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# CONSTITUTION OF NEWCASTLE DISTRICT BOWLING ASSOCIATION (ZONE 2) INCORPORATED

Inaugurated 1898.

## 1. DEFINITIONS.

In these rules unless the context otherwise requires:

- a. **“Act”** means the Associations Incorporation Act 2009.
- b. **“Association”** means Newcastle District Bowling Association (Zone 2) Incorporated
- c. **“Association Match”** means any match arranged by the Newcastle District Bowling Association in accordance with these Rules.
- d. **“Bowls Australia”** means Bowls Australia Incorporated
- e. **“Club”** means a properly constituted bowling club or provisional club as defined in rule 13.
- f. **“Delegates”** means a maximum of two representatives of an affiliated or provisionally affiliated club as set forth in rule 23 of this constitution.
- g. **“Executive Committee”** means a Committee comprising of the Officers of the Association and the Chairperson of the Permanent Sub-Committees.
- h. **“Life Member”** means a member who may, in consideration of long or meritorious service, or for any other reason, be granted Life Membership of the Association.
- i. **“Management Committee”** means a Committee comprising the Executive Committee and Delegates.
- j. **“Member”** means a club affiliated with this Association.
- k. **“NDBA”** means Newcastle District Bowling Association (Zone 2) Incorporated
- l. **“Officers”** means the President, 7 Vice-Presidents, Treasurer and State Councillor if a separate position.
- m. **“Patrons”** means a person or persons, appointed as a Patron, by the Management Committee on the recommendation of the Executive Committee.
- n. **“Proxy”** means a member appointed to act for a Delegate.
- o. **“Provisional Club”** means a properly constituted Club of 16 members contemplating the construction of a green which conforms with that required of a Club as defined in rule 13.
- p. **“RNSWBA”** means the State sporting organisation being the Royal New South Wales Bowling Association Limited.
- q. **“Secretary”** means the Secretary or acting Secretary for the time being of the Association and who shall be the Public Officer of the Association.
- r. **“Special Resolution”** in relation to the association means a resolution passed by a majority which comprises not less than three quarters of such members of the Management Committee as being entitled under this constitution to do so, vote in person or by proxy at a Management Committee meeting.
- s. In this Constitution words in the singular include the plural and vice versa.

## 2. OBJECTS AND POWERS

- a. To promote, advance membership, sustain bowls development and control the game of bowls in the Newcastle (Zone 2) District.
- b. To promote, manage and control Inter-Association, Inter-District, Inter-Zone and other matches and carnivals.
- c. To control, pay and protect all wage entitlements of any employee as well as approved out of pocket expenses of Committee members.
- d. To subscribe to, support and aid such benevolent, charitable, national or other institutions and/or objects of a public character, to such an extent and at such time as the Management Committee shall determine.
- e. To purchase, acquire, lease or otherwise obtain any real or personal property for the furtherance of the above objects.
- f. To sell, exchange, lease, mortgage, encumber or otherwise dispose of all or any portion of the real and personal property of the Association upon such terms and generally such conditions as may be deemed advisable.
- g. To make, do and execute all acts, deeds, matters and things necessary or expedient for the above purposes or conducive for the attainment of the above objects. Provided that before any action is taken under clauses (e) and (f) of this Rule involving an amount in excess of \$100,000, the consent and approval of three quarters of those present and entitled to vote at any meeting of the Management Committee shall be obtained.
- h. To participate as an affiliate of the Royal New South Wales Bowling Association.

## 3. MANAGEMENT

- a. The management of the Association shall be vested in the Management Committee
- b. The Management Committee shall meet bi-monthly, unless otherwise decided, at Association Headquarters at a date and time to be decided upon by the Management Committee. Special meetings may be called in accordance with Rule 7.  
Notice of the date and time of the next regular meeting of the Management Committee shall be included in the minutes of the previous meeting and be forwarded to every Club Secretary and Delegate at least seven days prior to such meeting. Notice of special meetings may be given likewise, or if time does not permit, by notice sent to every Club Secretary at least seven days prior to the date of such special meeting.
- c. The Executive shall meet monthly, unless otherwise decided, or when summoned by the President, at the Association Headquarters at a date and time to be decided upon by the members of the Executive Committee.  
Special meetings of the Executive Committee may be called by the President and shall also be called by the Secretary on receipt of a written request by at least four members of the Committee.

