

RULES OF SOCAP

PART 1—PRELIMINARY

1. NAME AND LOCATION

- 1.1 The name of the incorporated association is 'Society of Consumer Affairs Professionals in Business Australia Incorporated' ('SOCAP').
- 1.2 The principle office of SOCAP will be in Victoria (or in such other location as may be determined by the Board).

2. PURPOSES

The purposes of SOCAP are to:

- (a) foster and maintain the integrity of business when dealing with customers;
- (b) provide a support network for consumer relations and customer affairs practitioners;
- (c) enable individual consumer affairs professionals to assist in improving the policies, products and services offered by their company or organisation;
- (d) enhance the responsiveness of corporations and government to concerns raised by customers;
- (e) provide a communication/education forum for practitioners in the consumer affairs field;
- (f) encourage and promote understanding between business, government and consumers;
- (g) assist to educate consumers by improving relations between business and consumers; and
- (h) provide for professional development of practitioners in the consumer affairs field by means of seminars, workshops, conferences, newsletters, panel discussions and other forms of continuing education.

3. FINANCIAL YEAR

The financial year of SOCAP is each period of 12 months ending on 30 June.

4. INTERPRETATION

- 4.1 In these Rules, unless the contrary intention appears:

'Absolute Majority', of the Board, means a majority of the Directors currently holding office and entitled to vote at the time (as distinct from a majority of Directors present at a Board meeting).

'Act' means the **Associations Incorporation Reform Act 2012**.

'Annual General Meeting' means an Annual General Meeting as described in Rule 29.

'Board' means the Board of Directors of SOCAP, which Board constitutes the committee of management of SOCAP for the purposes of the ACT.

'Director' means a Member of the Board of SOCAP.

'Disciplinary Appeal Meeting' means a meeting of the Members of SOCAP convened under Rule 22.

'Disciplinary Meeting' means a meeting of the subcommittee convened for the purposes of Rule 21.

'Financial Year' means a 12 month period specified in Rule 3.

'Member' means a Member of SOCAP pursuant to Rule 7.

'Officer' means an employee hired by the Board pursuant to Rule 42.4.

'Regulations' means regulations under the Act.

'Special General Meeting' means a Special General Meeting as described in Rule 30.

'Special Resolution' means a special resolution as described in Rule 37.

'Registrar' means the Registrar of Incorporated Associations.

4.2 Words and expressions contained in these Rules will be interpreted in accordance with the provisions of the Act as in force from time to time.

PART 2—POWERS OF SOCAP

5. POWERS

5.1 Subject to the Act, SOCAP has power to do all things incidental or conducive to achieve its purposes.

5.2 Without limiting Rule 5.1, SOCAP may:

- (a) acquire, hold and dispose of real or personal property;
- (b) open and operate accounts with financial institutions;
- (c) invest its money in any security in which trust monies may lawfully be invested;
- (d) raise and borrow money on any terms and in any manner as it thinks fit;
- (e) secure the repayment of money raised or borrowed by SOCAP, or the payment of a debt or liability of SOCAP;
- (f) appoint agents to transact business on its behalf;
- (g) enter into any other contract it considers necessary or desirable.

5.3 SOCAP may only exercise its powers and use its income and assets (including any surplus) for its purposes.

6. NOT FOR PROFIT ASSOCIATION

6.1 SOCAP must not distribute any surplus, income or assets directly or indirectly to its Members.

6.2 Rule 6.1 does not prevent SOCAP from paying a Member—

- (a) reimbursement for expenses properly incurred by the Member; or
- (b) for goods or services provided by the Member:

if this is done in good faith on terms no more favourable than if the Member was not a Member.

PART 3—MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES

Division 1—Membership

7. CATEGORIES OF MEMBERSHIP

The categories of SOCAP membership are:

- (a) Individual Member;
- (b) Standard Corporate Member;
- (c) Corporate Group Member; and
- (d) Special Member.

8. WHO IS ELIGIBLE TO BECOME A MEMBER

- 8.1 An **Individual Member** must be an individual, other than a Standard Corporate or Corporate Group Member, who is involved in customer service or consumer affairs issues. An Individual Member has full voting rights.
- 8.2 A **Standard Corporate Member** must be an individual who is involved in customer service or consumer affairs issues as an employee or officer of an organisation (**‘Nominating Organisation’**) which has nominated for membership of SOCAP that individual and two or three other individuals from the same organisation (who are also involved in customer service or consumer affairs issues), and has paid or has agreed to pay the subscription fees for all nominees. Standard Corporate Members have full voting rights.
- 8.3 A **Corporate Group Member** must be an individual who is involved in customer service or consumer affairs issues as an employee or officer of an organisation (**‘Nominating Organisation’**) which has nominated for membership of SOCAP that individual as a full Member and up to 99 named individuals from the same organisation (who are also involved in customer service or consumer affairs issues), and has paid or has agreed to pay the subscription fees as indicated by the level of membership. The individual nominated as a full Member has full voting rights. The additional Members do not have voting rights.
- 8.4 A **Special Member** must be an individual, who does not qualify for any other membership category, but:
- (a) is involved in consumer advocacy in a not-for-profit association or is a student enrolled in a course which involves a consumer affairs or customer service component; or
 - (b) is an individual that the Board, in its absolute discretion, approves for membership.

A Special Member does not have voting rights.

8.5 The Board may establish other classifications and conditions of membership consistent with these Rules.

9. APPLICATION FOR MEMBERSHIP

9.1 An applicant for SOCAP membership, and where applicable their Nominating Organisation, must:

- (a) complete in writing an application in such form as the Board determines from time to time; and
- (b) lodge the application with the Secretary or Officer together with the amount of the annual subscription for the applicable category of membership.

