Republic of South Africa
Companies Act, 2008

MEMORANDUM OF INCORPORATION FOR
A NON PROFIT COMPANY WITH MEMBERS

Name of company:
THE INSTITUTE OF INTERNAL AUDITORS SOUTH AFRICA (NPC)

referred to in this Memorandum of Incorporation as “the IIA SA”
Registration No. 1985/003686/08

This MOI was adopted by Special Resolution passed at the
Annual General Meeting of the IIA SA on 17th April 2013
in substitution of the existing memorandum of association
and articles of association of the IIA SA.
Table of Contents

1. INTERPRETATION ......................................................................................................................... 3
2. OBJECTS........................................................................................................................................ 4
3. INCORPORATION AND NATURE OF THE IIA SA ................................................................. 5
4. RULES AND AMENDMENT OF THE MOI AND RULES.......................................................... 6
5. OPTIONAL PROVISIONS OF THE COMPANIES ACT ............................................................. 7
6. MEMBERS OF THE IIA SA ........................................................................................................ 7
7. GENERAL MEETINGS ................................................................................................................ 9
8. BOARD OF DIRECTORS ........................................................................................................... 11
9. ACCOUNTING RECORDS AND ANNUAL FINANCIAL STATEMENTS .................................... 19
10. NOTICES TO MEMBERS ........................................................................................................ 19
11. COMPLIANCE WITH SECTION 30B OF THE INCOME TAX ACT ........................................ 20
12. DISSOLUTION OF THE IIA SA ............................................................................................... 20
1. **INTERPRETATION**

1.1. In this Memorandum of Incorporation, unless the context otherwise requires:

1.1.1. **Board** – shall mean the board of Directors of the IIA SA;

1.1.2. **Chairman** – shall mean the chairman of the Board of Directors;

1.1.3. **Commission** – shall mean the Companies and Intellectual Property Commission established in terms of section 85;

1.1.4. **Companies Act** – shall mean the Companies Act, No. 71 of 2008, as amended;

1.1.5. **Directors** – shall mean the directors for the time being of the IIA SA;

1.1.6. **General Meeting** - shall mean any general meeting of the Members, or any adjournment thereof, as the case may be, and all references in this MOI to "General Meeting" shall, where the context so requires, include a reference to an "Annual General Meeting";

1.1.7. **Income Tax Act** - shall mean the Income Tax Act, No. 58 of 1962 as amended or any legislation which replaces it;

1.1.8. **Individual** – shall mean a natural person;

1.1.9. **IIA SA** - means THE INSTITUTE OF INTERNAL AUDITORS SOUTH AFRICA (NPC) (registration number 1985/003686/08), a non-profit company incorporated and existing under the laws of the Republic;

1.1.10. **IIA Inc** – shall mean the INSTITUTE OF INTERNAL AUDITORS INCORPORATED, which is the international professional association with its global headquarters in Altamonte Springs, Florida, USA, to which the IIA SA is affiliated;

1.1.11. **Member** – shall mean any member of the IIA SA as contemplated by clause 6;

1.1.12. **MOI** – shall mean this Memorandum of Incorporation;

1.1.13. **Record Date** - means the date established under section 59 on which the IIA SA determines the identity of its members for the purposes of the Companies Act;

1.1.14. **Republic** – shall mean the Republic of South Africa;

1.1.15. **Rules**- shall mean any rules made by the IIA SA as contemplated in section 15(3) to (5);

1.1.16. **Sign** - includes the reproduction of a signature lithography, printing with an India-rubber stamp, or any other mechanical process, or partly the one and partly the other process and “signature” has the corresponding meaning; and

1.1.17. **Writing** - includes printing, typewriting, lithography or any other electronic or mechanical process, or partly one and partly the other. A requirement that a document, notice or information should be given in writing will be met if the document, notice or information is in the form of a data message and accessible in a manner usable for subsequent reference. “Written” has a corresponding meaning.

1.2. All references to "section/s" in this MOI refer to the sections of the Companies Act unless the context indicates otherwise.
1.3. The headings are for reference purposes only and shall not affect the interpretation of this MOI.

1.4. Words in the singular number shall include the plural, and words in the plural number shall include the singular, words importing the masculine gender shall include the female gender, and words importing persons shall include created entities (corporate or not).

1.5. Words that are defined in the Companies Act bear the same meaning in this MOI as in that Act.

1.6. If any term is defined within the context of any particular clause in the MOI, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this MOI, notwithstanding that that term has not been defined in this interpretation provision.

1.7. If the provisions of this MOI are in any way inconsistent with the unalterable provisions of the Companies Act, the provisions of the Companies Act shall prevail.

1.8. The rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply to this MOI.

1.9. When a particular number of Business Days is provided for between the happening of one event and another, the number of days must be calculated by:

1.9.1. excluding the day on which the first such event occurs;

1.9.2. including the day on or by which the second event is to occur; and

1.9.3. excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in clauses 1.9.1 and 1.9.2 respectively.

