

These Rules are made by the Board pursuant to clause 17 of the Constitution.

Rule 1. Characteristics of Membership

Rule 2. Continuing Professional Education

Rule 3. Code of Conduct – Brokerage

Rule 4. Cancellation and Return of Brokerage

Rule 5. Code of Conduct Committee

Rule 6. Code of Conduct Tribunal

Where defined terms are used in these Rules their meaning can be found in the section titled 'Definitions' following the Rules.

RULE 1: CHARACTERISTICS OF MEMBERSHIP

1. Principal Member

- 1.1 Subject to paragraph 1.5, if a Principal Member is a corporation, at least one of the directors who are active in the Financial Services Business of the corporation must be a Qualified Practising Insurance Broker or Fellow.
- 1.2 Subject to paragraph 1.5, if a Principal Member is a member of a partnership, that member or at least one of the partners of that member must be a Qualified Practising Insurance Broker or Fellow.
- 1.3 Subject to paragraph 1.5, if a Principal Member is a trust, at least one of the trustees who are active in the Financial Services Business of the trust must be a Qualified Practising Insurance Broker or Fellow.
- 1.4 Subject to paragraph 1.5, if a Principal Member is a sole trader, that member must be a Qualified Practising Insurance Broker or Fellow.
- 1.5 Notwithstanding any provision of these Rules or the Constitution, the Board may, in its absolute discretion, exempt a Principal Member from the requirement to have a Qualified Practising Insurance Broker or Fellow active in its Financial Services Business.
- 1.6 A Principal Member must advise the Board that a corporation or trust is associated with the Principal Member within the definition

of Corporate Associate, as soon as reasonably practicable after becoming aware of the association.

- 1.7 If a Principal Member is a member of a partnership or a sole trader, the member must advise the Board, as soon as is reasonably practicable, of the admission to the partnership of any new partner or any new entry of the sole trader into partnership.

2. Corporate Associates

- 2.1 Subject to paragraph 2.2, at least one of the directors of a Corporate Associate who is active in the Financial Services Business of the Corporate Associate in Australia must be a Qualified Practising Insurance Broker or Fellow.
- 2.2 Notwithstanding any provision of these Rules or the Constitution, the Board may, in its absolute discretion, exempt a Corporate Associate from the requirement to have a Qualified Practising Insurance Broker or Fellow active in its Financial Services Business.

3. Principal Members and Corporate Associates

- 3.1 Subject to this Rule the operations of all State, Territory, regional or district offices of a Principal Member or Corporate Associate must be controlled by a Qualified Practising Insurance Broker.
- 3.2 The Board may, in its absolute discretion, exempt for any period of time specified by the Board, a State, Territory, regional or district Office of a Principal Member or Corporate Associate from the requirement that the office be controlled by a Qualified Practising Insurance Broker.
- 3.3 The Board may, in its absolute discretion, revoke any exemption granted under this Rule at any time before the expiration of the specified time.
- 3.4 If a Principal Member or a Corporate Associate ceased to be eligible for membership by reason only of the death, resignation or termination of a Qualified Practising Insurance Broker or Fellow or by reason only of a Qualified Practising Insurance Broker or Fellow ceasing to be a member of the Association, the Board may, in its absolute discretion, allow the Principal Member or Corporate Associate to carry on being a member of the Association or impose such conditions on membership as the Board considers appropriate in the circumstances.

- 3.5 At the time of application for Principal Membership or Corporate Associate the applicant must provide the names of five companies carrying on a Financial Services Business, with whom it has transacted business and whose senior management will vouch for its professionalism and credit worthiness.