9.2 In the case of an application for Standard Corporate Membership, a Nominating Organisation must nominate three or four individuals from within its organisation to be Standard Corporate Members, and must lodge with its application, or agree to pay, the annual subscription fee applicable to the number of individuals nominated by it as Standard Corporate Members.

9.3 In the case of an application for Corporate Group Membership, a Nominating Organisation must nominate one full Member and up to 99 other named individuals from within its organisation to be Corporate Group Members, and lodge with its application, or agree to pay, the annual subscription fee applicable to the category of Corporate Group Membership.

9.4 A Nominating Organisation that has paid all moneys due and payable to SOCAP may by notification to SOCAP at any time:

- (a) terminate the SOCAP membership of any Standard Corporate Member or Corporate Group Member that it has nominated; and
- (b) nominate a new Standard Corporate Member or Corporate Group Member to replace the Member whose membership has been terminated by the Nominating Organisation.

9.5 The Nominating Organisation must lodge an application in accordance with Rule 9.1 for any proposed new Standard Corporate Member or Corporate Group Member nominated under Rule 9.4(b). Provided that the subscription fees for the terminated membership have been paid, no additional subscription fees will be payable for a replacement Member until the next renewal date for subscription fees. No subscription fees will be refunded by SOCAP to the Nominating Organisation for any terminated membership.

9.6 Each Standard Corporate Member and Corporate Group Member acknowledges that their SOCAP membership may be terminated at any time by their Nominating Organisation in accordance with Rule 9.4(a). Any Member whose membership is terminated under Rule 9.4(a) may reapply to SOCAP for membership as either an Individual Member or a Special Member by lodging a new application form together with the annual subscription fee.

10. CONSIDERATION OF APPLICATION

10.1 Upon receipt of an application, the Secretary or Officer will refer the application to the Board.

10.2 When an application is received by the Board, the Board will determine, at its discretion, whether to approve or reject the application.

- 10.3 If the Board rejects the application, it must return any money accompanying the application to the applicant.
- 10.4 No reason need be given for the rejection of an application.
11. **NEW MEMBERSHIP**
- 11.1 If an application for membership is approved by the Board:
- (a) the resolution to accept the membership must be recorded in the minutes of the Board meeting;
 - (b) the Secretary or Officer must notify the applicant, and where applicable the applicant's Nominating Organisation, that their application has been approved;
 - (c) the Secretary or Officer must, as soon as practicable, enter the name and address of the new Member, and the date of becoming a Member, in the register of Members.
 - (d) Upon their name being entered in the register, the applicant will become a Member of SOCAP.
- 11.2 Each Member must observe and comply with these Rules and support and promote the purposes of SOCAP.
12. **ANNUAL SUBSCRIPTION**
- 12.1 The amount of the annual subscription fee for each category of Member and the time of payment will be determined by the SOCAP Board from time to time.
- 12.2 Where a person becomes a Member during a Financial Year:
- (a) the Board will determine whether the full annual subscription fee or a portion of it, is to be payable; provided that
 - (b) the Board may determine to waive a membership subscription if more than 9 months of the Financial Year have elapsed or the Board determines that exceptional circumstances exist.
- 12.3 Where the subscription fee for any Member is not paid within 60 days from the time subscriptions are payable, the Member, and for Standard Corporate Members or Corporate Group Members, their Nominating Organisation, will be notified that the subscription fee is overdue and that the membership may be suspended.
- 12.4 If payment of the subscription fee is not made within the next 30 days, the Member will be removed from membership, unless such removal is waived or postponed by the Board. Standard Corporate Members and Corporate Group Members acknowledge that their membership may be terminated under this rule if their Nominating Organisation does not pay their subscription fee within the required timeframe.
- 12.5 The rights of a Member who has not paid the annual subscription by the due date may be suspended until the subscription is paid.
- 12.6 Unless authorized by the Board, no subscription fee will be refunded to any Member or Nominating Organisation where a membership terminates for any reason.
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13. **GENERAL RIGHTS OF MEMBERS**

A Member of SOCAP who is entitled to vote has the right:

- (a) to receive notice of general meetings and of proposed special resolutions in the manner and time prescribed by these Rules; and
- (b) to submit items of business for consideration at a general meeting; and
- (c) to attend and be heard at general meetings; and
- (d) to vote at a general meeting; and
- (e) to have access to the minutes of general meetings and other documents of SOCAP as provided under Rule 70 (custody and inspection of books and records); and
- (f) to inspect the register of Members.

14. **TRANSFERABILITY OF RIGHTS**

Except to the extent that Rule 9.4 applies in relation to a Standard Corporate Membership or Corporate Group Membership, a right, privilege or obligation of a person by reason of membership of SOCAP:

- (a) is not, unless the Board otherwise determines, capable of being transferred or transmitted to another person; and
- (b) terminates upon cessation of membership whether by death, resignation, expulsion or otherwise.

15. **CEASING MEMBERSHIP**

15.1 The membership of a person ceases on resignation, expulsion or death.

15.2 If a person ceases to be a Member of SOCAP, the Secretary or Officer must, as soon as practicable, enter the date the person ceased to be a Member in the register of Members.

16. **RESIGNING AS A MEMBER**

A Member who has paid all moneys due and payable by the Member to SOCAP may resign from SOCAP by giving one month's notice to the Secretary or Officer of his or her intention to resign. Upon the expiration of that period of notice, the Member will cease to be a Member.

17. **REGISTER OF MEMBERS**

17.1 The Secretary or Officer must keep and maintain a register of Members that includes:

- (a) for each current Member:
 - (i) the Member's name;
 - (ii) the address for notice last given by the Member;
 - (iii) the date of becoming a Member;

- (iv) the type of membership;
 - (v) any other information determined by the Board; and
- (b) for each former Member, the date of ceasing to be a Member.

