

31 October 2016

Credit Union Baywide

(trading as NZCU Baywide and NZCU Bay Health)

Registered No. 1802850

Rules

Having offices at:

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NAME

- 1 The name of the Credit Union shall be "Credit Union Baywide".

INTERPRETATION

- 2 In these Rules unless the context otherwise requires:

"Act" means the Friendly Societies and Credit Unions Act 1982 and any amendment thereof;

"Address for Service" or "Addresses for Service" means any of the residential, postal, facsimile or email addresses notified by the member to the Credit Union as the member's addresses to which notices under these Rules may be sent;"

"AGM" means the annual general meeting;

"Association" means the New Zealand Association of Credit Unions (t/a Co-op Money NZ);

"Board" means the Board of Directors of the Credit Union;

"Director" means any member of the committee of management as defined in the Act and appointed in accordance with these Rules;

"Exemption Notice" means any exemption notice for or applicable to Credit Unions issued by the FMA pursuant to the FMC Legislation;

"FMA" means the Financial Markets Authority;

"FMC Legislation" means the Financial Markets Conduct Act 2013 and the Financial Markets Conduct Regulations 2014.

"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 8;

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

"Officer" means an Officer as defined in the Act and includes a former Officer;

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

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

"Rule" or "Rules" refers to the rules set out in this document;

"Special Meeting" means any meeting of members called under these Rules of the Credit Union that is not an AGM.

"Special Resolution" means a Special Resolution as defined in the Act;

"Suitability Notice" means a Suitability Notice as defined in the NBDT Act;

"Supervisor" means a licensed supervisor under the Financial Markets Supervisors Act 2011 appointed by the Trustees which has entered into a Trust Deed with the Credit Union;

"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 FMC Legislation;

"Trustees" means the Trustees of the Credit Union appointed in accordance with sections 28 and 104 of the Act.

OBJECTS

- 3 The objects of the Credit Union shall be:
- a) The promotion of thrift among its members by the accumulation of their savings; and
 - b) The use and control of the members' savings for their mutual benefit and to make loans to members for provident or productive purposes; and
 - c) The training and education of the members in the wise use of money and in the management of their financial affairs; and
 - d) 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.

REGISTERED OFFICE

- 4 The registered office of the Credit Union shall be at 303N Karamu Road, Hastings 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

- 5 Admission to membership of the Credit Union shall be limited to:
- a) All persons who currently reside or formerly resided in New Zealand, including any such person aged 16 years or younger
 - b) A charitable entity as defined by the Charities Act 2005
 - c) An incorporated society registered under the Incorporated Societies Act 1908
- 6 An applicant shall be admitted to membership provided:
- a) The applicant has completed an application in writing on a form prescribed by the Board; and
 - b) The applicant qualifies for admission to membership under Rule 5; and
 - c) The application has been approved by Management of the Credit Union.
- 7 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 but not exceeding \$10 in full paid-up shares, shall not be permitted to become or to remain a member of the Credit Union.
- 8 A member who ceases to fulfil the qualifications for membership under Rule 5 shall be entitled, subject to Rule 11, 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.
- 9 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.

- 10 An annual account fee for dormant accounts may be prescribed in accordance with these Rules. 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.
- 11 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 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.
- 12 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 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.
- 13 A member may be expelled from membership of the Credit Union
 - a) At the discretion of Credit Union Management following disorderly, abusive, criminal or otherwise inappropriate behaviour.
 - b) In any other case by a two-thirds majority vote of the members present at a Special Meeting duly called for the purpose.
- 14 In the event of expulsion a member shall have the same rights and be subject to the same obligations as if he or she were a member withdrawing from the Credit Union under Rule 12.
- 15 Any member who is expelled may dispute that decision within 28 days of receiving notice of the decision. The procedure for handling disputes is set out in Rule 110.

CAPITAL AND LIABILITY

- 16 The Credit Union shall issue shares in its capital subject to the following:
 - a) Each share shall have a par value of one dollar 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 maximum amount of shares which may be held by any one member shall be fixed by the Board from time to time.
 - c) Money paid in on shares may be withdrawn at any time by any means including, without limitation, automatic payment, TXT, Eftpos, other electronic debit transaction, direct debit, cheque, other bill of exchange (whether payable to the member or any other person at the member's discretion) or by way of telephone instruction 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 monies so paid.
 - d) If a withdrawal of shares would reduce a member's paid up holding 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 ledger shall be deemed to be the member to whom the share was allotted.
- 17 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).
- 18 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.
- 19 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.

FINES AND FORFEITURES

- 20 No fines or forfeitures shall be imposed on any member

FEEES, LEVIES AND CHARGES

- 21 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 such time as they are published on the Credit Union's website.
- 22 Where the Credit Union incurs a charge from another organisation when acting on a member's behalf, or incur 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.

