



## **Governance Rules 2021**

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## 1. SCOPE

- 1.1. These Governance Rules (**Governance Rules**) are established by the Board, under the Financial Advice NZ Constitution (**Constitution clause 19.3 Rules**). They set out procedures that will apply to selection and rotation of Directors and some procedural matters relating to the conduct of Board meetings.
- 1.2. These Governance Rules are referenced in the Constitution in the following clauses:
- (a) The nomination process for Member Director vacancies is set out in the Governance Rules (**Constitution clause 14.3 Member Direction Elections**).
  - (b) The Board will notify all Voting Members of Member Director vacancies, nominees and voting procedures as set out in the Governance Rules (**Constitution clause 14.4(c)iv Member Direction Elections**).
  - (c) To ensure that at least one Member Director and one Independent Director retires in each Financial Year, Directors will retire by rotation as set out in the Governance Rules (**Constitution clause 16.3 Term of Directors**).
  - (d) Any Director vacancies, including casual vacancies, occurring during a term will be filled as set out in the Governance Rules (**Constitution clause 17.2 Director Vacancies**).
  - (e) A person stops being a Director if he or she resigns or retires as a Director as set out in the Governance Rules (**Constitution clause 18.1(a) Removal of Directors from Office**).
  - (f) A person stops being a Director if he or she is removed from office by the Board in line with the Governance Rules (**Constitution clause 18.1(c) Removal of Directors from Office**).
  - (g) The Board must follow the procedures for making Board decision at meetings, and for making decisions outside meetings, as set out in the Governance Rules. (**Constitution clause 20.7 Board Meetings and Decisions**).

## 2. INTERPRETATION

- 2.1. The Board decides any matters not provided for in these Governance Rules or any question about interpretation of these Governance Rules.
- 2.2. Where there is a conflict between these Governance Rules and the Constitution, the Constitution applies.
- 2.3. In these Governance Rules, terms with capital letters are defined in **Governance Rule 13 Definitions** unless the context requires otherwise.

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## DIRECTOR ELECTIONS & APPOINTMENTS

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### 3. MEMBER DIRECTOR ELECTIONS

- 3.1. **Governance Rule 3 Member Director Elections** and **Rule 4 Nomination Process for Member Director Vacancies** must be read in conjunction with **Constitution clause 14 (Member Director Elections)**.
- 3.2. Member Director election results are announced at the AGM, with a voting process closing at least 24 hours prior to the start of that meeting.

#### **4. NOMINATION PROCESS FOR MEMBER DIRECTOR VACANCIES**

- 4.1. The **Constitution (clause 14.3 Member Director Elections)** states the nomination process for Member Director vacancies is set out in the **Governance Rules**.
- 4.2. The nomination process for Member Director vacancies is as follows:
- (a) At least two months before the Annual General Meeting, the Board will notify Members of any vacancies to be filled at the Annual General Meeting.
  - (b) The Board will prescribe the application form and information nominees must provide as part of the nomination application process.
  - (c) Valid nominations must be lodged with the Board at least five weeks before the Annual General Meeting.
- 4.3. At least four weeks before the date of each Annual General Meeting the Board will open voting and send to all Voting Members notice of:
- (a) the number of Member Director positions open for election within each advice area and the names of the nominees;
  - (b) the date and time and method by which completed ballots are to be received by the Returning Officer; and
  - (c) where ballot papers and any other information that may reasonably inform Members about the election may be viewed or obtained if not otherwise already provided.
- 4.4. Member Director Voting must be open for a minimum of three weeks and must close 24 hours before the start of the AGM at the latest.

#### **5. DIRECTOR VACANCIES**

- 5.1. The **Constitution (clause 17.2 Director Vacancies)** states any Director vacancies, including casual vacancies, occurring during a term will be filled as set out in the **Governance Rules**.
- 5.2. Any Member Director vacancy that occurs other than through resignation or retirement at an AGM can be filled by appointment made by the Board with the appointee holding office until the next Annual General Meeting.
- 5.3. Any Member Director vacancy due to resignation or retirement at an AGM of which the Board is notified within two months before an Annual General Meeting is deemed to be a casual vacancy which can be filled under **Governance Rule 5.2**.
- 5.4. The **Constitution (clause 15.2 Appointment Process for Independent Directors)** states the Board determines the appointment process for Independent Directors.
- 5.5. Any Independent Director vacancy that occurs other than through resignation or retirement during the annual Independent Director appointment period can be filled by appointment made by the Board with the term adjusted to include the period between the appointment and the following April.

