Schedule 1 Rules Financial Counsellors A.C.T. (FC-ACT)

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Objects of the association

Part 1.1 Preliminary

1 Definitions

In these rules:

Note A definition applies except so far as the contrary intention appears (see Legislation Act, s 155).

financial year means the year ending on 30 June.

member means a member, however described, of the association.

ordinary committee member means a member of the committee who is not an office-bearer of the association as mentioned in section 12 (1) (a).

secretary means the person holding office under these rules as secretary of the association or, if no such person holds that office, the public officer of the association.

the Act means the Associations Incorporation Act 1991.

the regulation means the Associations Incorporation Regulation 1991.

1A Application of Legislation Act 2001

The *Legislation Act 2001* applies to these rules in the same way as it would if they were an instrument made under the Act.

Part 1.2 Membership

2 Membership requirements

There are three categories of membership for financial counsellors:

- 1. affiliate
- 2. associate
- 3. full/accredited.

Affiliate (**non-voting**) An individual working in the financial counselling sector in a related role

OR

Actively studying for the Diploma of Community Services (Financial Counselling) or has completed the Diploma of Community Services (Financial Counselling) - but is not working as a financial counsellor.

Associate Working as a financial counsellor

AND

Actively studying for the Diploma of Community Services (Financial Counselling)

OR

Holds the Diploma of Community Services (Financial Counselling) and has not yet had 24 months full-time experience, however meets the requirements for continuing professional development and supervision as outlined in "National Standards For Membership & Accreditation, Australian State And Territory Financial Counselling Associations, January 2015."

Accredited or Full Members Has had 24 months full-time experience working as a financial counsellor (including while studying if relevant)

AND

Holds the Diploma of Community Services (Financial Counselling)

AND

If working as a financial counsellor, meets requirements for continuing professional development and supervision

OR

If not working as a financial counsellor, meets requirements for continuing professional development as outlined in "National Standards For Membership & Accreditation, Australian State And Territory Financial Counselling Associations, January 2015."

All members

Agree to abide by the Australian Financial Counselling Code of Ethical Practice and agree to abide by relevant State/Territory rules

3 Nomination for membership

- (1) A nomination of a person for membership of the association—
 - (a) must be made by a member of the association in writing in the form set out in appendix 1; and
 - (b) must be lodged with the secretary of the association.
- (2) As soon as is practicable after receiving a nomination for membership, the secretary must refer the nomination to the committee which must decide whether to approve or to reject the nomination.

- (3) If the committee decides to approve a nomination for membership, the secretary must as soon as practicable after that decision notify the nominee of that approval and request the nominee to pay within 28 days after receipt of the notification the sum payable under these rules by a member as the entrance fee and the first year's annual subscription.
- (4) The secretary must, on payment by the nominee of the amounts mentioned in subsection (3) within the period mentioned in that subsection, enter the nominee's name in the register of members and, on the name being so entered, the nominee becomes a member of the association.

4 Membership entitlements not transferable

A right, privilege or obligation that a person has because of being a member of the association—

- (a) cannot be transferred or transmitted to another person; and
- (b) terminates on cessation of the person's membership.

5 Cessation of membership

A person ceases to be a member of the association if the person—

- (a) dies or, for a corporation, is wound up; or
- (b) resigns from membership of the association; or
- (c) is expelled from the association; or
- (d) fails to renew membership of the association.

6 Resignation of membership

- (1) A member is not entitled to resign from membership of the association except in accordance with this section.
- (2) A member who has paid all amounts payable by the member to the association may resign from membership of the association by first

giving notice (of not less than 1 month or, if the committee has determined a shorter period, that shorter period) in writing to the secretary of the member's intention to resign and, at the end of the period of notice, the member ceases to be a member.

(3) If a person ceases to be a member, the secretary must make an appropriate entry in the register of members recording the date the member ceased to be a member.