17.2 Any Member may, at a reasonable time and free of charge, inspect the register of Members.¹

Division 2—Disciplinary action

18. GROUNDS FOR TAKING DISCIPLINARY ACTION

SOCAP may take disciplinary action against a Member in accordance with this Division if it is determined that the Member:

- (a) has failed to comply with these Rules; or
- (b) refuses to support the purposes of SOCAP; or
- (c) has engaged in conduct unbecoming a Member or prejudicial to the interests of SOCAP.

19. DISCIPLINARY SUBCOMMITTEE

- (a) If the Board is satisfied that there are sufficient grounds for taking disciplinary action against a Member, the Board must appoint a disciplinary subcommittee to hear the matter and determine what action, if any, to take against the Member.
- (b) The Members of the disciplinary subcommittee:
 - (i) may be Directors, Members of SOCAP or anyone else; but
 - (ii) must not be biased against, or in favour of, the Member concerned.

20. NOTICE TO MEMBER

- (a) Before disciplinary action is taken against a Member, the Secretary or Officer must give written notice to the Member:
 - (i) stating that SOCAP proposes to take disciplinary action against a Member; and
 - (ii) stating the grounds for the proposed disciplinary action; and
 - (iii) specifying the date, time and forum of the meeting at which the disciplinary subcommittee intends to consider the disciplinary action (the disciplinary meeting); and
 - (iv) advising the Member that he or she may do one or both of the following:

¹ Subject to Section 58 of the Act (it is an offence to make improper use of information about a person obtained from the Register of Members) and Section 59 (access to personal information of a person recorded in the register of members may be restricted in certain circumstances).

1. attend the disciplinary meeting and address the disciplinary subcommittee at that meeting;
 2. give a written statement to the disciplinary subcommittee at any time before the disciplinary meeting; and
- (v) setting out the Member's appeal rights under Rule 22.
- (b) The notice must be given no earlier than 28 days, and no later than 14 days, before the disciplinary meeting is held.

21. DECISION OF THE DISCIPLINARY SUBCOMMITTEE

- (a) At the disciplinary meeting, the disciplinary subcommittee must:
- (i) give the Member an opportunity to be heard; and
 - (ii) consider any written statement submitted by the Member.
- (b) After complying with Rule 21(a), the disciplinary subcommittee may:
- (i) take no further action against the Member; or
 - (ii) suspend the Membership rights of the Member for a specified period; or
 - (iii) expel the Member from SOCAP.
- (c) The suspension of membership rights or the expulsion of a Member by the disciplinary subcommittee under this Rule takes effect immediately after the vote is passed.

22. APPEAL RIGHTS

- (a) A person whose membership rights have been suspended or who has been expelled from SOCAP under Rule 21 may give notice to the effect that he or she wishes to appeal against the suspension or expulsion.
- (b) The notice must be in writing and given:
- (i) to the disciplinary subcommittee immediately after the vote to suspend or expel the person is taken; or
 - (ii) to the Secretary or Officer not later than 48 hours after the vote.
- (c) If the person has given notice under Rule 22(b), a disciplinary appeal meeting must be convened by the Board as soon as practicable, but in any event not later than 21 days, after the notice is received.
- (d) Notice of the disciplinary appeal meeting must be given to each Member of SOCAP who is entitled to vote as soon as practicable and must:
- (i) specify the date, time and forum of the meeting; and

- (ii) state the name of the person against whom the disciplinary action has been taken; and
- (iii) the grounds for taking that action; and
- (iv) that at the disciplinary appeal meeting the Members present must vote on whether the decision to suspend or expel the person should be upheld or revoked.

23. CONDUCT OF DISCIPLINARY APPEAL MEETING

- (a) At a disciplinary appeal meeting:
 - (i) no business other than the question of the appeal may be conducted; and
 - (ii) the Board must state the grounds for suspending or expelling the Member and the reasons for taking that action; and
 - (iii) the person whose membership has been suspended or who has been expelled must be given an opportunity to be heard.
- (b) After complying with Rule 23(a), the Members present and entitled to vote at the meeting must vote by secret ballot on the question of whether the decision to suspend or expel the person should be upheld or revoked.
- (c) A Member may not vote by proxy at the meeting.
- (d) The decision is upheld if not less than three quarters of the Members voting at the meeting vote in favour of the decision.

Division 3—Grievance procedure

24. APPLICATION

24.1 The grievance procedure set out in this Division applies to disputes under these Rules between:

- (a) a Member and another Member;
- (b) a Member or their Nominating Organisation, and SOCAP.

24.2 A Member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary action until the disciplinary action has been completed.

25. PARTIES MUST ATTEMPT TO RESOLVE THE DISPUTE

The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.

26. APPOINTMENT OF MEDIATOR

26.1 If the parties to a dispute are unable to resolve the dispute between them within the time required by Rule 25, the parties must within 10 days:

- (a) notify the Board of the dispute; and

- (b) agree to or request the appointment of a mediator; and
- (c) attempt in good faith to settle the dispute by mediation.

26.2 The mediator must be:

- (a) a person chosen by agreement between the parties; or
- (b) in the absence of agreement:
 - (i) if the dispute is between a Member and another Member—a person appointed by the Board of SOCAP; or
 - (ii) if the dispute is between a Member or their Nominating Organisation, and SOCAP, a person appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).

26.3 A mediator appointed by the Board may be a Member or former Member of SOCAP but in any case must not be a person who:

- (a) has a personal interest in the dispute; or
- (b) is biased in favour of or against any party.