#### **4. QUORUM AT ALL COMMITTEE MEETINGS.**

At all meetings of Committees and Sub-Committees a majority greater than 50% of its members shall constitute a quorum.

At any meeting of these bodies, should a quorum not be present within 30 minutes of the appointed time, the meeting: -

- i. if it is an ordinary meeting shall be adjourned to such time and date as may be determined by those present.
- ii. if it is a special meeting shall lapse.

#### **5. ANNUAL AND SPECIAL GENERAL MEETINGS**

- a. The Annual Meeting of the Association shall be held in the month of July each year. Those entitled to attend are the Management Committee, Life Members and invited guests.
- b. No Delegate shall be entitled to speak or vote at any meeting unless the annual subscriptions payable by their club have been duly paid in accordance with rule 14 of this constitution.
- c. Any Club situated outside a radius of 65 km may appoint as its proxy the Delegate of another club by stipulating this in writing. A Delegate may only represent one other club.
- d. Special business may be transacted at the Annual Meeting if at least 35 days' notice has been given in writing to the Secretary, who shall notify all Club Secretaries of the business to be transacted, at least 28 days prior to the meeting.
- e. A preliminary notice of the Annual Meeting shall be issued by the Secretary during the first week in May each year setting forth the usual business and the fact that nominations for the Officers together with notices of special business must be in the hands of the Secretary at least 35 days before the Annual Meeting.
- f. The Annual Meeting of the Association shall be called by giving at least 28 days' notice by circular to all Clubs.
- g. A quorum for the Annual General Meeting shall be 50% of member Clubs. Should a quorum not be present within 30 minutes of the appointed time, the meeting shall be adjourned till the same time and place the next week and should a quorum still not be present then those present shall represent a quorum.

#### **6. BUSINESS AT ANNUAL MEETINGS**

- a. The roll of attendance shall be recorded for all Annual General Meetings by the Secretary.
- b. Confirmation of the minutes of the previous Annual Meeting and of any Special General Meeting held during the year.
- c. Consideration of the Annual Report, Balance Sheet and Auditors Report.
- d. Declaration of ballot for Officers and Permanent Sub-Committees, except the Selection Committee which will be elected at the November Management Committee Meeting and advising of the calling of nominations to fill any vacancies.
- e. Appointment of Auditor who shall be a Registered Practicing Accountant.
- f. Business of which due notice has been given.

## **7. SPECIAL GENERAL MEETINGS**

A Special General Meeting of the Management Committee shall be called by the Secretary when directed by a resolution of the Management Committee or the Executive Committee or on a written request from thirty or more Delegates. Notice of the motion together with the business to be transacted at the meeting, shall be forwarded to each Club at least 28 days prior to such meeting.

## **8. NOTICE OF MOTION**

Notice(s) of motion(s) shall be delivered in writing to the Secretary at least 35 days prior to the date of the meeting and shall be forwarded by the Secretary to all Clubs at least 28 days prior to such meeting.

In the absence of the intended mover of any motion, of which due notice has been given, it may with the consent of the meeting, be moved by any member of the Management Committee.

## **9. TERMS OF OFFICE FOR ELECTED OFFICIALS**

The provision for elected Officers and Sub-Committee Members of the Association to hold office for a period of two years.

## **10. NOMINATION OF OFFICIALS**

- a. Nominations for the Officers and Sub-Committee Members will be called from each Club, each nominee shall be a registered member of RNSWBA and NDBA.
- b. Nominations must be signed by the nominee and be proposed and seconded by members of the Board of Management of the Bowling Club of which the nominee is a member.
- c. Nominations must be in the hands of the Secretary of the Association no later than 35 days prior to the Annual General Meeting.
- d. No person shall hold more than one position as an Officer of the Association with the exception of the State Councillor who may also be a Vice-President.

## **11. ELECTION OF OFFICIALS**

- a. A ballot paper shall be sent to each club. The ballot paper should be completed by the Board of Management of the Bowling Club and returned to the Secretary of the Association no later than 7 days prior to the Annual General Meeting,
- b. Positions on the ballot papers will be decided by open draw.
- c. Should nominations equal or fall short of the number of positions vacant then all nominees shall be declared elected.
- d. Should nominations fall short of the required number then nominations for the vacant positions shall be called as in Rule 10.
- e. All ballots will be decided on a first past the post basis.
- f. In the event of a tied vote for the final position in any ballot, a fresh ballot will be held, with the tied candidates as the nominees, to determine the result.