FINANCIAL YEAR

- 23 The financial year of the Credit Union shall be from the 1st day of July to the 30th of June each year, both dates inclusive.

MEETINGS OF MEMBERS

- 24 The Credit Union shall be governed by the AGM and Special Meetings. Between these meetings its affairs shall be conducted by the Board. Meetings of the members shall be called as follows:
- a) The AGM shall be held not later than the 31st day of October 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 Trustees 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 by 100 members.
 - c) At least 14 days before any meeting of the members the Secretary shall cause notice thereof to be given to each member as well as make available to members all documents pertaining to the business of the meeting.
- 25 The business at the AGM, where applicable, shall be:
- a) To ascertain that a quorum is present;
 - b) To confirm the minutes of the previous AGM and any previous Special Meetings not already confirmed
 - c) Report of Directors;
 - d) Report of Treasurer;
 - e) Report of Trustees;
 - f) Presentation of the Audited Financial Statements;
 - g) Any other reports;
 - h) Appointment of Auditor;
 - i) Unfinished business;
 - j) Remuneration of Directors;
 - k) New business other than elections;
 - l) Elections;
 - m) Adjournment
- 26 The AGM may suspend or vary the order of business upon a two-thirds majority vote provided that the conduct of elections shall be the final item of business to be transacted at the meeting.
- 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 AGM's and Special Meetings 15 members shall constitute a quorum. If no quorum is present, an adjournment may be taken to a date not less than 7, 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 5 days before the meeting so adjourned the Secretary shall cause notice thereof to be given to each member.

ELECTIONS

- 29 The procedure for the nomination, election and appointment to office of the Directors and Trustees shall be as follows:
- a) By 31st May the Secretary shall cause notice in writing or by any other electronic method approved by the Board to be given to each member of the following:
 - (i) Details of the vacancies for which elections are being held at the next AGM; and
 - (ii) That member nominations together with the candidates' curriculum vitae detailing their relevant skills and experience, a completed "Fit and Proper Person Declaration", the "Suitability Notice for Director and Senior Officers" as prescribed by the NBDT Act and "Personal Information Statement", be in writing and delivered to the Secretary no later than 30th June prior to AGM.
 - b) The Chair shall appoint a Directors Nominating Committee ("DNC") by 31st July. The DNC will consist of at least three members, and be properly established by Board resolution. It shall be the duty of the DNC to nominate at least one member for each vacancy for which elections are being held and to forward such nominations to the Secretary by 31st August. Such nominations should be of members who have completed the "Fit and Proper Person Declaration", the "Suitability Notice for Director" as prescribed by the NBDT Act, the "Personal Information Statement" and who meet the requirements of the Credit Union's "Fit and Proper Person policy" to the satisfaction of the DNC, subject at all times to any requirements prescribed by the Reserve Bank of New Zealand for credit union directors.
 - c) 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 appointed to represent under Rule 27 from being nominated and elected to office if a member of the Credit Union in their own right.
 - d) Following the election to office of Directors and Trustees, each elected Director and/or Trustee shall only be appointed following the Reserve Bank of New Zealand either:
 - (i) accepting the Suitability Notice; or
 - (ii) issuing a notice of no objection in relation to his or her Suitability Notice under the NBDT Act.
- 30 At least 14 days before the AGM the Secretary shall cause notice in writing or by any other electronic method approved by the Board to be given to each member of the following:
- (i) The date, place and time of the AGM;
 - (ii) Details of the vacancies for which elections are being held;
 - (iii) The names of the persons applying for each vacancy including those nominated by the DNC;
 - (iv) The method of voting for the relevant matter approved by the Board; and
 - (v) A proxy form may be sent with each notice calling a meeting of members (if applicable).
- 31 All elections shall be determined by a majority vote in accordance with rule 37.
- 32 Where there is only one nominee for an office vacancy then that person shall be deemed to be appointed and no vote shall be required.
- 33 Elections shall be conducted by separate vote for each office vacancy in the following order:
- (i) Election of Directors;
 - (ii) Election of Trustees;

- 34 If voting is to be by ballot paper then following the appointment of scrutineers by the Chair the ballot papers shall be distributed, the votes shall be taken and tallied by the scrutineers and the results announced. After voting results are announced the scrutineers will be instructed to destroy all ballot papers.

RIGHT OF VOTING

- 35 A member shall be entitled to vote on every matter that is determined by a vote of members provided that the member shall have one vote only, and must have attained the age of sixteen (16) years by the closing date for voting.
- 36 For the purposes of clarity, where a share in the Credit Union is held by two or more persons jointly then:
- (i) They are only entitled to one vote;
 - (ii) The first named person on the account shall be deemed to be the member entitled to vote.
- 37 The Board will approve the method by which a member may exercise the right to vote at any meeting of members, from one or more of the following options:
- (i) by being present in person; or
 - (ii) by being represented by a proxy in accordance with Rule 40; or
 - (iii) by electronic voting in accordance with Rule 45.