27. **MEDIATION PROCESS**

27.1 The mediator to the dispute, in conducting the mediation, must:

- (a) give each party every opportunity to be heard; and
- (b) allow due consideration by all parties of any written statement submitted by any party; and
- (c) ensure that natural justice is accorded to the parties throughout the mediation process.

27.2 The mediator must not determine the dispute.

28. **FAILURE TO RESOLVE DISPUTE BY MEDIATION**

If the mediation process does not resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

PART 4—ANNUAL AND SPECIAL GENERAL MEETINGS

29. **ANNUAL GENERAL MEETING**

29.1 Each calendar year an Annual General Meeting of Members will be convened.

29.2 The Board may determine the date, time and forum of the Annual General Meeting.

29.3 The ordinary business of the Annual General Meeting is as follows:

- (a) to confirm the minutes of the previous Annual General Meeting and of any Special General Meeting held since then;

- (b) to receive from the Board reports upon the transactions of SOCAP during the last preceding financial year;
- (c) to receive and consider the financial statements of SOCAP for the preceding financial year submitted in accordance with Part 7 of the Act;
- (d) to elect Directors of the Board; and
- (e) to confirm or vary the amounts of the annual subscription fee.

29.4 The Annual General Meeting may also conduct any other business of which notice has been given in accordance with these Rules.

30. **SPECIAL GENERAL MEETINGS**

30.1 Any meeting of SOCAP, other than an Annual General Meeting, is a Special General Meeting.

30.2 The Board may convene a Special General Meeting whenever it thinks fit.

30.3 The Board must convene a Special General Meeting if a request to do so is made in accordance with Rule 30.4 by at least 5% of the total number of Members with voting rights.

30.4 A request for a Special General Meeting must:

- (a) be in writing; and
- (b) state the business to be considered at the meeting and any resolutions to be proposed; and
- (c) include the names and signatures of the Members requesting the meeting; and
- (d) be given to the Secretary or Officer.

30.5 If the Board does not convene a Special General Meeting within one month after the date on which the request is made, the Members making the request may convene the Special General Meeting.

30.6 A Special General Meeting convened by Members pursuant to these Rules must be convened in the same manner as nearly as possible as that in which such a meeting is convened by the Board, and all reasonable expenses incurred in convening the meeting will be refunded by SOCAP to the persons who incur those expenses.

31. **NOTICE OF ANNUAL AND SPECIAL GENERAL MEETINGS**

30.1 The Secretary must give to each Member at least 14 days' notice of an Annual or Special General Meeting and the notice must:

- (a) specify the date, time and forum of the meeting; and
- (b) indicate the general nature of each item of business to be considered at the meeting.

30.2 If a special resolution is an item of business to be voted upon at an Annual or Special General meeting:

- (a) each Member who is entitled to vote must be given at least 21 days' notice of the proposed resolution, in the manner provided by the Rules; and
- (b) the notice must:
 - (i) specify the date, time and forum of the meeting at which the resolution is intended to be proposed; and
 - (ii) state in full the proposed resolution;
 - (iii) state the intention to propose the resolution as a special resolution.

31.3 No business other than that set out in the notice convening the meeting will be transacted at the meeting.

31.4 A voting Member desiring to bring any business before a meeting may give notice of that business in writing to the Secretary or Officer, who will include that business in the notice convening the next meeting after the receipt of the notice from the Member.

32. **PROXIES**

32.1 A Member may appoint another Member as his or her proxy to speak on his or her behalf at an Annual or Special General Meeting. A Member may not appoint another Member as his or her proxy at a disciplinary appeal meeting.

32.2 The Member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf, otherwise the proxy may vote on behalf of the Member in any matter as he or she sees fit.

32.3 The Member appointing the proxy must give notice of the appointment to the Secretary or Officer no later than 24 hours before the time of the meeting in respect of which the proxy is appointed.

32.4 The notice appointing the proxy will be in the form set out in the Attachment (or such other form as the Board may determine).

32.5 The Secretary or Officer will give any proxy forms received in accordance with this Rule 32 to the Chairperson of the meeting in respect of which the proxy is appointed.

33. **USE OF TECHNOLOGY**

33.1 A Member not physically present at an Annual or Special General Meeting may, at the Member's cost, be permitted to participate in the meeting by the use of technology that allows that Member to clearly and simultaneously communicate with every other participating Member.

33.2 For the purposes of this Part, a Member participating in a meeting as permitted under Rule 33.1 is taken to be present at the meeting and, if the Member votes at the meeting, is taken to have voted in person.