4. Qualified Practising Insurance Broker

- 4.1 A Qualified Practising Insurance Broker must satisfy the Board that:

- (a) he or she holds a Licence with a Broker Endorsement and:
 - (i) has a minimum of 3 years experience as a Licensee (or equivalent experience prior to the introduction of the Financial Services Reform Act 2001): or
 - (ii) has been engaged in full time employment with a Licensee or a person conducting a Financial Services Business (or equivalent prior to the introduction of the Financial Services Reform Act 2001) for a minimum of 6 years in a position providing Financial Services; and
- (b) he or she has qualifications considered by the Board to be appropriate and practical experience in business comparable to that of a person who has conducted a Financial Services Business for 3 years; and
- (c) he or she has participated in Continuing Professional Education as required by the Board, in the 12 month period immediately prior to the date of his or her application; and
- (d) he or she can overcome any written objection lodged by any Member relating to his or her professionalism and business ethics; and
- (e) his or her nomination has been proposed by a Qualified Practising Insurance Broker who, in the case of an employee applicant, is a director of the Principal Member or Corporate Associate or manager of the state, territory, regional or district office of the Principal Member or Corporate Associate in which he or she is employed.

- 4.2 A Qualified Practising Insurance Broker may use the designation QPIB after his or her name.

5. Individual Member

An Individual Member must satisfy the Board that:

- (a) he or she is an Authorised Representative and he or she:
 - (i) has a minimum of 3 years experience as an Authorised Representative or Licensee (or equivalent experience prior to the introduction of the Financial Services Reform Act 2001): or
 - (ii) has been engaged in full time employment with either or both an Authorised Representative or Licensee (or equivalent experience prior to the introduction of the Financial Services Reform Act 2001) for a minimum of 6 years in such a position providing Financial Services; and
- (b) he or she has qualifications considered by the Board to be appropriate and practical experience in business comparable to that of a person who has conducted a Financial Services Business for 3 years; and
- (c) he or she has participated in Continuing Professional Education as required by the Board, in the 12 month period immediately prior to the date of his or her application; and
- (d) he or she can overcome any written objection lodged by any Member relating to his or her professionalism and business ethics; and
- (e) his or her nomination has been proposed by a Member.

6. Underwriting Agents Category

A Member is eligible to fall within the Underwriting Agents Category for the purposes of election of Directors to the Board if the Board is satisfied that a Member is either a Licensee or an Authorised Representative with a written authorisation from a Licensee who is an insurer to:

- (a) enter into contracts that are risk products on behalf of the insurer as insurer; or
- (b) deal with and settle on behalf of the insurer, claims relating to risk insurance products against the insurer as insurer.

7. Wholesale Brokers Category

A Member is eligible to fall within the Wholesale Brokers Category for the purposes of election of Directors to the Board if the Board is satisfied that a Member is a Licensee who does not provide a financial service directly to the purchaser of a financial

service or product but arranges for such a service or product to be provided to the client of another Licensee.

8. Recognised Brokers Association

The Board recognises the following international associations for the purposes of the requirements of an International Member of the Association:

- (a) Irish Insurance Brokers Association;
- (b) Institute of Insurance Brokers (UK);
- (c) British Insurance and Investment Association;
- (d) Hong Kong Confederation of Insurance Brokers;
- (e) License Insurance Brokers Association of Fiji;
- (f) Insurance Brokers Association of South Africa;
- (g) Singapore Insurance Brokers Association;
- (h) The South African Insurance Brokers Association;
- (i) Independent Insurance Brokers Association of New Zealand;
- (j) Corporation of Insurance Brokers New Zealand;
- (k) Association of Insurance Brokers and Agents Israel;
- (l) Insurance Brokers Association of Malaysia

9. International Members

9.1 An International Member must satisfy the Board that:

- (a) he or she holds a Licence with a Broker Endorsement (or the equivalent qualification in their home country, as determined in the absolute discretion of the Board) and he or she:
 - (i) has a minimum of 3 years experience as an insurance broker; or
 - (ii) has been engaged in full time employment with either or both a Recognised International Insurance Broker or a Financial Service Business for a minimum of 6 years in such a position as to have been responsible to the public for insurance advice; and

- (b) he or she has qualifications considered by the Board to be appropriate and practical experience in business comparable to that of a person who has been in the insurance industry for 3 years; and
- (c) he or she has participated in Continuing Professional Education as required by the Board or other on-going training which the Board considers appropriate, in the 12 months period immediately prior to the date of his or her application; and
- (d) he or she can overcome any written objection lodged by any Member relating to his or her professionalism and business ethics; and
- (e) his or her nomination has been proposed by a Qualified Practising Insurance Broker or an International Member.