The approved method of voting will be advised in each notice of meeting to members with the exception that voting in person (or by proxy) may be approved by the Board, in relation to procedural matters, at the meeting at anytime.

- 38 A member may not exercise their right to vote at a meeting by casting a postal vote.
- 39 If approved by the Board under rule 37, a member may appoint a proxy as follows:
- (i) A proxy must be appointed by a notice in writing using such form as the Board may from time to time direct, subject to these Rules and any relevant laws.;
 - (ii) The notice must be signed by the member; and
 - (iii) The notice must state the particular meeting for which the appointment applies.
- 40 If approved by the Board under rule 37, a proxy for a member is entitled to attend, be heard, and vote at a meeting of members as if the proxy were the member, and a reference in these Rules to a member present at a meeting or entitled to vote at a meeting includes a reference to such a proxy.
- 41 A proxy need not be a member of the Credit Union.
- 42 No proxy is effective in relation to a meeting unless a copy of the notice of appointment is delivered to the Credit Union at least 48 hours prior to the meeting or adjourned meeting at which the person named in the notice proposes to vote. If the written notice appointing a proxy is signed under power of attorney, a copy of the power of attorney (unless already deposited with the Credit Union) and a signed certificate of non-revocation of the power of attorney must accompany the notice.
- 43 In its sole discretion, the Board may appoint a scrutineer to scrutinise the appointment of proxy forms, received in accordance with Rule 40.

- 44 If the Credit Union does not receive written notice of death, incapacity, revocation or transfer before the start of an AGM or Special Meeting then the vote of the proxy is valid where:
- (i) The member has died or become incapacitated; or
 - (ii) The proxy, or the authority under which the proxy was executed, has been revoked; or
 - (iii) The share in respect of which notice of proxy is given has been transferred.
- 45 If the Board approves an electronic vote, a form for registration for electronic voting shall be sent with each notice calling a meeting of members. A member may exercise the right to vote by electronic voting as follows:
- a) by registering for electronic voting, (and the electronic vote shall be in such form as the Board may from time to time direct, subject to these Rules and any relevant laws); and
 - b) completing an electronic vote prior to close of voting as determined by the Board.

BOARD OF DIRECTORS

- 46 The Board of Directors shall be constituted as follows:
- a) The Board shall comprise of seven (7) Directors, subject to Rule 107, all of whom shall be members of the Credit Union.
 - b) Employees of the Credit Union are prohibited from standing for the office of Director for a period of three (3) years following the end of their employment.
 - c) Directors shall be elected for a term of up to three (3) years, or until the election, qualification and appointment of a successor. Each year two or three Directors shall retire on rotation but may be eligible for re-election.
 - d) In the event of a vacancy on the Board caused by the death or disqualification 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 AGM or until the election, qualification and appointment of a successor.
 - e) All directors, including those appointed under Rule 46 (c) must at all times meet the Credit Unions "Fit and Proper Person" policy, and either the Reserve Bank of New Zealand has accepted the Suitability Notice or the Director holds a notice of no objection from the in relation to his or her Suitability Notice.
- 47 The Board, together with the CEO (as ex officio without vote), shall meet at least 11 times a year at a time and place to be determined by the Board. The Chair, or in his 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 (3) 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 special 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.
- 48 A meeting of Directors may be held either:
- a) By the number of the Directors to constitute a quorum being assembled together at the place, date and time appointed for the meeting; or
 - b) By means of audio, or audio and visual communication by which all Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting; or
 - c) By written resolution circulated to all Directors and consented to in lieu of a meeting; or
 - d) Directors shall not be entitled to vote by Proxy.

- 49 Four (4) 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.
- 50 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 46(c).
- 51 The Board may establish such committees as it sees fit to carry out such delegated functions as the Board may direct.

ASSOCIATE DIRECTORS

- 52 The Board may appoint such Associate Directors as it may decide to a maximum of three (3).
- 53 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.
- 54 Every Associate Director must meet the requirements of the Credit Union's "Fit and Proper Person" Policy and Suitability Notice for Directors as per Rule 29 (b).

