

Dated

12 August 2012

**RETAIL CREDIT ASSOCIATION OF NEW ZEALAND
INCORPORATED**

RULES

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RULES OF RETAIL CREDIT ASSOCIATION OF NEW ZEALAND INCORPORATED

1. NAME

- 1.1 The name of the society is the Retail Credit Association of New Zealand Incorporated (the "**Society**").

2. REGISTERED OFFICE

- 2.1 The registered office of the Society is Level 22, 188 Quay Street, Auckland at the offices of PricewaterhouseCoopers or such other place as the Council may from time to time determine.

3. VISION AND STATEMENT OF PURPOSE

- 3.1 The Society aims to continually improve practice standards and methodologies in the New Zealand retail credit sector.
- 3.2 The purpose of the Society is to encourage greater clarity, transparency and efficiency in credit risk assessment and management in order that the benefits gained may be shared by consumers and providers.

4. OBJECTS

- 4.1 The objects for which the Society is established are:
- (a) to provide a forum within which retail credit issues in New Zealand can be discussed by appropriate representatives of Member Classes;
 - (b) to advocate initiatives that enable continuous improvement in credit risk assessment and management;
 - (c) to facilitate the establishment of standards regarding data as permitted by the Credit Reporting Privacy Code and/or other regulatory and /or legislative requirements;
 - (d) to develop, and promote relevant policies and Codes of Conduct;
 - (e) where appropriate, to educate on these and promote change to assist in achieving such outcomes;
 - (f) to do anything necessary or helpful to the above objects.
- 4.2 The Society will not act in any unlawful way. In particular it will not engage in, endorse, or permit any Illegal Behaviour.

5. COUNCIL

- 5.1 The governing body of the Society is the Council, comprising the delegate or nominee of the chief executive officer of each Member (each a "**Council Member**").
- 5.2 Each year the Council will elect a Chairperson and a deputy Chairperson of the Society for the ensuing year.
- 5.3 Subject to these Rules, the role of the Council is to:
- (a) administer, manage, and control the Society;
 - (b) carry out the objects of the Society, and Use Money or Other Assets to do that, including by opening and operating bank accounts in the name of the society ;
 - (c) manage the Society's financial affairs, including:
 - (i) preparation of financial statements as frequently as the Council may determine and in accordance with generally accepted accounting practice and

- (ii) submitting such statements for approval by the Members;
 - (d) set accounting policies in line with generally accepted accounting practice; and determine the financial year of the Society;
 - (e) delegate responsibility and co-opt members where necessary;
 - (f) enforce the observance by Members of these Rules, any Code of Conduct, standards and any Bylaws of the Society;
 - (g) decide how a person becomes a Member, and how a person stops being a Member;
 - (h) decide the procedures for dealing with complaints with the Society;
 - (i) set membership fees, including subscriptions and levies;
 - (j) make Bylaws, Codes of Conduct and operating rules and guidelines;
 - (k) appoint Officers and engage staff to carry out delegated functions in connection with the objects of the Society.
- 5.4 The Council may form Advisory Groups from time to time to consider issues of a specialised or technical nature. The Council may, subject to these Rules:
- (a) approve the terms of reference for, and the representation of Members on any Advisory Group; and
 - (b) receive reports and recommendations from any Advisory Group and accept, vary or reject those reports or recommendations.

