



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

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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:

Our primary purpose is to guard, develop, promote, and represent professional advisory and intermediary businesses in the financial services industry.

The Company applies all of its assets and income (however derived) to advance its stated objectives as set out above.

In this Memorandum of Incorporation –

- a. a reference to a section by number refers to the corresponding section of the Companies Act 71 of 2008;
- b. 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

This Memorandum of Incorporation ("MOI") is proposed by the Board of Directors and adopted by Special Resolution of the Annual General Meeting of Members on **25 August 2022** in accordance with Sections 15 and 16 of the Companies Act.

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INTERPRETATION

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, together with the Companies Regulations, 2011 as amended or substituted from time to time;
"Advice"	Means advice as defined in section 1 of the FAIS Act; (or any subsequent superseding or additional legislation);
"Advisory Council"	Shall mean the Advisory Council established in the manner as set out in the Rules;
"AGM/Annual General Meeting"	Means the Annual General Meeting of FIA members held from time to time.
"Appoint"	Shall mean the process where incumbents are appointed by a specific person or group of persons, who shall have the sole and absolute discretion in this regard
"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;
"Branch"	Means a Branch of the FIA as described in the Rules;
"Branch management committee"	Means the Committee elected by the Branch members as referred to in the Rules;
"Branch representative"	A person elected at the Branch to represent the Branch in a selected discipline, including the Branch Chair and Vice Chair of the Branch;
"Business days"	Has the meaning as described in section 5(3) of the Act;
"Code of Conduct"	Means the Code of Conduct of the Company as contemplated in this Memorandum of Incorporation and attached to the Rules;
"Company"	Financial Intermediaries Association of Southern Africa (Non-Profit Company) with registration number: 1999/002724/07;

"Director"	Shall mean a member of the Board of Directors of the Company;
"Elect"	Shall mean the democratic process where incumbents are elected by the Members of the FIA;
"FAIS Act"	Means the Financial Advisory and Intermediary Services Act, Act no 37 of 2002; or as amended from time to time;
"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;
"Financial Services Provider"	Means a financial services provider as defined in section 1 of the FAIS Act, or any subsequent superseding or additional legislation;
"FSCA"	Means the Financial Sector Conduct Authority established in terms of section 56 of the Financial Sector Regulation Act, 2017 (Act 9 of 2017);
"General voting rights"	Means voting rights that can be exercised generally at a general meeting of a company;
"In writing"	Written or reproduced 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;
"Intermediary service"	Means an intermediary service as defined in section 1 of the FAIS Act, or any subsequent superseding or additional legislation;
"Member"	Shall mean a member of the Company as provided for in this Memorandum of Incorporation and the Rules and any such other persons as the Board may admit to membership in accordance with this Memorandum of Incorporation and / or the Rules;
"Members Meeting"	Means an Annual General Members Meeting, a Regional Council Meeting or an Annual General Branch Meeting as specified, held from time to time;
"National Office"	Means the National Office of the FIA situated at the registered address stipulated in the Rules;

“Ordinary resolution”	Means a resolution adopted as prescribed in Article 3.8.1;
"President"	The President of the Board, as appointed by the Board from time to time;
“Region”	Means a Region as described in the Rules;
“Regional Council”	Means the Council made up of different Regional Directors as referred to in the Rules;
“Regional Director”	Means the Director of a specific Region as referred to in the Rules;
“Vice Regional Director”	Means the Vice-Director of a specific Region as referred to in the Rules;
"Register"	The register of members of the Company as contemplated in Item 9 of Schedule 1 to the Companies Act;
“Rules”	Means the Rules of the FIA published and as amended from time to time;
"Sign"	Includes 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;
“Special resolution”	Means a resolution adopted as prescribed in Article 3.8.2.

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 this Memorandum of Incorporation.

1. ARTICLE 1 - INCORPORATION AND NATURE OF THE COMPANY

1.1. INCORPORATION

- 1.1.1. 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 Act.
- 1.1.2. The name of the Company is: FINANCIAL INTERMEDIARIES ASSOCIATION OF SOUTHERN AFRICA NPC.
- 1.1.3. The Company is incorporated in accordance with and governed by –
 - 1.1.3.1. The unalterable provisions of the Companies Act that are applicable to non-profit companies;
 - 1.1.3.2. 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
 - 1.1.3.3. The provisions of this Memorandum of Incorporation.

1.2. OBJECTIVES AND POWERS OF THE COMPANY

- 1.2.1. The objectives of the Company are as set out on the cover sheet and, except to the extent necessarily implied by the stated objectives, the purposes and powers of the Company are not subject to the restrictions, limitations or qualifications contemplated in section 19(1)(b)(ii).
- 1.2.2. The Company is not subject to any provisions contemplated in section 15(2)(b) or (c) of the Act.
- 1.2.3. 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 Act.