DUTIES OF THE BOARD OF DIRECTORS

- 55 The Board shall 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 to the duties customarily performed by a Board of Directors, the Board shall:
- a) Prescribe the forms to be completed by applicants for membership, to act upon applications for membership and to establish such procedures as will ensure that membership applications are processed with a minimum of delay.
 - b) Maintain policies of insurance which shall be available to provide loan protection insurance.
 - c) Determine the lending policy of the Credit Union to its members and ensure that the details of the lending policies, from time to time in force, are readily available to members.
 - 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 by-laws under which Christmas Account and other types of savings 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 from earnings in accordance with Rule 94.
 - 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.
 - h) Borrow money within the terms and limits set out in the Trust Deed.
 - i) Ensure that the Treasurer and every other officer having the receipt or charge of money shall, before taking up office, give security in accordance with Section 114 of the Act.

- j) Ensure compliance with the Rules and Trust Deed in relation to investments by the Trustees.
- k) Cause proper accounting records to be kept relating to the transactions of the Credit Union and its assets and liabilities in accordance with Sections 60 and 121 of the Act.
- l) 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.
- m) 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 to 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.
- n) Maintain an appropriate insurance cover over the fixed assets of the Credit Union and for all other risks as circumstances may warrant.
- o) Maintain a Conflicts Register at the registered office of the Credit Union and ensure that it is properly updated and maintained in accordance with Rule 87.
- p) Give meaningful effect to the objects of the Credit Union set out in Rule 3 hereof.
- q) Ensure that the Credit Union complies with all of its obligations under the Act.
- r) Perform or authorise any action consistent with the provisions of the law and these Rules not specifically reserved by these Rules for the members.
- s) Maintain and effect insurance to indemnify an Officer or employee in respect of:
 - (i) 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; or
 - (ii) Costs incurred by that Officer or employee in defending or settling any claim or proceeding relating to any such liability; or
 - (iii) Costs incurred by that Officer or employee in defending any criminal proceedings in which he or she is acquitted.
- t) Appoint an Audit and Risk Committee in accordance with Rule 73.
- u) The Board may enter into Agreements, whether with the New Zealand Association of Credit Unions or any other person for the provision of banking and other transactional or administrative services that allow the Credit Union to offer services to members
- v) Perform such other duties considered reasonable by the Board as the members may from time to time require.

REMUNERATION OF DIRECTORS

- 56 Legitimate expenses of elected officers may be reimbursed 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.
- 57 Fees and meeting payments may be paid to the Directors in such amounts and manner as the Board in its absolute discretion may decide provided however that the total fees, and meeting payments so paid shall not exceed that sum which has been approved at an immediately preceding AGM (or adjourned Annual Meeting) of the members of the Credit Union. However that in the event of acceptance of a transfer of engagements pursuant to Rule 107 the maximum total sum shall be temporarily increased to remunerate new Directors on the same basis as the incumbent Directors until the date of the next AGM on a pro-rata basis for the length of service of the new Directors

OFFICERS

- 58 The officers of the Credit Union shall be elected and hold office as follows:
- a) Within 21 days following confirmation of the appointment of the Directors after an AGM, the Directors shall elect from their own number a Chair, Vice-Chair, Treasurer and Secretary provided that no person who is 19 years of age or younger shall hold the office of Treasurer. Alternatively the Treasurer and/or Secretary may be elected by the Board from Management or Associate Directors if considered appropriate by the Board.
 - b) The offices of Secretary and Treasurer may be combined subject to the consent in writing of the Registrar.
 - c) 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.
 - d) In the event of a vacancy in the office of Chair, Vice-Chair, Treasurer and/or Secretary, caused by death or disqualification of an officer so elected, the Directors shall elect from their own number, or Management or Associate Directors in the case of Treasurer and/or Secretary if considered appropriate by the Board, a person to fill the vacant office and that person shall hold such office until the next AGM or until the election and qualification of a successor. The officer must have completed the requirements of the Credit Union's "Fit and Proper Person Policy".

PATRON

- 59 A meeting of members may approve the appointment of a member to the office of Patron of the Credit Union following recommendation by the Board.
- 60 There may only be one Patron at any one time.
- 61 The term of office of the Patron shall be from their election until death, resignation or their removal from office in accordance with these Rules.
- 62 The Patron shall have the right to attend and be heard at meetings of the Board but shall have no vote.
- 63 Directors of the Credit Union may not hold the office of Patron.
- 64 The office of Patron shall be an honorary one providing unique recognition to exceptional members. The appointment is personal to the bearer of the title.

CHAIR AND VICE CHAIR

- 65 The functions of the Chair shall be as follows:
- a) The Chair shall preside at all meetings of the members, subject to rule 83, 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 may be directed to perform by resolution of the Board not inconsistent with the provisions of the law or these Rules.