1.10. All laws and statutes quoted or referred to shall automatically include any amendments to, revisions of or replacements of these laws and statutes as may occur from time to time, through due Parliamentary process, subsequent to the writing of this Memorandum of incorporation

2. OBJECTS

The objects of the IIA SA are to:-

2.1. have as its mission to promote, protect and maintain the interests of members and to enhance the integrity, relevance and standing of the Institute and the profession, to the benefit of society;

2.2. promote the adherence to good governance, risk and control principles in organisations in both the public and private sectors in South Africa through the activities of its members;

2.3. provide on a national scale, comprehensive professional development activities and standards for the practice of internal auditing, career path standards for internal auditors as well as certification;

2.4. promote the interests, upholding the professional status and representing and protecting the views of the internal auditing profession and its members;

2.5. research, cultivate, promote and disseminate knowledge and information concerning internal auditing and subjects related thereto, both to its members, to statutory bodies and government, to related professions and to other persons interested thereto and the general public; and
2.6. make representations to appropriate parties on matters affecting the profession.

3. INCORPORATION AND NATURE OF THE IIA SA

3.1. Incorporation

3.1.1. The IIA SA is incorporated as a Non Profit company, with members, in terms of the Companies Act.

3.1.2. The IIA SA is incorporated in accordance with, and governed by:-

3.1.2.1. the unalterable provisions of the Companies Act that are applicable to Non Profit companies;

3.1.2.2. the alterable provisions of the Companies Act that are applicable to Non Profit companies, subject to any negation, restriction, limitation, qualification, extension, variation or substitution set out in this MOI; and

3.1.2.3. the provisions of this MOI.

3.2. Objects and powers of the IIA SA

3.2.1. The objects of the IIA SA are as set out in clause 2 and, except to the extent necessarily implied by the stated objects, the IIA SA has the powers and capacity of an individual as envisaged by section 19(1)(b), (ii) as set out in Part A schedule 1.

3.2.2. The IIA SA is not subject to any restrictive conditions and there are no additional requirements or restrictions which apply to the amendment of this MOI as envisaged by section 15(2)(b) and section 15(2)(c) and accordingly the IIA SA may do anything which the Companies Act empowers a company to do unless prohibited by its MOI.

3.2.3. The IIA SA:

3.2.3.1. must not, directly or indirectly, pay any portion of its income or transfer any of its assets, regardless of how the income or asset was derived, to any person who is or was an incorporator of the Institute, or who is a Member or Director, or person appointing a director, of the IIA SA except:

3.2.3.1.1. as reasonable remuneration for goods delivered or services rendered to, or at the direction of, the IIA SA;

3.2.3.1.2. as reasonable payment of, or reimbursement for, expenses incurred to advance a stated object of the IIA SA;

3.2.3.1.3. as a payment of an amount due and payable by the IIA SA in terms of a bona fide agreement between the IIA SA and that person or another party;

3.2.3.1.4. as a payment in respect of any rights of that person, to the extent that such rights are administered by the IIA SA in order to advance a stated objects of the IIA SA; or

3.2.3.1.5. in respect of any legal obligation binding on the IIA SA;
3.2.3.2. must apply all of its assets and income, however derived, to advance its stated objects, as set out in this MOI; and

3.2.3.3. subject to clause 3.2.3.2 and 11, may:
   3.2.3.3.1. acquire and hold securities issued by a profit company; and
   3.2.3.3.2. directly or indirectly, alone or with any other person, carry on any business, trade or undertaking consistent with or ancillary to its stated objects.

3.2.3.4. to pay gratuities and pensions and establish pension schemes in respect of its officers and employees other than members or directors;

3.2.3.5. must apply all of its assets and income, however derived, to advance its stated objects, as set out in this MOI; and no portion thereof shall be paid or transferred directly or indirectly, by way of dividend, bonus or otherwise however, to the members of the company or to its controlling or controlled company – provided nothing herein contained shall prevent the payment in good faith of reasonable remuneration to any officer or servant of the IIA SA or to any member thereof in return for any services actually rendered to the IIA SA.

4. RULES AND AMENDMENT OF THE MOI AND RULES

4.1. The Board may make, amend or repeal any necessary or incidental Rules relating to the governance of the IIA SA by publishing a copy of these Rules and by sending notice thereof by registered post (to any address, within the Republic supplied by the Member to the IIA SA) or by electronic transmission (to any electronic address supplied by the Member to the IIA SA) to each of the Members and by filing a copy of the Rules with the Commission. Any Rules published in this manner take effect on the date specified in that rule and shall be subject to ratification by the Members as set out in section 15(4)(c)(ii).

4.2. The Board may propose to amend any of the provisions of this MOI and the Members may by way of special resolution adopt such amendments.

4.3. A notice of the proposed alterations of the MOI shall be sent to each Member by registered mail or by electronic transmission at least 15 (fifteen) Business Days before the meeting at which the special resolution to amend the provisions of the MOI is to be passed.

4.4. The Board shall ensure that a copy of any amendments that have been made to the MOI have been provided to the Commissioner for the South African Revenue Service within 30 (thirty) days of having effected such amendments.

4.5. The Board or a person authorised by the Board may alter the MOI or the Rules to correct any patent errors (spelling, punctuation, grammar or similar defects on the face of the document) by publishing a notice of the alteration, on its website or in any other manner required or permitted by the Rules and by filing a notice of the alteration with the Commission.

4.6. No amendments to the MOI shall be made which will:-
   4.6.1. allow any income or other funds or other assets of the IIA SA to be applied for a purpose which does not promote the achievement of the objects of the IIA SA; or
4.6.2. amend this clause 4.6 in any manner which would give any proprietary or similar interest in the IIA SA’s income or other funds or other assets to any Individual or any incorporated entity contrary to the provisions of the Income Tax Act.

