

5. LISTING AND QUOTATION

5.1 LISTING

5.1.1 **Application:** Any person may apply to NZX for Listing either:

- (a) with NZX as the Home Exchange; or
- (b) with a Recognised Stock Exchange as the Home Exchange, if that person is domiciled or incorporated outside New Zealand and listed on a Recognised Stock Exchange (an “Overseas Listed Issuer”); or
(Amended 1/5/04)
- (c) as a Dual Listed Issuer. *(Amended 1/5/04)*

Application shall be made through a Primary Market Participant acting as Organising Participant. *(Amended 1/5/04)*

5.1.2 **Information Required:** The following information and material shall be submitted with an application under Rule 5.1.1: *(Amended 1/5/04)*

- (a) an agreement, in a form specified by NZX, to the effect that the applicant will at all times comply with the Rules, executed by the applicant;
- (b) a copy of the Constitution which the applicant will have at the intended time of Listing; and
- (c) confirmation that the fees prescribed by NZX from time to time have been, or will at the time of Listing be, paid to NZX; and
(Amended 1/5/04)
- (d) if Quotation of a Class of Securities is sought at the time of Listing, the further information specified in Rule 5.2.2; and
- (e) a copy of the applicant’s certificate of incorporation or commensurate document for the Issuer’s entity (if applicable); and
- (f) confirmation that the bond or deposit required by Rule 2.8 has been provided; and
- (g) the number and details of each Class of Security the Issuer has on issue as at the time of the application, and details of any issue or allotment intended

prior to Listing (other than Debt Securities which are not Quoted or intended to be Quoted and any Class of Security for which application for Quotation is sought); and

- (h) contact addresses (phone, postal and fax) of the applicant; and
- (i) copies of annual reports for the last five years, if available; and
- (j) acknowledgements by Directors as required by Rule 2.2.2; and
- (k) *(Revoked 1/5/04)*
- (l) *(Revoked 1/5/04)*
- (m) any other information or documents that NZX may, at the time of submission or subsequently, request.

5.1.3 Minimum Value for Listing: An applicant generally will not be considered for new Listing on either the NZSX or NZDX markets unless the anticipated market value (as estimated by NZX) of Securities of that Issuer to be Quoted is at least \$5 million. *(Amended 1/5/04)*

5.1.4 Non Standard Designation: An Issuer which does not comply with all of the requirements of the Rules may be granted Listing with the designation “Non Standard” or “NS”, on such terms and conditions as NZX thinks fit from time to time and may require an Issuer with a Non Standard or NS designation to take all steps necessary to procure that: *(Amended 1/5/04)*

- (a) any Advertisement, Offering Document, or statement issued or distributed by the Issuer which refers in any way to the Listing of the Issuer or Quotation of its Securities, and each annual or interim report of the Issuer, contains a qualification or note of a nature, location and prominence which is reasonably likely to ensure that persons receiving the information are informed or reminded that the Issuer has a Non Standard or NS designation; and *(Amended 1/5/04)*
- (b) if it is desirable in order properly to inform the intended recipients of any such information, taking account of the context, their general level of knowledge and the relevance to them of any such information, the qualification or note contain references or details reasonably likely to inform such recipients of the reasons for the Non Standard designation.

The designation or notation “NS” will ordinarily appear after all NZX references to an Issuer so Listed, and to its Quoted Securities.

5.1.5 Effective Date of Listing: The date upon which Listing takes effect shall be the date specified as such by NZX in a notice published by NZX advising that the applicant has been Listed.

5.1.5A Dual Listed Issuers: The Rules set out in appendix 17 do not apply to a Dual Listed Issuer, provided always that:

- (a) that Dual Listed issuer satisfies and complies at all times with any conditions set out in appendix 17 regarding the non-application of those Rules; and
- (b) that Dual Listed issuer complies at all times with the ASX Listing Rules (subject to any applicable waiver or ruling obtained by that Dual Listed Issuer from the ASX) and the Australian Corporations Act 2001 (Cth).