6. GENERAL MEETINGS

- 6.1 The Society shall meet at least one a year at an annual general meeting to be held within five months after the end of each financial year.
- 6.2 The Council shall convene a General Meeting within 7 days of receiving a written requisition signed by at least 10% of the Council Members or when directed to do so by the Chairperson.
- 6.3 Every such requisition or direction shall specify the nature of the business to be conducted at the meeting. Any General Meeting other than an annual general meeting shall be called a Special General Meeting.
- 6.4 Notice of a General Meeting shall be given to a Member in writing or electronically (where the Member has consented to that) or by handing, or sending by facsimile, post or electronic means, the notice to the Member at least 14 days prior to the date of the meeting. Any notice sent by facsimile shall be deemed to be received on the day it is sent. Any notice sent by post shall be deemed to be received 3 days after the day on which it was posted. Any notice sent by electronic means shall be deemed to be received on the day on which it leaves the telecommunication device of the sender.
- 6.5 Every notice of a General Meeting shall state the place, day and hour of the meeting and the nature of the business to be conducted at the meeting, provided that a notice calling an annual general meeting need not state
- (a) that the business of the meeting includes the consideration of the Society 's accounts and the Executive's and auditor's reports, the election of officers, and the appointment of and fixing of the remuneration of the auditors; or
 - (b) the exact words of any resolution proposed to be moved or passed at the meeting, so long as the notice includes a reasonable description of the matter to be determined.
- 6.6 A General Meeting shall, notwithstanding that it is called by shorter notice than that specified in clause 6.4, be deemed to have been duly called if it is so agreed by all the Members entitled to attend that meeting and duly ratified at the meeting.

- 6.7 For all general meetings minutes shall be kept and a record of the minutes of the previous meeting shall be provided to Members before the next meeting for their approval at the next meeting.
- 6.8 A delegate or nominee of each Member (an “**Authorised Representative**”) shall be the Member's representative at any General Meeting. If an Authorised Representative is unable to attend a General Meeting, the Member may appoint another senior representative or executive of the Member to act as its representative for that meeting. At a General Meeting the representative of a Member shall have all the powers of the Member and a vote by the representative shall bind the Member.
- 6.9 The Chief Executive Officer or his or her delegate shall provide at each annual general meeting:
- (a) a copy of the Report of the Chief Executive Officer on the Society's operations and of the annual financial statements;
 - (b) notice of any motions and the Chief Executive Officer's recommendations about those motions.

7. COUNCIL MEETINGS

- 7.1 The Chief Executive Officer or his or her delegate, shall, except in exceptional circumstances, give all Council Members at least 14 days Written Notice of the business to be conducted at any Council meeting. Where a Council meeting is to be held because of exceptional circumstances, the Council meeting will be called on the period of notice as in the opinion of the Chairperson or deputy Chairperson the exceptional circumstances may reasonably require.
- 7.2 Council meetings may be held via video or telephone conference or other format as the Council may decide.
- 7.3 A quorum for a Council meeting is the presence in person, or by his or her proxy, of at least half of the Council Members. If a Council Member cannot attend a Council meeting, the Council Member may appoint another representative of the Member represented by the Council Member to act as that Council Member's proxy for that meeting.
- 7.4 If within half an hour after the time appointed for a Council meeting a quorum is not present, the Council meeting, if convened on requisition of Council Members, shall be dissolved. In any other case it shall stand adjourned to a day, time and place determined by the Chairperson, and if at the adjourned Council meeting a quorum is not present, the Council meeting shall be dissolved without further adjournments. The Chairperson may with the consent of any Council meeting adjourn the same from time to time and from place to place but no business shall be transacted at any adjourned Council meeting other than the business left unfinished at the Council meeting from which the adjournment took place.
- 7.5 The Chairperson, or in his or her absence, the deputy Chairperson, shall chair Council meetings. If the Chairperson and deputy Chairperson are both absent, the Council shall elect a Council Member to chair that Council meeting.
- 7.6 If the Chief Executive Officer has sent a notice to all Council Members in accordance with these Rules, the Council meeting and its business will not be invalidated simply because one or more Council Members did not receive the notice.
- 7.7 The Council shall endeavour to make decisions by way of consensus. If the Council is unable to reach consensus it shall determine a question by voting. If a question is to be determined by voting:
- (a) each Council Member shall have one vote;
 - (b) all questions other than an amendment of any Code of Conduct shall be decided by a majority vote of Council Members;
 - (c) the Chairperson shall not have a second or casting vote.