5. **OPTIONAL PROVISIONS OF THE COMPANIES ACT**

5.1. The IIA SA does not elect, in terms of section 34(2), to comply voluntarily with the provisions of chapter 3 of the Companies Act.

6. **MEMBERS OF THE IIA SA**

6.1. **MEMBERSHIP**

6.1.1. The Institute shall have such classes of members, as determined from time to time by the Board;

6.1.2. A member shall be an individual person who accepts membership of the Institute in a specific class of membership upon the invitation of the Board or who applies for membership and in IIA SA’s sole discretion, is accepted as a member of the Institute in a specific class of membership;

6.1.3. Rules for and the basis of eligibility to a class of membership shall be as recorded in such rules as the Board may from time to time adopt;

6.1.4. Notwithstanding the contents of such rules, the ultimate decision and sole discretion in the admission of individuals to membership shall vest in IIA SA, which is not required to give reasons for its decision and there is no appeal process available;

6.1.5. Every member shall pay to the IIA SA a joining or application fee and annual subscription of such amount as may for the time being be prescribed by the Board. The said subscription shall be due upon admission to membership and thereafter within thirty (30) days of date of invoice from the Institute to a member;

6.1.6. No person who shall have been a member of the IIA SA and ceased to be such by virtue of him / her not being in good standing shall be eligible for re-admission until he / her shall have paid all arrear subscriptions, dues, assessments or other indebtedness (if any) due by him to the Institute at the date when former membership ceased;

6.1.7. Membership to IIA SA also confers membership to IIA Inc.;

6.1.8. Membership of IIA Inc is governed by the Affiliate Agreement between IIA SA and IIA Inc.;

6.2. **DURATION OF MEMBERSHIP**

6.2.1. Every member shall remain a member until his membership is terminated in accordance with the provisions hereinafter contained.

6.3. **TERMINATION OF MEMBERSHIP**

6.3.1. Membership of the IIA SA is ipso facto terminated if the member:
6.3.1.1. resigns his membership, the member shall tender his resignation in writing to IIA SA and the same time return his membership certificate to IIA SA;

6.3.1.2. is being sequestrated, whether such sequestration is provisional, final, voluntary or otherwise;

6.3.1.3. is in default of any subscription, dues, assessment or other indebtedness to the Institute and remain in default for a period of ninety (90) days after written notification to him advising him of such default;

6.3.1.4. dies

6.3.2. The Board shall have the power to censure, suspend or expel any member for conduct which it considers to be prejudicial to the Institute provided that due and fair process, as determined by the Board from time to time, has been followed;

6.3.3. The IIA SA may by Special Resolution expel any member for conduct which it considers be prejudicial to it;

6.3.4. When membership is terminated in terms of Article 6.3.1.2 & 6.3.1.3, written notice of such termination shall be sent to such a member advising him / her of such termination;

6.3.5. A person whose membership shall have been terminated in accordance with this MOI, may apply for reinstatement in the case of a resignation or lodge an appeal in accordance with the Disciplinary Code: Policy and Procedures as contained in the Bylaws;

6.3.6. A Member whose membership has been terminated remains liable for all amounts that may at the date of termination of membership be due by the Member to the IIA SA;

6.3.7. Where membership of the IIA SA has been terminated in accordance with this MOI, membership with the IIA Inc. shall as a result also be terminated;

6.3.8. The IIA SA maintains at its registered office a register of Members of the IIA SA as required by the Companies Act.

6.4. RIGHTS OF MEMBERS

6.4.1. As contemplated in Item 4 (1) of Schedule 2 of the Companies Act, the IIA SA has members, who are in either of two classes, being voting and non-voting members, respectively;

6.4.2. Each member entitled to vote (as defined according to membership class he belongs to) has an equal vote in any matter to be decided by Members;

6.4.3. The Board has regard to each of the members’ rights not to be unfairly discriminated against, as provided in section 9 of the Constitution of the Republic.

6.5. RECORD DATE FOR EXERCISE OF MEMBER RIGHTS

6.5.1. If, at any time, the Board fails to determine a Record Date, the Record Date for participating in and voting at a General Meeting is the latest date by which the IIA SA is required to give members notice of that meeting.
7. **GENERAL MEETINGS**

7.1. **GENERAL MEETING FREQUENCY AND NOTIFICATIONS**

7.1.1. A general meeting of the Institute shall be held at least once every year, known as the Annual General Meeting, at such time [being not more than seven (7) months after the financial year end and not more than fourteen months (14) months after the holding of the last preceding general meeting], and place as may be prescribed by the Board;

7.1.2. The right of Members to requisition a General Meeting, as set out in section 61(3) of the Companies Act, may be exercised by at least 10% of the Members, including those who do not have voting rights, as provided for in that section;

7.1.3. The IIA SA must deliver a notice of each General Meeting (including the annual General Meeting) at least 15 (fifteen) Business Days before the date of the meeting in the manner and form as prescribed by section 62(3) of the Companies Act to all of the Members of the IIA SA as at the Record Date for the meeting;

7.1.4. The authority of the Board to determine the location of any General Meeting, and the authority of the IIA SA to hold any such meeting in the Republic or in any foreign country, as set out in section 61(9) is not limited or restricted by this MOI;