Notwithstanding the foregoing, NZX may at any time or times, by notice to a Dual Listed Issuer, declare that any Rule set out in appendix 17 shall thereafter apply to that Dual Listed issuer, whether or not the ASX Listing Rules or Corporations Act 2001 (Cth) contain a similar or analogous provision and whether or not that Dual Listed Issuer is then complying with any such provision. *(Inserted 1/5/04)*

5.1.5B Notice Requirements: A Dual Listed Issuer must provide NZX with notice of:

- (a) all waivers and/or rulings granted or revoked by the ASX in respect of that Dual Listed Issuer from the ASX Listing Rules and the terms of such waivers and/or rulings or revocation of such waivers and/or rulings; and
- (b) any variation to the ASX Listing Rules or Corporations Act 2001 (Cth) made after the date on which that Dual Listed Issuer lists on an NZX market other than those which could not, in any circumstances, be relevant to that Dual Listed Issuer. For avoidance of doubt, if a Dual Listed Issuer is unsure whether such change could or may affect that Dual Listed Issuer, notice of such change should be given to NZX. *(Inserted 1/5/04)*

5.1.6 Overseas Listed Issuers: An Overseas Listed Issuer shall:

- (a) be deemed (subject to Rule 5.1.7) to satisfy and comply with all the Rules so long as it remains listed on its Home Exchange, provided that NZX may, at any time, by notice to any Overseas Listed Issuer, declare that any of the Rules shall thereafter apply to that Issuer, whether or not the rules of its Home Exchange contain a similar or analogous provision, and whether or not that Issuer is then complying with any such provision; and
- (b) if application has been made to NZX for a Class or Classes of its Securities quoted on its Home Exchange to be Quoted on NZX, be deemed to satisfy and comply with all of the Rules for so long as those Securities remain Quoted on its Home Exchange; and
- (c) give to NZX the same information and notices it is required to give to its Home Exchange, at the same time as it is required to give such information and notices to its Home Exchange; and
- (d) disclose in its annual report any Home Exchange corporate governance rules and principles that materially differ from NZX's corporate governance rules and the principles of the Code.

For the purposes of Rule 5.1.6(d), NZX's current corporate governance rules are the Rules set out in appendix 6. *(Amended 1/5/04)*

5.1.7 Rules Applicable to Overseas Listed Issuers: Notwithstanding Rule 5.1.6, all of section 1, Rules 5.1.6, 5.3, 5.4 and 5.5.2, and this Rule 5.1.7, shall apply, with the necessary modifications, to each Overseas Listed Issuer.

(Amended 1/5/04)

- 1. The intention of Rules 5.1.6 and 5.1.7 is that a company or other entity which is listed on a Recognised Stock Exchange, and is accepted by NZX for Listing on NZX as well, is not required to comply with the Rules, so long as that company or other entity complies with the rules of that Recognised Stock Exchange. NZX may however in its discretion at any time require that company or other entity to comply with any provisions of the Rules.**

(Amended 1/5/04)

2. As a general rule, NZX will cancel the Listing of an Overseas Listed Issuer if the Listing of that Issuer is cancelled on its Home Exchange, and will suspend Quotation of, or halt trading of all or a Class of Securities if Quotation of all or that Class of Securities is suspended on the Home Exchange of that Overseas Listed Issuer.
(Amended 1/5/04)

- 5.1.8 Unit Trusts:** Without limiting any other provision of these Rules, the Trust Deed governing a unit trust for which Listing is sought shall contain the provisions specified in appendix 10.
- 5.1.9 Equity Warrants:** Without limiting any other provision of these Rules, the Listing and Quotation of equity warrants shall comply with the provisions contained in Rule 1.9.3 and appendix 13.
- 5.1.10 Approved Overseas Warrant Issuers:** Notwithstanding anything to the contrary in these Rules, an approved warrant issuer on the ASX (or the equivalent on another Recognised Stock Exchange) will be accepted as an Overseas Listed Issuer able to Quote equity warrants on NZX.
(Amended 1/5/04)

5.2 QUOTATION OF SECURITIES

- 5.2.1 Application:** An Issuer, or applicant for Listing, may apply to NZX for a Class or Classes of its Securities to be Quoted on the NZSX or NZDX. Separate application must be made for each Class of Securities, through a Primary Market Participant acting as Organising Participant, except that the application need not be made through an Organising Participant in the case of an application to Quote a Class of Securities where the Securities to be Quoted are rights to Securities that are already Quoted. *(Amended 1/5/04)*

If a Class of Quoted Securities, by reason of a change to the rights or privileges attaching to some but not all of those Securities, divides into more than one Class, the Issuer must apply for Quotation of each of the resulting Classes.