1.3. MEMORANDUM OF INCORPORATION AND COMPANY RULES

- 1.3.1. 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 Act, all other amendments of this 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 15 (fifteen) business days' notice has been given by: -
 - i) The Board of the Company; or
 - 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.

1.3.2. 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.

1.3.3. The Board must publish any rules made, amended or repealed in terms of section 15(3) to (5) by:

- i) Delivering a copy of such rules to each Director and / or any other person serving the Company as a member of a committee of the Board by ordinary mail, electronic mail or by hand; and
- ii) Publishing a copy of such rules on the Company website.

1.3.4. 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 and / or prescribed officer or any other person serving the Company as a member of a committee of the Board 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 Act not to comply voluntarily with the provisions of Chapter 3 of the Act with regard to extended accountability and transparency.

1.5. MEMBERS OF THE COMPANY

The provisions regarding members of the company are set out in the Rules.

2. ARTICLE 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

- 2.2.1 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 limited by this Memorandum of Incorporation. Each member may only appoint one proxy to vote on its behalf.
- 2.2.2 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.
- 2.2.3 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 delivered to the Company at least 3 (three) business days prior to the stated time of the meeting, before that proxy may exercise the member's rights at a members meeting.
- 2.2.4 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.
- 2.2.5 The instrument appointing a proxy shall, subject to the provisions of section 58(8) of the Act, be in the form as determined by the Board from time to time and shall be completed on the form as attached to the Rules from time to time.

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. ARTICLE 3 MEMBERS MEETINGS

3.1. REQUIREMENTS TO HOLD MEETINGS

The Company is not required to hold any Member meetings other than those specifically required by the Act.

3.2. MEMBERS' RIGHT TO REQUISITION A MEETING

- 3.2.1. The right of Members to requisition an **Annual General Members' meeting**, as set out in section 61(3), may be exercised by at least 51% (fifty one percent) of members.
- 3.2.2. The right of Branch Members to requisition an **Annual General Branch meeting** of a specific branch must be exercised by at least 51% (fifty one percent) of the Members of that particular branch.
- 3.2.3. The right of Regional Members to requisition a **Regional Council Meeting** of a specific region must be exercised by at least 51% (fifty one percent) of the Members of that particular region.

3.3. LOCATION OF MEMBER MEETINGS

The Board of Directors has the authority to determine the location of an Annual General Meeting and the relevant Regional Directors and Branch Chairpersons have the authority to determine the location of a Regional Council Meeting and Branch Meeting accordingly.

3.4. NOTICE OF MEMBERS MEETINGS

- 3.4.1. The minimum number of days for the Company to deliver a notice of an **Annual General Members' meeting** to the Members, as required by section 62, is 15 (fifteen) business days as provided for in section 62(1).
- 3.4.2. The minimum number of days for a Branch to deliver a notice of an **Annual General Branch meeting** to the Branch Members, is 15 (fifteen) business days.
- 3.4.3. The minimum number of days for a Region to deliver a notice of a **Regional Council meeting** to the Regional Members, is 15 (fifteen) business days.
- 3.4.4. The notice periods as set out in clauses 3.4.1, 3.4.2 and 3.4.3 above, shall be exclusive of the day on which it is served or deemed to be served.
- 3.4.5. The notices as referred to in clauses 3.4.1, 3.4.2 and 3.4.3 above, shall be in writing and specify the place, date and time of the meeting as well as 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 MEETINGS

- 3.6.1. The quorum requirement for an Annual General Members' meeting to begin, or for a matter to be considered is 25% (twenty five percent) of Members in good standing and whose fees are not in arrears, in person or by proxy and entitled to vote. The quorum will be weighted according to each member's annual membership fee.
- 3.6.2. The quorum requirement for an Annual General Branch meeting to begin, or for a matter to be considered is 5% (five percent) of fully paid up Branch Members, in person or by proxy and entitled to vote.
- 3.6.3 The quorum requirement for a Regional Council meeting to begin, or for a matter to be considered is 50% (Fifty Percent) of members required to be in attendance.
- 3.6.4 In terms of Section 64(4), if, within one hour after the appointed time for a meeting to begin, the requirements of subsections (1), or (3) if applicable,
 - (a) for that meeting to begin have not been satisfied, the meeting is postponed without motion, vote or further notice, for one week;
 - (b) for consideration of a particular matter to begin have not been satisfied—
 - (i) if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or
 - (ii) if there is no other business on the agenda of the meeting, the meeting is adjourned for one week, without motion or vote.
- 3.6.5 In terms of Section 64(5), the person intended to preside at a meeting that cannot begin due to the operation of subsection (1)(a), or (3) if applicable, may extend the one-hour limit allowed in subsection (4) for a reasonable period on the grounds that—
 - (a) exceptional circumstances affecting weather, transportation or electronic communication have generally impeded or are generally impeding the ability of shareholders to be present at the meeting; or

