

RULES OF FISHER & PAYKEL CREDIT UNION INCORPORATED



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RULES
of
FISHER & PAYKEL CREDIT UNION INCORPORATED

1 The name of the Credit Union shall be: Fisher & Paykel Credit Union Incorporated.

INTERPRETATION

2 In these Rules, unless the context otherwise requires:

'Act' means the Friendly Societies and Credit Unions Act 1982;

'Audit Committee' means the audit committee appointed in accordance with Rule 49;

'Board' or **'Committee of Management'** means the board of Directors of the Credit Union, which constitutes the committee of management as defined in the Act;

'Board Committee' means any committee comprising such members of the Board and/or third parties as the Board may from time to time establish and to which the Board may delegate various of its functions under these Rules;

'Chair' means the person elected to be chair of the Board in accordance with Rule 41(a);

'Charity' means any charitable entity under the Charities Act 2005;

'Credit Union' means the Fisher & Paykel Credit Union Incorporated;

'Director' means any Director appointed in accordance with these Rules;

'Electronic Communication' means a transmission of an instruction, request, notice or information by telephone, facsimile, computer, videotape or other electronic medium approved by the Credit Union subject to such conditions (if any) as the Credit Union considers appropriate as to the identification or verification of the person making the communication or content of the communication;

'Electronic Transaction' includes any transaction able to be effected by any electronic means whatsoever including, without limitation, direct transfers, EFTPOS and TXT;

'Enterprise' means any of the following:

- (a) a body corporate;
- (b) a firm under the Partnership Act 1908; or
- (c) the trustee or trustees of a trust.

'Exemption Notice' means any exemption notice for or applicable to the Credit Union issued pursuant to the Financial Markets Conduct Legislation or the NBDT Act;

'External Auditor' means the independent auditor (who must be licensed under the Auditor Regulation Act 2011) appointed to audit the Credit Union in accordance with these Rules and the Financial Markets Conduct Act 2013;

'Financial Markets Conduct Legislation' means the Financial Markets Conduct Act 2013 and the Financial Markets Conduct Regulations 2014;

'Fit and Proper Test' means, in respect of each person proposed to be a Director, that person:

- a) is suitably qualified in terms of skill sets and relevant experience to be a Director;
- b) is likely to meet all directors' suitability requirements under the NBDT Act and any other legislation relevant to suitability of credit union directors; and
- c) has the character, competence, financial acumen, honesty, integrity and judgement to enable that person to properly carry out the duties of a Director;

'Indemnify' includes to relieve or excuse liability, whether before or after the liability arises, and 'Indemnity' has a corresponding meaning;

'member' means any person who is a member, or who is admitted to membership, of the Credit Union pursuant to these Rules and includes a 'non-qualifying member' as defined in Rule 13;

'NBDT Act' means the Non-bank Deposit Takers Act 2013;

'Officer' means an officer as defined in the Act;

'Receiver' means a receiver, or a manager, or a receiver and manager appointed under the Trust Deed in respect of any property of the Credit Union;

'Registrar' means the Registrar of Friendly Societies and Credit Unions;

'Secretary' means the person appointed secretary of the Credit Union in accordance with Rule 42;

'Share' means, in relation to the Credit Union, a share in the capital of the Credit Union;

'Special Resolution' means a resolution required to be passed as a special resolution under the Act;

'Supervisor' means a licensed supervisor under the Financial Markets Supervisors Act 2011 appointed by the Credit Union, which has entered into a trust deed with the Credit Union;

'Treasurer' means the person elected to be the treasurer of the Credit Union in accordance with Rule 41(a);

'Trust Deed' means a trust deed entered into between the Credit Union and the Supervisor for the monitoring of the affairs of the Credit Union pursuant to the Financial Markets Conduct Act 2013 (as it may be amended from time to time); and

'Vice Chair' means the person elected to be the vice chair of the Board in accordance with Rule 41(a).

3 In these Rules the following rules of construction apply:

- (a) References to any legislation or to any provision of any legislation are deemed to be references to that legislation or provision as from time to time amended, re-enacted, replaced or substituted (including any exemption notice passed or gazetted in substitution for or that refers to or incorporates any of its provisions) and, unless the context otherwise requires, shall also include any statutory instruments issued under any such legislation or provision.
- (b) References to any document (however described) shall include references to such document as modified, novated, supplemented, varied or replaced from time to time.
- (c) Each reference to 'days' shall be a reference to a calendar day and each reference to 'working day' shall be a reference to a day, other than a Saturday, Sunday or public holiday on which trading banks are open for business in Auckland.
- (d) References to "dollars" and "\$" are references to New Zealand dollars.
- (e) References to "written" and "in writing" include any means of permanent visible representation and Electronic Communications.
- (f) A "personal representative" of a member includes a person entitled to be a representative of a deceased member and the trustees of the property of a bankrupt Member.
- (g) In the event of any inconsistency between the Act and these Rules, the Act will prevail.

OBJECTS

4 The objects of the Credit Union shall be:

- (a) the promotion of thrift among its members by the accumulation of their savings;
- (b) the use and control of the members' savings for their mutual benefit, including:
 - (i) for making loans to members; and

- (ii) for making loans under Rule 69(b);
- (c) the provision of products and services under Rule 72;
- (d) The training and education of the members in the wise use of money and in the management of their financial affairs; and
- (e) At the discretion of the Credit Union and as a minor adjunct to its other objects, the welfare of its members and the making of donations for charitable, cultural, benevolent, or philanthropic purposes.

EFFECT OF RULES

- 5 These Rules are binding in accordance with their terms, as between:
- (a) the Credit Union and each member; and
 - (b) each member.

