

MEMORANDUM OF INCORPORATION OF THE FINANCIAL INTERMEDIARIES ASSOCIATION OF SOUTHERN AFRICA NPC

(Registration Number: 1999/002724/08)



Financial Intermediaries Association
of Southern Africa

REPUBLIC OF SOUTH AFRICA

Companies Act, 2008

MEMORANDUM OF INCORPORATION

of

**FINANCIAL INTERMEDIARIES ASSOCIATION OF
SOUTHERN AFRICA NPC**

Which is referred to in the rest of this Memorandum of Incorporation as "the Company".

The Company is a Non-Profit Company with members, with the following objectives:

- To Protect, Promote and Advance the Image of the Financial Intermediary in the Republic of South Africa.
- To Improve the standard of insurance, financial advice in investment broking generally and the industry by enforcing the code of conduct of FIA.

In this Memorandum of Incorporation –

- a reference to a section by number refers to the corresponding section of the Companies Act 71 of 2008;
- words that are defined in the Companies Act 71 of 2008 bear the same meaning in this Memorandum as in the Act.

Adoption of Memorandum of Incorporation

The Company was incorporated under the Companies Act 61 of 1973. The Company now wishes to adopt this Memorandum of Incorporation in order to bring its Constitution in line with the Companies Act 71 of 2008.

Name of Directors	Signature	Date
_____	_____	_____
_____	_____	_____
_____	_____	_____

The headings contained in this Memorandum of Incorporation are intended for reference purposes only and shall not be taken into account in the interpretation thereof. In the interpretation of the Memorandum the words contained in the first column of the table set out below shall bear the meaning set out opposite each of them in the second column thereof, unless the context otherwise requires.

WORDS

MEANING

"The Act"	Shall mean the Companies Act 71 of 2008, including any amendment, consolidation or re-enactment thereof;
"Advisory Council"	Shall mean the Advisory Council established in the manner as set out in the Rules;
"The Board"	The Board of Directors for the time being of the Company or, as the case may be, the members of the board assembled at a Board meeting at which a quorum is present;
"The Chairperson"	The Chairperson of the Board, as appointed by the Board from time to time;
"Code of Conduct"	Means the Code of Conduct of FIA as contemplated in this Memorandum of Incorporation;
"The Company"	Financial Intermediaries Association of Southern Africa (Non Profit Company);
"Director"	Shall mean a member of the Board of Directors of the Company;
"FIA"	Shall mean the Financial Intermediaries Association of Southern Africa NPC;
"Financial Year"	Shall mean a period commencing on 1 March of one calendar year and terminating on the last day of February of the next calendar year, or any other period of 12 (Twelve) consecutive calendar months as may be decided by the Board;
"FSB"	Means the Financial Services Board established in terms of the Financial Services Board Act, 1990 (Act No. 97 of 1990);

"In writing"	Written or reproduces by any substitute for writing or partly written and partly so reproduced and including printing, typewriting or lithography or any other mechanical process, or partly one and partly another as well as any form of electronic communication contemplated in the Electronic Communication and Transactions Act 25 of 2002;
"Member"	Shall mean a member of the Company as provided for in this Memorandum of Incorporation and the rules and such other persons as the Board may admit to membership in accordance with this Memorandum of Incorporation and / or the rules;
"The Office"	The registered office of the Company from time to time;
"Branches"	Means a Branch of the FIA as referred to in the rules;
"The register"	The register of members of the Company as contemplated in Item 9 of Schedule 1 to the Companies Act;
"Sign"	Included the reproduction of a signature by printing, typewriting or lithography, or any kind of stamp or any other mechanical or electronic process, and "signature" has a corresponding meaning.

Unless the context otherwise requires –

- a. Words importing the singular, shall include the plural and vice versa;
- b. Words importing any one gender shall include the other genders;
- c. Words importing natural persons shall include juristic persons and corporate bodies.

