



## Membership Regulations

### 1. Definition and Interpretation

1.1 In these Regulations, unless the context clearly indicates otherwise:

- 1.1.1 "Category of Membership" shall mean a category of membership as determined from time to time by the Council and defined and described more fully in these Regulations;
- 1.1.2 "Constitution" shall mean the Constitution of the Fiduciary Institute of Southern Africa (the "Institute") (a voluntary association with legal personality);
- 1.1.3 "Council" shall mean the Council of the Institute as constituted in accordance with the Constitution;
- 1.1.4 "Member" means a person who has satisfied, and continues to satisfy, the requirements for membership in a recognised Category of Membership in accordance with the relevant Regulations, who has been admitted to membership of the Institute, and whose membership has not been suspended or terminated, and "Member of the Institute" shall have a corresponding meaning;
- 1.1.5 "Regulations" shall mean the Membership Regulations set forth in this deed, or as may be amended from time to time;
- 1.1.6 "Voting Rights" shall mean the right to exercise a vote at all or some of the Meetings of Members of the Institute, and/or during a ballot amongst Members of the Institute in accordance with the provisions of the Constitution;
- 1.1.7 Terms and expressions defined and described in the Constitution, shall have the same meaning and description when used in these Regulations;
- 1.1.8 The interpretation of these Regulations shall be done *mutatis mutandis* in accordance with the interpretation provisions as detailed in the Constitution;

1.1.9 Any term indicating the singular form shall include the plural form and *vice versa*, and any term indicating any gender shall include the other genders.

## **2. Membership Committee**

- 2.1. The Council shall annually, at the first meeting of the term of the new Council, appoint a Membership Committee (the "Membership Committee" or the "Committee").
- 2.2. The Committee may consist of any number of Councillors and/or employees and/or Members of the Institute, but shall include at least one Councillor of the Institute.
- 2.3. The Membership Committee shall meet as often as is necessary, but not less than three times during its term of office. If only one Councillor serves on the Committee, such Councillor shall be the Chairperson of the Committee and if more than one Councillor serve on the Committee the Committee shall elect one of the Councillors as Chairperson at its first meeting.
- 2.4. The members of the Committee shall hold office until their successors have been successfully appointed at the start of the new term of the Council.
- 2.5. Notwithstanding the provisions of paragraph 2.4, any of the above-mentioned persons shall vacate their office if their Membership of the Institute is suspended or terminated for any reason.

## **3. Duties and Powers of the Membership Committee**

- 3.1. The duties of the Committee shall be to:
  - 3.1.1. Act as custodian of the professional designations conferred on Members by the Council;
  - 3.1.2. Facilitate the drafting, amendment, maintenance and administration, as the case may be, of:
    - 3.1.2.1. Membership application forms;
    - 3.1.2.2. Procedures for the admission of new Members;
    - 3.1.2.3. Membership records;

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- 3.1.2.4. Procedures for the admission and administration of membership bases;
  - 3.1.2.5. Assessments to qualify prospective Members for the different professional designations;
  - 3.1.3. Continuously assess the contents of these Regulations to ensure its appropriateness in the light of developments in the fiduciary industry and the regulatory framework in the said industry;
  - 3.1.4. Initiate and accept suggestions for changes to these Regulations, to evaluate same and submit amendments to these Regulations to the Council for approval.
- 3.2. The powers of the Committee shall be to:
- 3.2.1. Co-opt any number of experts from within the membership of the Institute or from any other source to advise it on the drafting and/or interpretation of any of the documents referred to in paragraph 3.1.2, provided that the cost of such co-option be approved by the Chief Executive Officer, or in the absence of a Chief Executive Officer, by the Council, before the co-option shall take effect;
  - 3.2.2. Convene at a time and place determined by the Chairperson of the Committee to discuss any issue included in the duties mentioned in paragraph 3.1, as well as any other issues related to membership of the Institute;
  - 3.2.3. Submit proposals to the Council on any issues relating to membership not specifically covered by the provisions of paragraph 3.1;
  - 3.2.4. Take any other action necessary to ensure that the membership base of the Institute is appropriately administered and served by the employees and officials of the Institute.

#### **4. Membership**

- 4.1. The Institute shall retain at its registered office a register of Members, which register shall be open to inspection by any Member and any other person or class of persons the Council may identify.

