



**Memorandum of Incorporation**  
**(“Hereinafter referred to as the “MOI”)**

**Of**

**The Institute of Bankers in South Africa NPC (IOBSA)**

**(Registration No: 2002/011503/08)**

**(Hereinafter referred to as “the Company”)**

The Company is a non-profit company with members, with the objects as more fully described herein.

**Adoption of Memorandum of Incorporation**

This “Memorandum of Incorporation” as amended (in substitution of the existing Memorandum of Association, Articles of Association and the Constitution of the Company), by Special Resolution passed at the 109th AGM held 15 August 2013, has been mandated by the members of the Company, in accordance with the Act.

## INDEX TO CONTENTS OF MOI

	<b>Page</b>
<b>GENERAL INTEPRETATION</b>	4 - 5
<b>DEFINITIONS</b>	5 - 7
<b>1. ARTICLE 1 – INCORPORATION AND NATURE OF THE COMPANY</b>	
1.1. Incorporation	7-7
1.2. Objects of the Company	7 - 9
1.3. Powers of the Company	9 - 10
1.4. Memorandum of Incorporation and Company Rules	10 - 11
1.5. Optional Provisions of the Companies Act	11 - 12
1.6. Members of the Company	12 – 12
1.7. Voting rights of Members	12 – 13
1.8. Membership	13 – 13
1.9. Termination of Membership	13 - 14
<b>2. ARTICLE 2 – RIGHTS OF MEMBERS</b>	
2.1. Members’ authority to act	14 - 14
2.2. Members’ right to information	14 - 15
2.3. Representation by concurrent proxies	15 – 15
2.4. Authority of proxy to delegate	15 - 15
2.5. Requirements to deliver proxy instrument to the Company	15 - 15
2.6. Deliberative authority of proxy	15 - 15
2.7. Record date for exercise of members rights	15 - 15
<b>3. ARTICLE 3 – MEMBERS MEETINGS</b>	
3.1. Requirements to hold meetings	15 - 16
3.2. Members’ right to requisition a meeting	16 - 16
3.3. Location of members’ meeting	16 - 16
3.4. Notice of members’ meetings	16 - 16

3.5. Electronic participation in members' meetings	16 - 16
3.6. Quorum for members' meetings	16 – 16
3.7. Adjournment of members' meetings	17 - 17
3.8. Members resolutions	17 – 17
3.9. Limitation of Liability	17 - 17
<b>4. ARTICLE 4 – DIRECTORS AND OFFICERS</b>	
4.1. Composition of Board of Directors	17 - 18
4.2. Authority of Board of Directors	18 - 18
4.3. Board of Directors meetings	18 - 18
4.4. Indemnification of Directors	19 - 19
4.5. Officers and Committees	18 – 19
<b>SCHEDULE 1 – INCORPORATION AND NATURE OF THE COMPANY</b>	20 - 22
<b>SCHEDULE 2 – RIGHTS OF MEMBERS</b>	23 - 23
<b>SCHEDULE 3 – MEETINGS</b>	24 - 26
<b>SCHEDULE 4 – DIRECTORS OF THE COMPANY: COMPOSITION, ELECTION AND TERM OF OFFICE OF BOARD</b>	27 - 29

**GENERAL INTERPRETATION**

In this MOI (also known as the Rules of the Company), unless the context otherwise requires:

- (a) a reference to a section by number refers to the corresponding section of the Companies Act No. 71 of 2008, as amended;
- (b) when any number of days is prescribed in this MOI, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a day which is not a business day, in which case the last day shall be the next business day;
- (c) terms other than those defined within the MOI or the Act will be given their plain English meaning, and those terms, acronyms, and phrases known in general commercial or industry-specific practice, will be interpreted in accordance with their generally accepted meanings;
- (d) words that are defined in the Companies Act No. 71 of 2008, as amended; bear the same meaning in this MOI as in that Act;
- (e) all words and expressions importing the masculine gender shall include the feminine or neuter genders, and words signifying the singular number shall include the plural, and vice versa, where circumstances so require;
- (f) all words referring to persons shall include associations and groups and bodies of persons, whether incorporated or unincorporated, and whether endowed with legal personality or not so endowed;
- (g) where reference is made to anything in general terms followed by a statement that the generality shall "include" certain specified things, the things so stated to be included shall not be deemed to derogate from, or to limit in any way, the generality of the things referred to in general terms;
- (h) in any instance where there is a conflict between a provision (be it expressed, implied or tacit) of this MOI and a provision of any constitution, the provision of this MOI shall prevail to the extent of the conflict;
- (i) in any instance where there is a conflict between a provision (be it expressed, implied or tacit) of this MOI an alterable or elective provision of the Act, the provision of this MOI shall prevail to the extent of the conflict;
- (j) in any instance where there is a conflict between a provision (be it expressed, implied or tacit) of this MOI an unalterable or non-elective provision of the Act, the unalterable or non-elective provision of the Act shall prevail to the extent of the

conflict;

- (k) the rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply to this MOI;
- (l) any reference to a notice shall be construed as a reference to a written notice, and shall include a notice which is transmitted electronically in a manner and form such that the notice can conveniently be printed by the recipient within a reasonable time and at a reasonable cost; and
- (m) references to “this MOI” or any agreement or document shall be construed as a reference to this MOI or, as the case may be, such other agreement or document, as amended, varied, novated or supplemented from time to time.
- (n) Name and Establishment:

The name of the Company (which has been in existence and functioning since 1904) is “**The Institute of Bankers in South Africa (NPC)**” (otherwise known as the “IOBSA”), and it shall be deemed to have been established during that year.