8. COMMITTEES

- 8.1 The Council may form Committees from time to time under such terms of reference and with such representation of Members as the Council approves. The Council may dissolve any Committee it forms.
- 8.2 A Committee shall determine when and where it will meet.
- 8.3 Committee meetings may be held via video or telephone conference, or other format as the Committee may decide.

9. EMPLOYEES AND CONTRACTORS

- 9.1 The Council may from time to time appoint a Chief Executive Officer for such period and on such terms (including remuneration) as the Council thinks fit and may revoke or vary any such appointment at any time. The appointment of the Chief Executive Officer must be approved by a two-thirds majority vote of Council Members whether present in person or by proxy.
- 9.2 The Council may from time to time appoint any person to be an employee or contractor either for a fixed term or without limitation as to the period, and may from time to time (subject to the provisions of any contract between him or her and the Society) remove or dismiss him or her from office and appoint another in his or her place. The Council may develop operating rules or guidelines to address this and other relevant matters.
- 9.3 The Chief Executive Officer shall have such functions, duties, and powers as are conferred on that person by these Rules, or entrusted by the Council or accorded by the operating rules or guidelines referred to in clause 9.2. The Chief Executive Officer will be authorised to open and operate one or more Bank Accounts in the name of the Society as the Council considers necessary for the conduct of the business of the Society. All money received or paid as a result of the operations of the Society shall be paid into these accounts as the Chief Executive Officer directs.
- 9.4 The Chief Executive Officer shall report to the Chairperson.
- 9.5 The Chief Executive Officer and any other person, not being a Council Member and approved by the Council, may attend Council and Committee meetings as non-voting participants.

10. TYPES OF MEMBERS

- 10.1 Membership may comprise different classes of membership as decided by the Council.
- 10.2 Members have the rights and responsibilities set out in these Rules.

11. ADMISSION OF MEMBERS

- 11.1 To become a Member, an Applicant must:
- (a) be a Credit Reporter who certifies that it complies with the regulations in the Credit Reporting Privacy Code; or
 - (b) be any other entity which is permitted to contribute and receive positive **credit account** data under the Credit Reporting Privacy Code; **or**
 - (c) **be any entity to which a credit reporter may disclose positive credit account data under the Credit Reporting Privacy Code;**
 - (d) satisfy any membership criteria determined by the Council;
 - (e) complete an application form, if these Rules, Bylaws or Council requires this;
 - (f) supply any other information the Council requires.
- 11.2 No person that is a member of the same corporate group as an existing Member may apply for separate membership of the Society.
- 11.3 The Council may interview an Applicant for membership.

- 11.4 The Council shall have complete discretion in deciding whether or not to allow the Applicant to become a Member. As soon as practical after the Council has made its determination, the Chief Executive Officer must:
- (a) notify the Applicant in writing that the Council approved or rejected the application (whichever is applicable); and
 - (b) if approved, request the Applicant to pay (within 28 days after receipt by the Applicant of the notification) the sum payable under these Rules by a Member as a joining fee and annual subscription.
- 11.5 The Chief Executive Officer or his or her delegate must, on payment by the Applicant of the amounts referred to in clause 16, enter the Applicant's name in the Register and, on the name being so entered, the Applicant shall become a Member.

12. REGISTER OF MEMBERS

- 12.1 The Chief Executive Officer shall keep a Register, which shall contain the names, addresses and telephone numbers of all Members, and the dates on which they became Members.
- 12.2 If a Member's contact details change, that Member shall give the new address or telephone number to the Chief Executive Officer.
- 12.3 Each Member shall provide such other information as is relevant to the Society and reasonably required by the Council.
- 12.4 Members shall have reasonable access to the Register.
- 12.5 With the exception of the notice provisions relating to General Meetings in Rule 6.5, any notice to be given by the Society to a Member shall be in writing and may be served by:
- (a) delivery to that Member's address;
 - (b) sending by registered mail to that Member's address;
 - (c) transmitting by facsimile to that Member's address; or
 - (d) sending by email to that Member's email address

provided that where a Member stipulates in writing that notice must be given by service on its registered office then service must be effected on that Member only in that way.