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- 4.2. No person shall become a Member and be entitled and subject to the rights and responsibilities of membership until such person's name has been entered in the register of Members.
  - 4.3. Upon fulfilling all the requirements of membership and upon invitation by the Institute and application by the person applying for membership, the name of the applicant shall be entered in the register of Members as soon as is practically possible in the circumstances.
  - 4.4. The Institute shall supply each Member, upon receiving membership, with proof of membership, whether physical or in electronic format. Such proof shall be deemed to be withdrawn and shall cease to be valid as soon as the membership of the Member in question ceases, for whatever reason.
  - 4.5. Upon becoming a Member of the Institute every person shall be deemed to have agreed to all the rights, duties, responsibilities and other provisions of the Constitution, all Regulations promulgated in the name of the Institute, any other by-laws of the Institute and any Code of Conduct, Code of Ethics and any document containing generally accepted practice guidelines as approved by the Council from time to time.
  - 4.6. Membership of the Institute shall:
    - 4.6.1. Be personal;
    - 4.6.2. Not be transferable;
    - 4.6.3. Terminate in accordance with the provisions of these Regulations as amended from time to time.

## **5. Membership Categories**

The following membership categories are recognised:

- 5.1. Members, who:
  - 5.1.1. Shall be all persons who have applied for, and have satisfied all requirements for membership as set out in the Constitution and these Regulations; and

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- 5.1.2. May hold one or more of the professional designations as provided for in the Constitution and the Professional Standards Regulations; and
  - 5.1.3. Shall have full voting rights in all matters regarding the governance of the Institute;
- 5.2. Candidate Members, who:
- 5.2.1. Shall be all persons who do not satisfy the prescribed requirements for membership due to a lack of qualifications and/or experience, provided that all other requirements for membership as set out in the Constitution and these Regulations have been satisfied; and
  - 5.2.2. Shall have no voting rights.
- 6. Application for Membership**
- 6.1. Each applicant for membership shall:
- 6.1.1. Submit an application in the prescribed manner to the Institute for consideration, and disclose all relevant information in such application; and
  - 6.1.2. Enrol for and write any prescribed assessment, the successful completion of which may be one of the requirements for membership from time to time; and
  - 6.1.3. Pay the prescribed fee.
- 6.2. The Membership committee shall recommend to the Council the names of those applicants who have satisfied all requirements for the recognised Categories of Membership in the Constitution and these Regulations, if no valid and reasonable reasons exist to turn down the applications.
- 6.3. The Council shall consider the recommendation and, if satisfied, confirm the recommended applicants as members in the recognised Categories of Membership. The decision by the Council shall be final and the Council shall not be called upon to publish its reasons for any decision taken in this regard.

## 7. Renewal of Membership

- 7.1. Each Member, regardless of category of membership, shall on an annual basis apply for the renewal of his membership in the format determined by the Chief Executive Officer, unless the specific category is expressly excluded from this requirement by a decision of the Council, and:
- 7.1.1. Pay the annual fee as determined from time to time by the Council;
  - 7.1.2. Make a declaration in the required format with regard to his compliance with the Continuing Education requirements as determined by the Council from time to time;
  - 7.1.3. Make a declaration and answer any questions in the required format with regard to his status as a fit and proper person to be a Member;
  - 7.1.4. Submit such specimens of his stationery bearing the name and/or logo of the Institute, and/or the FPSA® mark or logo as may be required by the Council from time to time.
- 7.2. The membership of a Member who failed to apply for renewal of membership shall terminate after a period of three months after the last date for applications for renewal, unless the Member has been in written contact with the Chief Executive Officer or other office bearer charged with membership renewals during that time. In the latter case the period of three months will be deemed to end three months after the last written contact between the Member and the Chief Executive Officer.
- 7.3. The membership of a Member in any Category of Membership who resigned or who failed to apply for renewal may be revived at any time during a period of three years following the last date for applications for renewal, provided that the Member complies in full with the requirements of paragraph 7.1 *supra*. After this period of three years, a person wishing to revive his membership will be required to apply for membership as if he is applying to become a Member for the first time, and will be required to pass any examination the Council may require from time to time.

## 8. Termination and Suspension of Membership

8.1. The membership of any Member in any Category of Membership is terminated when:

- 8.1.1. He submits his resignation in writing to the Chief Executive Officer or the Council; or
- 8.1.2. He fails to renew his membership as set out in paragraph 7 *supra*; or
- 8.1.3. He is declared insane or incapable of managing his affairs; or
- 8.1.4. A competent court has removed him as executor in accordance with the provisions of sec 54(1)(a)(ii), (iii), or (iv) of the Administration of Estates Act, 66 of 1965 (the "Estates Act") and all appeal proceedings against such removal have been finalised, abandoned or the time allowed for such appeal proceedings to be lodged has expired. In the event that the time allowed has expired and an application for condonation of the late lodgement has been filed, the suspension envisaged in paragraph 8.2.4 *infra* shall stand until the finalisation or abandonment of any further appeal proceedings or refusal of condonation; or
- 8.1.5. A competent court declares him incapable of holding the office of executor in accordance with the provisions of sec 54(4) of the Estates Act; or
- 8.1.6. A disciplinary or appeal tribunal constituted in accordance with the provisions of the Disciplinary Regulations terminates his membership.

