
- 113.** The demand for a poll may be withdrawn at any time prior to the announcement of the result of a poll.
- 114.** Unless a poll is demanded, a declaration by the Chair that a resolution has on a show of hands been carried or carried unanimously or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the AFA, shall be conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.
- 115.** In the case of an equality of votes, on a show of hands or on a poll, the Chair of the meeting has a second or casting vote.
- 116.** Before a vote is taken, the Chair of the meeting must inform the meeting whether any proxy votes have been received and how the proxy votes have been cast.
- 117.** A challenge to a right to vote at a general meeting may only be made at the meeting or an adjourned meeting and must be determined by the Chair of the meeting, whose decision is final.

Proxies

- 118.** A Member who is entitled to attend and vote at a general meeting of the Members may appoint a person as the Member's proxy to attend and vote for the Member at the meeting.
- 119.** The instrument appointing a proxy shall be signed by the appointor.

- 120.** A proxy holder does not have to be a Member.
- 121.** Every instrument of proxy shall be in the form prescribed by the Board in the notice of meeting or otherwise in a form complying with the Act.
- 122.** The instrument appointing a proxy shall be deposited, or sent by such means as the Board prescribes, at or to the Registered Office of the AFA or other place specified for that purpose in the notice of meeting, no later than the deadline specified in the notice.
- 123.** A vote in accordance with the terms of an instrument of proxy is valid notwithstanding the:
- (a) previous death of the appointer;
 - (b) unsoundness of mind of the appointer;
 - (c) revocation of the proxy's appointment; or
 - (d) revocation of the authority under which the instrument was executed by a third party,
- where no notice in writing of such death, unsoundness of mind or revocation was received by the AFA at its Registered Office before the commencement of the meeting or adjourned meeting at which the instrument of proxy is exercised.

Minutes

- 124.** The Board must cause minutes of all proceedings of general meetings, of Board meetings and of committees of the Board to be entered, within one month after the relevant meeting is held, in books kept for the purpose.
- 125.** The Board must cause all minutes, except resolutions in writing treated as determinations of the Board, to be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting. Any such minutes, if purporting to be signed by the chairperson of the meeting or of the succeeding meeting, shall be prima facie evidence of the matters stated in such minutes.

Formation of Member groups

- 126.** The Board may authorise Members to form groups at a local level within a State. Without limiting the generality of the Board's ability to make By-Laws and Regulations, the Board may make By-Laws with respect to:
- (a) the criteria for establishing such groups;
 - (b) the powers, functions and duties of such groups; and
 - (c) the rules and regulations regarding the administration of such groups and proceedings at meetings of such groups.

Accounts

- 127.** The Board must cause proper financial records to be kept and must send to each Member, as required by the Act, a copy of the AFA's financial report (including the financial statements), the Directors' Report and the Auditor's Report on the financial report, for each financial year of the AFA. The Directors must lay before the AGM those reports for the last financial year that ended before an AGM, as required by the Act.
- 128.** Subject to the Act, the Board may offer each Member an option not to be sent a copy of the AFA's financial reports. If a Member who has selected this option subsequently wishes to receive the AFA's financial reports, the AFA must send current and/or future reports to that Member.
- 129.** The Board must disclose in the financial report under clause 127 the nature and amount of remuneration paid by the AFA to each Director and the Chief Executive Officer in the financial year to which the report relates.

Payment for Expenses

- 130.** Provided that the expenses do not exceed the amount approved by the Board from time to time for such purposes, the AFA must reimburse each Director for out-of-pocket expenses reasonably and properly incurred by the Director in connection with the AFA's business (including travel and accommodation expenses). Alternatively, the AFA may pay such amounts on the Director's behalf.

Audit

- 131.** The Board must cause the financial records of the AFA to be examined by a properly qualified Auditor or Auditors at least once for each financial year, and must table the Auditor's report at the AGM.

Notices

- 132.** A notice may be given by the AFA to any Member either personally, electronically (email) or by sending it by post to the Member at the address supplied to the AFA for the giving of notices to such Member. Where a notice is:
- (a) sent by post, service of the notice is deemed to be effected three days after the date of its posting by properly addressing, preparing and posting a letter containing the notice;
 - (b) delivered in person, service of the notice shall be deemed to be given when the notice is delivered; and
 - (c) sent electronically (email), service of the notice shall be deemed to be given when the email is sent, unless the sender has been notified that the email has not been successfully delivered.

Indemnity

- 133.** To the maximum extent permitted by the law, the AFA indemnifies each Officer against any liability, including any liability for legal costs, incurred by the Officer in their capacity as Officer. In clauses 134 to 135, "Officer" means an Officer of the AFA, or a former Officer of AFA.
- 134.** The indemnity given in clause 133 will apply to losses and liabilities incurred both before and after the date of adoption of that clause and will continue in force after the Officer ceases to be an Officer of the AFA.
- 135.** The AFA may to the extent permitted by law purchase and maintain insurance or pay or agree to pay a premium for insurance for an Officer against any liability incurred by the person as an Officer, provided that the Board may then indemnify the Officer under the indemnity given in clause 133 only to the extent that the loss or liability is not covered by such insurance.

By-Laws and Regulations

- 136.** Any By-Law or Regulation made by the Board shall have immediate effect and shall be presented to Members by placing the change showing the old and new on the AFA website.
- 137.** If at least 1% of the Members entitled to vote at general meetings of the AFA object to a By-Law or Regulation within 60 days, then the By-Law or Regulation needs to be presented, at the next AGM for revocation and will be revoked if the resolution is approved by a majority of:
- (a) in the case of a By-Law, not fewer than 75% of the Members who vote on the relevant resolution; or
 - (b) in the case of a Regulation, not fewer than 65% of the Members who vote on the relevant resolution.
- 138.** If the revocation resolution under clause 137 is approved, then the By-Laws or Regulation (as the case may be) revert to the original.
- 139.** Any act or omission undertaken pursuant to a By-Law or Regulation shall not be invalid by virtue of that By-Law or Regulation subsequently being disallowed pursuant to clause 137.

Sponsorship and Funding

- 140.** The Board shall encourage sponsorship and funding of the AFA to help it achieve its objects so long as it does not place the Association into a conflict of interest as a not for profit professional association.

Amendment of Constitution

- 141.** Any amendments to this Constitution will only be effective if the amendment is approved by a special resolution.

Confidentiality

- 142.** Subject to law, every person who by reason of his or her office in the AFA or connection with the AFA is exposed to, learns of or has access to information or knowledge concerning Members or the AFA must keep confidential all such information and knowledge and is not entitled to communicate or divulge that information or knowledge or any part of it in such a way that the name of the Member concerned is identified, unless with the prior consent in writing of that Member.

Public Statements

- 143.** The only persons authorised to act as spokesperson of and for the AFA and to express the view of and for the AFA in or to the general public is the National President, the Chief Executive Officer and such other persons approved by the Board from time to time.