In line with the Companies Act No. 71 of 2008 the IOBSA has amended the name to adhere to section 11(3)(c)(v) of the Act and accordingly the registered name is “The Institute of Bankers in South Africa NPC”.

## Definitions

The following words and expressions the, unless inconsistent with the context shall have the following meanings:

“**Assets**” shall be synonymous with “**property**”;

“**Act**” means the Companies Act No. 71 of 2008, as amended; together with any regulations published in terms thereof;

“**By Laws**” shall be synonymous with “**regulations**”;

“**The Board**” shall mean the controlling body being the board of Directors of the Company constituted in terms of these Rules and vested as such with powers and duties set out in these Rules;

“**Chairperson**” shall mean the chairperson of the Board of Directors;

**"Company"** shall mean the Company constituted in terms of these Rules under the name "The Institute of Bankers in South Africa (NPC)" a non-profit company incorporated and existing under the laws of the Republic;

**"Constitution"** means any signed written document in force from time to time setting out the agreed rules which will govern the Company, such as its main purpose and objectives, its membership and governance structures and procedures, and the rights and duties of the Company and its members and office-bearers;

**"Director"** shall mean a member of the board;

**"Income Tax Act"** shall mean the Income Tax Act, No. 58 of 1962 as amended or any legislation which replaces it;

**"Individual"** mean a natural person;

**"IFRS"** shall mean the International Financial Reporting Standards, as adopted from time to time by the Board of the International Accounting Standards Committee, or its successor body, and approved for use in the Republic of South Africa from time to time by the Financial Reporting Standards Council established in terms of section 203;

**"Member"** means a person who holds membership in and specified rights in respect of the Company, and who is registered as such in the Company's members register;

**"Ordinary Resolution"** means a resolution adopted with the support of more than 50% (fifty percent) of the voting members;

**"Property"** shall include movable and immovable property, corporeal and incorporeal property, goods, money, claims and rights of action or resources;

**"Regulations"** or **"the Regulations"** shall mean the regulations made in terms of this MOI and shall include all amendments to such Regulations in force from time to time;

**"Rules"** or **"the Rules"** or **"these Rules"** shall mean the Rules embodied in this MOI and shall include all amendments to them in force from time to time;

**"Sign"** includes the reproduction of signature lithography, printing with an india-rubber stamp, or any other mechanical process, or partly the one and partly the other process and "signature" have the corresponding meaning;

**"Special Resolution"** means a resolution adopted with the support of more than 75% (seventy five percent) of the voting members.

**"Writing"** includes printing, typewriting, lithography or any other electronic or mechanical process, or partly one and partly the other. A requirement that a document,

notice or information should be given in Writing will be met if the document, notice or information is in the form of a data message and accessible in a manner usable for subsequent reference. "Written" has a corresponding meaning.

## **1. ARTICLE 1 – INCORPORATION AND NATURE OF THE COMPANY**

### **1.1. Incorporation**

1.1.1. The Company is incorporated as a Non-Profit company, as defined in the Act.

1.1.2. The Company is incorporated in accordance with, and governed by:-

1.1.2.1. the unalterable provisions of the Act, as amended; that are applicable to Non-Profit Companies;

1.1.2.2. the alterable provisions of the Act, as amended; that are applicable to Non-Profit Companies, subject to any limitation, extension, variation or substitution set out in this MOI; and

1.1.2.3. the alterable provisions of the Act, as amended; that are applicable to Non-Profit Companies, subject to any limitation, extension, variation or substitution set out in this MOI; and

1.1.2.4. the provisions of this MOI.

### **1.2. Objects of the Company**

1.2.1. The Objects of the Company, as contemplated in Schedule 1 of the Act, are set out herein under:-

1.2.1.1. To be the professional body for the banking and related financial sector for South Africa and for that purpose to promote the interests of members of the Company by means other than the carrying on by the Company of any trading or other profit-making activities, or the participation by the Company in any business, profession or occupation carried on by any of its members, or continuous services and facilities required by its members for the purpose of carrying on any business, profession or occupation;

1.2.1.2. Developing standards of education and new qualifications for the defined sector in association with other institutions;

1.2.1.3. To arrange for the holding of examinations, to prescribe syllabuses for such examinations, and to grant and award certificates, designations

and prizes, monetary or otherwise to successful and/or deserving candidates;

- 1.2.1.4. Developing, awarding, monitoring and revoking its professional designations in terms of its own rules, legislation and/or international conventions;
- 1.2.1.5. To provide opportunities for members to keep themselves up to date with the theory and practice of banking and related financial services;
- 1.2.1.6. To provide opportunities for members, to acquire a knowledge of theory and practice of banking and financial services and to promote all aspects of education in the theory and practice of banking and financial services; and without restricting the general nature of this object also;
- 1.2.1.7. To provide opportunities for members to participate in learning activities in areas associated with banking and other financial services;
- 1.2.1.8. To provide lectures, in any relevant format and study material, or any other relevant material, to members in all areas associated with banking and financial services;
- 1.2.1.9. To publish and promote the Company's Code of Professional Conduct and Disciplinary Code as the operating mechanism for the reporting of and investigating members who are alleged to have contravened the code;
- 1.2.1.10. To insist on a high standard of ethical behaviour on the part of members and the to preserve and maintain the integrity and status of the Company and the profession ; to require the adherence to the Company's Code of Professional Conduct which allows for disciplinary action to be taken against members who do not adhere to the Code;
- 1.2.1.11. To facilitate the consideration and discussion of matters of interest for bankers and persons associated with the related financial services field;
- 1.2.1.12. To take any measures which may be considered desirable to further the interest of banking and persons associated with banking and related financial services;