CAPACITY AND POWERS

- 6 The Credit Union has, both within and outside New Zealand, full capacity to carry on or undertake any business or activity, to do any act or to enter into any transaction where the carrying on or undertaking of the business or activity, the doing of the act or entering into the transaction:
- (a) is directly in pursuance of the Credit Union's objects or is incidental to the Credit Union's objects; and
 - (b) is authorised by the Act or these Rules.
- 7 For the purposes of Rule 6(b) (and without limiting Rules 69 to 74 (both inclusive) or any powers or duties of the Directors, any Board Committee, the Secretary or the Treasurer), the Credit Union is authorised:
- (a) to borrow money;
 - (b) to invest surplus funds of the Credit Union in accordance with such policies as are adopted by the Board, from time to time;
 - (c) to purchase, hold, take on lease, sell, exchange, mortgage, lease or otherwise deal with any land, building or part of a building or any equipment, fittings or fixtures whether relating to any building or not;
 - (d) to provide products or services (including, without limitation, the provision of cash to ATM providers) to facilitate the use by members and Enterprises of automatic teller machines; and
 - (e) to enter into agreements with any persons in relation to the provision of direct credit, direct debit or telephone services or any services associated with Electronic Transactions.

REGISTERED OFFICE

- 8 The registered office of the Credit Union shall be at 78 Springs Road, East Tamaki, Auckland or at such other place as the Credit Union may from time to time decide. Notice of any change in the registered office shall be sent to the Registrar within 14 days.

MEMBERSHIP

- 9 Admission to membership of the Credit Union shall be limited to:
- (a) any current and former employee of Fisher & Paykel Appliances Limited, Fisher & Paykel Healthcare Limited any former subsidiary, associated or disassociated companies, including any such person aged 16 years or younger;
 - (b) any person who is a member of the same household as, and is a relative of, a person who has been admitted to membership and who continues to qualify for admission to membership, of the Credit Union under paragraph (a);
 - (c) any Charity; and

(d) any incorporated society registered under the Incorporated Societies Act 1908.

In paragraph (b) of this Rule, the term '**relative**', in relation to any person, means:

- (e) the spouse of that person including any former spouse or de facto spouse;
- (f) any lineal ancestor, lineal descendent including grandparent, son/daughter, grandson/granddaughter; and
- (g) the spouse including any former spouse or de facto spouse of any relative specified in paragraph (f).

10 An applicant shall be admitted to membership provided:

- (a) the applicant has completed an application in writing on a form prescribed by the Board;
- (b) the applicant has provided any information as may from time to time be required by the Board or by statutory requirements;
- (c) the applicant qualifies for admission to membership under Rule 9;
- (d) the applicant has paid any entrance fee payable in accordance with these Rules; and
- (e) the application has been approved by or on behalf of the Board.

11 A person, charitable entity, or incorporated society that fails to hold at least one fully paid-up share in the Credit Union, or such higher number as may be determined by the Board from time to time but not exceeding \$10 in fully paid-up shares, shall not be permitted to become or to remain a member of the Credit Union.

12 The minimum amount that a member can deposit by way of a single transaction with the Credit Union is \$1.00.

- 13 (a) A member who ceases to fulfil the qualifications for membership under Rule 9 shall be entitled, subject to Rule 14, and at the discretion of the Board, to retain that membership and in these Rules shall be referred to as a '**non-qualifying member**' provided that a member shall not cease to fulfil the qualifications for membership by reason merely of retirement from following a particular occupation or employment for a particular employer.
- (b) The savings accounts of any member who ceases to operate at least one savings account and/or loan account during any period of twelve consecutive months shall be deemed to be dormant accounts.
- (c) An annual account fee for dormant accounts may be prescribed in accordance with these Rules, provided however that if the member operates the account at any time within five years of the account becoming dormant or if the member is terminated pursuant to Rule 14, whichever occurs first, the annual account fees deducted under this Rule shall be refunded in full. For the purposes of this Rule the dormancy of the account shall be deemed to commence at the beginning of the 12 month period in which the account is first found to be dormant.

14 The number of non-qualifying members shall not at any time exceed 10 percent of the total membership of the Credit Union. In such event, the Board shall have the power to terminate the membership of as many non-qualifying members as are necessary to reduce the number to 10 percent of the total membership. The Board in exercising its power under this Rule shall terminate the membership of those persons which it considers to have had the least involvement in the Credit Union. In the event that the Board is unable to make a distinction on such ground, the persons whose memberships are to be terminated shall be selected by means of a ballot conducted from a group of non-qualifying members selected by the Board as having had the least involvement in the Credit Union.

15 A member, or the member's personal representative, may withdraw from the Credit Union at any time. In such event all amounts paid in on shares by that member shall be paid to the member as funds become available and only after deducting therefrom any amounts due from the member to the Credit Union.

16 A member may be expelled from membership of the Credit Union by a two-thirds majority vote of the members present (including in the ways contemplated by Rule 29) at a Special

Meeting duly called for the purpose but only after an opportunity has been given to the member to be heard. In the event of such expulsion the member shall have the same rights and be subject to the same obligations as a member withdrawing from the Credit Union under Rule 15.