## **12. VOTING**

At all meetings of the Management Committee, Annual or otherwise, each Club shall have one vote.

In an open vote, votes will be declared by the showing of the official card. If a secret ballot is demanded by at least 5 Delegates, then a ballot paper will be distributed to each Club.

At the discretion of the Executive Committee, a resolution or recommendation, that is deemed to be significant, shall be sent to each Club to be decided by postal ballot.

The Chairperson shall have a casting vote if required.

## **13. AFFILIATION OF CLUBS**

- a. Every Club of at least 16 members with a green of at least 4 rinks ready for play and laid down in accordance with the Laws of the Game, shall be entitled to apply for affiliation, and if admitted, shall be given representation on the Management Committee in accordance with these rules.
- b. Every Provisional Club of at least 16 members which having acquired the necessary site undertakes the construction, within eighteen months, of a green of at least 4 rinks laid down in accordance with the Laws of the Game, shall be entitled to apply for provisional affiliation, and if admitted, shall be given representation on the Management Committee in accordance with these rules. If the green is not completed within eighteen months the Management Committee may by resolution revoke the provisional affiliation.
- c. A Club may decide to disaffiliate from the Association. In such cases the disaffiliated Club shall have no claim on the finances or resources of the Association.

## **14. FEES AND CHARGES**

- d. Upon receipt of the annual membership schedule and account from the RNSWBA, every Club shall pay to the RNSWBA and NDBA the current capitation fee for each member. Payment of these capitation fees shall make the paying Club financial until the due date in the following year.
- e. Any addition, deletion or amendment to membership shall be made on the official form as issued by the RNSWBA from time to time.
- f. In addition, each Club shall pay to the Association all fees and charges incurred in relation to the management and operation of the Association and Association events as passed by the Management Committee.

## **15. ALTERATION OF THE CONSTITUTION**

- a. Alterations, additions, or deletions to any part of this constitution may only be made by special resolution passed at a duly convened meeting, Annual or otherwise of the Management Committee

- b. Details of the proposed alterations, additions or deletions shall be given to the Secretary at least 35 days prior to the date of such meeting and the Secretary shall notify each Club the details of the resolution and the date and time of the meeting at least 28 days prior to that meeting.

## **16. RESCISSION OF RESOLUTIONS**

- a. No resolution passed by the Management Committee shall be rescinded without notice of motion to rescind having first been given.
- b. Details of a notice of motion to rescind shall be sent in writing, by the Club concerned, to the Secretary who shall then notify all Clubs at least 28 days prior to the meeting at which the motion is to be considered.

## **17. AFFILIATION WITH THE ROYAL NEW SOUTH WALES BOWLING ASSOCIATION LIMITED**

- c. The Association on affiliation with the RNSWBA may withdraw their affiliation upon a special resolution of the Management Committee.
- d. At least 35 days' notice by circular must be given to the Secretary of all clubs of any proposal to withdraw.

## **18. LIFE MEMBERS**

Life Members of the Association may be appointed at any Annual General Meeting of the Association. A proposal for a person to be made a Life Member shall be forwarded to the Association Secretary no later than the 7<sup>th</sup> May in any year. The Executive Committee, will at its first meeting after receipt of such proposal, consider it and come to a decision regarding it. No such appointment shall be made except on the recommendation of the Executive Committee. Notice of the recommendation together with a ballot paper shall be forwarded to all Clubs at least 28 days prior to the Annual General Meeting. Ballot papers should be returned to the Association Secretary at least 5 days prior to the meeting. To be successful the nominee must receive at least 75% of the votes cast.

## **19. LAWS OF THE GAME**

The Laws of the Game shall be those adopted by Bowls Australia, but should this Association withdraw from the RNSWBA, the Management Committee shall have the power to alter or amend such laws for the purpose of its competitions. Before such altered laws are binding they shall be placed before Clubs for one month, and if after the expiration of that time they are confirmed by three quarters of the votes cast at a meeting of the Management Committee they shall become the Laws of the Game for this Association.