- 1.2.1.13. To provide opportunities for networking among its members and between its members and those of other bodies, societies or institutes of a kindred nature;
- 1.2.1.14. To arrange for the production, publication, issue and distribution of content via electronic means, pertaining to banking and related financial services fields, including a journal;
- 1.2.1.15. To keep members informed and updated on the activities of the Company; and
- 1.2.1.16. To do all such other lawful things as are or may be incidental or conducive or ancillary to, or necessary for the attainment of the above objectives.

### **1.3. Powers of the Company**

- 1.3.1. The MOI is not subject to any provision contemplated in section 15 (2) (b) or (c) of the Act.
- 1.3.2. The purposes and powers of the Company are set out herein under and are not subject to any restriction, limitation or qualification, as contemplated in section 19 (1)(b)(ii) of the Act.
- 1.3.3. It is expressly recorded that the Company is not formed for the purpose of carrying on any business that has for its object the acquisition of gain by the Company or by the individual members thereof.
- 1.3.4. The Company shall have the following powers:-
  - 1.3.4.1. To buy, own, improve, lease, hire, dispose of and deal in property, including regulated investment products, securities and other assets;
  - 1.3.4.2. To borrow money on security, or without security and, in the former case, to furnish any form of security, including mortgages, pledges or hypothecations of its assets or any of them;
  - 1.3.4.3. To invest any of its monies in such manner and on such terms with banks, or other institutions and in, or on the security of, such assets as

may from time to time be deemed expedient, including fixed and other deposits, mortgage bonds and notarial bonds;

- 1.3.4.4. To open and operate on a banking account or accounts and to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, cheques, warrants, debentures and other instruments;
- 1.3.4.5. To report our audited annual financial statements in terms of recognised international accounting standards;
- 1.3.4.6. To introduce, sue out and / or defend any legal proceedings or process for and in the name of the Company;
- 1.3.4.7. To merge with another organization with objects similar to the Company which being a registered Non Profit Company;
- 1.3.4.8. To receive and accept donations, grants and other moneys;
- 1.3.4.9. To levy membership fees, designation fees and other levies against its members;
- 1.3.4.10. To appoint and remove any person as an officer or employee of the Company and determine that person's designation, duties, salary and other terms of employment;
- 1.3.4.11. To enter into contracts; and
- 1.3.4.12. Generally to do such things as may be incidental or conducive to the attaining of the above objects;
- 1.3.4.13. The Company has not and will not pay any remuneration, as defined in the Fourth Schedule of the Income Tax Act, to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objects.

#### **1.4. MOI and Company Rules**

- 1.4.1. This MOI of the Company may be altered or amended in the manner set out

in sections 16, 17 and/or or 152(6)(b) of the Act, subject to the provisions contemplated in section 16 (1)(c), and set out in Schedule 1.

- 1.4.2. The authority of the Company's Board of Directors to make rules for the Company, as contemplated in section 15(3) to (5) of the Act is not limited or restricted in any manner by this MOI.
- 1.4.3. The Board must publish any rules made in terms of section 15(3) to (5) of the Act by delivering a copy of those rules to each director by electronic mail.
- 1.4.4. The Company must publish a notice of any alteration of the MOI or the Rules, made in terms of section 17(1) by delivering a copy of those rules to each director by electronic mail.

### **1.5. Optional Provisions of the Companies Act**

- 1.5.1. The Company does not elect, in terms of section 34(2) of the Act, to comply voluntarily with the provisions of chapter 3 of the Companies Act. Notwithstanding this provision, the Company will be governed by the following accountability and transparency provisions:
  - 1.5.1.1. The Company shall be audited annually.
  - 1.5.1.2. The Company shall keep all such accurate and complete accounting records, in English, as are necessary to enable the Company to satisfy its obligations in terms of:
    - 1.5.1.2.1. the Act;
    - 1.5.1.2.2. any other law with respect to the preparation of financial statements to which the Company may be subject and IFRS;
    - 1.5.1.2.3. this MOI.
- 1.5.2. The Company shall each year prepare annual financial statements within six (6) months after the end of its financial year and shall be presented to the members at the first general meeting following the approval of such statements by the board.
- 1.5.3. The annual financial statements shall be prepared on a basis that is not inconsistent with any unalterable or non-elective provision of the Act and shall:

- 1.5.3.1. satisfy, as to form and content, the financial reporting standards of IFRS;
- 1.5.3.2. subject to and in accordance with IFRS;
- 1.5.3.3. present fairly the state of affairs and business of the Company and explain the transactions and financial position of the business of the Company;
- 1.5.3.4. show the Company's assets, liabilities and equity, as well as its income and expenses;
- 1.5.3.5. set out the date on which the statements were produced and the accounting period to which they apply; and
- 1.5.3.6. bear on the first page thereof a prominent notice indicating that the annual financial statements have been audited and the name and professional designation of the person who prepared them.

## 1.6. Members of the Company

As contemplated in Item 4 (1) of **Schedule 2**, the Company has members, who are voting members, respectively.