- b) At any meeting of members (except a meeting called by the Supervisor under the Trust Deed) or the Board, the Chair, in addition to a deliberative vote, shall have a casting vote which may be exercised in the event of equality of voting.
- c) 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.
- d) 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.
- e) 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

- 66 The Treasurer shall monitor and report to the Board that:
- a) Financial Statements for the Credit Union are prepared each month and presented to the Board.
 - b) Financial Statements are prepared in respect of each financial year in compliance with Sections 60 and 121 of the Act, part 7 of the FMC Legislation, and Section 6 of the Financial Reporting Act 2013.
 - c) Within 3 months of the close of each financial year an annual return for that financial year is sent in accordance with Section 127 of the Act.
 - d) 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 is made available without charge to a member or person interested in the funds of the Credit Union upon their application.
 - e) The following are kept 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, in accordance with Section 131 of the Act.
 - (iii) A copy of the latest audited Financial Statements which shall be open to inspection by any member, or person having interest in the funds of the Credit Union, in accordance with Section 132 of the Act.
 - f) The performance of such other duties as he or she may be directed to perform by resolution of the Board not inconsistent with the provisions of the law or these Rules.
- 67 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

- 68 The Secretary shall prepare and maintain full and correct records of all meetings of the members and the Board. The Secretary shall give, or shall cause to be given, in the manner provided in these Rules, proper notice of all meetings of the members and shall perform such other duties as the Secretary may be directed to perform by resolution of the Board not inconsistent with the provisions of the law or these Rules.

TRUSTEES

- 69 The Trustees of the Credit Union shall be elected and hold office as follows:
- a) There shall be three Trustees who shall have attained the age of 20 years and who shall be elected by the members from the Board.
 - b) Following director election and appointment, the Trustees shall be elected for a term of up to three (3) years. Each year one Trustee shall retire on rotation but may be eligible for re-election. No person shall be elected for a term of office as Trustee which exceeds the term then remaining of that person as a Director of the Board.
 - c) The same person shall not hold the office of Secretary and/or Treasurer of the Credit Union while holding at the same time a position as Trustee of the Credit Union.
 - d) The Trustees shall choose from among their number a Chair and Secretary which offices may be held by the same person. The Secretary shall maintain and have custody of full and correct records of every action taken by the Trustees.
 - e) Within 14 days after the appointment of a Trustee the Secretary shall send to the Registrar a copy of the Resolution signed by the Trustee so elected and by the Secretary.
 - f) As soon as practicable after the death or disqualification of a Trustee, a new Trustee shall be elected by the members from the Board.
- 70 The Trustees shall meet on at least one occasion each quarter at a time and place to be determined by the Trustees. Notice of such meeting shall be given to the Trustees in such manner as they may agree from time to time by resolution. The Trustees shall keep a record of all such meetings. A resolution in writing signed by all the Trustees who would be entitled to vote on that resolution is as valid as if it had been passed at a meeting of Trustees.
- 71 The Trustees shall:
- a) Act for the Credit Union and fulfil all statutory duties required of the Trustees. In the event of a vacancy caused by the death or disqualification of a Trustee the Board may elect from their own number a person to fill the vacant office and that person shall hold such office until the election and qualification of a successor.
 - b) Supervise all loans made by the Credit Union to members and review any loan application they deem fit to determine whether the security offered by the member is sufficient and the terms upon which such loans shall be made.
 - c) Control all bank accounts under such terms as may be determined by resolution of the Board.
 - d) Hold all property belonging to the Credit Union which shall be vested in the Trustees for the use and benefit of members and all persons claiming through any of them according to these Rules.
 - e) Pay any monies received by the Trustees on account of any investment of the Credit Union within 3 working days to the Treasurer with full particulars so as to enable the accounts to be correctly kept.
 - f) Borrow money within the terms and limits set out in the Trust Deed.
 - g) Ensure compliance with the Rules and the Trust Deed in relation to the making of loans to members.

- h) Invest the funds of the Credit Union in accordance with these Rules, the Trust Deed and the provisions of Sections 49 of the Act.
 - i) Make a monthly report on loan matters to the Board and a general report to the members at the AGM.
- 72 The Credit Union, in the name of the Trustees, is authorised to purchase, hold, take on lease, or otherwise provide
- a) any land, and may sell, exchange, mortgage, or lease any such land, and erect, equip, furnish, alter, and maintain, or pull down buildings on it; and
 - b) any building or part of a building, and equip, furnish, alter, and maintain, or pull down any such building.