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## DIRECTOR REMOVALS

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### 6. REMOVAL OF DIRECTORS FROM OFFICE

- 6.1. The **Constitution (clause 18.1(b) Removal of Directors from Office)** states that a person stops being a Director if he or she dies.
- 6.2. The **Constitution (clauses 18.1(a) and (c))** also states that a person stops being a Director if he or she resigns or retires as a Director, or is removed from office by the Board as set out in the **Governance Rules**.
- 6.3. A person stops being a Director if:
- (a) the Director resigns by notice in writing to Financial Advice NZ (the notice is effective when it is received by Financial Advice NZ, or at a later time specified in the notice);
  - (b) the Director retires by rotation under **Governance Rule 6.6**;
  - (c) the Director's term ends; and
  - (d) the Director or officer is removed from office under **Governance Rule 6.4**.
- 6.4. The Board may remove a Chair or other Director from office for any of the following reasons;
- (a) the Director, if a Member Director, has their Membership suspended or revoked following the processes in the **Disciplinary & Complaints Rules**;
  - (b) the Director becomes unable or unwilling to fulfil his or her duties as a Director (including, at the discretion of the Board, where the Director has been absent for a lengthy period);
  - (c) the Director is of unsound mind or lacking in mental capacity;
  - (d) the Director has become disqualified from holding office under Applicable Legislation;
  - (e) the Director is convicted of any criminal or civil offence that could be punishable by a prison term of 6 months or more; and
  - (f) for any other reason.
- 6.5. Removal of Chair position whilst remaining an Independent Director**
- (a) The Board may remove a Director as Chair, while not removing them as an Independent Director for any of the following reasons;
    - i. the Chair becomes unable or unwilling to fulfil his or her duties as Chair; or
    - ii. for any other reason.
- 6.6. Director Retirement by Rotation**
- (a) The **Constitution (clause 16.3 Terms of Directors)** states Directors will retire by rotation as set out in the **Governance Rules**.
  - (b) At least one Member Director must retire at the next Annual General Meeting as follows;
    - i. first, any Director who is no longer eligible to be a Member Director as per the **Constitution (clause 18.2 Removal of Directors from Office)**;
    - ii. second, any Director(s) who wishes to retire;
    - iii. third, any Director(s) whose term has expired;
    - iv. fourth, the Director who has served the longest consecutive time; and

- v. fifth, by drawing lots, the result of which is conclusively determined by the Chair.
- (c) At least one Independent Director must retire in April each year as follows;
  - i. first, any Independent Director who is no longer eligible to be an Independent Director as per the **Constitution (clause 18.3 Removal of Directors from Office)**;
  - ii. second, any Independent Director(s) who wishes to retire;
  - iii. third, any Independent Director(s) whose term has expired;
  - iv. fourth, the Independent Director who has served the longest consecutive time; and
  - v. fifth, by drawing lots, the result of which is conclusively determined by the Chair.

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## BOARD MEETINGS

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### 7. DECISIONS OF THE BOARD

7.1. The **Constitution (clause 20.7 Board Meetings and Decisions)** states the Board must follow the procedures for making Board decision at meetings, and for making decisions outside meetings, as set out in the **Governance Rules**.

#### 7.2. Decisions at Board meetings

- (a) Decisions of the Board shall be by majority vote of those Board Members in attendance and voting, unless the Constitution states otherwise.
- (b) The Board must ensure that minutes are kept of all proceedings at Board meetings.

#### 7.3. Decisions of the Board without a meeting

- (a) A resolution in writing, signed or agreed to in written form by a majority of Board Members, is as valid as if it had been passed at a Board Meeting.
- (b) A resolution made following **Governance Rule 7.3(a)** may consist of several documents (including digital communications) in like form each signed or assented to by one or more Board Members.
- (c) A copy of any such resolution must be entered into the minute book of Board proceedings.

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## BOARD COMMITTEES

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### 8. FINANCIAL ADVICE NZ COMMITTEES & WORKING GROUPS

8.1. The **Constitution (clause 19.1(d) Powers and Functions)** gives the Board the power to convene, oversee and support any committees or working groups set up from time to time.

8.2. The Board has set up the following working groups to support it:

- (a) Member Advisory Committees
- (b) Certification Committee

8.3. The Board can develop new or ad hoc committees and working groups as it deems appropriate without changing these Governance Rules.

## **9. MEMBER ADVISORY COMMITTEES**

- 9.1. The Board can establish Member Advisory Committees as it considers necessary to advise the Board on the Advice Areas represented in the Membership.
- 9.2. A Member Advisory Committee holds no inherent powers and has only those powers specifically delegated to it by the Board.
- 9.3. The Chair of the Member Advisory Committee and the members of any Member Advisory Committee are appointed by and are responsible to the Board, and are appointed for a two year term.

## **10. CERTIFICATION COMMITTEE**

- 10.1. The Board can establish a Certification Committee for the purpose of administering the certification of Pinnacle Marks.
- 10.2. The Board can delegate other responsibilities to the Certification Committee at its discretion.
- 10.3. The Certification Committee holds only those powers specifically delegated to it by the Board through the Certification Rules.
- 10.4. The Certification Committee is bound by the Certification Rules.
- 10.5. The Chair of the Certification Committee and the members of the Certification Committee are appointed by and are responsible to the Board, and are appointed for a two year term.