## 1.7. Voting Rights of members

- 1.7.1. Regardless of anything herein contained members that are afforded the right to vote will only attain such right provided that all and any membership fees levied from time to time are paid up in full and so recorded in the records of the Company at the time such member exercising its right to vote.
- 1.7.2. The Company shall consist of the following six (6) classes of membership, namely:
  - 1.7.2.1. "Non-designated" Member;
  - 1.7.2.2. **Licentiate** of the Institute of Bankers in South Africa (**LIBSA**);
  - 1.7.2.3. **Certified Associate** of the Institute of Bankers in South Africa (**CAIB(SA)**);
  - 1.7.2.4. **Associate** of the Institute of Bankers in South Africa (**AIBSA**);
  - 1.7.2.5. **Professional Banker** of the Institute of Bankers in South Africa (**PBSA**);
  - 1.7.2.6. **Fellow** of the Institute of Bankers in South Africa (**FIBSA**)
- 1.7.3. The **Terms and Conditions** of membership in the company are set out in and published on the website, it being recorded that the specific criteria and qualification applicable to certain classes of membership may be affected by

a change in assessment and awarding of designations by the appropriate qualifications authority in which instance such pre requisites may be adapted by the Board without the requirement of an amendment to the MOI.

#### **1.7.4. Membership**

- 1.7.4.1. A Member may be any natural person. The Board may, in its sole discretion, determine the criteria to be applied for qualification of membership of the Company.
- 1.7.4.2. Membership for a determined period becomes effective subject to the following:
  - 1.7.4.2.1. application in Writing, on the prescribed application form;
  - 1.7.4.2.2. acceptance of the application ; and
  - 1.7.4.2.3. payment of the requisite membership fee.
- 1.7.4.3. The decision to accept or to reject an application for membership is, subject to applying the qualification criteria as determined by the Board in terms of Clause 1.5.1 (1), in the discretion of the Directors of the Company which is not required to give reasons for its decision and there is no appeal process available.
- 1.7.4.4. The Board may in its sole discretion determine categories of membership with set qualification criteria and confer membership of a certain category on a person who qualifies in terms of the criteria for that category.

#### **1.7.5. Termination of Membership**

- 1.7.5.1. Membership of the Company is terminated if the Member:
  - 1.7.5.1.1. dies;
  - 1.7.5.1.2. fails to make punctual payment of any amount due to the Company or fails to discharge any of his or her obligations to the Company on due date, whether such obligation is related to membership or not and if the Board as a result in its sole discretion decides to terminate membership;
  - 1.7.5.1.3. gives notice to the Company in Writing of his or her resignation as a Member.

- 1.7.5.2. In addition to the causes for termination of membership in terms of clause 1.7.5.1, the Board has the power to terminate a Member's membership of the Company if, in its sole discretion, subject to a fair procedure being followed:
- 1.7.5.2.1. the Member is guilty of conduct that is obstructive or harmful to the interests and/or objects of the Company or which contravenes the Company's code of conduct for Members;
  - 1.7.5.2.2. the Member brings the Company's name into disrepute;
  - 1.7.5.2.3. it is obstructive or harmful to the interests and/or objectives of the Company that the Member should continue as a Member of the Company.
- 1.7.5.3. The Board shall, when terminating a Member's membership in terms of clause 1.5.2 (2), follow due and fair process as determined by the Board from time to time.
- 1.7.5.4. A Member whose membership has been terminated remains liable for all amounts that may be, at the date of termination of membership, due by the Member to the Company.
- 1.7.5.5. The Company maintains at its registered office a register of Members of the Company as required by the Act.

## **2. ARTICLE 2 – RIGHTS OF MEMBERS**

Each Member has an equal vote in any matter to be decided by Members. The Board has regard to each of the Members' right not to be discriminated against unfairly, as provided in section 9 of the Constitution of the Republic.

### **2.1. Members' authority to act**

If, at any time, every member of the Company is also a Director of the Company, as contemplated in section 57(4) of the Act, the authority of the members to act without notice or compliance with any other internal formalities, as set out in that section is not limited or restricted by this MOI.

### **2.2. Members' right to Information**

In addition to the rights to access information set out in section 26 (1) of the Act, a member of the Company has the further rights to information, regardless of

anything herein contained members that are afforded the right to information will only attain such right provided that all and any membership fees levied from time to time are paid up in full and so recorded in the records of the Company at the time such member exercising its right to information.

### **2.3. Representation by concurrent proxies**

The right of a member of the Company to appoint persons concurrently as proxies, as set out in section 58(3)(a) of the Act is not limited, restricted or varied by this MOI.

### **2.4. Authority of proxy to delegate**

The authority of a member's proxy to delegate the proxy's powers to another person, as set out in section 58(3)(b) of the Act, is not limited or restricted by this MOI, as set out in **Schedule 2**.

### **2.5. Requirement to deliver proxy instrument to the Company**

The requirement that a member must deliver to the Company a copy of the instrument appointing a proxy before that proxy may exercise the member's rights at a members meeting, as set out in section 58(3)(c) of the Act, is not varied by this MOI.

### **2.6. Deliberative authority of proxy**

The authority of a member's proxy to decide without direction from the member whether to exercise, or abstain from exercising any voting right of the member, as set out in section 58 (7)of the Act, is not limited or restricted by this MOI.

### **2.7. Record date for exercise of member rights**

If, at any time, the Company's Board of Directors fails to determine a record date, as contemplated in section 59, the record date for the relevant matter is as determined in accordance with section 59(3).