CAPITAL AND LIABILITY

- 17 The Credit Union shall issue shares in its capital subject to the following:
- (a) Each share shall be of a fixed amount of one dollar denomination which may be paid for in whole or in part. A part payment shall be deemed to be a subscription in advance and no share shall be allotted to a member until it has been fully paid.
 - (b) The Board may fix a maximum amount of shares which may be held by any one member.
 - (c) Money paid in on shares may be withdrawn at any time by any means including, without limitation, Electronic Transaction, automatic payment, direct debit or cheque or other bill of exchange (whether payable to the member or any other person at the member's discretion) but the Board shall have the right at any time to require members to give 60 days' notice of their intention to withdraw the whole or any part of the money so paid.
 - (d) If a withdrawal of shares would reduce a member's paid-up shareholding in the Credit Union to less than the member's total liability (including any contingent liability) to the Credit Union whether as borrower, guarantor or otherwise, then:
 - (i) in the case of a non-qualifying member, the withdrawal shall not be permitted; and
 - (ii) in any other case, the withdrawal shall be permitted only at the discretion of the Board.
 - (e) Shares in the Credit Union shall not be transferable and the Credit Union shall not issue a certificate to a member denoting ownership of a share.
 - (f) A share may be held by two or more members jointly. For the purposes of the Act, the person first named on the Credit Union's register shall be deemed to be the member to whom the share was allotted.
- 18 The share capital of the Credit Union is issued on the condition that its value may be written down and that any shares may be consolidated with other shares held by the members in reduction of any accumulated losses of the Credit Union in the same proportion as all other shares issued in the capital of the Credit Union are written down and consolidated provided always that any such write down by capital and consolidation of Shares is recommended by the Board and approved of by a Special Resolution.
- 19 Notwithstanding that shares are not transferable, a member may nominate a person or persons to receive any shares that the member may have in the Credit Union at his or her death or any sum of money payable by the Credit Union at that time. Such nomination shall be in writing on a form prescribed by the Board and delivered or sent to the registered office. The maximum value of shares or sum of money so nominated shall not exceed the sum of \$2,000 in total (or such other sum as may from time to time be authorised by the Act).
- 20 Subject to Rule 19, in the case of the death of a member, the survivor or survivors where the deceased was a joint holder of shares, and the legal personal representative of the deceased where the deceased was a sole holder of shares, shall be the only persons recognised by the Credit Union as having any title to the deceased's interests in the shares. In the case of the death of a joint holder of shares his or her estate shall remain liable in respect of any share which had been jointly held by that member with other persons.
- 21 Where a member dies or becomes bankrupt, the member's personal representative or the assignee of the member's estate, as the case may be, shall be entitled, upon the production of such evidence as may from time to time be properly required by the Board, to be paid all amounts paid in on shares as funds become available and after deducting therefrom any amounts due from the member to the Credit Union.

FEES, LEVIES AND CHARGES

- 22 Members shall pay for services provided by the Credit Union:
- (a) Fees, levies, and charges as determined by the Board, provided that such fees, levies and charges and any changes thereto shall not come into force until notice thereof has been sent to all members.
 - (b) Where the Credit Union incurs a charge from another organisation when acting on a member's behalf, or incurs legal fees, or fees associated with the registration of securities or in respect of credit references obtained with the consent of the member, the Credit Union may pass those costs on to the member.

FINES AND FORFEITURES

- 23 No fines or forfeitures shall be imposed on any member.

FINANCIAL YEAR

- 24 The financial year of the Credit Union shall be from the 1st day of April to the 31st day of March each year, both dates inclusive.

MEETING OF MEMBERS

- 25 Meetings of the members shall be called as follows:
- (a) The annual meeting shall be held in each year at such time and place as the Board shall prescribe.
 - (b) Special meetings of members may be called by the Board or the Audit Committee and shall be called by the Chair of the Board on receipt of a written application of members as follows:
 - (i) Where the membership of the Credit Union does not exceed 1,000 members, an application made by one-tenth of the whole number of members.
 - (ii) Where the membership of the Credit Union exceeds 1,000 members, an application made by 100 members.
 - (c) At least seven days before any meeting of the members the Secretary shall cause notice thereof to be given to each member.
- 26 The business at annual meetings shall be set by the Board and may include:
- (a) report of Directors;
 - (b) presentation of the audited financial statements;
 - (c) report of Treasurer;
 - (d) report of Audit Committee;
 - (e) appointment of Auditor;
 - (f) remuneration of Directors; and
 - (g) elections of Officers.
- 27 A charitable entity or incorporated society that is a member of the Credit Union under these Rules shall be entitled to appoint by notice in writing, signed by the chair and secretary of the entity or society, its representative at a meeting of members. Such representative if so appointed shall be entitled to vote on behalf of that entity or society, provided that the notice shall not be effective unless it specifies whether the appointment is for a particular meeting or a specified term and a copy of the notice is delivered to the Credit Union not less than 24 hours before the stated commencement time of the meeting.
- 28 At annual and special meetings 15 members present (including in the ways contemplated by Rule 29) in person shall constitute a quorum. If no quorum is present, an adjournment may be taken to a date not less than seven, or more than 17 days, thereafter. The members present at any date to which the meeting is so adjourned shall constitute a quorum regardless of the number present. At least five days before the meeting so adjourned the Secretary shall cause notice thereof to be given to each member.

- 29 Members may, if the Board so decides, participate in a meeting by audio, audio and visual, or Electronic Communication and provided those participating in this way have the ability to hear the meeting and be heard (this may include the ability to submit written questions during the meeting by Electronic Communication) will be deemed to be present at the meeting and form part of the quorum.

ELECTIONS

- 30 The procedure for the nomination and election to office of the Directors shall be as follows:
- (a) At least 60 days before the proposed annual meeting the Secretary shall cause notice to be given to members:
 - (i) of the intention of the Credit Union to hold its annual meeting and the approximate date of that annual meeting;
 - (ii) providing details of the vacancies and preferred skills required by the Board for which elections are to be held at the next annual meeting;
 - (iii) calling for nominations for such vacancies which together with the candidates' curriculum vitae detailing their relevant skills and experience shall be sent in writing addressed to and received by the Secretary not less than 40 days prior to the annual meeting.
 - (b) The notice referred to in Rule 30(a) may be given in writing or by publication in daily metropolitan newspapers.
 - (c) The Secretary shall provide details of any nominations received pursuant to Rule 30(a)(iii) to the nominating committee (together with the curriculum vitae for each nominee).
 - (d) It shall be the duty of the nominating committee to nominate at least one member for each vacancy for which elections are being held and to advise the Secretary of such nominations at least 21 days prior to each annual meeting. The nominees may be persons nominated by the members pursuant to Rule 30(a) or persons nominated by the nominating committee itself.
 - (e) The nominating committee will only nominate members for vacancies on the Board if the nominating committee is of the opinion that those nominees will meet the Fit and Proper test.
 - (f) No charitable entity or incorporated society that is a member under these Rules may be nominated for, or elected to, any office in the Credit Union provided that this shall not prevent a person from being nominated and elected to office if a member of the Credit Union in their own right.
 - (g) At least 15 days before the annual meeting the Secretary shall cause notice to be given to each member of the following:
 - (i) the date of the annual meeting;
 - (ii) details of the vacancies for which elections are being held; and
 - (iii) the names of the persons nominated by the nominating committee for the Board vacancies.
 - (h) All elections shall be determined by a majority vote and shall be by ballot (which may be conducted by Electronic Communication) except where there is only one nominee for the office.
 - (i) Elections for Directors may be conducted by one ballot for all Directors or by separate ballots.
 - (j) Following the appointment of scrutineers by the Chair the ballot papers (for voting in person) shall be distributed, the votes shall be taken and tallied together with any votes in the ballot made by way of Electronic Communication and the results announced.
 - (k) Forthwith after the election of any new Director, the nominating committee shall cause to be sent to the Reserve Bank of New Zealand a suitability notice (as that term is defined in the NBDT Act) in respect of all newly elected Directors.