7.1.5. The authority of the IIA SA to conduct a General Meeting entirely by electronic communication, or to provide for participation in a General Meeting by electronic communication, as set out in section 63 of the Companies Act is not limited or restricted by this MOI. IIA SA may, from time to time, provide for members to participate in General Meetings by way of electronic communication, in the event of which the IIA SA shall communicate this to members in advance of the General Meeting as required by section 63 of the Companies Act;

7.2. **APPOINTMENT OF PROXIES**

7.2.1. A member entitled to attend and vote at a meeting shall be entitled to appoint a proxy to attend, speak and vote on behalf of the member;

7.2.2. The right of a member of the IIA SA to appoint persons concurrently as proxies, as set out in section 58 (3)(a) - Is limited to the proxy holder being a member of IIA SA and only one proxy attending and voting at the meeting;

7.2.3. Every proxy shall continue in force for the particular meeting for which it is given and for every adjournment thereof;

7.2.4. The name of the member appointed to act as such proxy holder shall be filled in the handwriting of the member signing the proxy and the format of the instrument shall be determined by IIA SA;

7.2.5. The instrument appointing a proxy shall be delivered to the Secretary of the IIA SA not less than 48 (forty-eight) hours prior to the hour fixed for the meeting for which the same are intended to be acted upon. If the member is in default of complying herewith the instrument of proxy shall not be treated as valid;

7.2.6. No instrument appointing a proxy is valid after the expiration of 1 (one) year from the date when it was signed, unless so specifically stated in the proxy itself, and no
proxy shall be used at an adjourned General Meeting which could not have been used at the original General Meeting;

7.2.7. A Member’s proxy shall not have the authority to further delegate such proxy’s powers to another person;

7.2.8. Unless specifically instructed by the member a proxy may vote as he thinks fit.

7.3. PROCEEDINGS, QUORUM AND VOTING AT GENERAL MEETINGS

7.3.1. At the Annual General Meeting the following matters are dealt with and disposed of the presentation of:

7.3.1.1. the Directors’ report;
7.3.1.2. audited financial statements for the immediately preceding financial year;
7.3.1.3. the election of non-executive Directors;
7.3.1.4. the appointment of an auditor for the ensuing financial year;
7.3.1.5. any matters placed on the agenda by the Board; and
7.3.1.6. any matters raised by the Members, provided the procedure in clause 7.3.2 has been followed in respect of such matters.

7.3.2. Any member may bring before a meeting any matter of business which he considers requires the attention of the Institute. Notice of such business shall be made to the secretary at least two (2) weeks before the meeting at which the business is to be discussed, setting out in the notice the nature of the matter and reasons in sufficient detail.

7.3.3. A General Meeting may not begin until at least five (5) members, who are eligible to vote, are present at the meeting and any matter to be decided at the meeting may not begin to be considered and decided unless at least five (5) members, who are eligible to vote, are present at the meeting at the time the matter is called on the agenda. Should a quorum, consisting of not less than fifty (50) members present in person or by proxy, not be present within one hour from the time appointed for the General Meeting, then the meeting shall be adjourned and a new meeting called for a date not less than fourteen (14) days from the day of the adjourned meeting. At the later meeting those members present shall form a quorum, irrespective of their number.

7.3.4. The Chairman of the Board presides as chairman at every General Meeting of the IIA SA. If the Chairman is unwilling or unable to act as chairman of the General meeting or is not present within fifteen (15) minutes after the time appointed for holding the meeting, the Board members present shall elect one of their number to be chairman of the meeting.

7.3.5. Whether by secret ballot or show of hands, every member present in person shall have one equal vote, and any member holding a formal proxy for an absent member shall have one equal vote in respect of each proxy held. In case of an equality of votes at any general meeting, whether on a show of hands or upon a secret ballot, the Chairman shall have a casting vote.
7.3.6. A polled vote must be held on any particular matter to be voted on at a General meeting if a demand for such a vote is made by at least five (5) members having the right to vote on that matter, either as a member or a proxy representing a member.

7.3.7. At a general meeting a declaration by the Chairman that a resolution has been carried, or carried by a particular majority, or lost or not carried by a particular majority, and an entry to that effect in the book of proceedings of the Institute, shall be sufficient evidence of the fact that without proof of the number or proportion of the votes recorded in favour of or against any such resolution.

7.3.8. If a poll is duly demanded it shall be taken in such a manner as the chairman directs and the result of the poll shall be deemed to be the resolution of the General Meeting at which the poll was demanded. The chairman of the General Meeting may appoint scrutineers to determine the result of the poll.

7.3.9. A poll demanded on the question of adjournment, is taken forthwith. A poll demanded on any other question is taken at such time as the chairman of the General Meeting directs and no notice need be given of a poll not taken immediately. The demand for a poll shall not prevent the continuation of a General meeting for the transaction of any business other than the question upon which the poll has been demanded.

7.4. MEMBERS RESOLUTIONS

7.4.1. For an ordinary resolution to be adopted at a General Meeting, it must be supported by more than 50% of the Members who voted on the resolution, as provided in section 65(7).

7.4.2. For a special resolution to be adopted at a General Meeting, it must be supported by at least 75% of the Members who voted on the resolution, as provided in section 65(9).

7.4.3. The quorum for both ordinary and special resolutions is as set out in clause 7.3.3.

8. BOARD OF DIRECTORS

8.1. AUTHORITY OF THE BOARD AND DELEGATION

8.1.1. The authority of the Board to manage and direct the business and affairs of the IIA SA, as set out in section 66(1) of the Companies Act as well as the IIA SA Board Charter, is not restricted in this MOI. The Board has the power to make any decision in respect of the Institute which has not been specifically reserved for decision-making by the members of the Institute.