## **3. ARTICLE 3 – MEMBERS MEETINGS**

### **3.1. Requirement to hold meetings**

The Company is not required to hold any members meetings other than those

specifically required by the Act, or as set out herein.

### **3.2. Members' right to requisition a meeting**

The right of members to requisition a meeting, as set out in section 61(3) of the Act, may be exercised by at least 10% of the voting members, as provided for in that section.

### **3.3. Location of members' meeting.**

The authority of the Company's Board of Directors to determine the location of any members meeting, and the authority of the Company to hold any such meeting in the Republic or in any foreign country, as set out in section 61(9) of the Act is not limited or restricted by this MOI.

### **3.4. Notice of members' meeting**

The minimum number of days for the Company to deliver a notice of a members meeting to the members, as required by section 62 of the Act, is as provided for in section 62(1) of the Act.

### **3.5. Electronic participation in members' meetings**

The authority of the Company to conduct a meeting entirely by electronic communication or to provide for participation in a meeting by electronic communication, as set out in section 63 of the Act is not limited or restricted by this MOI.

### **3.6. Quorum for members' meetings**

- 3.6.1. The quorum requirement for a members meeting to begin, or for a matter to be considered are that sufficient persons are present at the meeting to exercise, in aggregate, at least 5% of all of the voting rights.
- 3.6.2. The time periods allowed in section 64(4) and (5) of the Act apply to the Company, subject to the variations, if any and set out in Schedule 3 hereof.
- 3.6.3. The authority of a meeting to continue to consider a matter, as set out in section 64(9) of the Act is not limited or restricted by this MOI.



### **3.7. Adjournment of members' meetings**

The maximum period allowable for an adjournment of a members meeting is as set out in section 64(12) of the Act, subject to any variations set out in **Schedule 3** hereof.

### **3.8. Members resolutions**

- 3.8.1. For an ordinary resolution to be adopted at a members meeting, it must be supported by at least 50% of the members who voted on the resolution, as provided in section 65(7) of the Act.
- 3.8.2. For a special resolution to be adopted at a members meeting, it must be supported by at least 75% of the members who voted on the resolution, as provided in section 65(9) of the Act.
- 3.8.3. A special resolution adopted at a members meeting shall not be required for a matter to be determined by the Company, except those matters set out in section 65(11).

### **3.9. Limitation of Liability.**

No person shall, solely by reason of being an incorporator, member or director of the Company, be liable for any liabilities or obligations of the Company.

## **4. ARTICLE 4 – DIRECTORS AND OFFICERS**

### **4.1. Composition of the Board of Directors**

- 4.1.1. The Board of Directors of the Company shall comprise of a minimum of seven (7) Directors and is to be appointed in the manner set out in **Schedule 4** hereof.
- 4.1.2. In addition to the appointed Directors, there are no appointed or *ex officio* Directors of the company, as contemplated in section 66(4) of the Act.
- 4.1.3. In addition to satisfying the qualification and eligibility requirements set out in section 69 of the Act, to become or remain a Director of the Company, a person must satisfy the additional eligibility requirements and qualifications set out in Schedule 4 hereof.

- 4.1.4. Each appointed Director of the Company serves for a defined period set out in Schedule 4.

## **4.2. Authority of the Board of Directors**

The authority of the Company's Board of Directors to manage and direct the business and affairs of the Company, as set out in section 66(1) of the Act, is not limited or restricted by this MOI.

## **4.3. Board of Directors' meetings**

- 4.3.1. The authority of the Company's Board of Directors to consider a matter other than at a meeting, as set out in section 74 of the Act, is not limited or restricted by this MOI.
- 4.3.2. The right of the Company's Directors to requisition a meeting of the Board, as set out in section 73(1) as read with section 73(2) of the Act, may be exercised by at least 25% of the Directors.
- 4.3.3. The authority of the Company's Board of Directors to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 73(3) of the Act is not limited or restricted by this MOI.
- 4.3.4. The authority of the Company's Board of Directors to determine the manner and form of providing notice of its meetings, as set out in section 73(4) of the Act is not limited or restricted by this MOI, but no meeting of the Board of Directors may be convened without notice to all Directors subject to section 73(5) of the Act.
- 4.3.5. The authority of the Company's Board of Directors to proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in section 73(5) of the Act, is not limited or restricted by this MOI.
- 4.3.6. The quorum requirement for a Directors meeting to begin, the voting rights at such a meeting, and the requirements for approval of a resolution at such a meeting, are as set out in section 73(5) of the Act.

#### **4.4. Indemnification of Directors**

- 4.4.1. The authority of the Company's Board of Directors to advance expenses to a Director, or indemnify a Director, in respect of the defence of legal proceedings, as set out in section 78(3) of the Act is not limited or restricted by this MOI.
- 4.4.2. The authority of the Company's Board of Directors to indemnify a director in respect of liability, as set out in section 78(5) of the Act, subject to section 78(6) of the Act, is not limited or restricted by this MOI.
- 4.4.3. The authority of the Company's Board of Directors to purchase insurance to protect the Company, or a director, as set out in section 78(7) of the Act is not limited or restricted by this MOI.