- (l) Where there have been any suitability issues in the suitability notice of any Director, that Director may not hold office unless and until the Reserve Bank of New Zealand has issued (and not withdrawn) notice of non-objection in connection with that Director under the NBDT Act.

RIGHT OF VOTING

- 31 On every matter which is determined by a vote of members the following Rules shall apply:
- (a) Subject to Rule 31(b) every member who has attained the age of sixteen years by the closing date for voting shall be entitled to vote and shall have one vote only.
 - (b) In the case of joint shareholding the Member first named in the account will be the only member entitled to vote.
 - (c) The Chair may decide whether there will be voting by voice, show of hands, proxy, or Electronic Communication. Details of the form of voting by Electronic Communication, if applicable, must be made available to members prior to the annual meeting, including notification of the period during which votes by Electronic Communication may be submitted.
 - (d) Where a Special Resolution is proposed for any meeting, each member may also vote by proxy. A proxy for a member is entitled to attend and be heard at a meeting of members as if the proxy were the member.
 - (e) A proxy must be appointed by notice in writing, in the form from time to time prescribed (or otherwise approved) by the Board. The notice must state whether the appointment is for a particular meeting or for a specified term.
 - (f) In the case of a motion for the expulsion of a member pursuant to Rule 16, the votes of members shall be cast in person.
 - (g) If permitted by the Board, a member may cast a postal vote by means of a ballot paper prepared for this purpose and obtainable on request from the Secretary.
 - (h) A postal vote or vote by Electronic Communication shall be valid if it is received by the Credit Union not later than 4.00pm on the business day before the day of the meeting (provided that this deadline will not apply where the Chair has decided to allow voting by Electronic Communication at the meeting). The postal or electronic vote shall be provided to the scrutineers appointed to act at the meeting who shall ensure the inclusion of the postal or electronic vote in the voting tally.
 - (i) In the case of an equality of votes then the Chair shall be entitled to a casting as well as a deliberative vote.

BOARD

- 32 Subject to Rule 82, the Board shall be constituted as follows:
- (a) The Board shall comprise not less than seven nor more than 12 Directors, all of whom shall be members of the Credit Union.
 - (b) Notwithstanding Rule 32(a), the minimum number of Directors may be less than seven for so long as the Reserve Bank of New Zealand is dealing with the suitability notice of any elected Director.
 - (c) Subject to Rule 32(d) the term of each Director shall be three years or until the election and qualification of a successor or until disqualification of that Director.
 - (d) In the event of a vacancy on the Board caused by the death, disqualification or resignation of a Director so elected, the Board shall appoint a member to fill the vacant office, and that member shall hold such office until the next annual meeting or until the election and qualification of a successor.
- Notwithstanding the foregoing:
- (e) no elected Director may take office until the requirements of the NBDT Act relating to the appointment of Directors have been satisfied; and

- (f) the Supervisor may appoint and remove Directors in the circumstances prescribed, and to the extent authorised, by the Trust Deed.
- 33 The Board shall meet at least 12 times in each calendar year at a time and place to be determined by the Board (provided that there shall be approximately three to six weeks between each such meeting). The Chair or in his or her absence the Vice-Chair, or in their absence, the Secretary, may call a special meeting of the Board at any time and shall do so upon the written request of any three Directors. The Chair, Vice-Chair or Secretary, as the case may be, shall fix the time and place of any special meeting unless the Board by resolution prescribes otherwise. Notice to the Directors of all meetings of the Board shall be given in such manner as the Board may from time to time by resolution prescribe.
- 34 50% or more in number of the Directors shall constitute a quorum for the transaction of business at any meeting of the Board but fewer than a quorum may adjourn from time to time until a quorum is in attendance. Written notice of an adjourned meeting need not be given to the Directors. If a Director fails to attend three consecutive regular meetings of the Board or otherwise fails to perform any of the duties of the office, the office may be declared vacant by the Board which shall then be filled in accordance with Rule 32(d).
- 35 The Board may regulate the manner in which it conducts its meetings and (without limitation) this may be by audio, or audio and visual, or Electronic Communication by which all Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.
- 36 The Board may appoint such associate directors as it may decide and every associate director shall be entitled to have notice of all meetings of the Board and shall have speaking rights at those meetings provided however that an associate Director shall not have voting rights or be counted in the quorum of a meeting of the Board.
- 37 A resolution in writing, signed or assented to by all Directors, is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents in like form each signed or assented to by one or more directors (including by Electronic Communication).

DUTIES AND POWERS OF THE BOARD

- 38 The Board is authorised to determine, promulgate and implement the policies of the Credit Union and shall be responsible for the general management of the affairs and records of the Credit Union. In addition and without limiting the duties customarily performed by a board of directors, the Board may:
- (a) Prescribe the forms to be completed by applicants for membership, act upon applications for membership and establish such procedures as will ensure that membership applications are processed with a minimum of delay.
 - (b) Maintain policies of insurance which may include life savings insurance and loan protection insurance for members.
 - (c) Without limiting Rule 70, determine the lending policy of the Credit Union.
 - (d) Determine from time to time the rate or rates of interest consistent with the provisions, if any, prescribed by law which should be charged on loans.
 - (e) Establish the terms under which accounts may be established for members provided that subscription shall be by shares which shall rank equally with all and any other shares issued by the Credit Union.
 - (f) Declare dividends or other distributions from earnings from time to time.
 - (g) Authorise the employment of such person or persons as may be necessary to carry on the business of the Credit Union and fix the remuneration of such persons including the Treasurer and the Secretary.
 - (h) Determine the borrowing policy of the Credit Union.
 - (i) Determine the investment policy for the Credit Union and ensure investments made by the Credit Union are in compliance with these Rules, the Trust Deed and the Act.