- 12.6 Subject to clause 12.5 a notice given to a Member is treated as having been given and received:
- (a) if delivered to a Member's address, on the day of delivery if a Business Day, otherwise on the next Business Day;
 - (b) if sent by registered mail, on the next Business Day after posting;
 - (c) if transmitted by facsimile to a Member's address and the correct and complete transmission report is received, on the day of transmission if a Business Day, otherwise on the next Business Day; and
 - (d) if transmitted by email -on the date when the email leaves the sender's email address.

For the purpose of this clause, subject to clause 12.5, the address of a Member shall be the last notified to the Society by the Member.

13. CESSATION OF MEMBERSHIP

- 13.1 A Member may resign at any time from the Society by giving written notice to the Chief Executive Officer to that effect, and such retirement shall take effect on receipt of the notice, but without affecting that Member's obligation to pay any subscriptions, levies, or other payments due. The Chief Executive Officer shall notify all Members of the receipt of a notice of retirement and the name of the retiring Member and the effective date of such retirement.

- 13.2 The Council may terminate a Member's membership with immediate effect if:
- (a) the Member ceases to be a Credit Provider or to satisfy any other membership criteria determined by these Rules or by the Council; or
 - (b) the Member becomes insolvent, has a receiver and manager, administrator or liquidator appointed, or is wound up (except for the purposes of reconstruction or amalgamation);

13.3 If the Council is of the view that a Member is breaching these Rules, any Code of Conduct or Bylaws of the Society, conducting itself in a manner likely to bring the Society into disrepute or acting in a manner inconsistent with the objects of the Society, the Council may give written notice to the Member (the "**Council's Notice**"), which must:

- (a) explain how the Member is breaching these Rules, any Code of Conduct or Bylaws of the Society, or acting in a manner inconsistent with the objects of the Society;
- (b) state what the Member must do in order to remedy the situation; or state that the Member must write to the Council giving reasons why the Council should not terminate the Member's membership;
- (c) state that if, within 14 days of the Member receiving the Council's Notice, the Council is not satisfied, the Council may terminate the Member's membership.

14 days after the Member received the Council's Notice, the Council, but only by 75 percent majority vote and after taking external legal advice, terminate the Member's Membership on giving the Member written notice, which takes immediate effect.

13.4 When membership is terminated, any subscription or other monies due to the Society shall be payable forthwith.

14. OBLIGATIONS OF MEMBERS

- 14.1 All Members and Council Members shall promote the objects of the Society and do nothing to bring the Society into disrepute.
- 14.2 Notwithstanding clause 14.1, each Member may, where it believes that it is appropriate or necessary do so, pursue its separate interests and take action that may be contrary to a position proposed or taken by the Society.

15. USE OF MONEY AND OTHER ASSETS

15.1 The Society may only Use Money and Other Assets if:

- (a) it is for a purpose of the Society;
- (b) it is not for the sole personal or individual benefit of any Member; and
- (c) the use has been approved by the Council.

15.2 The Council shall apply the income and property of the Society, whenever and however derived, solely towards the promotion of the objects of the Society and no portion of it is to be transferred directly or indirectly by way of profit to any Member. This does not prevent the payment in good faith:

- (a) for goods and services supplied by a Member in the ordinary and usual course of business;
- (b) of interest at a reasonable rate on money borrowed from any Member;
- (c) of reasonable and proper rent for premises leased by any Member to the Society;
- (d) of remuneration to any officers or servants of the Society in return for services rendered to the Society, where the provision of the service and the amount payable has the prior approval of the Council;

- (e) of out-of-pocket expenses incurred by a Council Member in the performance of any duty as a Council Member where the amount payable does not exceed any amount previously approved by the Council;
- (f) of any salary or wage due to any employee of the Society.