7 Fee, subscriptions etc

- (1) The entrance fee to the association is \$10 or, if any other amount has been determined by resolution of the committee, the other amount.
- (2) The annual membership fee of the association is \$20 or, if any other amount has been determined by resolution of the committee, that other amount.
- (3) The annual membership fee is payable—
 - (a) except as provided by paragraph (b)—before 1 July in each calendar year; or
 - (b) if a person becomes a member on or after 1 July in any calendar year—before 1 July in each succeeding calendar year.

8 Members' liabilities

The liability of a member to contribute towards the payment of the debts and liabilities of the association or the costs, charges and expenses of the winding up of the association is limited to the amount (if any) unpaid by the member in relation to membership of the association as required by section 7.

9 Disputes and disciplining of members Disputes

If a dispute arises between members (in their capacity as members), or between a member and the Association, or the member and the committee then the following process will apply.

If the dispute is between members, the members will be encouraged to resolve the dispute between themselves. If this is not possible they should bring the dispute to the President who will either manage the dispute or appoint another member acceptable to those involved in the dispute to manage the dispute and work towards a resolution of the dispute, by mediation.

Each participant in the dispute will be given the opportunity to present their position. The appointed mediator will listen to both (all) sides of the dispute, and attempt to assist the parties to reach resolution on the dispute. All parties should agree to abide by the resolution. Should the dispute not be resolved by internal process, it can be referred to an outside source such as Conflict Resolution Service. Should a party refuse to participate in this process, and the dispute remains unresolved then the Committee Executive will:

- (i) Examine all documentation, protecting any necessary confidentiality requirements.
- (ii) Interview the parties applying rules of natural justice.
- (iii) Make a decision regarding the dispute which best reflects the Rules of Association and the Society's objectives.
- (iv) Inform the parties of its decision within a reasonable time and the nature of any proposed disciplinary action.

Disciplining of Members

The committee may decide to institute an investigation in relation to a member where:

- (i) a complaint is made against the member; or
- (ii) other information comes to the committee's attention,

in either case that suggests unsatisfactory professional conduct on the part of the member.

The committee has the discretion to determine who should be appointed as investigator of the matter.

Where an investigation is conducted, the investigator may provide information to the member's employer and obtain information from the member's employer, where reasonably necessary to investigate an allegation of unsatisfactory professional conduct (and the member is deemed to have consented to this as a condition of their membership of the association).

At the conclusion of the investigation, the investigator must report to the committee and the committee must decide what remedial action, if any, should be taken. This may include:

- (i) counselling the member about the matter;
- (ii) the provision of a formal warning to the member;
- (iii) requiring the member to undertake remedial action such as provide an apology to the client or employer agency or complete specified training;
- (iv) suspending the member from membership of the association for a defined period or until defined action is undertaken;
- (v) terminating the member's membership of the association; or
- (vi) any other action the committee thinks appropriate.

The Secretary of the Committee shall serve a written notice to the member as soon as practicable setting out the resolution of the committee and the grounds on which it is based.

Should a member fail to meet the requirements for professional development and supervision as outlined in "National Standards For Membership & Accreditation, Australian State And Territory Financial Counselling Associations, January 2015" or fail to pay their fees, without good reason, they will be given a formal warning following which they will have 28 days to remedy, or demonstrate that they will be able to remedy. Otherwise they will be suspended from the Association until the failure is rectified.

10 Right of appeal of disciplined member

Appeals process

A member whose membership has been suspended or terminated may appeal the decision by giving notice to the committee. The notice of appeal must be given to the committee within the period of 28 days from the date that the committee notified the member of his or her membership suspension or termination.

The committee must appoint an independent Panel to decide the appeal. Their decision is final.

10A Additional rights of association where membership is suspended or terminated

The committee is entitled to maintain a register with the names and details of members whose membership has been suspended or terminated and to make this register available to the Financial Counselling Australia for provision to financial counselling associations in other States and Territories (and members are deemed as a condition of their membership of the association to have consented to this both during and after termination of their membership).