34. **QUORUM AT ANNUAL AND SPECIAL GENERAL MEETINGS**

34.1 No business may be conducted at an Annual or Special General Meeting unless a quorum of voting Members is present.

- 34.2 The quorum for a meeting is the presence (physically, by proxy or as allowed under rule 33) of 10 voting Members.
- 34.3 If a quorum is not present within 30 minutes after the notified commencement time of the meeting:
- (a) if the meeting is convened upon request of the voting Members, the meeting is dissolved and the voting Members must make a new request for a meeting under Rule 30;
 - (b) if the meeting is convened in any other case:
 - (i) the meeting will stand adjourned to a date not more than 21 days after the adjournment; and
 - (ii) notice of the date, time and forum to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all Members as soon as practicable after the meeting.
- 34.4 If a quorum is not present within 30 minutes after the time to which a meeting has been adjourned the voting Members present at the meeting (if not less than 5) may proceed with the business of the meeting as if a quorum were present.
- 35. ADJOURNMENT OF ANNUAL AND SPECIAL GENERAL MEETINGS**
- 35.1 The Chairperson of an Annual or Special General Meeting at which a quorum is present may, with the consent of a majority of voting Members present at the meeting, adjourn the meeting to another time.
- 35.2 Without limiting Rule 35.1, a meeting may be adjourned:
- (a) if there is insufficient time to deal with the business at hand; or
 - (b) to give the voting Members more time to consider an item of business.
- 35.3 No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- 35.4 Notice of the adjournment of a meeting under this Rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with Rule 31.
- 36. VOTING AT ANNUAL AND SPECIAL GENERAL MEETINGS**
- 36.1 Each Individual Member, Standard Corporate Member and the representative of a Corporate Group Membership may vote on any question arising at an Annual or Special General Meeting.
- 36.2 Special Members are not entitled to vote.
- 36.3 No Member is entitled to vote at any Annual or Special General Meeting unless all moneys due and payable by the Member or their Nominating Organisation to SOCAP have been paid.
- 36.4 On any question arising at an Annual or Special General Meeting:
- (a) each Member who is entitled to vote has one vote; and
 - (b) Members may vote personally or by proxy (subject to Rule 23(c)); and
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(c) except in the case of a special resolution, the question must be decided on a majority of votes.

36.5 If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.

36.6 If the question is whether or not to confirm the minutes of a previous meeting, only voting Members who were present at the previous meeting may vote.

37. **SPECIAL RESOLUTIONS**

37.1 The following matters require a special resolution:

(a) removal of a Director as specified in Rule 52;

(b) winding up of SOCAP as specified in Rule 73.1;

(c) the distribution of surplus assets upon dissolution as specified by Rule 73.4; and

(d) alteration of these Rules, including changing the name or any of the purposes of SOCAP as specified in Rule 75.

37.2 A special resolution is passed if:

(a) not less than three quarters of the Members voting at a general meeting (whether in person or by proxy) vote in favour of the resolution; and

(b) any additional requirements of the Rules relating to the passing of special resolutions have been met; or

(c) the resolution is passed in a manner approved by the Registrar under Section 66(2) of the Act.²

38. **DETERMINING WHETHER RESOLUTION CARRIED**

Subject to Rule 39, the Chairperson of an Annual or Special General Meeting may, on the basis of a show of hands, declare that a resolution has been:

(a) carried; or

(b) carried unanimously; or

(c) carried by a particular majority; or

(d) lost

and an entry to that effect in the minutes of the meeting is conclusive proof of that fact.

39. **POLLS**

39.1 If a poll (where votes are cast in writing) is demanded by three or more Members on any question:

² An Association may apply to the Registrar for approval to pass a special resolution under Section 66(1) of the Act and the Registrar may approve the resolution to be passed in a manner specified by the Registrar under Section 66(2) of the Act.

- (a) the poll must be taken at the meeting in the manner determined by the Chairperson of the meeting; and
- (b) the Chairperson must declare the result of the resolution on the basis of the poll.

39.2 A poll demanded on the election of the Chairperson or on a question of an adjournment must be taken immediately.

39.3 A poll demanded on any other question must be taken before the close of the meeting at a time determined by the Chairperson.

40. **MINUTES OF ANNUAL AND SPECIAL GENERAL MEETINGS**

40.1 The Board must ensure that minutes are taken and kept of each Annual and Special General Meeting.

40.2 The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.

40.3 In addition, the minutes of each Annual or Special General Meeting must include:

- (a) the names of the Members attending the meeting; and
- (b) proxy forms given to the Chairperson of the meeting under Rule 32; and
- (c) the financial statements submitted to the Members ; and
- (d) the certificate signed by 2 Directors certifying that the financial statements give a true and fair view of the financial position and performance of SOCAP; and
- (e) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

PART 5—THE BOARD

Division 1—Powers of the Board

41. **ROLE AND POWERS**

- (a) The Business of SOCAP must be managed by or under the direction of a Board.
- (b) The Board may exercise all the powers of SOCAP except those powers that these Rules or the ACT require to be exercised by general meetings of the Members of SOCAP; and
- (c) The Board may:
 - (i) appoint and remove staff;
 - (ii) establish subcommittees consisting of Members with terms of reference it considers appropriate.

42. **DELEGATION**

- 42.1 The Board may delegate to a Director or any other member of SOCAP staff, any of its powers and functions other than:
- (a) this power of delegation; or
 - (b) a duty imposed on the Board by the Act or any other law.
- 42.2 The delegation must be in writing and may be subject to the conditions and limitations the Board considers appropriate.
- 42.3 The Board may, in writing, revoke a delegation wholly or in part.
- 42.4 Under this Rule 42, the Board may employ an Officer, whose terms and conditions of employment will be specified by the Board. The Officer will be responsible to the President and will be responsible for management functions including, but not limited to:
- (a) management and direction of the activities of SOCAP as prescribed by the Board;
 - (b) employment and termination of staff;
 - (c) fixing the compensation of the staff within a budget approved by the Board;
 - (d) defining the duties of the staff;
 - (e) supervising the performance of the staff; and
 - (f) establishing staff titles and responsibilities.
- 42.5 The Board may appoint legal counsel to provide advice on legal matters as it sees fit.

Division 2—Composition of Board and Duties of Members

43. COMPOSITION OF BOARD

43.1 The Board will be comprised of not less than 10 nor more than 17 Members with voting rights.

43.2 The Board consists of the following office bearers:

- (a) a President; and
- (b) 2 Vice-Presidents; and
- (c) a Secretary; and
- (d) a Treasurer,

and are to be elected by the Directors from their membership.

43.3 A Director may hold more than one office (with the exception that a Director may not hold the offices of President and Vice-President simultaneously).