15.3 A Member may retain any remuneration properly payable to the Member by any entity with which the Society may be in any way concerned or involved and for which the Member has acted in any capacity whatever. This applies even if the Member's connection with that entity is in some way attributable to the Member's connection with the Society. However, the Society may not lend money or lease property or assets at less than current commercial rates, having regard to the nature and terms of the loan and lease to any person (as defined in the Income Tax Act):

- (a) who is a Member;
- (b) who is a shareholder or director of any company by which any business of the Society is carried on; or
- (c) who is a settlor or a trustee of a Trust that is a shareholder of any company by which any business of the Society is carried on; or
- (d) if that person or that company and the settlor or trustee or shareholder or director referred to in any one of the foregoing paragraphs of this proviso are associated persons (as defined in the Income Tax Act).

16. JOINING FEES, SUBSCRIPTIONS AND LEVIES

- 16.1 If a Member does not pay a subscription or levy by the date set by the Council, the Chief Executive Officer or his or her delegate may give written notice that, unless the arrears are paid by a nominated date (which shall be at least 14 days after the date of the notice), the Member's membership will be terminated. After that date, the Member shall (without being released from the obligation of payment of any sums due to the Society) have no membership rights and shall not be entitled to participate in any Society activity.
- 16.2 The joining fee and annual subscription for every Member shall be the same. However, any annual subscription or levy shall be pro-rated for any Member admitted to membership of the Society part way through the year.

17. ADDITIONAL POWERS

- 17.1 The Society may:
- (a) employ people for the objects of the Society;
 - (b) exercise any power a trustee might exercise;
 - (c) invest in any investment that a trustee might invest in;
 - (d) borrow money and provide security for that if authorised by the Council.

18. FINANCIAL YEAR

- 18.1 Unless the Council determines otherwise the financial year of the Society begins on the 1st day of April of every year and ends on 31st day of March of the next year.

19. FINANCIAL STATEMENTS

- 19.1 The Council shall appoint an auditor to audit the annual financial statements of the Society. The auditor shall report on whether the financial statements are prepared in all material respects in accordance with the Society's accounting policies. The auditor must be a suitably qualified person and a member of the New Zealand Institute of Chartered Accountants, and must not be a Council Member or an employee of the Society. If the Society appoints an auditor who is unable to act for some reason, the Council shall appoint another auditor as a replacement.

- 19.2 The Council will provide the auditor with:
- (a) access to all information relevant to the preparation of the financial statements such as records, documentation and other matters;
 - (b) additional information the auditor may request from the Council for the purpose of the audit; and
 - (c) reasonable access to persons within the Society from whom the auditor determines it necessary to obtain evidence.
- 19.3 No review or audit of the annual financial statements is required unless a review or audit is requested by 5% of the Members at any properly convened Society Meeting.

20. SEAL AND SIGNING OF DOCUMENTS

- 20.1 The Council shall have control of the Common Seal, which may only be affixed to a deed in the presence of two Council Members and following a resolution of the Council.
- 20.2 A document that does not constitute a deed may be signed by the Chief Executive Officer or any other person acting on behalf of the Society authorised by a resolution of the Council.

21. ALTERING THE RULES

- 21.1 The Society may alter or replace these Rules at a General Meeting by a resolution passed by a 75 percent majority of the Members present in person or by proxy.
- 21.2 Any motion to amend or replace these Rules may be proposed by the Council or by at least 10% of Members signing and delivering the motion in writing to the Chief Executive Officer at least 28 days before the General Meeting at which the motion is to be considered, and accompanied by a written explanation of the reasons for the proposal.
- 21.3 At least 14 days before the General Meeting at which a Rule change is to be considered the Chief Executive Officer shall give all Members written notice of the proposed motion, the reasons for the proposal, and any recommendations of the Council.
- 21.4 No Rule change approved by a General Meeting shall take effect until the Chief Executive Officer has filed the change with the Registrar of Incorporated Societies.
- 21.5 No amendment of these Rules will be approved, if it would affect clause 15.