10. Fellows

- 10.1 A Fellow must satisfy the Board that he or she has successfully completed the Advanced Diploma in Financial Services or equivalent qualification offered by the Association or other tertiary institution whose courses are recognised by the Association.
- 10.2 A Fellow is permitted to use the designation 'FNIBA' after their name to indicate their membership status of the Association.

11. Former Members

- 11.1 A person who has been a Member and who no longer qualifies for membership by virtue of having ceased to comply with the eligibility requirements of those classes of membership may, at the absolute discretion of the Board:
 - (a) receive, for a prescribed fee, communications from and invitations to functions of the Association providing that a suitable undertaking is given that the former member will not claim membership of the Association; and/or
 - (b) be permitted to use the designations "QPIB (Retired)" or "FNIBA (Retired)" or "Individ (Retired)" reflecting their former class of membership of the Associationsubject to the requirements set out in this Rule.
- 11.2 Any person permitted to use the designations set out in subparagraph 11.1(b) shall provide annually an undertaking that:

- (a) he or she will not hold himself or herself out to be a Member of the Association; and
- (b) he or she is not engaged in the business of an intermediary, other than as a part-time consultant to a Member.

11.3 A person who:

- (a) is currently entitled to use the designations set out in subparagraph 11.1(b);
- (b) has regained employment with a Principal Member or Corporate Associate; and
- (c) satisfies the Board that he or she has participated in Continuing Professional Education required by Rule 2,

may, at the absolute discretion of the Board, be re-submitted to such class of membership of the Association as the Board shall determine.

RULE 2: CONTINUING PROFESSIONAL EDUCATION

1. Continuing Professional Education requirements

- 1.1 Each Member (other than an Honorary Fellow) who is a natural person must comply with this Rule in order to remain eligible to be a member of the Association.
- 1.2 A Member must attend the minimum number of hours of Continuing Professional Education (**CPE**), as determined by the Board from time to time, for each year ending 30th June.
- 1.3 Members must submit to the Association a completed 'CPE Declaration' form verifying their training participation by 30th September each year. In this form the Member must show:
 - (d) whether they have met the minimum requirement for that year, and
 - (e) the amount of time claimed for each of the qualifying categories, where relevant.
- 1.4 The Association reserves the right to undertake random audits of Member's compliance with this Rule. If a Member is audited they must submit a 'Record of Participation in CPE' form. This form will require Members to provide evidence of their compliance with this Rule. Such evidence may include attendance lists, enrolment forms or confirmation advice, employer's reports, diary records, certificates, diplomas and degrees, official receipts and statutory declarations. For audit purposes, members are advised to keep records for six months following the end of the year.
- 1.5 The CPE activities that a Member may participate in for the purposes of this Rule are those activities determined by the Board from time to time to be CPE activities.

RULE 3: CODE OF CONDUCT: BROKERAGE

1. General

This Rule applies where a Member (**the new broker**) is appointed to act for a client in relation to any contract of insurance (**any existing policy**) arranged for that client by another insurance broker (**the original broker**).

2. Brokerage

The new broker will:

- (a) not claim or enforce any entitlement to brokerage in relation to any existing policy other than for the renewal or extension of such policy;
- (b) not suggest to the client that any existing policy be cancelled unless to do so is in the interest of the client (other than by reason of the new broker thereby becoming entitled to brokerage on any contract of insurance arranged by the new broker to replace any such policy); and
- (c) account to the insurer, or the original broker, for any brokerage received by the new broker in relation to any existing policy, as soon as is reasonably practicable after receipt of that brokerage.

RULE 4: CANCELLATION AND RETURN OF BROKERAGE

1. General

This Rule applies where a contract of insurance (**the policy**) arranged by a Member is cancelled.

2. Return of Brokerage

2.1 Subject to paragraph 2.2., the Member will refund to the client the 'due proportion' of any brokerage relating to the policy. The 'due proportion' is the proportion which the net return premium bears to the total net premium.