#### **4.5. Officers and Committees**

- 4.5.1. The Board of Directors may appoint any officers it considers necessary to better achieve the objects of the Company.
- 4.5.2. The authority of the Company's Board of Directors to appoint committees of Directors, and to delegate to any such committee any of the authority of the Board as set out in section 72(1) of the Act, or to include in any such committee persons who are not Directors, as set out in section 73(2)(a) of the Act is not limited or restricted by this MOI.
- 4.5.3. The authority of a committee appointed by the Company's Board, as set out in section 72(2)(b) and (c) of the Act is not limited or restricted by this MOI.

## **SCHEDULE 1 – INCORPORATION AND NATURE OF THE COMPANY**

1. The Company is an association of men and women connected with the various branches of banks or financial institutions or other and are established as a body corporate having a personality in law separate and distinct from its members and having perpetual succession. As such, the Company shall be capable in law of suing and being sued in legal proceedings and of acquiring, holding and alienating property in its own name.
2. As a body with full legal capacity the Company shall also be competent to acquire rights and to incur obligations independently of its members, and the individual members of the Company shall not be liable for any of the debts, obligations and engagements of the Company, their liability being strictly limited to any un-discharged obligations as members of the Company.
3. The Board of Directors and officers of the Company shall not have any authority to contract on behalf of any member or to bind any member's credit.
4. The registered office and headquarters of the Company is at the 1<sup>st</sup> Floor, 23 Fricker Road, Illovo, or at such other address as may from time to time be decided upon by the Board of Directors and be notified on the Company website.
5. This MOI incorporates the Constitution of the IOB. No alteration, amendment or addition to, or repeal of, these Rules, or any of them, shall be made except at an Annual or Special General Meeting and then only provided specific notice of the intended alteration, amendment, addition or repeal, has been given in accordance with the MOI. Any alteration, amendment, addition or repeal shall require for its adoption the affirmative votes of three-fourths ( $\frac{3}{4}$ ) (75%) of the members who have voting rights, who are present at the meeting.
6. The Board consists of more than three (3) Directors who are not related to each other accept the fiduciary responsibility of the Company. No single person shall directly or indirectly control the decision making powers relating to the Company.

The Company is prohibited from distributing any of its funds or assets to any person (otherwise than in the course of undertaking its objects) and is required to utilise its funds solely for the objects for which it has been established.

Any Member of the Company is prohibited from having any personal or private interest in the Company except in so far as rendering a service to the Company. The Company is prohibited from directly or indirectly distributing any surplus funds to any person.

Substantially the whole of the activities of the Company shall be directed to the furtherance of its objects and not for the specific benefit of an individual member or minority group.

The Company is prohibited from holding any share or other interest in any business, profession or occupation which is carried on by its members.

The Company may not pay any remuneration to any person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered.

The Board of Directors undertakes to submit to the Commissioner of the South African Revenue Service and/or the Companies and Intellectual Property Commission a copy of any amendment to the MOI within thirty (30) days of its amendment.

Substantially the whole, being a considerable majority of the Company's funding, must be derived from its annual or other long term members.

The Company undertakes to comply with the reporting requirements as may be determined by the Commissioner of the South African Revenue Service and/or the Companies and Intellectual Property Commission, from time to time.

The Company is not knowingly, and will not knowingly become, a party to, and does not knowingly and will not knowingly permit itself to be used as part of, an impermissible avoidance arrangement contemplated in Part IIA of Chapter III of the Income Tax Act, or a transaction, operation or scheme contemplated in section 103(5) of the Income Tax Act.

7. The Board of Directors shall cause accounting records as required by the Act to be kept.

The accounting records are kept at the registered office of the Company or at such other place or places as the Board of Directors decides, and are always open for inspection by the Directors.

The Board of Directors shall determine from time to time whether, and to what extent, and at what times and places, and under what conditions, the accounting records of the Company shall be open to inspection by Members, and no Member has any right to inspect any accounting records or documents of the Company except as conferred by the Act and/or other applicable legislation.

The Board of Directors, in accordance with the Act, shall ensure the preparation and tabling at the Annual General Meeting, as a minimum, and shall perform all duties in relation to annual financial statements, accounting records and auditors in accordance with the Act and other applicable legislation. A copy of the annual financial statements

which are to be tabled at the Annual General Meeting, is to be distributed not less than fifteen (15) business days before the date of the meeting.

#### **8. Winding up of the Company.**

Notwithstanding anything herein contained the board at its sole discretion will have the authority to dispose of any assets of the Company, if so legally permitted, to a worthy charitable organisation or similar institution/registered NPC in the event of the termination of its mandate by members or for whichever reason the Company is wound up or dissolved.

The Company shall be dissolved by a special resolution to be effected by the Members. Upon the dissolution of the Company, the Board shall, after making provision for the liabilities and obligations of the Company and the costs of dissolving the Company, distribute the whole of the Company's income (including distributed income still in its possession) and assets to:

- (1) another entity approved by the Commissioner of the South African Revenue Service in terms of section 30B of the Income Tax Act;
- (2) a public benefit organisation approved in terms of section 30 of the Income Tax Act to be determined by the Board of Directors at or before the time of dissolution or failing such determination by the Court;
- (3) any institution, board or body which is exempt from tax under the provisions of section 10(1)(cA)(i) of the Income Tax Act, which has its sole or principal object the carrying on of any public benefit activity; or
- (4) any department of state or administration in the national or provincial or local sphere of Government of South Africa.

No past or present Member or Director shall be entitled to any part of the net value of the Company after the liabilities and obligations contemplated above have been satisfied.