22. CODES OF CONDUCT AND BYLAWS

- 22.1 The Council may from time to time make Bylaws and Codes of Conduct for the regulation of Members in connection with the objects of the Society provided that any such Codes of Conduct are not repugnant to these Rules or to the provisions of law. Every Bylaw and Code of Conduct shall be binding on all Members. A copy of any Bylaws and Codes of Conduct for the time being shall be provided to new members and be available for inspection by any Member on request to the Chief Executive Officer.
- 22.2 The Council may make, alter or replace Bylaws and Codes of Conduct at a Council meeting by a resolution passed by a two-thirds majority vote of Council Members present in person or by proxy.
- 22.3 Any motion to make, amend or replace any Bylaw or Code of Conduct may be proposed by the Council or by at least 10% of Members signing and delivering the motion in writing to the Chief Executive Officer at least 28 days before the Council meeting at which the motion is to be considered, and accompanied by a written explanation of the reasons for the proposal.
- 22.4 At least 14 days before the Council meeting at which any proposed Bylaw or Code of Conduct or amendment to or replacement of any existing Bylaw or Code of Conduct is to be considered the Chief Executive Officer shall give to all Members written notice of the proposed motion, the reasons for the proposal, and any recommendations the Council has.

22.5 If there is a conflict of interpretation the order of precedence between the following documents is (1) these Rules, (2) the Bylaws, (3) any operating rules or guidelines and (4) the Codes of Conduct.

23. WINDING UP

23.1 If the Society is wound up:

- (a) the Society's debts, costs and liabilities shall be paid;
- (b) no distribution may be made to any Member;
- (c) the surplus Money and Other Assets shall be distributed to an organisation having purposes and objectives similar to those of the Society, as may be determined by a majority of the Members present in person or by proxy at a General Meeting.

24. DEFINITIONS AND MISCELLANEOUS MATTERS

24.1 In these Rules:

"Advisory Group" means an advisory group formed by the Council pursuant to clause 5.4.

"Applicant" means an applicant for membership of the Society.

"Chairperson" means the chairperson of the Council elected in accordance with clause 5.2.

"Chief Executive Officer" means the person for the time being holding that office (or its equivalent) in the Society.

"Code of Conduct" means any code of conduct of the Society, as amended from time to time, that is made in accordance with these Rules.

"Committee" means a committee formed by the Council pursuant to clause 8.

"Council" means the governing body of the Society established pursuant to clause 5.1.

"Council meeting" means a meeting of the Council convened and held in accordance with clause 7.

"Council Member" means a member of the Council as defined in clause 5.1.

"Council's Notice" has the meaning in clause 13.3.

"Credit Provider" has the meaning in the Credit Reporting Privacy Code.

"Credit Reporting Privacy Code" means the Credit Reporting Privacy Code 2004, as amended or re-enacted from time to time.

"General Meeting" means a meeting of Members and includes an annual general meeting and special general meeting;

"Illegal Behaviour" means any behaviour which is prohibited by law and includes any anti-competitive or collusive behaviour, without limitation, prohibited by regulation or legislation including, without limitation, the Commerce Act 1986, the Fair Trading Act 1986 and any acts subsequently passed in substitution therefore or in addition thereto.

"Member" means a member of the Society.

"Money or Other Assets" means any real or personal property or any interest therein, owned or controlled to any extent by the Society.

"Officer" means an officer of the Council as appointed from time to time

"Register" means the register of Members of the Society.

"Rules" means these rules of the Society, as amended from time to time.

“Use Money or Other Assets” means to use, handle, invest, transfer, give, apply, expend, dispose of, or in any other way deal with, Money or Other Assets.

“Written Notice” means communication by post, electronic means (including email, and website posting), or advertisement in periodicals, or a combination of these methods.

24.2 In these Rules:

- (a) One gender includes all other genders;
- (b) the singular includes the plural and vice versa;
- (c) headings are a matter of reference and are not part of these Rules.

24.3 Matters not covered in these Rules shall be decided upon by the Council.