- (j) Cause proper accounting records to be kept relating to the transactions of the Credit Union and its assets and liabilities in accordance with section 121 of the Act.
- (k) Establish and maintain a satisfactory system of control of the accounting records of the Credit Union, its cash holdings and all its receipts and payments in accordance with section 121 of the Act.
- (l) Institute and maintain procedures for the prevention and detection of fraud or other dishonesty by any of the Officers or employees of the Credit Union and take out and maintain a policy or policies of insurance providing cover against any such fraud or other dishonesty in accordance with section 133 of the Act.
- (m) Maintain an appropriate insurance cover over the fixed assets of the credit union and for all other risks as circumstances may warrant.
- (n) Ensure that its marketing and educational objectives are met through the strategic planning process.
- (o) Give meaningful effect to the objects of the Credit Union set out in Rule 4.
- (p) Ensure that the Credit Union complies with all of its obligations under the Act.
- (q) Perform or authorise any action consistent with the provisions of the law and these Rules not specifically reserved by these Rules or the Act for the members.
- (r) Perform such other duties as the members may from time to time require.
- (s) Establish and delegate its functions to and appoint and remove such Board Committees as the Board may from time to time determine.
- (t) Delegate any duties customarily performed by the Board, subject to the Trust Deed and the Act.

REMUNERATION OF DIRECTORS

- 39 Legitimate expenses of elected Officers may be reimbursed including any loss of salary or wage from the Officer's regular employment if this has directly resulted from having to attend to the business of the Credit Union and payment for such attendance has been approved by the Board.
- 40 Fees, honoraria and meeting payments (other than the remuneration of the Treasurer) may be paid to the Directors (including any associate director) in such amounts and manner as the Board in its absolute discretion may decide provided however that the total fees, honoraria, and meeting payments so paid shall not exceed that sum which has been approved at an immediately preceding annual meeting (or adjourned annual meeting) of the members of the Credit Union.

OFFICERS

- 41 The officers of the Credit Union shall be elected and hold office as follows:
- (a) Within seven days following each annual meeting, the Directors shall elect from their own number a Chair, Vice-Chair and Treasurer provided that no person who is 19 years of age or younger shall hold the office of Treasurer.
 - (b) Unless sooner removed, as herein provided, the officers so elected shall hold office for a term of one year or until the election and qualification of their respective successors.
 - (c) In the event of a vacancy in the office of Chair, Vice-Chair, and/or Treasurer, caused by the death or disqualification of an officer so elected, the Directors shall elect from their own number a person to fill the vacant office and that person shall hold such office until the next annual meeting or until the election and qualification of a successor.
- 42 The Board shall appoint, from time to time, a person (who may be, but need not be, a Director) to hold office as Secretary and may, in their discretion, remove that person from office.
- 43 If the Board appoints a person who is not a Director as Secretary, the offices of Secretary and Treasurer may not be combined. If the Board appoints a person who is a Director as

Secretary, the offices of Secretary and Treasurer may be combined with the consent in writing of the Registrar.

- 44 The Credit Union is authorised by resolution of the Board to effect insurance (including by paying, whether directly or indirectly, the costs of the insurance) or to indemnify an Officer (including, in this Rule, a former Officer) in respect of:
- (a) liability, not being criminal liability or liability in respect of a breach of any fiduciary duty owed to the Credit Union, for any act or omission in his or her capacity as an Officer;
 - (b) costs incurred by that Officer in defending or settling any claim or proceeding relating to such liability; or
 - (c) costs incurred by that Officer in defending any criminal proceedings in which he or she is acquitted.

CHAIR AND VICE CHAIR

- 45 The functions of the Chair shall be as follows:
- (a) The Chair shall preside at all meetings of the members and at all meetings of the Board. In addition the Chair shall perform such other duties as are customarily performed by a Chair or as he or she may be directed to perform by resolution of the Board not inconsistent with the law or these Rules.
 - (b) The Vice-Chair shall have and exercise all the powers, authority and duties of the Chair during the absence of the Chair or during any period when the Chair is unable to act.
 - (c) In the absence of the Chair and the Vice-Chair at any meeting of the members, or meeting of the Board, the Directors may elect one of their members to act as Chair of that meeting.
 - (d) The Chair, Vice-Chair or acting-Chair in addition to their own personal vote shall have a casting vote which may be exercised in the event of equality of voting on any matter before a meeting of members or of the Board provided always that such casting vote shall be exercised in favour of the existing condition.

DUTIES OF THE TREASURER

- 46 The Treasurer shall perform the following duties:
- (a) Make or cause all payments received by the Credit Union and all cash held that is surplus to its cash operating requirements as may be determined by the Board to be deposited within three working days in such bank accounts as are authorised by the Board.
 - (b) Make or cause to be prepared each month, financial statements showing the cash and deposited funds of the Credit Union, operational gains and losses, assets and liabilities, and the key prudential ratios of the Credit Union as at the close of business on the last day of the month, such statements to be presented by the Treasurer at the next available Board meeting.
 - (c) Cause to be prepared in respect of each financial year financial statements in accordance with the Financial Reporting Act 2013 and the Financial Markets Conduct Legislation.
 - (d) Within four months of the close of each financial year of the Credit Union send to the Registrar an annual return for that financial year in accordance with section 127 of the Act.
 - (e) Make available on the application of a member or person interested in the funds of the Credit Union, without charge, a copy of the last annual return together with a copy of the report of the auditors in accordance with section 129 of the Act.
 - (f) Keep available for inspection at the registered office:
 - (i) an indexed register of members which shall be open to inspection by any member, in accordance with section 130 of the Act;

- (ii) the books and accounts of the Credit Union which shall be open to inspection by any member or other person having an interest in the funds of the Credit Union provided that no person (unless he or she is an official of the Credit Union acting in the course of his or her duties) shall inspect any accounts of another member without the written authority of that member; and
 - (iii) a copy of the last annual financial statements of the Credit Union together with the report of the auditor which shall be open to inspection by any member, or other person having an interest in the funds of the Credit Union.
- (g) Such other duties as he or she may be directed to perform by resolution of the Board not inconsistent with the law or these Rules.