Part 1.3 Committee

11 Powers of committee

The committee, subject to the Act, the regulation, these rules, and to any resolution passed by the association in general meeting—

- (a) controls and manages the affairs of the association; and
- (b) may exercise all functions that may be exercised by the association other than those functions that are required by these rules to be exercised by the association in general meeting; and
- (c) has power to perform all acts and do all things that appear to the committee to be necessary or desirable for the proper management of the affairs of the association.

12 Constitution and membership

- (1) The committee consists of—
 - (a) the office-bearers of the association; and
 - (b) 8 ordinary committee members;

each of whom must be elected under section 13 or appointed in accordance with subsection (4).

- (2) The office-bearers of the association are—
 - (a) the president; and
 - (b) the treasurer; and
 - (c) the secretary.
- (3) Each member of the committee holds office, subject to these rules, until the conclusion of the annual general meeting following the date of the member's election, but is eligible for re-election.

(4) If there is a vacancy in the membership of the committee, the committee may appoint a member of the association to fill the vacancy and the member so appointed holds office, subject to these rules, until the conclusion of the next annual general meeting after the date of the appointment.

13 Election of committee members

- (1) Nominations of candidates for election as office-bearers of the association or as ordinary committee members—
 - (a) must be made in writing, signed by 2 members of the association and accompanied by the written consent of the candidate (which may be endorsed on the nomination form); and
 - (b) must be given to the President of the association at the start of the Annual General meeting.
- (2) If insufficient nominations are received to fill all vacancies on the committee, the candidates nominated are taken to be elected and further nominations may be received at the annual general meeting.
- (3) If insufficient further nominations are received, any vacant positions remaining on the committee are taken to be vacancies.
- (4) If the number of nominations received is equal to the number of vacancies to be filled, the people nominated are taken to be elected.
- (5) If the number of nominations received exceeds the number of vacancies to be filled, a ballot must be held.
- (6) The ballot for the election of office-bearers and ordinary committee members must be conducted at the annual general meeting in the way the committee may direct.
- (7) A person is not eligible to simultaneously hold more than 1 position on the committee.

14 Secretary

- (1) The secretary of the association must, as soon as practicable after being appointed as secretary, notify the association of his or her address.
- (2) The secretary must keep minutes of—
 - (a) all elections and appointments of office-bearers and ordinary committee members; and
 - (b) the names of members of the committee present at a committee meeting or a general meeting; and
 - (c) all proceedings at committee meetings and general meetings.
- (3) Minutes of proceedings at a meeting must be signed by the person presiding at the meeting or by the person presiding at the next succeeding meeting.

15 Treasurer

- (1) The treasurer of the association must—
 - (a) collect and receive all amounts owing to the association and make all payments authorised by the association; and
 - (b) keep correct accounts and books showing the financial affairs of the association with full details of all receipts and expenditure connected with the activities of the association.

16 Vacancies

For these rules, a vacancy in the office of a member of the committee happens if the member—

- (a) dies: or
- (b) ceases to be a member of the association; or
- (c) resigns the office; or

- (d) is removed from office under section 17 (Removal of committee members); or
- (e) becomes bankrupt or personally insolvent; or
- (f) suffers from mental or physical incapacity; or
- (g) is disqualified from office under the Act, section 63 (1); or
- (h) is absent without a reasonable reason for three consecutive meetings.

17 Removal of committee members

The association in general meeting may by resolution, subject to the Act, section 50, remove any member of the committee from the office of member of the committee before the end of the member's term of office.

18 Committee meetings and quorum

- (1) The committee must meet at least 3 times in each calendar year at the place and time that the committee may decide.
- (2) Additional meetings of the committee may be called by any member of the committee.
- (3) Oral or written notice of a meeting of the committee must be given by the secretary to each member of the committee at least 48 hours (or any other period that may be unanimously agreed on by the members of the committee) before the time appointed for the holding of the meeting.
- (4) Notice of a meeting given under subsection (3) must specify the general nature of the business to be transacted at the meeting and also include an item 'Other Business' on the agenda.
- (5) Any 5 members of the committee constitute a quorum for the transaction of the business of a meeting of the committee.