2.2 If the Member and the client entered into a written agreement before the policy was cancelled under which the client agreed either that:

(a) no brokerage would be refunded in the event of cancellation, or

(b) brokerage would be refunded on a basis other than in accordance with paragraph 2.1.

then the agreement prevails over paragraph 2.1.

3. Fees

3.1 No fee or penalty will be charged by a Member relating to cancellation unless express provision is made for it in a written agreement entered into between the Member and the client before the policy was cancelled.

3.2 The Member has the discretion to retain or refund part or all of any fee relating to the arrangement of the policy.

RULE 5: CODE OF CONDUCT COMMITTEE

1. Establishment of Committee

- 1.1 The Board may, from time to time, convene the Code of Conduct Committee to assist in the investigation of:
 - (a) complaints where its assistance is sought by the Board of the Registrar; and
 - (b) other matters referred to it by the Board.
- 1.2 The Code of Conduct Committee must act in accordance with the direction of the Board and with these rules as amended by the Board from time to time.
- 1.3 The Code of Conduct Committee will report its findings and any recommendations it may make to the Board or the Registrar, as the case may be.

RULE 6: CODE OF CONDUCT TRIBUNAL

1. Function of the Tribunal

The Tribunal will conduct a hearing into any complaint or matter referred to it from the Board.

2. Members of the Tribunal

2.1 The Board shall have the power to select people for a panel consisting of:

- (a) industry experts;
- (b) solicitors; and
- (c) nominees of divisional committees who shall be selected in accordance with the rules.

2.2 Where a complaint or matter is referred by the Board to the Tribunal, the Registrar shall select from the panel the members to constitute the Tribunal to hear that complaint or matter.

2.3 The Tribunal shall comprise:

- (a) 2 industry experts
- (b) 1 solicitor, who shall be chairman; and
- (c) 1 nominee of the divisional committee of the division which the Registrar considers appropriate having regard to where the complaint or matter arose.

2.4 If any member of the Tribunal is unable whether on account of illness or absence or otherwise to perform her or his duties as a member:

- (a) the Tribunal may continue with the hearing in the member's absence; or
- (b) the Registrar may in consultation with the existing Tribunal members select from the panel a replacement member of the Tribunal.

2.5 A person selected to act as a member of the Tribunal pursuant to paragraph 2.4 shall be from the same category in paragraph 2.3 as the member of the Tribunal in whose place the member acts.

2.6 No action shall lie against any member of the Tribunal in respect of any act, error or omission in the course of a hearing or

anything done or said in relation to any complaint or matter before the Tribunal.

- 2.7 An act or finding of the Tribunal is not invalid by reason only of a defect or irregularity in the selection of a member.

3. Power of Tribunal

- 3.1 The Tribunal may refer any issue, question or manner which arises during the course of a hearing to an expert for determination or report as the Tribunal directs.

- 3.2 The Tribunal has the power, after conducting a hearing, to make such orders as it thinks fit, including orders that:

- (a) the complaint or manner be dismissed with or without a reprimand;
- (b) the Member to whom the complaint or matter relates be reprimanded;
- (c) a fine not exceeding \$50,000 be paid to the Association within a specified time;
- (d) costs of the hearing be paid to the Association within a specified time;
- (e) conditions be placed on the Member's membership;
- (f) the Member's membership be suspended; and
- (g) the Member's membership be cancelled.

DEFINITIONS

All terms defined in the Constitution and referred to in these Rules have the same meaning as is given to those terms in the Constitution. Other terms are defined as follows:

Broker Endorsement means a condition imposed on an Australian Financial Services Licence authorising the licensee to use the term 'insurance broker', 'insurance broking', 'general insurance broker' or 'life insurance broker' in the provision of Financial Services.

Constitution means the constitution of the Association adopted by the Board from time to time.

Continuing Professional Education means professional development and education requirements imposed on Members by the Board in these Rules.

Education Committee means the committee established by the Board to establish and monitor educational requirements of Members

Tribunal means the Code of Conduct Tribunal.