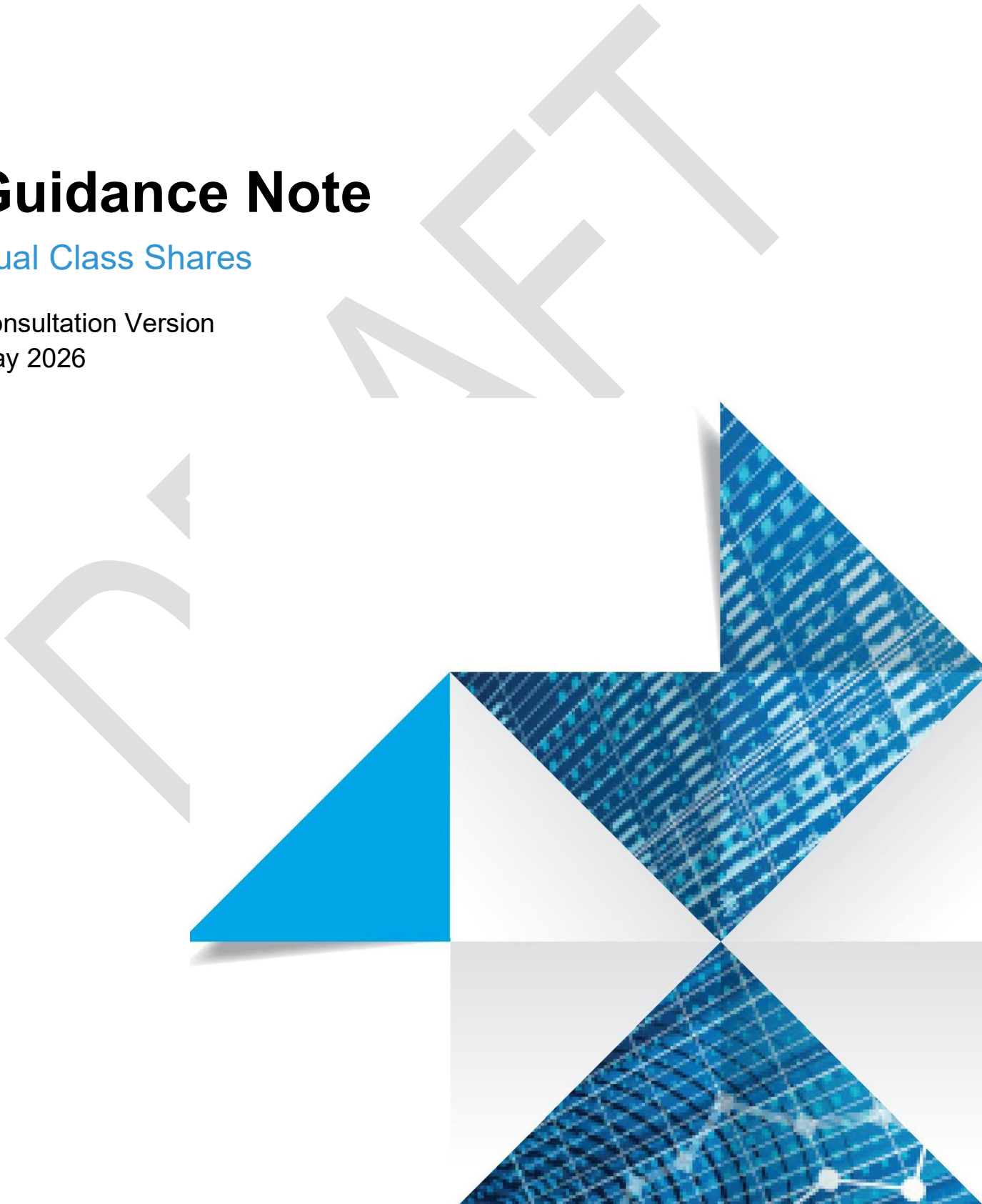




Guidance Note

Dual Class Shares

Consultation Version
May 2026



This guidance is published to help Issuers with Dual Class Share structures to understand their obligations under the NZX Listing Rules (**Rules**). Unless otherwise defined, capitalised terms in this guidance note have the same meaning as given in the Rules.

Under Rule 9.15.1, NZX Limited (**NZX**) may act by and through NZX Regulation Limited (**NZ RegCo**) in performing any function or discharging any power set out in the Rules. References in this guidance note to NZX therefore also include NZ RegCo in relation to any regulatory activity or discretion.

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Important Information: This guidance note applies to the obligations of Issuers with Dual Class Share Structures that are contained in the NZX Listing Rules. Issuers should note that this guidance note is not intended to be a definitive statement of the application of the Rules in every situation, and is only a guide to NZX's policy and practice. This guidance note does not limit NZX's discretion under the Rules (including NZ RegCo's discretion in respect of granting rulings or waivers in respect of, or enforcing, the Rules). Issuers should seek their own legal advice in respect of the application of their Rules to them and their particular circumstances. This guidance note reflects the Rules and law as at [XX] 2026 which is subject to change. NZX takes no responsibility for any error contained in this guidance note. NZX may replace guidance notes at any time and Issuers should ensure that they have the most recent version of this guidance note by checking [NZX's website](#).