- (6) No business may be transacted by the committee unless a quorum is present and, if within half an hour after the time appointed for the meeting a quorum is not present, the meeting stands adjourned to a time agreed.
- (7) If at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the meeting is dissolved.
- (8) At meetings of the committee—
 - (a) the president or, in the absence of the president, another committee member chosen by the members present presides

19 Delegation by committee to subcommittee

- (1) The committee may, in writing, delegate to 1 or more subcommittees (consisting of the member or members of the association that the committee considers appropriate) the exercise of the functions of the committee that are specified in the instrument, other than—
 - (a) this power of delegation; and
 - (b) a function that is a function imposed on the committee by the Act, by any other Territory law, or by resolution of the association in general meeting.
- (2) A function, the exercise of which has been delegated to a subcommittee under this section may, while the delegation remains unrevoked, be exercised from time to time by the subcommittee in accordance with the terms of the delegation.
- (3) A delegation under this section may be made subject to any conditions or limitations about the exercise of any function, or about time or circumstances, that may be specified in the instrument of delegation.

- (4) Despite any delegation under this section, the committee may continue to exercise any function delegated.
- (5) Any act or thing done or suffered by a subcommittee acting in the exercise of a delegation under this section has the same force and effect as it would have if it had been done or suffered by the committee.
- (6) The committee may, in writing, revoke wholly or in part any delegation under this section.
- (7) A subcommittee may meet and adjourn as it considers appropriate.

20 Voting and decisions

- (1) Questions arising at a meeting of the committee or of any subcommittee appointed by the committee are decided by a majority of the votes of members of the committee or subcommittee present at the meeting.
- (2) Each member present at a meeting of the committee or of any subcommittee appointed by the committee (including the person presiding at the meeting) is entitled to 1 vote but, if the votes on any question are equal, the person presiding may exercise a second or casting vote.

Part 1.4 General meetings

21 Annual general meetings—holding of

- (1) With the exception of the first annual general meeting of the association, the association must, at least once in each calendar year and within 5 months after the end of each financial year of the association, call an annual general meeting of its members.
- (2) The association must hold its first annual general meeting—
 - (a) within 18 months after its incorporation under the Act; and
 - (b) within 5 months after the end of the first financial year of the association.
- (3) Subsections (1) and (2) have effect subject to the powers of the registrar-general under the Act, section 120 in relation to extensions of time.

22 Annual general meetings—calling of and business at

- (1) The annual general meeting of the association must, subject to the Act, be called on the date and at the place and time that the committee considers appropriate.
- (2) In addition to any other business that may be transacted at an annual general meeting, the business of an annual general meeting is—
 - (a) to confirm the minutes of the last annual general meeting and of any general meeting held since that meeting; and
 - (b) to receive from the committee reports on the activities of the association during the last financial year; and
 - (c) to elect members of the committee, including office-bearers; and

- (d) to receive and consider the statement of accounts and the reports that are required to be submitted to members under the Act, section 73 (1).
- (3) An annual general meeting must be specified as such in the notice calling it in accordance with section 24 (Notice).
- (4) An annual general meeting must be conducted in accordance with the provisions of this part.

23 General meetings—calling of

- (1) The committee may, whenever it considers appropriate, call a general meeting of the association.
- (2) The committee must, on the requisition in writing of not less than 50% of the total number of members, call a general meeting of the association.
- (3) A requisition of members for a general meeting—
 - (a) must state the purpose or purposes of the meeting; and
 - (b) must be signed by the members making the requisition; and
 - (c) must be lodged with the secretary; and
 - (d) may consist of several documents in a similar form, each signed by 1 or more of the members making the requisition.
- (4) If the committee fails to call a general meeting within 1 month after the date when a requisition of members for the meeting is lodged with the secretary, any 1 or more of the members who made the requisition may call a general meeting to be held not later than 3 months after that date.
- (5) A general meeting called by a member or members mentioned in subsection (4) must be called as nearly as is practicable in the same way as general meetings are called by the committee and any member who thereby incurs expense is entitled to be reimbursed by the association for any reasonable expense so incurred.

