



Association of Certified Fraud Examiners

South African Chapter (Number 91)

Vat Number: 4280242217 Registration no: 1999/014 890/ 08
P.O. Box 2664, Brooklyn Square, 0075
Tel: (012) 346 1913 Fax: (012) 3461927
E-mail: memberservices@acfesa.co.za

GENERAL NOTICE

29 August 2019

Dear Members,

Re: PROPOSED CHANGES TO THE ACFE SA MEMORANDUM OF INCORPORATION

The ACFE SA Board of Directors (2018/19) reviewed the respective processes within the ACFE SA and included in the current ACFE SA Mol. The reason for the respective changes to the Mol is due to one of the objectives of the ACFE SA to update the Mol and respective process when needed and required.

The ACFE SA propose the following changes to be made to the ACFE SA Memorandum of Incorporation (Mol) which will be discussed at this coming 12th Annual ACFE African Conference at the Sandton Convention Centre during the AGM on the 17th of September 2019.

These changes are proposed following the requirements set out in *Section 16(1)(c)*, *Section 16(5)(b)*, and *Section 17(1) of the COMPANIES ACT 71 OF 2008*.

The following changes were proposed:

1. Article 4 - Directors and Officers, Page 5 and 6

4.1 Composition of Board of Directors

Proposed change:

EXCO BOARD MEMBERS:

J LE ROUX (PRESIDENT); Z. MXUNYELWA (VICE PRESIDENT); J DE JAGER (CEO – ACFE SA); S DU PLESSIS (PAST PRESIDENT);
H DU TOIT; F SIBANDA;

BOARD MEMBERS:

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Added

4.1.4 The Regional Chair and Vice-Chair of the respective Regional Committees will be obligated to adhere to all the requirements and guidelines set out in the respective documentation. The same process will be followed for the Vice-Chair to ensure he/she has the necessary skills to act as acting Board Member should the current Chair/Board Member step down for what so ever reason contemplated in Part B, Schedule 3.

4.1.5 Regional Chairs and Vice-Chairs elected by the respective regional committee will only be appointed once the Board and EXCO have approved the nominations made. The following process will be followed:

- 4.1.5.1 Formal interviews will be conducted with all candidates nominated to serve on the respective Regional committee as Chair and Vice-Chair. Only the Chair will receive a seat on the ACFE SA's Board of Directors, the Vice-Chair will only represent the Regional Committee as acting Board Member should the Chair of the respective Committee and Board Member step down or be removed due to the sections relevant in Part B, Schedule 3, 3.1 (a–h);
- 4.1.5.2 The interview will ensure that the candidates nominated for Chair and Vice-Chair (when relevant) will be able to drive the respective region, think strategically and contribute to the ACFE SA's board;
- 4.1.5.3 The above process will ensure that the candidates are prepared to take all the responsibilities and understand the functioning of the ACFE SA;
- 4.1.5.4 The interview committee will consist of the current regional Chair, President/Past President of the ACFE SA Board, and CEO of the ACFE SA
- 4.1.5.5 All candidates will be vetted before being appointed and need to commit to sitting on the Board for the full term indicated in clause 4.1.6.
- 4.1.5.6 The Vice-Chair of the Regional Committee will not automatically become the Chair of the Region and a Board Member of the ACFE SA. A formal Nomination process will still need to be followed and the best candidate from those who were nominated and who went through the vetting and interview process will be appointed as set out in section 4.1.5.2 – 4.1.5.5

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The right of members to requisition a meeting, as set out in Section 61 (3), may be exercised by at least 10% of the voting members, as provided for in that section.

2. Schedule 1 - Incorporation and nature of the Company

Part D, section 6, subsection 6.4 - Page 12

Proposed change:

Previously

Affiliate members: Persons who are not members of the Association, but having agreed to be bound by the terms of the Memorandum and Articles of Association of the company and having been admitted to membership, pay an annual contribution of such an amount as the Board of Directors may determine from time to time;

Added

Affiliate members: Persons who are not members of the Association, but having agreed to be bound by the terms of the Memorandum and Articles of Association of the company and having been admitted to membership, pay an annual contribution of such an amount as the Board of Directors may determine from time to time. **Affiliate members only hold membership with the ACFE SA;**

3. Schedule 1 - Incorporation and nature of the Company

Part D, section 7, - Page 12

Proposed change:

Previously

All membership subscriptions will become due and payable in advance on the first day of August in each year. Failure to renew subscription within sixty (60) days from due date will terminate membership.

Added

All Affiliate membership subscriptions will become due and payable in advance on the first day of August in each year. **CFE and Associate membership fees due dates relate to their annual anniversary with the ACFE International. Failure to renew subscription within sixty (60) days from the due date will terminate membership.**

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4. Schedule 2 - Rights of Members

Part A, page 13

Proposed change:

Previously:

Not applicable –

Changed and added:

Members have a right to request any of their own personal information kept by the company.

Members may request a list of other documents regarding the company from the company's Legal Officer or CEO. The requested documents will be provided should it be relevant and within the guidelines of the respective company's policies.

ACFE Members work on sensitive cases and therefore the company has an obligation not to disclose any personal information to any other member or 3rd party without the written consent from the member whose personal information is being requested.

The company will act upon every request by evaluating the merits of each request. The company may decline a member's request, should it affect any other member negatively due to the nature of their work in terms of Section 33 and 36 of the South African Constitution.

No member will have the right to the complete membership data list of the company or any other entities affiliated with the company.

According to The South African Human Rights Commission the company are exempted at this stage to compile and submit an Information manual as per the current exemption below:

“CURRENT EXEMPTION”

- In terms of in Government Gazette Notice 39504, certain private bodies are exempt from compiling and submitting information manuals to the SAHRC in terms of section 51 of PAIA until 31 December 2020.
- In terms of Government notice no.34914, certain private bodies MUST still submit their manuals in terms of section 51 of PAIA to the SAHRC i.e. this applies to those private bodies which operate in the specific sectors, with 50 or more employees and have an annual turnover equal to or exceeding specific amounts.”

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Reference will be made to data privacy and protection as may be outlined in current South African and International legislation.

5. Schedule 3 - Directors of the Company

Part B, Section 1.3, page 14

Proposed change:

Added

1.3 Should the nominee be nominated as a chair of a regional committee, the nominee then need to prove that he/she has been a committee member of that committee for a minimum of 2 consecutive years or has been a director of the ACFE SA Board of Directors in the past and is still a CFE in good standing and actively involved.

6. Schedule 3 - Directors of the Company

Part B, Section 3, page 14 and 15

Proposed change:

Added subsection g - j:

- g) He/she takes leave of absence for more than three consecutive months
- h) If there is a disciplinary action brought against any Board Member and the matter has not been resolved within three months from the action date the respective Board Member will be removed from the Board of Directors.
- i) In breach of Clause 4.7 of the Mol
- j) Should clause a – i apply to any of the Board Members elected due to being a Chair of the Regional Committee, the Vice-Chair of the respective Regional Committee will automatically act as

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alternate taking up the position as the interim Chair and Board Member, for the remainder of the period, or until the ACFE SA Board formally appoints a Chair and Board Member.

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