AUDIT AND RISK COMMITTEE

- 73 There shall be an Audit and Risk Committee, which shall be appointed by the Board as a committee of the Board and shall consist of three (3) or more members (at least two of whom shall be members of the Board) as the Board in its absolute discretion may decide.
- 74 The Audit and Risk Committee shall:
- a) Ascertain that all actions by the Trustees and the Board are in conformity with:
 - (i) these Rules;
 - (ii) the Act;
 - (iii) the FMC Legislation;
 - (iv) the NBDT Act and
 - (v) the International Credit Union Operating Principles.
 - b) Make or cause to be made a routine operating inspection of the affairs of the Credit Union at least once every three (3) months, which shall include an examination of its books including the system of control maintained under Sections 121 of the Act, and an inspection of the securities, cash, accounts and loans.
 - c) 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.
- 75 The Audit and Risk 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 125 of the Act and with the FMC Legislation.
- 76 The Audit and Risk 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 74.

APPOINTMENT OF EXTERNAL AUDITOR

- 77 The Credit Union shall appoint a properly qualified and independent external Auditor to audit the Financial Statements of the Credit Union each year in accordance with Sections 65 and 123 to 124 of the Act and in accordance with the FMC Legislation, and the Trust Deed.

TRUST DEED

- 78 In order to comply with the FMC Legislation and any Exemption Notice issued thereunder the Trustees may on the recommendation of the Board 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 Trustees and the Board and on the Credit Union; and
 - c) the Credit Union agrees to grant to the Supervisor a charge in and over its secured property and assign by way of security to the Supervisor all secured property that constitutes present or future rights or things in action.
- 79 Upon entry into any such Trust Deed the Supervisor shall be deemed to be a person claiming through the Members pursuant to section 112(1) of the Act and the Trustees and Board will act accordingly.
- 80 Any directions given by the Supervisor to the Trustees and/or the Board under the powers conferred on the Supervisor in the Trust Deed shall be given effect to by the Trustees and each Director and be binding on all Members.
- 81 The Credit Union and the Trustees are 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.
- 82 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.
- 83 At any time, the Supervisor may call a meeting of Members under the Trust Deed to raise and discuss any issue relating to the administration of the affairs of the Credit Union. The Supervisor shall be responsible for chairing any such meeting.
- 84 The share capital of the Credit Union shall be issued on the condition that its value may be written down and that any shares may be consolidated with other shares held by the Member 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 of Members.
- 85 The Credit Union shall to the extent necessary to comply with the FMC Legislation, any Exemption Notice issued thereunder or any provision of the Trust Deed entered into with the

Supervisor, amend these Rules provided that no amendment of these Rules shall be valid until registered pursuant to section 23 of the Act.

- 86 A Director or Trustee shall vacate his or her office by resignation immediately he or she receives a notice of disqualification from the Supervisor pursuant to the Trust Deed.

CONFLICT OF INTEREST

- 87 For the purposes of Rules 88, 89, and 90 only, and no other Rules:
- a) 'Officer' includes a Director or member of the Board (including any other person who by precedent or agreement is an ex officio member), a member of a committee of the Board, a Trustee;
 - b) 'Conflicts Register' means the register maintained by the Board;
 - c) '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) A staff member;
 - (iii) A spouse, defacto partner, child, or member of immediate household;
 - (iv) A parent, uncle, aunt, brother, sister, or immediate relationship through marriage;
 - (v) A cousin in the first degree of blood relationship;
 - (vi) A business partner or former business partner;
 - (vii) A relative or close personal friend or associated person in circumstances which is deemed by the other members of the Board or Committee or sub-committee to constitute a conflict of interest.
- 88 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 Committee of which the officer is a member or ex-officio member. The minutes or record of any meeting of the Board or Committee shall note the existence of a conflict or possible conflict of interest of the named officer.
- 89 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 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, 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;
 - d) The disclosure of a conflict of interest at any Board or Committee meeting shall be promptly entered in the Conflicts Register of the Credit Union.
- 90 Any decision which is made or taken in breach of Rule 89 shall be invalid and ultra vires the Rules of the Credit Union.

DISQUALIFICATION OF PATRON, DIRECTORS AND TRUSTEES

- 91 A Director, Associate Director, Trustee, or Patron shall vacate their office immediately if he or she:
- a) Ceases to be a member of the Credit Union; or
 - b) Becomes bankrupt or makes any arrangement or composition with his or her creditors generally; or
 - c) Becomes a protected person under the Protection of Personal Property Rights Act 1988 or of unsound mind under the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
 - d) Resigns his or her office by notice in writing to the Credit Union; or
 - e) Has been convicted of an offence involving fraud or dishonesty; or
 - f) Has received a notice of disqualification from the Supervisor pursuant to the Trust Deed; or
 - g) 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 by a Court or Tribunal, or conviction for failing to make such a disclosure; or
 - h)
 - i) Fails to meet or maintain the requirements under the Fit and Proper Policy; or
 - j) Fails to meet or maintain the requirements under the Suitability Notice for Director as prescribed by the Reserve Bank of New Zealand and/or the Reserve Bank of New Zealand issues a notice of objection in relation to his or her Suitability Notice of Director under the NBDT Act; or
 - k) A Patron shall vacate his or her office immediately he or she is the subject of a motion to remove the incumbent from office carried by the vote of no less than two-thirds of members present at a meeting of members.