24 Notice

- (1) Except if the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 14 days before the date fixed for the holding of the general meeting, send by email or prepaid post to each member at the member's address appearing in the register of members, a notice specifying the place, date and time of the meeting and the nature of the business proposed to be transacted at the meeting.
- (2) If the nature of the business proposed to be dealt with at a general meeting requires a special resolution of the association, the secretary must, at least 21 days before the date fixed for the holding of the general meeting, send notice to each member in the way provided in subsection (1) specifying, in addition to the matter required under that subsection, the intention to propose the resolution as a special resolution.
- (3) No business other than that specified in the notice calling a general meeting may be transacted at the meeting except, for an annual general meeting, business that may be transacted under section 22 (2).
- (4) A member desiring to bring any business before a general meeting may give written notice of that business to the secretary who must include that business in the next notice calling a general meeting given after receipt of the notice from the member.

25 General meetings—procedure and quorum

- (1) No item of business may be transacted at a general meeting unless a quorum of members entitled under these rules to vote is present during the time the meeting is considering that item.
- (2) Five members present in person (who are entitled under these rules to vote at a general meeting) constitute a quorum for the transaction of the business of a general meeting.

- (3) If within 30 minutes after the appointed time for the start of a general meeting a quorum is not present, the meeting if called on the requisition of members is dissolved and in any other case stands adjourned to the same day in the following week at the same time and (unless another place is specified at the time of adjournment by the person presiding at the meeting or communicated by written notice to members given before the day to which the meeting is adjourned) at the same place.
- (4) If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the start of the meeting, the members present (being not less than 3) constitute a quorum.

26 Presiding member

- (1) The president presides at each general meeting of the association.
- (2) If the president is absent from a general meeting, the members present must elect 1 of their number to preside at the meeting.

27 Adjournment

- (1) The person presiding at a general meeting at which a quorum is present may, with the consent of the majority of members present at the meeting, adjourn the meeting from time to time and place to place, but no business may be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- (2) If a general meeting is adjourned for 14 days or more, the secretary must give written or oral notice of the adjourned meeting to each member of the association stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting.
- (3) Except as provided in subsections (1) and (2), notice of an adjournment of a general meeting or of the business to be transacted at an adjourned meeting is not required to be given.

28 Making of decisions

- (1) A question arising at a general meeting of the association is to be decided on a show of hands and, unless before or on the declaration of the show of hands a poll is demanded, a declaration by the person presiding that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, or an entry to that effect in the minute book of the association, is evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution.
- (2) At a general meeting of the association, a poll may be demanded by the person presiding or by not less than 3 members present in person or by proxy at the meeting.
- (3) If the poll is demanded at a general meeting, the poll must be taken—
 - (a) immediately if the poll relates to the election of the person to preside at the meeting or to the question of an adjournment; or
 - (b) in any other case—in the way and at the time before the close of the meeting that the person presiding directs, and the resolution of the poll on the matter is taken to be the resolution of the meeting on that matter.

29 Voting

- (1) Subject to subsection (3), on any question arising at a general meeting of the association a member has 1 vote only.
- (2) If the votes on a question at a general meeting are equal, the person presiding is entitled to exercise a second or casting vote.

30 Appointment of Proxies

(1) Members must be present at meetings to vote – no proxies will be accepted

Part 1.5 Miscellaneous

31 Funds—source

- (1) The funds of the association must be derived from entrance fees and annual subscriptions of members, donations and, subject to any resolution passed by the association in general meeting and subject to the Act, section 114, any other sources that the committee decides.
- (2) All money received by the association must be deposited as soon as practicable and without deduction to the credit of the association's bank account.
- (3) The association must, as soon as practicable after receiving any money, issue an appropriate receipt.

32 Funds—management

- (1) Subject to any resolution passed by the association in general meeting, the funds of the association must be used for the objects of the association in the way that the committee decides.
- (2) All cheques, internet transfers, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by any 2 members of the committee or employees of the association, being members of the committee or employees authorised to do so by the committee.