## **20. OFFICERS AND DUTIES**

- a. The President shall preside at all meetings of the Executive and Management Committees. In their absence a Vice-President shall be appointed, should all

Vice-Presidents be unavailable then any officer of the Association may be appointed to take the chair.

The President shall be ex-officio a member of all Sub-Committees. If the President is unable or unwilling to carry out their duties for any reason, then the Executive Committee shall elect any officer of the Association to be acting President until such time the President is able and willing to act again.

- b. The Treasurer shall be responsible for the payment of all monies on behalf of the Association. The Treasurer shall maintain such accounts that are deemed necessary by the Finance Committee in the name of Newcastle District Bowling Association (Zone 2) Incorporated, such accounts shall be operated on as directed by Rule 25 of this constitution. The Treasurer shall furnish audited accounts and balance sheet to accompany the annual report. The Treasurer shall also prepare financial statements as at the end of the previous month to the Executive and Management Committee meetings.
- c. The Executive Committee shall have the power to recommend to the Management Committee the appointment of a Secretary to the Association at such salary as the Finance Committee shall determine. Salary is to be reviewed annually. The Executive Committee shall review all operational functions of the Association at its monthly meetings and make decisions and recommendations to take to the Management Committee for approval and endorsement.
- d. The Secretary shall be appointed as set down in section c of this Rule. This employment may be terminated by one months' notice in writing by either party, provided that the President, or in the Presidents absence, the Acting President, may, for sufficient reason, suspend the Secretary. Such suspension shall be communicated to the Executive Committee as soon as possible which may take action thereon as it may deem proper.

The Secretary shall attend all meetings of the Executive and Management Committee meetings and if requested meetings of the Sub-Committees. The Secretary shall keep an accurate record of all such meetings. The Secretary shall keep a record of details of all members of all Committees and call all meetings as required. The Secretary shall also carry out the normal day to day duties required of a Secretary.

The Secretary shall provide each member of a Committee or Sub-Committee with a copy of the minutes of the previous meeting, such minutes to show the time and date of the next meeting and, at the request of the Chairperson of any Committee, notify those concerned of the time and date of any special meeting.

The Secretary shall establish and maintain a register of Clubs, specifying the address of each Club and the date it became affiliated. Such register to be open for inspection free of charge by any Club Representative. All records, books and other documents relating to the Association are to be kept in good order by the Secretary at the Association Headquarters.

## **21. LEAVE OF ABSENCE**

- a. Upon being satisfied with the bona fides of the case and provided no undue inconvenience may ensue, the Management Committee may grant leave of absence to members of the Executive Committee and members of the Sub-Committees.



- b. The position of any member of the Executive Committee or of any Permanent Sub-Committee who absents themselves from three consecutive meetings of the Executive Committee or Permanent Sub-Committee, of which they are a member without having obtained leave of absence, shall become vacant. The position of a Delegate who absents themselves, or is represented by a proxy Delegate, for three consecutive meetings of the Management Committee, shall become vacant and their club notified of that fact by the Secretary within 7 days. Any member whose position is declared vacant under this rule shall not be eligible to be re-appointed during that year.

## **22. VACANCIES**

Should a vacancy occur on the Executive Committee or Permanent Sub-Committee, nominations shall be called as in Rule 10 and elections held where necessary, except where the vacancy occurs in the three months prior to the Annual General Meeting in which case the vacancy will not be filled.

## **23. DELEGATES**

Every Club shall notify the Secretary of the Association in writing, on or before the 10<sup>th</sup> of July in each year or as soon as possible thereafter, the names and addresses of the two Delegates who will attend the NDBA Management Committee meetings. One of these Delegates must be a member of the Management Committee of the Bowling Club and be Delegated to advise the Committee of the business conducted at the NDBA Management Committee meetings.

## **24. PROXIES**

In the event of a Delegate being unable to attend any meeting of the Management Committee, their club should appoint a member of the Club with similar qualifications to act as their proxy.

## **25. FUNDS**

- a. The funds of the Association shall be placed in such banks or financial institutions as the Finance Committee may determine and shall be operated on by any two signatures of the following: President, Secretary and Treasurer. Disbursement shall be made by an approved method.
- b. The Finance Committee shall have the power to invest the funds of the Association not immediately required to run the daily business of the Association.
- c. The assets and income of the Association shall be applied solely in the furtherance of its objects and no portion shall be distributed directly or indirectly to its members except as bona fide compensation for services rendered or expenses incurred on behalf of the Association.
- d. The funds of the Association shall be derived from the fees payable pursuant to Rule 14 of this constitution, donations and funds from such other sources approved by the Management Committee.