47 The Board may appoint one or more persons to act as assistant Treasurer and authorise such person or persons under the direction of the Treasurer to perform any of the duties devolving on the Treasurer. An assistant Treasurer may also act as Treasurer during the absence of the Treasurer or in the event that the Treasurer is unable to act.

DUTIES OF THE SECRETARY

- 48 The Secretary shall perform the following duties:
- (a) Prepare and maintain full and correct records of all meetings of the members and the Board.
 - (b) Give, or shall cause to be given, in the manner provided in these Rules, proper notice of all meetings of the members.
 - (c) Supply to any member upon demand a copy of the current registered Rules of the Credit Union.
 - (d) Such other duties as the Secretary may be directed to perform by resolution of the Board not inconsistent with the law or these Rules.

AUDIT COMMITTEE

49 There shall be an Audit Committee which shall be appointed by the Board as a Board Committee and shall consist of two or more members at least one of whom shall be a member of the Board as the Board in its absolute discretion may decide. The Board may from time to time appoint and remove members of the Audit Committee.

50 The Audit Committee shall:

- (a) ascertain that all actions by the Board are in conformity with:
 - (i) these Rules;
 - (ii) the Act;
 - (iii) the Financial Markets Conduct Legislation; and
 - (iv) the NBDT Act;
- (b) make or cause to be made from time to time a routine operating inspection of the affairs of the Credit Union, which shall include an examination of its books including the system of control maintained under section 121 of the Act, and an inspection of the securities, cash, accounts, and loans;
- (c) inspect the Conflicts Register and ensure that it is properly updated and maintained by the Board in accordance with Rule 66(d);
- (d) report to the Board with its recommendations on the appointment (or non-appointment) of an Internal Auditor, and the duties, job description, and requirements incidental to such position; and
- (e) perform such other functions as may be delegated to it by the Board, from time to time.

51 The Audit Committee shall have the power by unanimous vote of the Committee at a meeting called for the purpose to suspend any Officer or Director or to call a special meeting of the Credit Union to consider breaches of these Rules. Forthwith after the suspension of any such person the Audit Committee shall lay the matter before a Special

Meeting of the Credit Union. At any such meeting the person under suspension shall have the right to be heard and to be represented by Counsel. After giving the person the opportunity to be heard the meeting shall either sustain the suspension or reinstate the person.

- 52 The Audit Committee shall cause to be expeditiously made, annual and/or six-monthly audits of the Credit Union's financial statements and written reports in accordance with sections 122 to 124 of the Act and with Financial Markets Conduct Legislation.
- 53 The Audit Committee shall make recommendations on the appointment of the External Auditor and regularly liaise with and consider the advice and recommendations of the External Auditor with regard to the matters set out in Rule 50.

APPOINTMENT OF EXTERNAL AUDITOR

- 54 The Credit Union shall appoint an External Auditor to audit the financial statements of the Credit Union each financial year in accordance with sections 122 to 124 of the Act and in accordance with the Financial Markets Conduct Legislation.

METHOD OF CONTRACTING

- 55 A contract or other enforceable obligation may be entered into by the Credit Union as follows:
- (a) An obligation that, if entered into by a natural person, would by law, be required to be by deed may be entered into on behalf of the Credit Union in writing signed under the name of the Credit Union by:
 - (i) two or more Officers of the Credit Union whose signatures must be witnessed;
 - (ii) a Director, or other person authorised by the Board, whose signature must be witnessed; or
 - (iii) one or more attorneys appointed by the Credit Union in accordance with these Rules.
 - (b) An obligation that, if entered into by a natural person, is, by law, required to be in writing may be entered into on behalf of the Credit Union in writing by a person acting under the Credit Union's express or implied authority.
 - (c) An obligation that, if entered into by a natural person, is not, by law, required to be in writing may be entered into on behalf of the Credit Union in writing or orally by a person acting under the Credit Union's express or implied authority.
- 56 The Credit Union may, by an instrument in writing executed in accordance with Rule 55, appoint a person as its attorney either generally or in relation to a specified matter, as determined by the Board.

SUPERVISION

- 57 In order to comply with the Financial Markets Conduct Legislation and/or any Exemption Notice the Credit Union may enter into a trust deed with a Supervisor in a form approved by the Board pursuant to which:
- (a) the Supervisor covenants to monitor the affairs of the Credit Union for the benefit of members;
 - (b) the Supervisor may in certain circumstances give directions in respect of the administration of the affairs of the Credit Union which are binding on the Board and on the Credit Union; and
 - (c) the Credit Union agrees to provide security to the Supervisor for the benefit of members.
- 58 Any directions given by the Supervisor to the Board under the powers conferred on the Supervisor in the Trust Deed shall be given effect to by the Board and be binding on all Members.
- 59 The Credit Union is authorised to appoint from time to time by deed in a form to be approved by the Board and the Supervisor, any receiver appointed by the Supervisor and

each of the Supervisor's officers for the time being severally to be the Credit Union's attorney or attorneys for such purposes and with such powers, authorities and discretions and for such period and subject to such conditions as the Board may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Board may think fit and may also authorise any such attorney to delegate all or any of the powers, authorities and discretions vested in him or her.

- 60 The Supervisor, through any of its agents, attorneys or representatives, may attend at any meeting of the Credit Union and shall have the standing and right to speak and be heard at any such meeting, whether in relation to any matter arising during the course of the business of that meeting or any other matter which the Supervisor wishes to raise at the meeting.
- 61 The Credit Union will call a special meeting of members at the request of the Supervisor in accordance with the Trust Deed. Such meeting will be called and held in accordance with the Trust Deed.
- 62 The Credit Union shall, to the extent necessary to comply with Financial Markets Conduct Legislation, any Exemption Notice or any provision of the Trust Deed, amend these Rules provided that no amendment of these Rules shall be valid until registered pursuant to section 106B of the Act.
- 63 A Director shall vacate his or her office by resignation immediately he or she receives a notice of removal or disqualification from the Supervisor pursuant to the Trust Deed.