5.2.2 Procedure: The following information and material shall be submitted with an application under Rule 5.2.1: *(Amended 1/5/04)*

- (a) details of the Security for which application for Quotation is sought (including number, Security Class, ISIN, and face value (if any));
- (b) evidence that the Primary Market Participant has sought assurance from NZX that Authority to Act has not been withdrawn in respect of Securities for which Quotation is sought or a certificate is provided under Rule 7.4 of the NZX Participant Rules (whichever is applicable); and *(Amended 1/5/04)*
- (c) a draft Offering Document in respect of the Securities (which shall include, without limiting any other provision of the Rules, the timetable required by Rule 7.1.5(b)); and
- (d) any Advertisement that is proposed to be issued before the date of Quotation in respect of the Securities; and *(Amended 1/5/04)*
- (e) any other information or documents that NZX may, at the time of submission or subsequently, request.

5.2.3 Spread: A Class of Securities will generally not be considered for Quotation on the NZSX or NZDX unless those Securities are held by at least 500 Members of the Public holding at least 25% of the number of Securities of that Class issued, with each Member of the Public holding at least a Minimum Holding. *(Amended 1/5/04)*

NZX will readily consider a waiver from the requirements of Rule 5.2.3:

- (a) **in the case of Debt Securities or Convertible Equity Securities, if NZX is satisfied that the lack of initial liquidity would not be of disadvantage to holders; or**
- (b) **in a case where there is a commitment on the part of one or more major holders of the Securities to sell their holdings into the market within a reasonable period after the initial Quotation of those Securities.** *(Amended 1/5/04)*

- 5.2.4 **Effective Date of Quotation:** Quotation of a Class of Securities will be effective from the date specified in a notice published by NZX.

As a matter of general policy, NZX will not grant Quotation of Securities until NZX has received from the Issuer notice that those Securities have been allotted. However, NZX will generally agree to the Quotation of Securities arising from rights issues, options or conversion of Convertible Securities, on a date not earlier than two Business Days prior to the closing of applications.

- 5.2.5 **Deferral of Quotation:** Where Securities are issued which are not, at the time of issue, of the same Class as Securities which are Quoted, but which may become of that Class, whether by passage of time, elapse of an escrow period, payment of calls or otherwise, notification under this Rule must be given forthwith after issue of those Securities, but Quotation will not be granted for those Securities (unless application is made for their Quotation as a separate Class) until they have qualified for inclusion in the Class already Quoted.

5.3 DISCRETION OF NZX AS TO LISTING AND QUOTATION

- 5.3.1 **NZX Not Obligated:** NZX is not obliged to grant Listing on either the NZSX or the NZDX of any person or Quotation of any Securities, whether or not the Issuer or person concerned complies with all applicable provisions of the Rules. NZX may refuse Listing or Quotation in its absolute discretion and without giving any reasons for such refusal. *(Amended 1/5/04)*

NZX regards Listing as a privilege, not a right. It is not willing to fetter its discretion in respect of the initial grant of Listing, for fear of becoming involved in challenges from parties whose reputations or associates are suspect but against whom the available evidence is not readily verifiable. For example, the Rules do not stipulate character standards for directors or promoters. Nevertheless NZX will not facilitate the Listing of companies whose directors have a history of unsavoury practices. NZX will not, however, act capriciously and the discretion will be exercised on the basis of the principles stated in the Foreword.

5.3.2 Additional Conditions: NZX may at any time or times impose conditions (whether or not additional to the Rules) that must be fulfilled by any Issuer in order to obtain or maintain Listing, or Quotation of all or any of its Securities, if NZX in its absolute discretion considers such conditions are necessary or desirable to maintain a properly informed market, or to ensure compliance with, or achieve the intent of, any of the Rules.