Subject to the preceding paragraph, any words or expressions defined in the Act shall, unless the context otherwise requires, bear the same meaning in the Memorandum.

ARTICLE 1 - INCORPORATION AND NATURE OF THE COMPANY

1.1 INCORPORATION

1. The Company is a pre-existing Non Profit Company. As such the Company continues to exist as a Non Profit Company as defined in the Companies Act, 2008, as if it had been incorporated and registered in terms of the Companies Act as contemplated in Item 2 of Schedule 5 to the Companies Act.
2. The name of the Company is: FINANCIAL INTERMEDIARIES ASSOCIATION OF SOUTHERN AFRICA NPC.
3. The Company is incorporated in accordance with and governed by –
 - i) The unalterable provisions of the Companies Act that are applicable to non-profit companies;
 - ii) The alterable provisions of the Companies Act that are applicable to non-profit companies, subject to the limitations, extensions, variations or substitutions set out in this Memorandum; and
 - iii) The provisions of this Memorandum of Incorporation.

1.2 OBJECTIVES AND POWERS OF THE COMPANY

1. The objectives of the Company are as set out on the cover sheet and, except to the extent necessarily implied by the stated objects, the purposes and powers of the Company are not subject to the restrictions, limitations or qualifications contemplated in section 19(1)(b)(ii).
2. The Company is not subject to any provisions contemplated in Section 15(2)(b) or (c) of the Companies Act.
3. Upon dissolution of the Company, its net assets must be distributed as determined by its members, if any, or its Directors as set out in Item 1(4)(b)(ii)(bb) of Schedule 1 of the Companies Act.

1.3 MEMORANDUM OF INCORPORATION AND COMPANY RULES

1. Save for correcting patent errors substantiated as such from objective evidence or which are self-evident errors in the Memorandum of Incorporation (including, but without limitation spelling, punctuation, reference, grammar or similar defects), which the Board is empowered to do in terms of Section 17(1) of the Companies Act, all other amendments of the Memorandum of Incorporation shall be effected if a Special Resolution to amend it is proposed at a Special Members Meeting of which not less than 21 (Twenty One) clear days' notice has been given by: -

- i) The Board of the Company;
 - ii) Members entitled to exercise at least 10% (Ten percent) of the voting rights that may be exercised on such a resolution; and
 - iii) Is adopted at a meeting, or in accordance with Section 60, subject to subsection 3.
2. The authority of the Company's Board of Directors to make, amend or repeal any necessary or incidental rules for the Company relating to the governance of the Company as contemplated in Section 15(3) to (5) is not limited, restricted or qualified in any manner by this Memorandum of Incorporation.
3. The Board must publish any Rules made, amended or repealed in terms of Section 15(3) to (5) by delivering a copy of such rules to each Director by ordinary mail, electronic mail or by hand.
4. The Company must publish a notice of any alteration of the Memorandum of Incorporation or the Rules, made in terms of section 17(1) by delivering a copy of such proposed alteration to each Director by ordinary mail, electronic mail or by hand.

1.4 APPLICATION OF OPTIONAL PROVISIONS OF THE COMPANIES ACT, 2008

The Company elects in terms of Section 34(2) of the Companies Act not to comply voluntarily with the provisions of Chapter 3 of the Companies Act with regard to extended accountability and transparency.

1.5 MEMBERS OF THE COMPANY

1. As contemplated in Item 4(1) of Schedule 1 of the Companies Act the Company has members, who are all in a single class, being voting members, each of whom has a vote in accordance with their Member's contributions, in any matter to be voted on by the Members of the Company.
2. The terms and conditions of membership in the Company are as set out herein below, read together with the Rules and the Code of Conduct.
 - 2.1 The Members of the Company shall consist of the existing Members and such other persons as may be admitted to membership in terms of this Memorandum of Incorporation and the Rules;
 - 2.2 Membership shall be limited to the persons and / or entities concerned and may not be transferred or assigned to any other person or entity;
 - 2.3 The Company shall maintain a register of its voting Members as provided for in the Companies Act and such register shall be open for inspection as provided for in the Companies Act;