8.1.2. The Board may delegate any of its powers to Board appointed committees consisting of such Board members or other persons as it deems fit.

8.1.3. Each Board committee must have a documented and approved terms of reference dealing with its composition; role and purpose, functions; delegated authorities; tenure; meeting requirements and procedures and reporting mechanism to the Board.
8.1.4. The Board or a committee of the Board may delegate to management of the IIA SA any of its powers upon such terms and conditions as is deemed fit.

8.1.5. Notwithstanding that it may afterwards be discovered that there has been some defect in the appointment or continuance in office of a Director or person acting as a Director, bona fide decisions by the Board or by any person acting in good faith as a Director of the IIA SA are as valid as if every such person had been duly appointed, were qualified and continued to be a Director or were entitled to vote, as the case may be.

8.2. COMPOSITION OF THE BOARD

8.2.1. In addition to satisfying the qualification and eligibility requirements set out in section 69 of the Companies Act, to become or remain a director of the IIA SA, a person needs to be a member of the IIA SA or an officer thereof.

8.2.2. The Board consists of a minimum of ten (10) and a maximum of 17 (Seventeen) Directors. These shall be the Chairman who acts as Chairman of the Board, Senior Vice Chairman, Past Chairman, Past Past Chairman, the Chief Executive Officer and Directors.

8.2.3. With the exception of the Chairman and Vice Chairman, all elected positions are general directorships with no fixed responsibilities. Once the members have elected a Board of Directors, those directors will then agree among themselves on the allocation of their future responsibilities, including chairmen and members of each of the various Board Committees.

8.2.4. While the election of directors is a fully democratic process, and the members may elect any candidate of their choice provided the candidate is not disqualified in terms of the Companies Act or this MOI, the issue of succession planning and continuity at the highest level is critically important to the well-being of the Institute. Therefore, no candidate will be eligible for election as Chairman unless he or she has previously served at least one full two-year term as a Director.

8.2.5. The Chairman may be elected for a second consecutive term of two years, but will not be eligible for a third term as Chairman until a period of two years has elapsed from the previous term of office.

8.2.6. Past Chairmen are not elected, but automatically assume that position at the end of their term as Chairman. Each Past Chairman serves two consecutive terms after the completion of their term as Chairman.

8.2.7. The Chief Executive Officer is a fully fledged Director of the IIA SA, but is not an elected official. The CEO is a salaried employee of the Institute.

8.2.8. The Board may from time to time in its sole discretion, in addition to the Chief Executive Officer’s seat, identify one executive manager position on the Board that qualifies for ex officio membership of the Board.

8.2.9. The members of the Board shall be designated Directors of the Institute and shall be the Directors of the IIA SA for all purposes under the Companies Act.
8.3. APPOINTMENT, NOMINATION AND ELECTION OF NON-EXECUTIVE DIRECTORS

8.3.1. Directors shall hold office for two (2) consecutive years from date of election. Each Director shall resign at the annual general meeting when their term comes to an end but may stand for re-election to the Board in a capacity other than Chairman.

8.3.2. All Directors shall be nominated and elected at the annual general meeting of the Institute.

8.3.3. Should any incidental vacancy occur on the Board, it may be filled by the Board co-opting a Director. This Director shall hold office for the remainder of the period of office of the Director whose place he/she takes and shall be eligible for re-election as though he/she had not served during the previous term.

8.3.4. A Director may resign office by notice in Writing to the Board.

8.3.5. The Chairman shall be inducted at the annual general meeting.

8.3.6. Prior to the Annual General Meeting, the Board by notice to Members calls for the nomination of candidates in the manner and in the form prescribed by the Board.

8.3.7. Whenever elections are required to be held, the Board will call for nominations from the general membership.

8.3.8. The Nominations and Governance Committee will review all nominations and applications, to ensure the candidates are eligible, are not disqualified in terms of the Companies Act or this MOI, and are in good standing.

8.3.9. All candidates who meet the eligibility criteria and are not disqualified for any reason will be included on the slate of candidates to be submitted to the members in the Notice to the meeting of the members.

8.3.10. Only candidates who have been duly notified to the members are eligible for election, and nominations from the floor during the course of the meeting will not be accepted.

8.3.11. The Board has a duty to advise the members in the Notice of the number of positions it recommends be filled. At the meeting, before the voting begins, the members in the meeting must first ratify or amend the total number of Board positions available for election for the year ahead, and thus the number of Board positions to be filled at that meeting.

8.3.12. A ballot sheet is prepared prior to voting, containing the names of all eligible candidates.

8.3.13. Members vote by marking an “X” against each of the nominees for whom they wish to vote.

8.3.14. For the office of Chairman, each member will vote for one of the candidates, and the decision will be made in favour of the candidate who wins 50% plus 1 or more of the votes cast. However, if three or more candidates contest the office of Chairman, and the most popular candidate gets less than 50% plus 1 of the total votes cast, then the least popular candidate is eliminated and the voting held again, until a majority is achieved. In such a case, the proxy voters must be
reminded to specify both their first and second choice. A similar process will be followed to elect the Senior Vice-Chairman.