(b) one or more particular shareholders, having been delayed, have communicated an intention to attend the meeting, and those shareholders, together with others in attendance, would satisfy the requirements of subsection (1), or (3) if applicable.

3.6.6 If, at the time appointed in terms of this section for a postponed meeting to begin or for an adjourned meeting to resume, the requirements of subsection (1), or (3), or paragraph 3.6.1 and/or 3.6.2 above, if applicable, have not been satisfied, the shareholders, or in the case of a non-profit company, the members of the company present in person or by proxy, will be deemed to constitute a quorum.

3.6.7 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

In terms of Section 64(12), and subject to subsection (13), a meeting may not be adjourned beyond the earlier of:

- (a) The date that is 120 business days after the record date is determined in accordance with section 59; or
- (b) The date that is 60 business days after the date on which the adjournment occurred.

3.8 MEMBERS RESOLUTIONS

3.8.1 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 resolution, as provided in section 65(7).

3.8.2 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).

3.8.3 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.

4. ARTICLE 4 - DIRECTORS AND OFFICERS

4.1. COMPOSITION OF THE BOARD OF DIRECTORS

The composition of the Board of Directors is prescribed in the Rules.

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

- 4.3.1 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.
- 4.3.2 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.
- 4.3.3 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.
- 4.3.4 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.
- 4.3.5 The authority of the Company's Board of Directors to proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in section 73(5) is not limited or restricted by this Memorandum of Incorporation.
- 4.3.6 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.
- 4.3.7 The Board shall cause minutes to be kept of –
- i) Any declaration given by notice or made by a director as required by section 75;
 - 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.
- 4.3.8 The Board will, at a Board Meeting preceding an Annual General Meeting held at the end of the second year of the President and Vice President's terms, appoint from their number, the President and Vice President of the FIA for the ensuing two-year period as prescribed in the Rules.

4.4 INDEMNIFICATION OF DIRECTORS

- 4.4.1 The Company, in terms of section 78(2), is specifically prohibited, from either expressly or impliedly, directly or indirectly purporting to relieve any director of a duty contemplated in section 75 or 76 or liability contemplated in section 77; or negate, limit or restrict any legal consequences arising from an act or omission that constitutes willful misconduct or willful breach of trust on the part of the director.
- 4.4.2 The authority of the Company 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 not prohibited in terms of this Memorandum of Incorporation. The Company, in its sole discretion, may advance expenses for purposes of indemnification as set out in section 78(4).

4.4.3 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.

4.4.4 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. ARTICLE 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 in its sole and absolute discretion to amend the Code of Conduct from time to time. The Code of Conduct, as updated from time to time, will be attached to the Rules.

5.2. COMMITTEES

All committees appointed by the Board, shall act according to the mandates given to them by the Board and shall keep minutes of all meetings. All committees will function in the manner as set out in the Rules.

5.3. ADVISORY COUNCIL

An Advisory Council will function in the manner as set out in the Rules.

5.4. REGIONS

Branches will exist in regions as determined by the Board of Directors, in consultation with the Advisory Council, as provided for in the Rules.

5.5. BRANCHES

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

5.6. VOTING

The general provisions regarding voting on National, Regional and Branch level are prescribed in the Rules.

5.7. SECESSION OF BRANCHES

The secession of branches shall be governed in a manner as set out in the Rules.

5.8. SUBSCRIPTIONS

The terms and conditions regarding subscriptions shall be determined in the Rules and dealt with accordingly.

5.9. DISCIPLINE

Members shall be disciplined by the Board in a manner and in accordance with the process as set out in the Rules.

5.10. REGISTERED ADDRESS AND NOTICES

The governance of a member's registered address and notices to be sent and received by such member shall be determined in the Rules.

5.11. FUNDING OF THE COMPANY

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

5.12. AMALGAMATION

5.12.1 Subject to Chapter 5 of the Act (Sections 112 – 116), the Company may only amalgamate or merge 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) business 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 more 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 more than 60% (sixty percent) 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.

5.12.2 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.

5.13. LIQUIDATION

The process of liquidation and the working thereof is prescribed in the Rules.

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