**26. FINANCIAL YEAR**

The financial year for the Association shall commence on 1<sup>st</sup> April each year and close on 31<sup>st</sup> March the following year.

**27. AUDIT, BUDGET, CAPITATION FEES**

- a. The statement of accounts and balance sheet, duly certified as correct by the auditor, shall be submitted to the Annual General Meeting of this Association.
- b. The Treasurer after consultation with the Finance Committee shall submit a draft of the proposed budget and recommended capitation fee, to the May meeting of the Executive Committee.
- c. Following approval of the Executive Committee, a copy of the proposed budget and recommended capitation fee will be forwarded to each Club.
- d. Presentation of the budget and determination of the capitation fee will be made at the June meeting of the Management Committee.

**28. EXECUTIVE COMMITTEE**

- e. The Executive Committee shall consist of the following: -  
The President & Vice-Presidents, the Treasurer, the State Councillor and the Chairperson of the Advisory, Junior, Match, Selection, Umpires and Coaching Permanent Sub-Committees.
- f. Subject to this constitution the Executive Committee shall be entrusted with the power to deal with all matters of urgency.
- g. All business transacted by the Executive Committee under this rule shall be included in a report submitted to the Management Committee by the Secretary.

**29. SUB-COMMITTEES**

- h. The Executives shall elect the Members of Permanent Sub-Committees and the Chairperson, the Executive may Elect the Chairperson first and consult with that person regarding the members of the committee. Executives shall not take part in the election of Sub-Committees which they are nominated.
- i. There will be the required number of Permanent Sub-Committees to ensure the successful conducting of the operations of the Association.
- j. Members of Permanent Sub-Committees, except the Selection Committee, shall not take part in any discussion on a dispute on matters relating to their own Club or Clubs.  
The Chairperson of the Advisory Committee will present the Membership Committee Report and the Chairperson of the Match Committee the Greens Committee Report to the Executive and Management Committee Meetings.
- k. Each Permanent Sub-Committee shall have such functions as may from time to time be conferred on it by the Management Committee.
- l. The Executive Committee shall have the power to appoint any additional Sub-Committees it may deem necessary to perform a particular function and may appoint any member to such Committee, but a member of the Executive Committee shall be Chairperson of such Committee.

### **30. CHAMPIONSHIPS AND COMPETITIONS**

Refer to the NDBA Rules & Regulations for the current year.

### **31. ATTIRE**

- a. In all Pennant and other Association matches, players shall conform to the attire as laid down by RNSWBA Regulations.  
Non-compliance with this rule shall render the club or player liable to disqualification by the Match Committee, subject to appeal to the Executive Committee.
- b. Players in Inter-Association and similar matches shall appear in the uniform of the Association. Players and Officials representing the Association at these matches may wear like attire.

### **32. SUSPENSION OF CLUBS**

- a. The Executive Committee shall have the power to reprimand, suspend or withdraw the affiliation of a Club which shall infringe any rule of this constitution, or against which a complaint in writing has been lodged with the Secretary of the Association, or which knowingly permits conduct amongst its members, which in the opinion of the Executive Committee shall render it unfit to retain its affiliation.
- b. Provided that before such action is taken a notice of the infringement or complaint shall be sent, by certified mail, by the Secretary or Acting Secretary to the Club concerned giving at least 28 days' notice of a meeting with the Executive Committee at which the infringement or complaint will be dealt with.
- c. Any Club called to such a meeting shall be entitled to have three of its officials present to give evidence, but should such officials fail to attend at the time and place mentioned, the infringement or complaint will be heard and dealt with by the Executive Committee on the evidence before it, their absence notwithstanding, and the decision of the Executive Committee shall be reported to the Management Committee for confirmation.
- d. At all hearings of matters relating to Clubs the Executive Committee may request the attendance of any person or persons who may be able to assist in the matter.
- e. Any decision of the Management Committee in relation to such infringement or complaint shall be final. An appeal may be lodged with the RNSWBA within 14 days of the club concerned being notified of the decision of the Management Committee.