- 2.4 The following people and / or entities shall be eligible for membership, subject thereto that they agree to subscribe to the terms of this Memorandum of Incorporation, the Rules and the code of conduct: -
- a) A Sole proprietor (natural person), partnership, close corporation, private company or trust who is registered and licensed at the Financial Services Board as per the provisions of the FAIS Act and who derives an income from providing advice and / or intermediary services;
 - b) Representatives or agents of Insurance Companies, responsible for financial advice, intermediary services or the promotion of financial products;
 - c) An employee of a Member who prefers to also be a member in his/her personal capacity.
- 2.5 Subject to Item 7 of Schedule 1 to the Companies Act, the voting rights of members shall be determined by the Board as set out in the Rules from time to time;
- 2.6 The Board may establish other categories of Membership taking into account the diverse interests of its members. The Board shall also determine the voting rights, application fees and annual subscription fees with regard to such categories from time to time.
- 2.7 Applications for membership must be in writing in the prescribed format and must contain such detail as may be required in the Rules from time to time.
- 2.8 The approval of members are discretionary and the Company shall not be obliged to approve any application for membership of any prospective member. No application for membership shall be considered unless the applicant has agreed in writing to be bound by the terms and conditions of this Memorandum of Incorporation, the Rules and the Code of conduct.
3. Membership of the Company will be terminated in the manner provided for in the Rules of the Company. The termination of membership shall under no circumstances release a member from any obligation undertaken by him / her prior to such termination as a result of the provisions of this Memorandum of Incorporation or any further or ancillary guarantee, commitment or obligation which such member has undertaken.

2. RIGHTS OF MEMBERS

2.1 MEMBERS' AUTHORITY TO ACT

If, at any time, every member of the Company is also a Director of the Company, as contemplated in section 57(4), the authority of the members to act without notice or compliance with any other internal formalities, as set out in that section is not limited or restricted by this Memorandum of Incorporation.

2.2 PROXIES

1. The right of a member of the Company to appoint more than one person concurrently as proxies, as set out in section 58(3)(a) is not limited, restricted or varied by this Memorandum of Incorporation.
2. The authority of a member's proxy to delegate the proxy's powers to another person, as set out in Section 58(3)(b) is not limited or restricted by this Memorandum of Incorporation.
3. The instrument appointing a proxy must be in writing and be signed by the appointer or his duly authorized agent. The proxy instrument must then be deliver to the Company at least 3 (Three) calendar days prior to the stated time of the meeting, before that proxy may exercise the member's rights at a members meeting.
4. The authority of a member's proxy to decide without direction from the member whether to exercise, or abstain from exercising any voting right of the member, as set out in Section 58(7) is prohibited.
5. The instrument appointing a Proxy shall, subject to the provisions of Section 58(8) of the Act, be in the following form or as near thereto as circumstances permit:

FINANCIAL INTERMEDIARIES ASSOCIATION OF SOUTHERN AFRICA NPC

Registration Number: 1999/002724/08
 ("the Company")

I, the undersigned representing votes
 Of.....
 being a Member of the Company, hereby appoint.....
 of
 or failing himofor
 failing him the Chair of the meeting as my / our Proxy to attend and speak and vote on a
 poll for me / us and on my / our behalf at the Annual General Meeting or General
 Meeting (as the case may be) of the Company to be held on the day of
 20..... and at any adjournment thereof, as follows:

RESOLUTION	IN FAVOUR OF	AGAINST	ABSTAIN

This Proxy shall be binding upon me until such time as I personally withdraw it and it is limited to the voting on the Special and Ordinary Resolutions referred to herein.

SIGNED this day of..... 20.....

.....
 Signature

2.3 RECORD DATE OF EXERCISE OF MEMBER RIGHTS

If, at any time, the company's Board of Directors fails to determine a record date, as contemplated in Section 59, the record date for the relevant matter is as determined in accordance with section 59(3).