CONFLICT OF INTEREST

- 64 For the purpose of Rules 65, 66 and 67 only, and no other Rules:
- 'Officer'** includes a Director or member of the Board or a Board Committee (including any other person who by precedent or agreement is an ex officio member);
- 'Conflicts Register'** means the document in the form set out in Schedule A of these Rules; and
- 'Conflict of Interest'** is a situation where there exists a relationship between an Officer and those listed below where such relationship is likely to affect the interests of the Credit Union or that Officer's independence and impartiality:
- (i) A member;
 - (ii) An Enterprise;
 - (iii) A staff member;
 - (iv) A spouse, de facto partner, child or member of immediate household;
 - (v) A parent, uncle, aunt, brother, sister or immediate relative through marriage;
 - (vi) A cousin in the first degree of blood relationship;
 - (vii) A business partner or former business partner; and
 - (viii) A relative or close personal friend or associate in circumstances which is deemed by the other members of the Board or committee or sub-committee to constitute a conflict of interest.
- 65 In all cases where a conflict of interest or possible conflict of interest arises concerning any matter or transaction there should be a disclosure by the Officer concerned to the Board or Board Committee of which the Officer is a member or ex-officio member.
- 66 In circumstances where a conflict of interest exists and whether or not it has been disclosed:
- (a) the Officer should not participate in any discussion or decision-making except by consent of the Board or Board Committee;
 - (b) the Officer should not be present during any discussion which relates to a staff member's employment and where a conflict of interest is required to be disclosed;

- (c) the minutes of any Board, Board Committee, or record of meeting shall disclose the voting participation as well as the name of any Officer abstaining for reason of conflict of interest rather than record a consensus decision; and
- (d) the disclosure of a conflict of interest at any Board or Board Committee meeting shall be promptly entered in the Conflicts Register.

67 Any decision which is made or taken in breach of Rule 66 shall be invalid and ultra vires the Rules of the Credit Union.

DISQUALIFICATION OF DIRECTORS AND BOARD COMMITTEE MEMBERS

68 A Director or Board Committee member shall vacate his or her office immediately he or she:

- (a) ceases to be a member of the Credit Union if in these Rules membership is a prerequisite to holding such office;
- (b) becomes a member of the Credit Union if not being a member was a prerequisite condition to appointment or election;
- (c) becomes bankrupt or makes any arrangements or composition with his or her creditors generally;
- (d) becomes a protected person under the Protection of Personal and Property Rights Act 1988 or of unsound mind under the Mental Health (Compulsory Assessment and Treatment) Act 1992;
- (e) resigns his or her office by notice in writing to the Credit Union;
- (f) has been convicted of an offence involving fraud or dishonesty;
- (g) has received a notice of removal or disqualification from the Supervisor pursuant to the Trust Deed;
- (h) is removed from office under these Rules;
- (i) is barred from holding office under legislation affecting financial institutions, or if any public disclosure is required to be made by the Credit Union in respect of that officer concerning previous bankruptcy, conviction for a crime of dishonesty, prohibition as a director or manager, or conviction for failing to make such a disclosure; or
- (j) is removed from office under any applicable legislation including having a determination made by the Reserve Bank of New Zealand, pursuant to section 16 of the NBDT Act, that the Director is unsuitable to be a Director of the Credit Union.

LOANS AND SERVICES

69 The Credit Union may make loans (with or without security):

- (a) to members;
- (b) to Enterprises in cases where:
 - (i) the Enterprise (when the loan is made):
 - (aa) is related to a member; and
 - (ab) has no more than 19 full-time equivalent employees; and
 - (ii) the loan is to be used for the purposes of a business being, or to be, carried on by the Enterprise.

70 The Board may do any of the following:

- (a) Prescribe the form of the application for loans.
- (b) Prescribe the purpose and security (if any) upon which loans may be made.
- (c) Fix the maximum amount of any loan.

- (d) Otherwise determine the Credit Union's lending policy (including, without limitation, the Credit Union's lending policy with respect to loans to non-qualifying members and Enterprises).
- 71 Where a loan has been made to a member whose membership is terminated, the Board may require that member to repay the loan (on such terms and terms as the Board may determine).
- 72 The Credit Union may provide products or services:
- (a) to members;
 - (b) to Enterprises which have loans with the Credit Union under Rule 69(b):
 - (c) to Enterprises in cases where:
 - (i) the Enterprise (when the product or service is provided):
 - (aa) is related to a member; and
 - (ab) has no more than 19 full-time equivalent employees; and
 - (ii) the product or service is for the purposes of a business being, or to be, carried on by the Enterprise.
- 73 For the purposes of Rules 69 and 72, an Enterprise is related to a member (in this Rule, 'M') if:
- (a) the Enterprise is a body corporate and M has the power, directly or indirectly, to exercise, or to control the exercise of, the rights to vote attaching to 25% or more of the voting products (as defined in section 6(1) of the Financial Markets Conduct Act 2013 of the body corporate;
 - (b) the Enterprise is a firm under the Partnership Act 1908 in which M is a partner; and
 - (i) M's share of the firm's profits in accordance with the terms of the partnership is 25% or more; or
 - (ii) If M's share of the firm's profits cannot be determined in accordance with the terms of the partnership, M's share of the most recent distribution of the firm's profits was 25% or more; or
 - (c) the Enterprise is the trustee or trustees of a trust and M has, or the members of M's family (taken together) have, a beneficial entitlement to 25% or more of the trust's assets.
- 74 For the purposes of Rule 73(c), the members of M's family are:
- (a) M;
 - (b) any current or former spouse, civil union partner, or de facto partner of M;
 - (c) any brother, sister, lineal ancestor; or lineal descendant of M; and
 - (d) any current or former spouse, civil union partner, or de facto partner of a person covered by Rule 74(c).