## SCHEDULE 2 – RIGHTS OF MEMBERS

### **1. Membership and Designation Fees**

Subject to the provisions of this MOI, every member of the Company who is not, in terms of the MOI and the Terms and Conditions as published on the website from time to time, exempted from the payment thereof shall be liable for such annual membership subscriptions as they may be decided upon from time to time by resolution of the Board of Directors.

The membership fees shall be payable in advance on the 1<sup>st</sup> working day of January of each year. Any member admitted after the 30th day of June in any year shall only be liable for one-half (½) of that year's subscription which shall be payable on the date of their admission.

The Board of Directors may in its discretion from time to time, in addition to the annual membership and designation fees, impose a levy on members for such purposes and in such amounts as the Board may from time to time determine.

### **2. Appointment of proxies**

A Member may appoint any individual as a proxy to participate in and speak and vote at a meeting on behalf of the Member.

The appointment of a proxy shall be in **Writing** in the format prescribed by the Company's Board of Directors, and dated and **Signed** by the appointing Member.

The proxy form shall be delivered or sent electronically to the registered office or defined Company e-mail address not less than two (2) working days before the time for holding the meeting at which the person named in the form proposes to vote, and in default of complying herewith the proxy form shall not be treated as valid.

No form appointing a proxy is valid after the expiration of one (1) year from the date when it was **Signed**, unless so specifically stated in the proxy itself, and no proxy shall be used at an adjourned meeting which could not have been used at the original meeting.

A Member of the Company may not appoint more than one person as a proxy.

A Member's proxy shall not have the authority to further delegate such proxy's powers to another person.

### **SCHEDULE 3 – MEETINGS**

#### **1. Notices**

A notice required, in terms of these Rules or the Regulations, to be given to a member of the Company may be given to them either personally, by publication on the website or electronically to any address appointed by the member for that purpose.

If such notice is given by publication on the website or electronically it may be directed specifically to such member and/or to one or more members and/or to members generally.

If a notice is given to a member personally, it shall be deemed to have been given to them at the time when it was served on or delivered to a member.

If a notice is given to a member on the website, it shall be deemed to have been given to a member at the time when the notice was published on the website.

If the notice is sent by mail, it shall be sufficient to prove that the notice was addressed to the member's registered address and duly posted.

If a notice is given to a member electronically, it shall be deemed to have been given a member at the time when the electronic transmission was despatched; and in proving the giving of notice electronically it shall be sufficient to prove that the electronic notice was properly addressed to the member's electronic address and was duly despatched.

For the purpose of this Rule, a member's "registered address" or "electronic address" shall be the last physical or postal, or electronic address, as the case may be, furnished by a member in writing to the CEO, the Chairman of the Company, or the Company's administration office.

#### **2. Annual General Meeting**

An annual general meeting (herein under referred to as "the Annual General Meeting") shall be held once in every year at such time and place as the Board may decide for the purpose of:

- (i) receiving the Chairman's Report, the Company's annual financial statements and the auditors' report;
- (ii) electing those members of the Board who are required to be elected in terms of this Constitution;
- (iii) reporting on appointments to the Board of Directors during the year;
- (iv) appointing auditors;



- (v) making recommendations to the Board of Directors for consideration by it on matters falling within the scope of the Board of Directors powers and duties, on the understanding that such recommendations shall be persuasive only and shall not in any way detract from the powers and duties of the Board of Directors and that the Board of Directors shall, accordingly, not be bound by nor obliged to give effect to them;
- (vi) dealing with alterations, amendments, additions to and repeals and of and these Rules as provided for herein; and
- (vi) dealing with any other business, which may in terms of these Rules be dealt with at such meeting.

A preliminary notice of each Annual General Meeting (AGM), stating the date by which all nominations and notices of resolution must reach the CEO or Chairman, shall be published on the website. A final notice of the Annual General Meeting shall be given not later than fifteen (15) business days before the date fixed for the meeting.

The Chairman, if and when present, takes the chair at Annual General Meetings; in the absence of the Chairman, any member of the Board of Directors decided upon by those members of the Board of Directors who are present shall preside. If the Chairman is not present, the members attending the meeting shall elect a Chairman.

The quorum requirement for an Annual General Meeting is that sufficient persons are present at the meeting to exercise, in aggregate, at least 5% of all of the voting rights. Should there be no quorum present within thirty (30) minutes of the time appointed for the meeting it shall stand adjourned for not more than two (2) months. Notice of such adjourned meeting, stating the time and place of the adjourned meeting, shall be given at least fifteen (15) business days before the date fixed for such meeting; at any such adjourned meeting the members present shall form a quorum.

All matters dealt with at an Annual General Meeting, other than those referred requiring a special resolution, shall be determined by a simple majority of votes of those present and / or presented by proxy and entitled to vote.

Every member present in person or by proxy and entitled to vote shall have one (1) vote. In case of an equality of votes the Chairman shall have a casting or second vote.

A member may be represented by proxy, provided that their proxy form, in such form as the Board may prescribe, is lodged with the CEO or Chairman at least two (2) business days before the time fixed for the holding of the meeting.

In the event of the number of nominations for membership of the Board of Directors being in excess of the number of vacancies, election shall be by ballot at the meeting, in such manner as the Chairman may determine, otherwise those persons who are nominated, provided they qualify in terms of these Rules, shall be declared duly elected; provided that if the number nominated is less than the number of vacancies the remaining vacancy or vacancies shall be filled by the Board of Directors from persons qualified for membership of the Board of Directors in terms of these Rules.