3. MEMBERS MEETINGS

3.1 REQUIREMENTS TO HOLD MEETINGS

The Company is not required to hold any members meetings other than those specifically required by the Companies Act, 2008.

3.2 MEMBERS' RIGHT TO REQUISITION A MEETING

The right of members to requisition a meeting, as set out in section 61(3), may be exercised by at least 51% (Fifty One percent) of the voting members.

3.3 LOCATION OF MEMBER MEETINGS

The Company's Board of Directors has the authority to determine the location of any members meeting, subject thereto that no meetings are to be held outside the Republic of South Africa.

3.4 NOTICE OF MEMBERS MEETINGS

1. The minimum number of days for the Company to deliver a notice of a members meeting to the members, as required by section 62, is 15 (Fifteen) business days as provided for in section 62(1).
2. The period of the notice shall be exclusive of the day on which it is served or deemed to be served.
3. The notice shall be in writing and specify the place, date and time of the meeting and the nature of the business to be transacted thereat. If applicable, a copy of any proposed resolution which is to be considered at the meeting as well as the percentage of voting rights that will be required for that resolution to be adopted, must be attached to the notice.

3.5 ELECTRONIC PARTICIPATION IN MEMBERS MEETINGS

The authority of the Company to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 63 is not limited or restricted by this Memorandum of Incorporation.

3.6 QUORUM FOR MEMBERS MEETINGS

1. The quorum requirement for a members meeting to begin, or for a matter to be considered are 25% (Twenty Five Percent) of fully paid up members, in person or by proxy and entitled to vote.
2. The time periods allowed for in section 64(4) and (5) of the Companies Act, apply to the Company without variation.
3. The authority of a meeting to continue to consider a matter, as set out in section 64(9) is not limited or restricted by this Memorandum of Incorporation.

3.7 ADJOURNMENT OF MEMBERS MEETINGS

The maximum period allowable for an adjournment of a members meeting is as set out in section 64(12), without variation.

3.8 MEMBERS RESOLUTIONS

1. For an ordinary resolution to be adopted at a members meeting, it must be supported by more than 50% (Fifty Percent) of the members who voted on the resolutions, as provided in section 65(7).
2. For a special resolution to be adopted at a members meeting, it must be supported by more than 60% (Sixty percent) of the members who voted on the resolution, despite section 65(9).
3. A special resolution adopted at a members meeting is not required for a matter to be determined by the Company, except those matters set out in section 65(11) or specifically referred to in this Memorandum of Incorporation.

ARTICLE 4 - DIRECTORS AND OFFICERS

4.1 COMPOSITION OF THE BOARD OF DIRECTORS

1. The Board of Directors of the Company shall comprise of at least 15 (Fifteen) Directors.
2. The following Chairpersons as elected by the Members will serve on the Board of Directors:
 - i) Chairperson of the Financial Planning Executive Committee;
 - ii) Chairperson of the Short Term Executive Committee;
 - iii) Chairperson of the Health Care Executive Committee;
 - iv) Chairperson of the Employee Benefit Executive Committee; and
 - v) Chairperson of the Advisory Council.

3. In addition to the Chairpersons set out in clause 2 above, the 4 (Four) Regional Directors who have been elected from their constituencies will also serve on the Board of Directors, together with at least 6 additional Directors also elected by the Members.
4. The Directors as set out in clause 2 above, will each serve for a period of 1 (One) year, while the Directors as set out in Clause 3 above will serve for a period of 2 (Two) years.
5. In addition to satisfying the qualification and eligibility requirements set out in section 69, to become or remain a director or a prescribed officer of the company, a person must be a Member of the FIA.

4.2 AUTHORITY OF THE BOARD OF DIRECTORS

The Authority of the Company's Board of Directors to manage and direct the business and affairs of the Company, as set out in section 66(1) is not limited or restricted by this Memorandum of Incorporation.