NZX may also, as a condition of Listing, impose restrictions for a specific period on the sale or other disposal of Vendor Securities.
(Amended 1/5/04)

5.3.3 Specific Matters: Without limiting Rules 5.3.1 or 5.3.2 NZX may:
(Amended 1/5/04)

- (a) refuse Quotation of any Securities if it is not satisfied that the Securities Act 1978 or any other applicable legislation has been complied with; and
(Amended 1/5/04)
- (b) impose such requirements in addition to or substitution for any of the Rules, as NZX thinks fit, if any entity seeking Listing is not a company as defined in the Companies Act 1993.
(Amended 1/5/04)

Paragraph (a) should not be read as placing any obligation whatsoever upon NZX to enforce or interpret any legislation. It is for the courts to decide upon the meaning and enforcement of legislation.

5.3.4 Independent Vetting: NZX may before granting Listing, or Quotation of any Securities, require an applicant for Listing or Issuer to submit any technical, financial or other information in any Offering Document, Constitution, or Trust Deed, to the scrutiny of an independent expert (who shall report to NZX) such work to be carried out at the expense of the applicant for Listing or Issuer.

5.4 TRADING HALTS, SUSPENSION, CANCELLATION AND OTHER POWERS

5.4.1 Request: An Issuer may request:

- (a) by notice in writing to NZX, that trading in its Securities be halted by

NZX for a period not to exceed two Business Days; or

- (b) by not less than one month's prior written notice to NZX, that it cease to be Listed or that some or all of its Securities cease to be Quoted.

After receipt of a request from an Issuer in accordance with:

- (c) Rule 5.4.1(a), NZX may halt trading; or
- (d) Rule 5.4.1(b), NZX may cancel the Listing or Quotation of some or all of its Securities (or both), as the case may be, *(Amended 1/5/04)*

on or subject to compliance with such conditions as NZX thinks fit.

1. Where an Issuer is requesting a trading halt, pursuant to Rule 5.4.1(a), it must provide information to NZX on each of the following:

- its reasons for the trading halt; and
- how long it wants the trading halt to last; and
- the event it expects to happen that will end the trading halt; and
- that it is not aware of any reason why the trading halt should not be granted; and
- any other information necessary to inform the market about the trading halt, or that NZX asks for.

2. NZX is not required to act on the Issuer's request for a trading halt.

3. Among the conditions which NZX may require in the case of a request, pursuant to Rule 5.4.1(b), for cancellation of Listing or Quotation of some or all of its Securities (or both) are:

(Amended 1/5/04)

- (a) **A requirement for a prior approving resolution of Security holders of the Class of Securities proposed to be cancelled who are Members of the Public; and** *(Amended 1/5/04)*
- (b) **Arrangements to protect rights of any Class of Security holders which arise under the Rules and which, if lost on cessation of Listing, would prejudice the position of those holders.**

4. In the case of a compulsory acquisition following a takeover offer, NZX will generally suspend Quotation of an Issuer's Securities 5 Business Days after it receives a copy of an acquisition notice under the Takeovers Code. *(Inserted 1/5/04)*

- 5.4.2 **Powers of Exchange:** NZX may at any time, and in its absolute discretion, do any one or more of the following, without giving any reasons and (subject to Rule 5.4.4) without giving prior notice to the Issuer concerned:
- (a) cancel the Listing of any Issuer; or
 - (b) cancel, halt or suspend for such period as NZX thinks fit, the Quotation of any or all of an Issuer's Securities; or *(Amended 1/5/04)*
 - (c) *(Revoked 1/5/04)*
 - (d) refer the conduct of any Issuer, or of any Director or Associated Person of any Issuer, to NZX Discipline or any statutory or governmental authority.
- 5.4.3 **Examples of Reasons:** Without limiting Rule 5.4.2, NZX may exercise any of its powers under Rule 5.4.2 if it considers that:
- (a) a false market exists in any or all of an Issuer's Securities; or *(Amended 1/5/04)*
 - (b) any provision of the Rules has not been complied with by an Issuer or any Director or officer of that Issuer; or *(Amended 1/5/04)*
 - (c) the size and spread requirements specified in Rules 5.1.3 or 5.2.3 are not being met in respect of any or all of an Issuer's Securities; or *(Amended 1/5/04)*
 - (d) it is in the best interests of the market, or attainment of the intent and objects of the Rules, to exercise such a power; or
 - (e) there occurs in respect of an Issuer:
 - (i) a change in control of Votes of that Issuer which confers an effective controlling interest in the Issuer, or a change in ownership in all or substantially all of those Securities of that Issuer carrying Votes; and *(Amended 1/5/04)*