33 Alteration of objects and rules

Neither the objects of the association mentioned in the Act, section 29 nor these rules may be altered except in accordance with the Act.

34 Common seal

- (1) The common seal of the association must be kept in the custody of the secretary.
- (2) The common seal must not be attached to any instrument except by the authority of the committee and the attaching of the common seal must be attested by the signatures either of 2 members of the committee or of 1 member of the committee and of the secretary.

35 Custody of books

Subject to the Act, the regulation and these rules, the secretary must keep in his or her custody or under his or her control all records, books, and other documents relating to the association.

36 Inspection of books

The records, books and other documents of the association must be open to inspection at a place in the ACT, free of charge, by a member of the association at any reasonable hour.

37 Service of notice

For these rules, the association may serve a notice on a member by sending it by post to the member at the member's address shown in the register of members.

Note For how documents may be served, see the Legislation Act, pt 19.5.

38 Surplus property

- (1) At the first general meeting of the association, the association must pass a special resolution nominating—
 - (a) another association for the Act, section 92 (1) (a); or
 - (b) a fund, authority or institution for the Act, section 92 (1) (b);

in which it is to vest its surplus property in the event of the dissolution or winding up of the association.

(2) An association nominated under subsection (1) (a) must fulfil the requirements specified in the Act, section 92 (2).

Appendix 1

see s 3 (1))			
Application for membership of association			
Incorporated (incorporated under the Associations Incorporation Act 1991) [,			
(full name of applicant) of			
(address)apply to become			
(occupation)			
apply to become			
(occupation)			
an			
1. affiliate or			
2. associate or			
3 full/accredited			

member of the incorporated association. If I am admitted as a member, I agree to be bound by the rules of the association for the time being in force.

In making this application for membership of the Association, I acknowledge and agree to the following:

(Please circle category that applies)

- 1. I understand that the Association has agreed to the national standard Disciplinary Process – Policy and Procedures and that these govern how the Association assesses, handles and responds to complaints about Members. Accordingly I am bound by the Disciplinary Process— Policy and Procedures.
- 2. Where a complaint is made about me, I consent to the Association and any investigator appointed by the Association:
 - a. asking my employer, former employer, a client or former client, a co-worker or anyone else for relevant information and to the extent necessary to do so disclosing information to them about the complaint about me; and

- b. obtaining any of my personal information from my employer, a former employer, a client or former client, a co-worker or anyone else, in each case to the extent that the personal information appears to be relevant to the matters the subject of the complaint.
- 3. I confirm that this Membership Application may be provided to anybody by way of evidence that I have consented to the Association asking for and obtaining information about me for the purposes of handling a complaint about me.
- 4. I acknowledge that if my membership of the Association is suspended or terminated, the Association may through Financial Counselling Australia make that information available to the financial counselling associations in other States and Territories of Australia.

••••••
(Signature of applicant)
Date
I,
(full name)
a member of the association, nominate the applicant, who is personally known to me, for the membership of the association.
(Signature of proposer)
Date
I,
(full name)
a member of the association, second the nomination of the applicant, who is
personally known to me, for membership of the association.
(Signature of seconder)
Date

Appendix 2

Objects and Purpose of Financial Counsellors – ACT (FC-ACT)

To provide a voice for financial counsellors

To promote and develop the interests of its members

To ensure members provide a confidential free service to the community To develop policy and undertake advocacy and systemic reform activities which enhance the financial well being of all people, particularly low income and vulnerable people

To promote protection, fairness and equity for consumers in credit and debt recovery practice and legislation

To provide a support network for members particularly in the areas of

- Raising the profile in the community of financial counsellors
- ➤ The promotion of the provision of adequate funding for members to undertake their work
- ➤ Achievement of greater recognition by government and the community of the importance of the work of financial counsellors
- > The provision of a forum for the raising and debating of systemic issues for action

To enhance the skills of members by providing education, training and professional development to members and providing input into any external education and raining programs.

To develop consumer information and provide community education.