4.3 BOARD OF DIRECTORS MEETINGS

1. The authority of the Company's Board of Directors to consider a matter other than at a meeting, as set out in section 74 is not limited or restricted by this Memorandum of Incorporation.
2. The right of the Company's directors to requisition a meeting of the Board, as set out in section 73(1) may be exercised by at least 25% (Twenty five percent) of the directors, as provided in that section.
3. The authority of the Company's Board of Directors to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 73(3) is not limited or restricted by this Memorandum of Incorporation.
4. The authority of the Company's Board of Directors to determine the manner and form of providing notice of its meetings, as set out in section 73(4) is not limited or restricted by this Memorandum of Incorporation.
5. The authority of the Company's Board of Directors to proceed with a meeting despite a failure of defect in giving notice of the meeting, as set out in section 73(5) is not limited or restricted by this Memorandum of Incorporation.
6. The quorum requirement for a directors meeting to begin, the voting rights at such a meeting, and the requirements for approval of a resolution at such a meeting, are as set out in section 73(5) without variation.
7. The Board shall cause minutes to be kept of –
 - i) All appointments of officers;
 - ii) The names of the directors present at every meeting of the Company;

- iii) All resolutions and proceedings at each meeting of the Company;
- iv) All resolutions passed by the Board.

4.4 INDEMNIFICATION OF DIRECTORS

1. The authority of the Company's Board of Directors to advance expenses to indemnify a Director of the company, in respect of the defense of legal proceedings, as set out in section 78(4) is prohibited in terms of this Memorandum of Incorporation.
2. The authority of the Company to indemnify a Director of the company in respect of liability, as set out in section 78(5) is not limited or restricted by this Memorandum of Incorporation.
3. The authority of the Company to purchase insurance to protect the Company, or a director, manager, company secretary or officer of the company as set out in section 78(6) is not limited, restricted or extended by this Memorandum of Incorporation.

5. GENERAL PROVISIONS

5.1 CODE OF CONDUCT

The Board shall formulate a Code of Conduct, which shall bind all Members of the Company. The Board shall be entitled to amend the Code of Conduct from time to time.

5.2 COMMITTEES

All committees appointed by the Board, shall act according to the terms of reference given to them by the Board and shall keep minutes of all meetings.

5.3 ADVISORY COUNCIL

An Advisory Council may be established and will function in the manner set out in the Rules.

5.4 BRANCHES

Members shall be organized in Branches in the manner set out in the Rules.

5.5 FUNDING OF THE COMPANY

The Company shall be funded by means of membership fees, subscriptions, levies or charges payable by applicants and members or such other means of funding as determined by the Board from time to time with reference to the requirements of the Company.

5.6 AMALGAMATION

1. Subject to Chapter 5 of the Companies Act (Sections 112 – 116), the Company may only amalgamate or unite or join with other similar non-profit bodies in the Republic of South Africa or elsewhere, whether or not such bodies have been constituted by means of legislation, by a special resolution at a members meeting of which not less than 15 (Fifteen) clear days' notice has been given and at which, not less than 25% (Twenty Five Percent) of the members entitled to vote thereat are present in person or by proxy, the resolution has been passed, on a show of hands, by not less than 60% (Sixty Percent) of the number of members of the Company entitled to vote on a show of hands at the meeting who are present in person or by proxy or, where a poll has been demanded, by not less than 60% of the total votes to which the members present in person or by proxy are entitled. (Notice circulated includes any form of electronic communication). For this purpose the Company may take over the assets and liabilities of such bodies, including books, records, documents and heraldry coats-of-arms, or hand over any or all of the assets and obligations of the Company.
2. The Company may not amalgamate or merge with or convert to a profit company or dispose of any part of its assets, undertaking or business to a profit company, other than for fair value, except to the extent that such a disposition of an asset occurs in the ordinary course of the activities of the Company.

_____ end _____