8.2. The membership of any Member in any category of Membership is suspended when:

- 8.2.1. He is sequestrated, provisionally or finally, or surrenders his estate for the benefit of his creditors or makes an offer of compromise to his creditors in circumstances where his liabilities exceed his assets; or
- 8.2.2. A civil judgement is given against him:
  - 8.2.2.1. for the recovery of an unpaid debt; or
  - 8.2.2.2. for any act or omission containing an element of dishonesty or misrepresentation on his part; or

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- 8.2.3. He is declared by a court to be over-indebted or applies for debt review under the provisions of the National Credit Act, 34 of 2005, or of any substituting or similar legislation; or
- 8.2.4. He has been removed as executor by a competent court as envisaged in paragraph 8.1.4 *supra* and he has appealed to a higher court. The suspension under this paragraph shall then remain in force until all appeal proceedings have been finalised or abandoned as envisaged in paragraph 8.1.4 *supra*; or
- 8.2.5. He has been removed by a competent court as executor in accordance with the provisions of sec 54(1)(a)(v) of the Estates Act, or has been removed, finally, as executor by the Master of the High Court (the “Master”) in accordance with the provisions of sec 54(1)(b)(iii), 54(1)(b)(iv) or 54(1)(b)(v) of the Estates Act; or
- 8.2.6. He is removed as trustee by a competent court or by the Master in accordance with the provisions of sec 20 of the Trust Property Control Act, 57 of 1988; or
- 8.2.7. He is convicted by a court of criminal justice in the Republic or elsewhere of any criminal offence of which dishonesty is an element, or which is listed in the First Schedule to the Criminal Procedure Act, 51 of 1977 as amended, and, in case of the latter, he is sentenced to imprisonment without the option of a fine for an offence of which dishonesty is not an element; or
- 8.2.8. He is found guilty in a disciplinary hearing by an employer or another association, institute or other membership organisation of misconduct of which dishonesty is an element or which corresponds with a crime listed in the First Schedule to the Criminal Procedure Act, 51 of 1977 as amended, and, in the case of such association, institute or other membership organisation his membership of such body is terminated as a consequence thereof; or
- 8.2.9. The Chief Executive Officer or the Chairman of the Council receives written confirmation from the Master, the South African Reserve Bank, the National Treasury, the Financial Services Board or any other body with administrative or oversight powers in terms of any legislation in the Republic governing any activities in the financial services industry, that an investigation into alleged



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wrongdoing by the Member has been initiated which could lead to the withdrawal of any licence, authority or permission to practice, operate or act within any area under the auspices of the body in question; or

8.2.10. *Prima facie* evidence, contained either in a document or documents or in an affidavit, comes to the knowledge of the Chief Executive Officer or the Chairman of the Council indicating that any information supplied by the Member in his application for membership in terms of paragraph 6 or his application for renewal of membership in terms of paragraph 7 is materially incorrect or untruthful.

8.3. In the case of paragraphs 8.1.3, 8.1.4 and 8.1.5, as well as in the case of paragraphs 8.2.1 to 8.2.8 *supra*:

8.3.1. The Member shall, as soon after the event as is practically possible, inform the Chief Executive Officer or the Chairman of the Council of such event;

8.3.2. The Chief Executive Officer or the Chairman of the Council shall obtain certified copies of the relevant court order, agreement, or finding, as the case may be.

8.4. In the case of paragraphs 8.1.3 to 8.1.6 *supra* the Chief Executive Officer or the Chairman of the Council shall, upon receipt of the said certified copy of the court order, agreement or finding:

8.4.1. Study the contents thereof to satisfy himself that the circumstances as envisaged by these paragraphs do exist; and

8.4.2. Once so satisfied, *ipso facto* terminate the membership of the Member in question and:

8.4.2.1. Inform the Member in writing of such termination; and

8.4.2.2. Cause the termination of membership to be reflected in the membership records of the Institute.

8.5. In the case of paragraph 8.2 *supra*:

8.5.1. The matter shall be referred to the disciplinary committee and be dealt with as a complaint against the Member initiated by the Chief Executive Officer or the Chairman of the Council; and

8.5.2. The membership of the Member in question shall remain suspended until all procedures in terms of the Constitution, these Regulations and the Disciplinary Regulations have been finalised.

## 9. Amendment

These regulations may be amended by the Council of the Institute and the Committee may propose any amendment to the Council for consideration.



Approved by Council on 19th day of January 2022

Chairperson *CL Brink*