DONATIONS

- 75 The Directors may in their absolute discretion, but having due regard to the Credit Union's liquidity, apply in any financial year up to:
- (a) 5% per cent of the Credit Union's profits, available at the end of the previous year; or
 - (b) \$5,000,
- whichever sum is the lesser, in making donations for charitable, cultural, benevolent, or philanthropic purposes within the locality in which the Credit Union carries on its business.

DISTRIBUTIONS

- 76 Subject to any additional requirements under the Act, dividends and other distributions on shares may be paid to members as follows:
- (a) In the course of, and/or at the end of, each financial year, the Board may declare a dividend or dividends (or other distribution) from the net earnings received by the Credit Union.
 - (b) In the course of any financial year, the Directors may declare a special dividend or dividends (or other distribution) to be paid on shares withdrawn prior to the end of that financial year.
 - (c) A member shall be deemed to have one fully paid share for each sum of one dollar paid to the Credit Union irrespective of the number of shares for which the member has subscribed.

SERVICE OF NOTICES

- 77 Each Member must:
- (a) supply to the Credit Union a telephone contact, a postal address and, if the Member wishes to receive communications by Electronic Communication, a working e-mail address; and
 - (b) from time to time supply to the Credit Union such proof of identity and address as may be required to enable the Credit Union to comply with its obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 and all other applicable legislation requiring proof of identity.
- 78 Where notice of any meeting is required to be given to a member, notice shall be deemed to have been duly given if, within the time prescribed by these Rules, written notice of the meeting and the business to be transacted at such meeting is placed for prominent display on the staff notice board at 78 Springs Road, East Tamaki, and 15 Maurice Paykel Place, East Tamaki or, for known non-Fisher & Paykel employees, by giving notice to the member in accordance with Rule 79.
- 79 Any notice to be given to any member who is a known non-Fisher & Paykel employee may be given either: personally; or by sending it by post to the address of the member shown in the records of the Credit Union; or subject to the member having consented to receive information relating to the Credit Union in an electronic form, and at the discretion of the Board, by Electronic Communication.

TRANSFER OF ENGAGEMENTS

- 80 For the purposes of section 135 of the Act, in the event of a proposal being received for the transfer of a credit union's engagements to the Credit Union, the Board may, subject to the applicable requirements of the Trust Deed, on behalf of the members agree to the Credit Union accepting such a transfer of engagements and undertake to fulfil the engagement of that Credit Union provided that such acceptance is by resolution passed by not less than 75 percent of the Directors voting in person.
- 81 In considering a transfer of engagements the Board shall have regard to the consequential effects on the Credit Union's common bond and the requirements of section 135(4) of the Act.
- 82 It shall be within the power of the Board when accepting a transfer of engagements to enter into an arrangement whereby the persons holding office as directors on the board of the transferring credit union (or a simple majority thereof) at the time of the transfer will have the sole right to retain the appointment of one or more (but not exceeding three) directors who shall then hold office as additional Directors of the Credit Union for an agreed period which shall not in any case exceed four years. Such appointments shall be formally advised in writing and are in addition to the number of Directors specified in Rule 32(a) of these Rules.

RULES AND ALTERATIONS TO RULES

- 83 These Rules may be altered by a resolution of a majority of members entitled to vote and voting on the matter.

- 84 An amendment to these Rules will have no effect until that amendment is registered in accordance with the Act.

DISPUTES

- 85 (a) As a financial service provider registered under the Financial Service Providers (Registration and Dispute Resolution) Act 2008, the Credit Union is a member of an approved dispute resolution scheme. Disputes between the Credit Union, or an officer of the Credit Union, and its members (including a person claiming through a former member), or those that have ceased to be members, will be dealt with in accordance with the disputes resolution process approved by the Credit Union's dispute resolution scheme provider.
- (b) The approved dispute resolution process includes first an internal resolution process, where disputes may be dealt with internally by the Credit Union and thereafter, if not resolved, disputes within the jurisdiction of the approved disputes resolution scheme will be dealt with in accordance with the Rules of the approved disputes resolution scheme and all other disputes will be dealt with in accordance with Rules 85(c) to 85(g).
- (c) An unresolved dispute that does not come within the approved disputes resolution scheme shall be referred to arbitration as set out below.
- (d) One arbitrator shall be nominated by the Board on behalf of the Credit Union or the officer thereof and one by the other party. If the arbitrators are able to agree their decision shall be binding and conclusive on all parties.
- (e) If the arbitrators are unable to agree they shall appoint an umpire whose decision shall be binding and conclusive on all parties.
- (f) If either party shall neglect or refuse to appoint an arbitrator for a period of ten days after the receipt of notice of appointment of an arbitrator by the other party, such last named arbitrator may make a final decision alone and the decision so made shall be binding and conclusive on all parties.
- (g) Subject to the right of an arbitrator or umpire to state a case for the opinion of the High Court and to the right of a person to refer a dispute to the Court where no decision is made on the dispute within forty days as provided in the Act, any decision which is binding and conclusive on all parties shall not be open to appeal and shall not be removable into any court of law or restrainable by injunction and application for enforcement of the decision may be made to a court of competent jurisdiction.

INVESTIGATION

- 86 Members may make an application to the Registrar for an investigation into the affairs of the Credit Union or for the calling of a special meeting of the Credit Union in accordance with the Act.

LIQUIDATION AND REMOVAL FROM REGISTER

- 87 The Credit Union may be put into liquidation by the appointment of a liquidator made pursuant to a Special Resolution.
- 88 In any liquidation of the Credit Union, any assets remaining after the repayment of debts, repayment of share capital and discharge of all other liabilities will be applied to such Charity or Charities as are determined by the Board.
- 89 Where:
- (a) the Credit Union has ceased to operate, has discharged in full its liabilities to all known creditors and it has distributed its remaining assets to those persons entitled to them or otherwise in accordance with these Rules; or
- (b) the Credit Union has no assets remaining after paying its debts in full or in part, and no creditor has applied to the High Court under section 138 of the Act for an order putting the Credit Union into liquidation,

any two Directors on behalf of the Board may by notice given to the Registrar confirming as to either Rule 89(a) or 89(b) above and requesting that the Credit Union be removed from the Register.