## **11. REMOVAL OF COMMITTEE MEMBERS**

- 11.1. A person ceases to be a member of a Financial Advice NZ Committee if:
  - (a) the committee member resigns by notice in writing to Financial Advice NZ (the notice is effective when it is received by Financial Advice NZ, or at a later time specified in the notice);
  - (b) their term ends; or
  - (c) the committee member is removed from office under **Governance Rule 11.2**.
- 11.2. The Board by majority may remove committee members from their office for any of the following reasons;
  - (a) the committee member, other than a committee member appointed as an independent committee member, ceases to be a Member, or has their Membership suspended;
  - (b) the person becomes unable or unwilling to fulfil his or her duties as such committee member (including, at the discretion of the Board, where the person has been absent for a lengthy period);
  - (c) the person is of unsound mind or lacking in mental capacity;
  - (d) the person is convicted of any criminal or civil offence that could be punishable by a prison term of 6 months or more;
  - (e) the person, if appointed as an independent committee member, is no longer independent; and
  - (f) the Board may remove a committee member for any other reason.

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## MISCELLANEOUS

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### 12. CHANGES TO THE GOVERNANCE RULES

- 12.1. Any changes to these Governance Rules will be notified to Members. As set out in the **Constitution (clause 19.3(b) Rules)**, every Member is deemed to have knowledge of the Rules, and changes to them, when they have been published on Financial Advice NZ's website.
- 12.2. If the changes to the Governance Rules are material, as determined by the Board, the changes will only be made after reasonable consultation with affected Members.

### 13. DEFINITIONS

- 13.1. In these Governance Rules the following terms have these meanings:

**Advice Area** - means groupings of financial advice types the Board determines best represents the advice provided by Members to the public. It includes, without limitation, financial planning, lending, risk, and investment.

**Applicable Legislation** - means the Incorporated Societies Act 1908 or any Act which replaces it (including amendments to, or regulations made under, that legislation from time to time)

**Board** - means Financial Advice NZ's board formed under **Constitution clause 13.1 Board Structure**.

**Directors** – means the Member Directors and Independent Directors of Financial Advice NZ elected or selected as described in **Constitution clauses 14 Member Director Elections** and **15 Independent Director Appointments**.

**Member** – means and includes an Adviser Member, a FAP Member, a Life Member, an Associate Member and a Retired Member. 'Membership' will be read accordingly.

**Member Meeting** – means an Annual General Meeting or a Special General Meeting.

**Person** – means an individual, company, partnership, incorporated body or other entity whether or not having separate legal identity. 'People' will be read accordingly.

**Pinnacle Mark** – means either the CERTIFIED FINANCIAL PLANNER<sup>CM</sup>, CFP<sup>CM</sup>, Certified Life Underwriter<sup>CM</sup>, CLU<sup>CM</sup> and Chartered Life Underwriter, CLU mark and does not include the Trusted Adviser mark.

**Returning Officer** - means a person appointed by the Board before each Member Meeting to act as returning officer for that meeting.

**Rules** - means rules made by the Board for the effective management and operation of Financial Advice NZ. These can include (without limitation) Member Rules, Certification Rules, Governance Rules, Code of Ethics, Practice Standards, Rules of Conduct, Member Meeting Rules, and Disciplinary and Complaints Rules.

**Voting Member** – means an Adviser Member, FAP Member and a Life Member.

- 13.2. In these Governance Rules, where the context requires;
- (a) the singular includes the plural and vice-versa; and
  - (b) reference to one gender includes all genders.



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## APPENDIX

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This appendix is for illustrative purposes and is not considered part of the Governance Rules.

### GOVERNANCE TIMEFRAMES

|                                      | <i>Time frames prior to AGM</i>   |
|--------------------------------------|---|
| Member Director Nominations Open     | At least two months prior to AGM.   |
| First notice of AGM                  | Members are given an indication of the AGM meeting date when nominations for Member Directors are opened – at least two months prior to AGM.                            |
| Member Director Nominations Close    | Five weeks prior to AGM.  |
| Items of Business / Resolutions Open | Not documented but would do at the same time as nominations open – at least two months prior to AGM.  |
| Items of Business/ Resolutions Close | At least five weeks prior to AGM.   |
| Notice of Meeting                    | The Board must give each Member at least four weeks' notice of the date, time, place and method of, and the Items of Business to be conducted at, a Member Meeting.     |
| Member Director Voting Opens         | At least four weeks prior to AGM.   |
| Proxies Open                         | At least four weeks prior to AGM.   |
| AGM Documents                        | At least two weeks before each Member Meeting, the Board must give each Member the supporting documentation to be considered at the Member Meeting. i.e. Annual Report. |
| Proxies Close                        | 48 hours prior to AGM.  |
| Member Director Voting Closes        | At least 24 hours prior to AGM.   |