44. GENERAL DUTIES OF DIRECTORS

- 44.1 As soon as practicable after being elected or appointed to the Board, each Director must become familiar with these Rules and the Act.
- 44.2 The Board is collectively responsible for ensuring that the Board complies with the Act and that individual Directors comply with these Rules.
- 44.3 Directors must exercise their powers and discharge their duties with reasonable care and diligence.
- 44.4 Directors must exercise their powers and discharge their duties:
- (a) in good faith in the best interests of SOCAP; and
 - (b) for a proper purpose.
- 44.5 Directors and former Directors must not make improper use of:
- (a) their position; or
 - (b) information acquired by virtue of holding their position
- so as to gain an advantage for themselves or any other person or to cause detriment to SOCAP.
- 44.6 In addition to any duties imposed by these Rules, a Director must perform any other duties imposed from time to time by resolution at an Annual or Special General Meeting.

45. **DUTIES PRESIDENT AND VICE-PRESIDENTS**

- 45.1 The President or, in the President's absence, a Vice-President is the Chairperson for any Annual and Special General Meetings and for any Board meetings.
- 45.2 If the President and the Vice-Presidents are all absent, or are unable to preside, the Chairperson of the meeting will be one of the remaining Directors chosen by the Members present.

46. **DUTIES OF SECRETARY**

- 46.1 The Secretary must perform any duty or function required under the Act to be performed by the secretary of an incorporated association.
- 46.2 The Secretary must:
- (a) maintain the register of Members in accordance with Rule 11 and Rule 15; and
 - (b) keep custody of the common seal (if any) of SOCAP and, except for the financial records referred to in Rule 65.3 all books, documents and securities of SOCAP in accordance with Rules 67 and 70; and
 - (c) subject to the Act and these Rules, provide Members with access to the register of Members, the minutes of Annual and Special General Meetings and other books and documents; and
 - (d) perform any other duty or function imposed on the Secretary by these Rules.
- 46.3 The Secretary must give to the Registrar notice of his or her appointment within 14 days after the appointment.

47. DUTIES OF TREASURER

47.1 The Treasurer must:

- (a) receive all moneys paid to or received by SOCAP and issue receipts for those moneys in the name of SOCAP; and
- (b) ensure that all moneys received are paid into the account of SOCAP no later than 5 working days after receipt; and
- (c) make any payments authorised by the Board or by an Annual or Special General Meeting of SOCAP from SOCAP's funds.

47.2 The Treasurer must:

- (a) ensure that the financial records of SOCAP are kept in accordance with the Act; and
- (b) coordinate the preparation of the financial statements of SOCAP and their certification by the Board prior to their submission to the Annual General Meeting of SOCAP.

47.3 The Treasurer must ensure that at least one other Director and the Officer (if applicable) has access to the accounts and financial records of SOCAP.

Division 3—Election of Directors

48. WHO IS ELIGIBLE TO BE A DIRECTOR

48.1 Only Members with voting rights may be nominated for election as Directors. Corporate Group Members who do not have voting rights and Special Members are not eligible to be elected as Directors.

48.2 Existing Directors and former Directors will be eligible for re-election.

49. TIMING AND TENURE

49.1 Elections for the positions of all Directors will take place at the Annual General Meeting in each year.

49.2 The Annual General Meeting must by resolution decide the number of Directors it wishes to hold office for the next year.

49.3 The effective date of commencement of the new Board will be upon the election of the office bearers of that new Board which will take place up to 30 days after the Annual General Meeting. Until that time, the outgoing Board will remain as the validly constituted Board and the office bearers will retain their respective positions.

50. NOMINATIONS

50.1 Nominations of candidates for election as Directors:

- (a) must be made in writing, endorsed by 2 Members of SOCAP (from any class of Membership with or without voting rights) and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and

(b) must be delivered to the Secretary or the Officer not less than 28 days before the date fixed for the holding of the Annual General Meeting.

50.2 For the purposes of Rule 50.1(a):

(a) the Board will from time to time prescribe the form and content of the application that must be used; and

(b) each application must be accompanied by such information regarding the candidate as the Board determines from time to time, which information may include (but will not be limited to) the following:

(i) a brief personal profile of the candidate;

(ii) an outline of the candidate's experience in relation to customer service and consumer affairs issues;

(iii) an outline of the candidate's previous experience (if any) on boards or committees of management; and

(iv) if the candidate is at the time of nominating, or has been in the past, a Director of SOCAP, an indication of the number of Board meetings attended by the candidate during his or her period in office and a description of the committees or working parties of SOCAP of which the candidate is or has been a Member.

50.3 If the number of nominations received is less than or equal to the number of vacancies to be filled, the persons nominated will be deemed to be elected.

50.4 If the number of nominations exceeds the number of vacancies to be filled, a ballot will be conducted at the Annual General Meeting.

51. **BALLOT**

51.1 If a ballot is required for the election for a position, the Chairperson of the meeting must appoint a Member to act as returning officer to conduct the ballot.

51.2 The returning officer must not be a Member nominated for the Board.

51.3 The election must be by secret ballot in a form determined by the returning officer.

51.4 The returning officer must declare elected the candidates who received the most votes.

51.5 If the returning officer is unable to declare the result of an election because 2 or more candidates received the same number of votes, the returning officer must:

(a) conduct a further election for the position in accordance with this Rule 51 to decide which of those candidates who received the same number of votes is to be elected; or

(b) with the agreement of those candidates, decide by lot which of them is to be elected.

Division 4 – Removal of Director and Vacancy of Office

52. REMOVAL OF A DIRECTOR

A Director may be removed by a special resolution passed at a Special General Meeting.