At the first meeting of the Board of Directors after an AGM, the minutes of such meeting shall be considered and approved by the Board of Directors and thereafter published on the website for the information of members.

An auditor or auditors of the Company shall be appointed at the Annual General Meeting. Such auditor or auditors shall hold office until the next Annual General Meeting but shall be eligible for reappointment.

The Board shall and, on the written requisition of members representing not less than 10% of the voting rights, call a Special General Meeting for the purpose of –

- altering, amending, adding to or repealing any of these Rules;
- making recommendations to the Board *mutatis mutandis* in accordance with, and subject to the provisions of this **Schedule 3**

A Special General Meeting shall be held at such time and place as the Board of Directors may determine and notice thereof, and of the purpose for which it is convened, shall be given *mutatis mutandis* in the manner provided for in this schedule 3. The Rules applicable to an Annual General Meeting, as set out in this schedule 3, shall apply *mutatis mutandis* to a Special General Meeting.

**SCHEDULE 4 – DIRECTORS OF THE COMPANY: COMPOSITION, ELECTION AND TERM OF  
OFFICE OF BOARD**

**1. Disqualification of Directors**

A Director ceases to hold office in the event of the Director –

- becoming ineligible or disqualified to be a Director by virtue of any of the provisions of the Act;
- being removed by a resolution of the Members or Board of Directors as provided for in section 71 of the Act;
- failing to attend three (3) meetings of the Board or its committees in one (1) financial year and the Board of Directors determines in its sole discretion that it is without good cause; or
- having a material interest in any contract or proposed contract with the Company or in a matter before the Board and failing to declare such interest and the nature thereof in the manner required by the Act and this MOI.

**2. The affairs of the Company**

These shall be managed by a Board of Directors, which shall comprise of a minimum of seven (7) directors, of which at least (four) 4 who must be Fellows, Professional Bankers and/or Certified Associates and/or Associates and/or Ordinary Members of the Company and in terms of which all seven (7) such shall be elected by members; and shall hold office for two years after which term they may seek re-election.

Nominations for the election of members of the Board must be in writing, must be signed by not less than five (5) Members and by the person so nominated and should reach the Chief Executive Officer or the Chairman of the Board of Directors of the Company at its registered office not later than two business days prior to the time fixed for the holding of the meeting.

The Board of Directors shall be entitled to co-opt such additional number of members of the Board of Directors, whether members of the Company or not, for such periods (but in any event for not longer than two years as the Board of Directors may determine.

Should any member of the Board of Directors be absent from three (3) consecutive meetings without leave of absence from the Board of Directors, that member's seat may be declared vacant by the Board of Directors, and the vacancy shall be filled by the entity entitled to elect or appoint the member concerned, as the case may be.

### **3. Proceedings of Board**

The Board of Directors shall meet on such occasions from time to time as may be appropriate, and may adjourn and otherwise regulate its meetings as it thinks fit.

Questions arising at any Board of Directors meeting shall be decided by a majority of votes. In the case of an equality of votes, the Chairman shall have a second or casting vote.

The quorum necessary for the transaction of the business of the Board shall be three (3) members of the Board of Directors.

The Board shall elect a Chairman of the Board.

The Board may further elect a Chief Executive Officer from its ranks and appoint an executive committee.

The term of office for the Chairman shall be for 2 (two) years, or as determined by the Board of Directors from time to time.

The Chairman shall preside at Board meetings; provided that if the Chairman has intimated their inability to attend, or is not present within ten (10) minutes of the time appointed for the holding of a meeting, or is absent during the meeting, such member of the Board as those members who are present at the meeting may elect shall preside at that meeting.

The Board may –

- Appoint one or more committees (and specifically an operating committee) to assist it in the performance of its functions and duties. Such committees shall consist of so many members of the Board or so many other persons, or so many members of the Board and other persons, as the Board may deem necessary, and the Board may at any time dissolve or reconstitute such a committee;
- Assign to a committee so appointed such of its powers as it may deem fit, but shall not be divested of any power which it may have so assigned to any such committee, and may amend or withdraw any decision of any such committee. Any reference in this constitution to the Board in relation to the exercise of any power which it has assigned to a committee shall be construed as including a reference to that committee.

### **4. Powers and Duties of Board**

The Board of Directors shall be vested with the control of the Company and shall cause to be kept such minutes, accounts and records relating to the affairs of the Company, as it may deem necessary and/or appropriate, and as required by the Act.

The Board of Directors shall have and exercise all such powers as are vested in the Company in terms of the MOI and these Rules and which are not, in terms thereof, required to be exercised by members in general meeting or by any other person or body. In particular the Board shall have the power –

- To award the designations referred to in this MOI in such manner, and subject to such conditions, as it may in its sole and absolute discretion think fit.
- To engage prescribed officers, officers and staff, paid or otherwise, on such terms and subjects to such conditions as it may deem necessary.
- To make and from time to time to alter, amend, add to and repeal regulations, not inconsistent with the MOI and these Rules , prescribing such forms, documents and records and dealing with such matters as it considers necessary or expedient for the guidance of officials and staff of the Company and for the proper and efficient administration of the affairs of the Company and/or to attain, supplement and/or give due and proper effect to the objects of the Company and to the MOI and these Rules, including matters pertaining to the proceedings of the Board and general meetings of members. All alternations, amendments, additions and repeals shall be published on the website and shall come into force on the date published or on such other date as may be specified therein.