8.3.15. Any candidate standing for the position of Chairman may also be simultaneously nominated for the position of Senior Vice Chairman or any other board position, and if unsuccessful for the office of Chairman will automatically be eligible for election as Senior Vice Chairman or any other board position as per the nomination. This option shall be specified in the postal voting ballot papers where applicable.

8.3.16. Similarly, any candidate standing for the position of Senior Vice Chairman may also be simultaneously nominated for any another board position, and if unsuccessful for the office of Senior Vice Chairman will automatically be eligible for election into any other board position as per the nomination. This option shall be specified in the postal voting ballot papers where applicable.

8.3.17. The Board includes in the notice of the Annual General Meeting the names of the short-listed candidates, together with their curricula vitae and such further information as the Board deems necessary to enable Members to exercise an informed vote.

8.3.18. For the other Director positions, the members will be presented with a slate of candidates, in alphabetical order, and the members will allocate their votes to the names on the list.

8.3.19. The maximum number of votes permissible is limited to the number of positions to be filled, which number will be specified by the Board in the Notice. If more votes are specified than the maximum, this will result in the ballot paper being considered spoilt. This also applies to the proxy votes, unless the members present in the meeting have agreed to alter the number of positions from that originally recommended by the Board.

8.3.20. However, if a situation arises where a candidate has been nominated as either the Chairman or the Senior Vice Chairman in addition to a Director position, the members voting by proxy will be allowed one or more extra votes to compensate for the eventuality that a candidate will be successful for a higher position. In such cases the ballot forms for members voting by proxy will specify the process which voters are required to follow.

8.3.21. Once the voting is finished, the successful candidates are those who have received the most votes for the specified number of positions available.

8.3.22. If there are not enough successful candidates to fill all vacant positions, the Board of Directors will subsequently co-opt suitable persons to fill the vacant positions in the interim, and these vacancies will be reconsidered at the next general meeting of the members. However, if less than 66% of the positions are filled, then a special meeting must be called within 60 days to vote again.

8.3.23. Each Member present in person or by proxy is entitled to vote in favour of as many candidates as there are vacancies.

8.3.24. Voting for non-executive Directors is conducted by means of secret ballot.
8.3.25. A vacancy is filled only if a majority of the voting rights exercised support the candidate.

8.3.26. The Board shall from time to time decide among themselves to appoint any one of their number (excluding the CEO), or any other capable member of the IIA SA, as the IIA SA’s Affiliate Director to the International Board of the Institute of Internal Auditors Inc, provided the IIA SA remains qualified to make such appointments in terms of the constitution and By-laws of The IIA Inc. This delegate will not automatically be a Director of the South African Board, but will have the right to be given notice of and to attend meetings of the South African Board as an observer, and may be required to attend meetings of the Board of the IIA SA to report back, to be briefed and to answer questions.

8.4. DISQUALIFICATION OF DIRECTORS

8.4.1. A Director ceases to hold office in the event of the Director:-

8.4.1.1. becoming ineligible or disqualified to be a Director by virtue of any of the provisions of the Companies Act;

8.4.1.2. being removed by a resolution of the Members or Board of Directors as provided for in section 71 of the Companies Act;

8.4.1.3. failing to attend any 3 (three) meetings of the Board or its committees in 1 (one) financial year and the Board determines in its sole discretion that it is without good cause; or

8.4.1.4. having a material interest in any contract or proposed contract with the IIA SA or in a matter before the Board and failing to declare such interest and the nature thereof in the manner required by the Companies Act and this MOI.

8.4.1.5. becomes insolvent;

8.4.1.6. is found lunatic or becomes of unsound mind;

8.4.1.7. resigns his/her office by notice in writing to the Board;

8.4.1.8. is removed from any other office of trust on account of misconduct;

8.4.1.9. has been convicted of fraud, theft, forgery, perjury, or any offence involving dishonesty;

8.4.1.10. ceases to be a member of the Institute;

8.4.2. The resignation of any officer or director shall be tendered to the Chairman of the Board. If more than 33% of Directorships become vacant during the year following the AGM then a special general meeting should be called to re-elect Directors.

8.5. PROCEEDINGS OF THE BOARD

8.5.1. The Board shall meet at least four (4) times a year and may meet in person or via any electronic communication, for the dispatch of business, adjourn and otherwise regulate their meetings at such times and places as it thinks fit.

8.5.2. The authority of the Board 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 MOI.
8.5.3. The Chairman of the Board shall preside over all meetings or in his absence by the Senior Vice Chairman or, in the absence of both, a Chairman shall be appointed by the meeting from its own number.

8.5.4. The authority of the Board to determine the manner and form of providing notice of its meetings, as set out in section 73(4) of the Companies Act is not limited or restricted by this MOI.

8.5.5. The authority of the Board to proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in section 73(5) the Companies Act is not limited or restricted by this MOI.

8.5.6. The meetings of the Board shall be held at such time and place as the Board shall appoint.

8.5.7. Notices calling all meetings shall be sent out by the Secretary not less than twenty-one days (21) days before each meeting. Notices of such meetings may be sent via electronic communication.

8.5.8. No business shall be transacted at any meetings of the Board unless more than 50% of the Directors are present. At the discretion of the Chairman, the meeting may proceed inquorated and decisions ratified via “round-robin” or at the next quorated Board meeting.

8.5.9. The right of Directors to requisition a meeting of the Board, as set out in section 73 (1) of the Companies Act, may be exercised by at least 25% of the Directors.