### **33. CLUB TOURNAMENTS**

No Club shall conduct a major tournament (prize money to the total value of \$4000 or greater) without obtaining permission from the Management Committee. Such permission to be applied for in writing accompanied by a program of the proposed tournament.

**34. ELIGIBILITY OF MEMBERS**

- a. Any member who is unfinancial is not eligible to play in any match or competition.
- b. Only members registered with the RNSWBA and NDBA and belonging to a financial Club are eligible to compete in Association events.
- c. The eligibility of a member who is suspended or expelled from a Club is covered in the RNSWBA Regulations.

**35. CONDUCT OF DELEGATES AND REGISTERED BOWLERS**

Should the conduct of a Delegate at a Management Committee meeting be such that they are asked to leave the meeting by the President/Chairperson, the following procedure shall apply:

- i. The Delegate(s) is to leave the premises on the night of the meeting.
- ii A letter is to be sent by the Secretary of the Association to the Club or Clubs concerned regarding the Delegate(s) conduct at the meeting.
- iii The Club or Clubs concerned are to inform the Association of any action taken against the Delegate(s) in regard to this matter (i.e. warning, replacement, suspension or no action).
- iv. Should any bowling member by their action be deemed to bring the game into disrepute the Zone Two Executive Committee may take action against the member in regard to the matter and may warn, suspend or expel such member. The member shall be given at least 14 days' notice to appear before the Committee to answer the charge.

The notice shall set out the reason for the citation and the possible penalty that the Committee may impose if the charge is proven.

Penalty – suspension as per RNSWBA Regulations or a monetary penalty up to a maximum \$5000.

Penalties to be determined by the District/Zone Executive Committee for each individual case and issue.

The RNSWBA should be advised in writing of any action within fourteen days.

**36. BOWLING GROUPS**

The Association may grant recognition to such other Bowling Groups formed by members of one or more clubs through a common interest.

**37. INDEMNITY**

Every officer, employee, Committee member or any other member authorized by the Executive or Management Committee, acting in relation to the affairs of the Association, shall be indemnified out of the property of the Association and out of the proceeds of any appropriate indemnity insurance effected by the Association against any liability incurred by them in the exercise of good faith

of any power or function in their capacity as an officer, Committee member or authorized member of the Association.

### **38. LIABILITY OF AFFILIATED CLUBS**

The liability of a Club to contribute towards the payment of the debts and liabilities of the Association or the costs, charges and expenses of the winding up of the Association is limited to the amount, if any, unpaid by the said club in respect of its affiliation as required by Rule 14 of the constitution.

### **39. COMMON SEAL**

- a. There shall be a common seal of the Association, which shall be kept in the custody of the Secretary at the Association Headquarters.
- b. The common seal shall not be affixed to any instrument except by the authority of the Executive Committee and the affixing thereof shall be attested by the signatures of two members of the Executive Committee or of one member of the Executive Committee and the Secretary.

### **40. CONSTITUTION**

- a. This Constitution was revised in conjunction with the Department of Fair-Trading Model Constitution for Associations Incorporated and the Zone Model Constitution developed by the Royal NSW Bowling Association dated October 2012.
- b. Any appointment made or motion passed under the constitution hereby repealed if in force at the commencement of this constitution shall continue in force as far as practicable as if made or passed under this constitution.
- c. This Constitution:
  - (i) Was adopted at the Special General Meeting of the Newcastle District Bowling Association Inc. (Zone 2) held on the September 17 2020 and approved by the Department of Fair Trading September 25 2020
  - (ii) Will become operative on the date of the September 25, 2020
  - (iii) Was adopted at the Special General Meeting of the Newcastle District Bowling Association Inc. (Zone 2) held on September 17 2020.
  - (iv) Will become operative on the date of the September 25, 2020.
- d. This Constitution of the Special General Meeting of the Newcastle District Bowling Association Inc. (Zone 2) held on the September 17, 2020 and approved by the Department of Fair Trading on September 25, 2020.

### **41. WINDING UP**

In the event of the Association being wound up, the surplus property and funds of the Association shall be transferred to an Association or Associations, whether incorporated under the Association Incorporation Act or not, which:-

- a. have objects substantially similar to those of the Association.
- b. is not carried on for the objects of trading or securing pecuniary gain for its members.
- c. has wind up provisions in its rules similar to the provisions in this rule.