LOANS

- 92 The Credit Union shall only make loans to its members, which loans shall be subject to the following:
- a) Applications for loans shall be on forms prescribed by the Board and shall in each case set forth the purpose for which the loan is desired, the security offered (if any) and such other information as the Board may require.
 - b) The Credit Union may make loans for such purposes and upon such security (or without security) and conditions as shall be determined by the Board.
 - c) The Board may fix the maximum amount of any loan, secured or unsecured, which may be made by the Credit Union to a member, and the total amount that may be outstanding on loans to members.
 - d) The Board may fix the maximum amount by which the indebtedness of a member (other than a non-qualifying member as defined in Rule 8) may exceed the total amount of the member's shareholding in the Credit Union, but in any event the indebtedness of a member shall not, at the time the loan is made, exceed 10 percent of the value of all tangible assets of the Credit Union in the case of a secured loan; or 5 percent of all tangible assets in the case of an unsecured loan, as provided in the Trust Deed.
 - e) In the case of a non-qualifying member no loan shall be made by the Credit Union if the making of the loan would cause that member's total liability (including contingent liability) to the Credit Union, whether as borrower, guarantor, or otherwise, to exceed his or her total paid-up shareholding in the Credit Union at that time.

- f) The maximum initial term which a loan by the Credit Union must be documented for shall be fixed by the Board but in any event shall not exceed 30 years, in the case of a secured loan, or 10 years, in the case of an unsecured loan, or such other period as may from time to time be authorised by the Act or approved by the Registrar and subject to the Trust Deed.
- g) In the event of insufficient funds being available to meet loan applications which would otherwise be approved it should be the policy of the Credit Union to give preference in all cases to those applications for a lesser amount.
- h) The Board may make loans available at concessionary interest rates to staff whilst in the employment of the Credit Union at no less than the lowest interest rate available to members, up to a maximum of \$20,000 for any one employee. All other terms and conditions of loans to staff are to be the same as those that apply to members.

DONATIONS

- 93 The Directors may in their absolute discretion, but having due regard to the Credit Union's financial position, apply in any financial year up to:
- a) 2.5% per cent of the Credit Union's profits available at the end of the previous year; or
 - b) \$20,000 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.

DIVIDENDS

- 94 Dividends may be paid to members as follows (subject to compliance with the Trust Deed and the Act):
- a) In the course of, and/or at the end of, each financial year the Board may declare a dividend from the net earnings received by the Credit Union.
 - b) In the course of any financial year the Directors may declare a special dividend to be paid on shares withdrawn prior to the end of that financial year.
 - c) Dividends may be paid on all fully paid up shares held for a period of not less than one month during that financial year or for such other period, whether continuous or broken, as the Board may direct. A fully paid-up share shall be deemed to have been held by the member for one month provided payment in full is received on or before the third working day of that month and the share remains fully paid-up until the last working day of that month.
 - d) Fully paid-up shares which at the end of the financial year have been held for a period of less than 12 months shall be entitled to payment of a dividend, if declared, if an amount in direct proportion to the period that the shares were so held.
 - e) Where, at the end of any financial year, the Board declares a dividend of not less than 4 percent, the Board may direct the payment of a refund, either in whole or in part, of the interest paid by members in the course of that financial year on loans made by the Credit Union. The rate of any such interest rebate fixed by the Board shall be applied to each and every loan made by the Credit Union without variation or adjustment.
 - f) 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

- 95 It shall be the duty of each member to notify the Credit Union of his or her addresses for service and any other contact details and, where there are any changes from time to time of such addresses for service or other contact details, to promptly notify the Credit Union of such changes.
- 96 Where notice is required to be given pursuant to these Rules then notice is to be made in writing. Notices to members may be sent by:
- a) Post; or
 - b) Email; or
 - c) Facsimile; or
 - d) Personal delivery to any of the member's addresses for service, marked for the attention of the member.
- 97 Where a member has provided alternative addresses for service, the member shall be deemed to have consented to receiving notices (including in electronic form) under these Rules to any of the alternative addresses for service;
- 98 Where a member has requested privacy and a notice of meeting is required to be sent to the member, then notice will (unless otherwise required by the Registrar) be deemed to have been effected by:
- a) Advertising it in newspapers with suitable circulation; or
 - b) Posting it on the Credit Union's website; or
 - c) Displaying it in Credit Union branches
- 99 The Board may, in its sole discretion, also advertise any notice to members in the Public Notices column of newspapers with suitable circulation.
- 100 Where a share is held by two or more members jointly, service on the first named person on the account shall constitute service on all joint members.
- 101 Notices to the Credit Union may be sent marked to the attention of the Secretary of the Credit Union by post to the Credit Union's registered office or by email to enquiries@nzcubaywide.co.nz or personal delivery to the Credit Union's registered office.
- 102 Notices shall be deemed to be received:
- a) In the case of a notice sent by post, on the third working day after posting;
 - b) In the case of a notice sent by email, on the working day on which the email is despatched, or, if despatched after 5pm or on any day other than a working day, on the next working day after the date of despatch;
 - c) In the case of a notice that is delivered personally to a member, on the day of delivery;
- 103 Delivery or service in accordance with this Rule will be valid and effectual even though the member or Credit Union may not actually receive the notice.
- 104 In proving service:
- a) In the case of a notice sent by post or personal delivery, it shall be sufficient to prove that the envelope or package containing the notice was properly addressed and posted or delivered with all attached postal or delivery charges paid.
 - b) In the case of a notice sent by email, it shall be sufficient to prove that the notice was properly addressed and sent by email.