8.5.10. Questions arising at any meeting are decided by a majority of votes. Each Director has one vote on a matter before the Board. In the event of an equality of votes, the Chairman of the meeting shall have a second or casting vote.

8.5.11. Subject to the provisions of section 75 of the Companies Act, in respect of Directors’ conflicts of interests:

8.5.11.1. All Directors must at the first Board meeting of each year or at the first Board meeting that the Director attends complete an interest declaration in the format agreed by the Board and submit the forms to the Secretary.

8.5.11.2. At every Board meeting a declaration of conflict of interest must be made in the manner and form agreed by the Board in regard to all items for consideration before the Board.

8.5.11.3. A Director may not vote in respect of any matter tabled at the Board in which the Director has a material interest, or on any matter arising therefrom and if a vote is exercised contrary to this, the vote is not counted.

8.5.11.4. The Director must not take part in the consideration of the matter and must leave the meeting immediately after making the required disclosure.

8.5.12. While being absent from the meeting in terms of 8.5.11.4, the Director: will be regarded as being present for the purpose of determining whether a sufficient number of Directors are present to constitute a quorum; and will not be regarded
as being present at the meeting for the purpose of determining whether a resolution has sufficient support to be adopted.

8.5.13. Subject to the provisions of the Companies Act, a round-robin resolution in Writing adopted by the majority of Directors is as valid and effective as if it had been passed at a duly called and constituted meeting of the Board or its committee as the case may be, provided that each Director has received notice of the matter to be decided.

8.5.14. An adopted round-robin resolution may consist of multiple hard or electronic copies of the same resolution, each signed by one or more Board members. A resolution of Directors passed in terms of this clause is presented at the next meeting of the Board or its committee as the case may be for noting and signature by the chairman of that meeting in terms of the provisions of section 24 and section 73(8) of the Companies Act.

8.5.15. The Board may act notwithstanding a vacancy, but, if and for as long as its number is below the minimum required in terms of this MOI, the continuing Directors may only act for the purpose of increasing the number of Directors to the minimum number, or for convening a General Meeting of the IIA SA.

8.5.16. No proxies or alternates will be valid at Director’s meetings, although resolutions may be adopted by “round-robin” if deemed appropriate by the majority of the Board.

8.5.17. The decisions of the Board shall be binding on all members of the Institute.

8.6. DUTIES OF DIRECTORS

8.6.1. The Chairman shall be the head of the Board of Directors and shall preside over all Directors meetings. The Chairman shall be a non-executive Director.

8.6.2. The Senior Vice Chairman, Directors and Past Presidents shall have such duties and powers as may be prescribed by the Board or delegated by the Chairman. In the absence or disability of the Chairman, one Vice Chairman shall perform the duties of the Chairman.

8.6.3. Board members act jointly when discharging their duties and no Board member has the authority to act on behalf of the Institute unless specifically authorised or requested by the Board.

8.6.4. Board members are jointly and severally liable and accountable for Board decisions and actions.

8.6.5. Board members are legally obliged to act in the best interest of the Institute, to act with due care in discharging their duties as Board members, to declare and avoid conflicts of interest and to account for any advantages gained in discharging their duties on behalf of the Institute.

8.6.6. A Board member, who has a real or prospective interest in any of the business of the Institute, shall declare such interest at a Board meeting as soon as the Board member becomes aware of such specific interest. All Board members shall, in good faith, disclose to the Board any business or other interest that is likely to create a potential conflict of interest.
8.6.7. Directors shall all be bound by the requirements of the Companies Act, and shall be expected to implement the recommendations of the King III Report on Corporate Governance and other relevant best practices as far as is practical. In order to ensure the highest standards of governance are practiced, all instances where the Directors have deviated from the King III recommendations will need to be justified in the Integrated Annual Report.

8.6.8. The Chairman shall be the Chairman of the Board and, when present, shall preside at all meetings of the Institute and of the Board.

8.6.9. The Chief Executive Officer shall be responsible for the enforcement of the provisions of this MOI and the general operations of the Institute.

8.6.10. Directors shall have such duties and powers as may be agreed between themselves and the Board from time to time. This shall specifically include membership of one or more of the Board Oversight or Advisory Committees.

8.6.11. In the absence or disability of the Chairman, the Senior Vice Chairman will assume the responsibilities and perform the duties of the Chairman for the course of his/her absence or disability, unless the Board by majority vote decides to appoint another of its members to act as Chairman instead.

8.6.12. The duties of the Company Secretary will be in accordance with the Companies Act and the recommendations of the King III report, and will be overseen by the Nominations and Governance Committee.

8.6.13. The duties of the Treasurer will be overseen by the Chairman of the Audit Committee.

8.6.14. Directors may not be remunerated for their services as Directors, although the out of pocket expenses of Directors incurred while attending to Institute matters may be defrayed out of the funds of the Institute, in terms of Policies created and amended by the Board from time to time.

8.6.15. Every Director has the duty, and the right, to seek internal or external advice and information in order to perform his/her duties and responsibilities at the appropriate standard. Any reasonable bona fide costs incurred in the process shall be refunded by the Institute.

8.6.16. The performance of each individual director, as well as of the Board collectively, shall be assessed at least annually along the lines recommended in the King III report.