- (ii) a cessation of, or change in the essential nature or direction of, the business or activities of that Issuer. *(Amended 1/5/04)*

1. NZX may, but generally will not, remove Listing from an Issuer only because the minimum spread requirements in Rule 5.2.3 cease to be satisfied. Listing will be removed in those circumstances (or may at the discretion of NZX, be qualified by a Non Standard designation) if NZX considers, taking account of any circumstances it thinks fit including the nature of the Issuer and the general characteristics of holders of its Quoted Securities, that:

(a) trading in the market in those Securities is limited and/or:

(i) quotations for the Securities; and/or

(ii) prices at which sales are reported to occur; and/or

(iii) any pattern of transactions;

gives or appears to give a false indication of proper arm's length market prices; and

(b) continuation of Listing without Non Standard or NS designation, or at all, as the case may be, is likely in the opinion of NZX to give rise to an unacceptable risk of damage to the reputation of NZX.

NZX will be influenced by the extent to which any reports or references to the Listing of the Issuer or Quotation of all or any Class of its Securities could mislead people as to the value of investment in its Quoted Securities. *(Amended 1/5/04)*

2. In relation to an Issuer who fails to issue its preliminary full year or half year announcement reports, annual and half yearly reports or quarterly reports of consolidated cash flows, by their respective due dates, NZX will observe the following policy: *(Amended 1/5/04)*

(a) NZX will immediately publish their names; and

- (b) if after five Business Days following the relevant due date, that Issuer has not complied, Quotation of all or any Class of that Issuer's Securities will be suspended, until such time as the Issuer has complied; and *(Amended 1/5/04)*
- (c) in appropriate cases, either in addition to or in substitution for the steps taken under paragraphs (a) or (b), NZX may pursuant to Rule 2.3, and at the expense of the Issuer, use its power of inspection to ascertain and inform the market of the state of that Issuer. *(Amended 1/5/04)*

5.4.4 Absence of Prior Notice: If NZX exercises its power under Rule 5.4.2 without giving prior notice or reasons to the Issuer concerned it shall, as soon as practicable thereafter, give notice to the Issuer concerned, explaining the reasons for the decision to exercise its powers in that manner. NZX shall not act in that manner unless NZX forms the opinion that any delay involved in giving prior notice or explanation of the reasons may prejudice the interests of other participants in the market.

5.4.5 Continuing Obligations: The suspension of Quotation or trading shall not release the Issuer concerned from any obligation (whether to pay fees or otherwise) it has under the Rules, and the cancellation of Listing or Quotation shall not release the Issuer concerned from any such obligation it has under the Rules in respect of any period or matter occurring before the cancellation.

5.5 GENERAL OBLIGATIONS WHILE LISTED

5.5.1 New Zealand Domicile: An Issuer which has NZX as its Home Exchange shall at all times while it is Listed:

- (a) appoint a natural person resident in New Zealand as the person with whom NZX may communicate, and who is authorised on behalf of that Issuer to accept service of notices or legal proceedings from NZX unless that Issuer is a company incorporated in New Zealand; and *(Amended 1/5/04)*
- (b) hold all meetings of holders of Quoted Securities of that Issuer in New Zealand.

NZX may waive the requirement in Rule 5.5.1(b) on application in respect of particular meetings if it is satisfied that Quoted Security holders generally are not likely to be prejudiced by the holding of the meeting outside New Zealand.

5.5.2 Payment of Fees: Each Issuer shall pay to NZX the fees prescribed by NZX from time to time.