53. VACANCY OF OFFICE OF DIRECTOR

For the purposes of these Rules, the office of a Director becomes vacant if the Director:

- (a) ceases to be a Member with voting rights;
- (b) becomes an insolvent under administration within the meaning of the Corporations Law;
- (c) is absent from, or does not participate in accordance with Rule 59, in 3 consecutive meetings of the Board (unless the Board resolves to the contrary);
- (d) resigns his or her office by notice in writing given to the Secretary or Officer; or
- (e) is removed from office.

54. FILLING CASUAL VACANCIES

54.1 The Board may appoint an eligible Member of SOCAP to fill a position on the Board that:

- (a) has become vacant under Rule 53; or
- (b) was not filled by election at the last Annual General Meeting.

54.2 If the position of Secretary becomes vacant, the Board must appoint a Member to the position within 14 days after the vacancy arises.

54.3 The Board may continue to act despite any vacancy in its membership.

Division 5—Meetings of Board

55. MEETINGS OF BOARD

55.1 The Board must meet at least 5 times in each year at the dates, times and forums determined by the Board. Elections of the office bearers of a new Board are to take place at the first Board meeting of the new Board.

55.2 Special Board meetings may be convened by the President or by any 4 Directors.

55.3 In cases of urgency, a meeting can be held without notice being given in accordance with Rule 56 provided that as much notice as practicable is given to each Director by the quickest means practicable.

- (a) Any resolution made at such a meeting must be passed by an absolute majority of the Board.
- (b) The only business that may be conducted at such a meeting is the business for which the meeting is convened.

56. NOTICE OF MEETINGS

- 56.1 Notice of each Board meeting must be given to each Director no later than 7 days before the date of the meeting.
- 56.2 Notice may be given of more than one Board meeting at the same time.
- 56.3 The notice must state:
- (a) the date, time and forum of the meeting; and
 - (b) must include the general nature of the business to be conducted.
- 56.4 The only business that may be conducted at the meeting is the business for which the meeting is convened.
57. **PROCEDURE AND ORDER OF BUSINESS**
- 57.1 At meetings of the Board:
- (a) the President, or in the President's absence, a Vice-President will take the chair; or
 - (b) if the President and each of the Vice-President's are absent, one of the remaining Directors chosen by the Members present will take the chair.
- 57.2 The Directors may meet together, adjourn and regulate their meetings as they think fit.
58. **USE OF TECHNOLOGY**
- 58.1 A Director who is not physically present at a Board meeting may participate in the meeting by the use of technology that allows that Director to clearly and simultaneously communicate with every other participating Director.
- 58.2 For the purposes of this part, a Director participating in a Board meeting as permitted under Rule 58.1 is taken to be present at the meeting and, if the Member votes at the meeting, is taken to have voted in person.
59. **QUORUM**
- 59.1 The quorum for a Board meeting is the presence (in person or as allowed under Rule 58) of 50% plus one of the Board.
- 59.2 No business may be conducted at a Board meeting unless a quorum is present.
- 59.3 If a quorum is not present within 30 minutes after the notified commencement time of a Board meeting:
- (a) in the case of a Special meeting—the meeting lapses;
 - (b) in any other case—the meeting must be adjourned to a date no later than 14 days after the adjournment and notice of the time, date and forum to which the meeting is adjourned must be given in accordance with Rule 56.
60. **VOTING**
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- 60.1 On any question arising at a Board meeting, each Director present at the meeting has one vote.
- 60.2 Any questions arising at a Board meeting or of any subcommittee appointed by the Board will be determined on a show of hands or, if demanded by a Director, by a poll taken in such manner as the Chairperson may determine.
- 60.3 A motion is carried if a majority of Directors present at the meeting vote in favour of the motion.
- 60.4 Rule 60.3 does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the Committee.
- 60.5 If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- 60.6 Voting by proxy is not permitted.
- 60.7 A Director appointed by the Board under Rule 54.1 has the right to vote on a question before the Board.
- 60.8 If all the Directors who are eligible to vote on a resolution have signed a document containing the statement that they are in favour of, or opposed to, or abstain from, a resolution in terms set out in the document and a majority of the Directors state that they are in favour of that resolution, then the resolution is taken to have been passed at a Board meeting held on the day on which the document was last signed by a Director.
- 60.9 For the purposes of Rule 60.8, 2 or more identical documents, each of which is signed by 1 or more Directors, together constitute 1 document signed by those Directors on the days on which they signed the separate documents.
- 60.10 Any document referred to in Rules 60.8 and 60.9 may be in the form of a facsimile transmission or scanned transmission with digital signature or other electronic formats accepted by the Board from time to time.
- 60.11 All acts done at a Board meeting, subcommittee meeting or by a person acting as an office bearer or other Director will, notwithstanding that it is afterwards discovered:
- (a) that there was a defect in the election/appointment of any such Director or person acting as aforesaid; or
 - (b) that the Director or person acting as aforesaid was disqualified,
- be as valid as if every such person had been duly appointed and was qualified to be a member of the Board or that subcommittee (as the case may be).
61. **CONFLICT OF INTEREST**
- 61.1 A Director who has a material personal interest, or who knows of another Director who has a material personal interest, in a matter being considered at a Board meeting must disclose the nature and extent of that interest to the Board.
- 61.2 The Director:
- (a) must not be present while the matter is being considered at the meeting; and
-

(b) must not vote on the matter.

61.3 This Rule does not apply to a material personal interest:

(a) that exists only because the Director belongs to a class of persons for whose benefit SOCAP is established; or

(b) that the Director has in common with all, or a substantial proportion of, the Directors of SOCAP.

62. **MINUTES OF MEETING**

62.1 The Board must ensure that minutes are taken and kept of each Board meeting.

62.2 The minutes must record the following:

(a) the names of the Members in attendance at the meeting;

(b) the business considered at the meeting;

(c) any resolution on which a vote is taken and the result of the vote;

(d) any material personal interest disclosed under Rule 61.