TRANSFER OF ENGAGEMENTS

- 105 In the event of a proposal being received for the transfer of a Credit Union's engagements to the Credit Union, the Board of Directors may on behalf of the members accept such a transfer of engagements in accordance with Sections 83 and 135 of the Act provided that such acceptance is by resolution passed by not less than 75 per cent of the Board of Directors voting in person.
- 106 In considering a transfer of engagements the Board of Directors shall have regard to the consequential effects on the Credit Union's common bond and the requirements of Section 135 (4) of the Act.
- 107 It shall be within the power of the Board of Directors 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 and one or more (but not exceeding two) Associate Directors who shall then hold office as additional Directors and Associate Directors of the Credit Union for an agreed period which shall not in any case exceed three years. Such appointments shall meet the requirements of the Credit Union's "Fit and Proper Person Policy" and shall be formally advised in writing and are in addition to the number of Directors specified in Rule 46 and Associate Directors specified in Rule 52.

RULES AND ALTERATIONS TO RULES

- 108 No new Rule shall be made nor shall any of these Rules be altered or abandoned unless notice of the motion to make such new Rule, alteration or abandonment and notice of date, place and time of the meeting called to consider such motion has been given to each member. Such meeting may adopt such new Rule, alteration or abandonment only if it is passed as a Special Resolution.
- 109 No amendment of these Rules shall be valid until registered pursuant to Section 23 of the Act.

DISPUTES

- 110 Every member (including a former member) who wishes to dispute a decision made by the Credit Union which affects their entitlement to be or continue to be a member, or affects other rights of membership the disputing party has, may do so. The procedure for dealing with a dispute is set out below:
- a) Any member, who wishes to lodge a dispute with the Credit Union against any decision of the Credit Union of the kind mentioned above, shall do so within 28 days of receiving notice of the decision they wish to dispute. If the dispute is raised outside that time frame the Credit Union is not obliged to consider the dispute raised.

- b) A dispute shall be lodged by the member giving written notice to the Credit Union of the dispute, and shall set out the reasons why the member believes the decision made by the Credit Union is wrong.
- c) The Credit Union shall acknowledge receipt of the notice within 7 days of receiving the same and shall refer the dispute immediately to the President of the Hawke's Bay District Law Society for the matter to be heard by an arbitrator.
- d) The process for hearing the dispute shall be determined between the parties at the time or, failing agreement, by the arbitrator.
- e) The decision of the arbitrator shall be final (including any decision as to the apportionment of costs).

INVESTIGATION

- 111 Applications may be made 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 Section 89 of the Act as follows:
- a) Where the membership of the Credit Union does not exceed 1,000 members, on application made by one-fifth of the whole number of members.
 - b) Where the membership of the Credit Union exceeds 1,000 members, on application made by 200 members.

DISSOLUTION

- 112 On the requisition of 50 percent of the members a Special Meeting shall be called by the Chair to consider the motion that the Credit Union be dissolved. Should such motion be carried by 75 percent of the members present then the meeting shall stand adjourned for a period of one month. The Secretary shall cause notice to be given to each member of such adjourned meeting and the business proposed. If at the resumption of the meeting the resolution is then confirmed by 75 percent of the members present the consent to dissolution shall be testified by the signature of an instrument of dissolution in the form prescribed by Section 94 of the Act.
- 113 In the event of the dissolution of the Credit Union any assets remaining after the payment of debts, the repayment of share capital and the discharge of other liabilities of the Credit Union shall be transferred to the Association or, alternatively, shall be applied for charitable purposes in the event of a resolution to that effect being carried by 50 percent of the members present at the adjourned meeting held in accordance with Rule 114.