8.6.17. The Secretary shall perform those duties delegated by the Chairman or prescribed by the Board. He shall make reports as required by the Board. He shall notify each member of the Institute of all meetings and shall do any and all things normally required by a Secretary to keep Directors and members informed of the affairs of the Institute. At the termination of his office, he shall turn over to the Board all records, papers, books and documents and all property of the Institute which may have come into his possession or may have been compiled or created during his term of office.
9. **ACCOUNTING RECORDS AND ANNUAL FINANCIAL STATEMENTS**

9.1. The Board causes accounting records as required by section 28 of the Companies Act to be kept. The said books shall be subject to proper and regular audits as contemplated by law.

9.2. The accounting records are kept at the registered office of the IIA SA or at such other place or places as the Board decides, and are always open for inspection by any member of the Board.

9.3. The Board determines from time to time whether, to what extent, at what times and places and under what conditions the accounting records of the IIA SA shall be open to inspection by Members, and no Member has any right to inspect any accounting records or documents of the IIA SA except as conferred by the Companies Act and/or other applicable legislation.

9.4. The Board, in accordance with the Companies Act, ensures the preparation and tabling at the Annual General Meeting as a minimum the matters referred to in 6.7.1 and performs all duties in relation to annual financial statements, accounting records and auditors in accordance with the Companies Act and other applicable legislation. A copy of the annual financial statements which are to be tabled at the Annual General Meeting, is to be sent to every Member not less than 15 (fifteen) Business Days before the date of the meeting.

10. **NOTICES TO MEMBERS**

10.1. If a manner of delivery of a document, record, statement or notice is prescribed in terms of this MOI or the Companies Act:

10.1.1. it is sufficient if the person required to deliver such a document, record, statement or notice does so in a manner that satisfies all of the substantive requirements as prescribed; and

10.1.2. any deviation from the prescribed manner does not invalidate the action taken by the person delivering that document, record, statement or notice, unless the deviation:

10.1.2.1. materially reduces the probability that the intended recipient will receive the document, record, statement or notice; or

10.1.2.2. is such as would reasonably mislead a person to whom the document, record, statement or notice is, or is to be, delivered.

10.1.3. If, in terms of this MOI or the Companies Act, a notice is required or permitted to be given or published to any person, it is sufficient if the notice is transmitted electronically directly to that person in a manner and form such that the notice can conveniently be printed by the recipient within a reasonable time and at a reasonable cost.

10.1.4. Any notice, document or statement sent in terms of this MOI or the Companies Act shall be deemed to have been delivered on the date and time determined in accordance with Table CR3 in the regulations in terms of the Companies Act.
11. **COMPLIANCE WITH SECTION 30B OF THE INCOME TAX ACT**

11.1. The Board consisting of more than three Directors who are not related to each other accept the fiduciary responsibility of the IIA SA. No single person shall directly or indirectly control the decision making powers relating to the IIA SA.

11.2. The IIA SA is prohibited from distributing any of its funds or assets to any person (otherwise than in the course of undertaking its objects) and is required to utilise its funds solely for the objects for which it has been established.

11.3. Any Member of the IIA SA is prohibited from having any personal or private interest in the IIA SA except in so far as rendering a service to the IIA SA in pursuit of its objects and subject to 11.4 and 11.7.

11.4. The IIA SA is prohibited from directly or indirectly distributing any surplus funds to any person, other than in terms of clause 12 of this MOI.

11.5. Substantially the whole of the activities of the IIA SA shall be directed to the furtherance of its objects and not for the specific benefit of an individual member or minority group.

11.6. The IIA SA is prohibited from holding any share or other interest in any business, profession or occupation which is carried on by its members.

11.7. The IIA SA may not pay any remuneration to any person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered.

11.8. The Board undertakes to submit to the Commissioner of the South African Revenue Service a copy of any amendment to the MOI or written instrument of the IIA SA within thirty days of its amendment.

11.9. Substantially the whole, being a considerable majority of the IIA SA’s funding, must be derived from its annual or other long term members.

11.10. The IIA SA undertakes to comply with the reporting requirements as may be determined by the Commissioner of the South African Revenue Service from time to time.

11.11. The IIA SA is not knowingly and will not knowingly become a party to, and does not knowingly and will not knowingly permit itself to be used as part of, an impermissible avoidance arrangement contemplated in Part IIA of Chapter III, or a transaction, operation or scheme contemplated in section 103(5) of the Income Tax Act.

12. **DISSOLUTION OF THE IIA SA**

12.1. The IIA SA shall be dissolved by a special resolution to be effected by the Members.

12.2. Upon the dissolution of the IIA SA, the Board shall, after making provision for the liabilities and obligations of the IIA SA and the costs of dissolving the IIA SA, distribute the whole of the IIA SA’s income (including distributed income still in its possession) and assets to:

12.2.1. another entity approved by the Commissioner of the South African Revenue Service in terms of section 30B of the Income Tax Act;

12.2.2. a public benefit organisation approved in terms of section 30 of the Income Tax Act to be determined by the Directors at or before the time of dissolution or falling such determination by the Court;
12.2.3. any institution, board or body which is exempt from tax under the provisions of section 10(1)(cA )(i) of the Income Tax Act, which has its sole or principal object the carrying on of any public benefit activity; or

12.2.4. any department of state or administration in the national or provincial or local sphere of Government of South Africa.

12.3. No past or present Member or Director shall be entitled to any part of the net value of the IIA SA after the liabilities and obligations contemplated in clause 12.2 have been satisfied.