PART 6—FINANCIAL MATTERS

63. **SOURCE OF FUNDS**

The funds of SOCAP may be derived from annual subscriptions, donations, fund-raising activities, grants, training activities, conference registrations, interest and any other sources approved by the Board.

64. **MANAGEMENT OF FUNDS**

64.1 The Board must keep an account with a financial institution from which all expenditure of SOCAP is made and into which all of the SOCAP's revenue is deposited. At least 2 Directors must be signatories on the account.

64.2 Subject to any restrictions imposed by an Annual or Special General meeting of SOCAP, the Board may approve expenditure on behalf of SOCAP.

64.3 The Board may authorise the Treasurer or the Officer to expend funds on behalf of SOCAP (including by electronic funds transfer) up to a specified limit without requiring approval from the Board for each item on which the funds are expended.

64.4 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by the Treasurer or Officer.

64.5 All funds of SOCAP must be deposited into the financial account of the Board no later than 5 working days after receipt.

65. **FINANCIAL RECORDS**

65.1 SOCAP must keep financial records that:

- (a) correctly record and explain its transactions, financial position and performance; and
- (b) enable financial statements to be prepared as required by the Act.

65.2 SOCAP must retain the financial records for 7 years after the transactions covered by the records are completed.

65.3 The Treasurer or Officer must keep in his or her custody, or under his or her control:

- (a) the financial records for the current financial year; and
- (b) any other financial records as authorised by the Board.

66. **FINANCIAL STATEMENTS**

66.1 For each financial year, the Board must ensure that the requirements under the Act relating to the financial statements of SOCAP are met.

66.2 Without limiting Rule 66.1 those requirements include:

- (a) the preparation of the financial statements;
- (b) if required, the review or auditing of the financial statements;
- (c) the certification of the financial statements by the Board;
- (d) the submission of the financial statements to the Annual General Meeting of SOCAP;
- (e) the lodgement with the Registrar of the financial statements and accompanying reports, certificates, statements and fee.

PART 7—GENERAL MATTERS

67. **COMMON SEAL**

67.1 The common seal of SOCAP will be kept in the custody of the Secretary or Officer.

67.2 The common seal will not be affixed to any instrument except by the authority of the Board and the affixing of the common seal will be attested by the Secretary or Officer and one other Director.

68. **REGISTERED ADDRESS**

The registered address of SOCAP is:

- (a) the address determined from time to time by resolution of the Board; or
- (b) if the Board has not determined an address to be the registered address—the postal address of the Secretary or Officer.

69. **NOTICE REQUIREMENTS**

69.1 Any notice required to be given to a Member, a Nominating Organisation or a Director under these Rules may be given:

- (a) by handing the notice to the Member personally; or
- (b) by sending it by post to the Member at the address recorded for the Member on the register of Members; or
- (c) by email, facsimile transmission, or other electronic means approved by the Board from time to time.

69.2 Rule 69.1 does not apply to notice given under Rule 55.3 (urgent Board meetings).

69.3 Any notice required to be given to SOCAP or the Board may be given:

- (a) by handing the notice to a Member of the Board; or
- (b) by sending the notice by post to the registered address; or
- (c) by leaving the notice at the registered address; or
- (d) if the Board determines that it is appropriate in the circumstances:
 - (i) by email to the email address of the Secretary or Officer; or
 - (ii) by facsimile transmission to the facsimile number of SOCAP; or
 - (iii) by other electronic means approved by the Board from time to time.

70. **CUSTODY AND INSPECTION OF BOOKS AND RECORDS**

70.1 Except as otherwise provided in these Rules, the Secretary or Officer will keep in his or her custody or under his or her control all books, documents and securities of SOCAP.

70.2 Members may on request inspect free of charge:

- (a) the register of Members;
- (b) the minutes of Annual and Special General Meetings;
- (c) subject to Rule 70.3 the financial records, books, securities and any other relevant documents of SOCAP, including minutes of Board meetings.

70.3 The Board may refuse to permit a Member to inspect records of SOCAP that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of SOCAP.

70.4 The Board must make these Rules available to Members and applicants for membership.

71. **SPONSORSHIP**

The Board will from time to time determine an appropriate policy in respect of sponsorship.

72. **INDEMNITY**

Each Director, Officer and every other officer of SOCAP will be indemnified out of the assets of SOCAP against any liability arising out of the execution of duties of his or her office which is incurred by him/her in defending any proceedings, whether civil or criminal, in which judgment is given in his/her favour or in which he/she is acquitted or in connection with any application under the law in which relief is granted to him/her by a court in respect of any negligence, default, breach of duty or breach of trust.

73. WINDING UP AND CANCELLATION

73.1 SOCAP may be wound up voluntarily by special resolution.

73.2 In the event of the winding up or the cancellation of the incorporation of SOCAP, the surplus assets of SOCAP must not be distributed to any Members or former Members of SOCAP.

73.3 Subject to the Act and any court order made under section 133 of the Act³, the surplus assets must be given to a body that has similar purposes to SOCAP and which is not carried on for the profit or gain of its individual Members.

73.4 The body to which the surplus assets are to be given must be decided by special resolution.

74. TRANSITIONAL PROVISIONS

These Rules will take effect from the date on which they are approved pursuant to the Act.⁴

75. ALTERATION OF RULES

These Rules may only be altered by special resolution of an Annual or Special General meeting of SOCAP.

³ Provision for court order relating to distribution of surplus assets

⁴ Pursuant to Section 50 of the Act (Alteration of Rules), the Rules do not take effect unless and until the alteration has been approved by the Registrar.