Introduction

In 2026, NZX introduced settings within the Rules, to better facilitate listing by applicants who have adopted a Dual Class Share (**DCS**) structure.

Issuers with a Dual Class Share structure (**DCS Issuers**) have two classes of shares:

- **Superior Shares:** held by persons within a permitted holding group, who have superior rights to vote on certain matters, and which may or may not be Quoted, and
- **Ordinary Shares:** Quoted shares which do not have shareholder eligibility requirements, and which enable holders to vote on a 1 vote per share basis.

This Guidance Note provides guidance to DCS Issuers to help them understand the Rule requirements that are unique to a DCS structure, including:

- **Eligibility:** requirements in relation to persons who are permitted to hold superior shares (the Permitted Superior Shareholder Group), and spread,
- **Governance:** ongoing requirements relating to the Permitted Superior Shareholder Group along with specific governance requirements in relation to board and board committee composition,
- **Disclosure:** additional content requirements for Offer Documents and Profiles, periodic reporting and announcements, including the use of a warning statement, and
- **Capital Raising:** restrictions on the use of certain capital raising structures in relation to the issuance of further Superior Shares, whether or not those Shares are Quoted.

The Rule requirements in relation to Equity Securities also apply to DCS Issuers, unless expressly dis-applied by Rule 1.3.1.

DCS Issuers should refer to NZX's other [Guidance Notes](#) to obtain guidance in relation to the general obligations that apply under the Rules, including in relation to continuous disclosure, capital raising and major and related party transactions.

DCS Issuers should also consider their obligations under other applicable regulatory regimes, including the Takeovers Code, the Companies Act 1993 and the Financial Markets Conduct Act 2013.

1. Eligibility

1.1 New Listings

DCS structures are only permitted for new Listings, as Rule 1.23 prohibits an Issuer from dividing a Class of Quoted Equity Securities in order to implement a DCS structure.

This ensures that investors receive appropriate disclosure in relation to the unique features of an Issuer with a DCS structure, including in respect of the nature and identity of Superior Shareholders, and the unique governance features that apply to DCS Issuers.

1.2 Application information

Permitted Superior Shareholder Group criteria

DCS Issuers must only permit certain persons to hold Superior Shares, these persons form the Permitted Superior Shareholder Group. NZX expects that these holders will typically be founders, key executives or directors who are actively involved in the management or long-term strategic direction of the issuer. The Rules do not prevent a corporate entity from holding Superior Shares.

Rule 1.15.2(l) requires an applicant who wishes to apply to List with a DCS Structure (**DCS Applicant**) to provide NZX with a description of the criteria for its Permitted Superior Shareholder Group, and Rule 2.15.1(a) requires that NZX approve those criteria prior to Quotation.

Rule 1.16.2 requires the applicant to provide NZX with a statement as to the identity of the persons who will hold Superior Shares as at the date of Quotation, who must fall within the criteria approved by NZX, in accordance with the requirements of Rule 2.15.1(b).

Governing Document requirements

A DCS Applicant is required by Rule 1.15.2(b) to provide a copy of its Governing Document to NZX with its listing application, which must be accompanied by a solicitor's opinion that meets the requirements of Rule 2.23.1.

Section 2.7 of this Guidance Note provides further guidance as to the matters that must be included in a Governing Document of an applicant who wishes to List with a DCS structure.

Quotation Application for different Classes

A DCS Applicant may elect whether or not it wishes to seek Quotation for its Superior Shares. Where the DCS Applicant wishes to seek Quotation for its Superior Shares, the information required by Rule 1.16 must be provided for each Class of share for which Quotation is sought (i.e. Ordinary Shares and Superior Shares).

1.3 Permitted Superior Shareholder Group – minimum holding

Rule 1.2.1(b) requires that a DCS Applicant must ensure that at the time of Quotation the holders of its Superior Shares in aggregate hold a beneficial interest in at least 10% of its anticipated market capitalisation.

This requirement is designed to provide confidence to holders of Ordinary Shares that the Permitted Superior Shareholder Group has a meaningful financial interest in the ongoing performance of the Issuer, mitigating concerns that the superior control rights attached to Superior Shares will be exercised in a manner that is not aligned with the financial performance of the Issuer.

NZX expects that the DCS Applicant will use the same methodology for calculating its anticipated market capitalisation as that applied when determining whether it meets the eligibility requirement contained in Rule 1.1.1(b)(i) which relates to the Issuer's size.

1.4 Spread

The spread requirements for an applicant with a DCS structure are set out in Rule 1.1.1(b)(ii). These requirements apply to each Class of Equity Securities that are to be Quoted.

Therefore when Superior Shares are to be Quoted, the requirements in Rule 1.1.1(b)(ii) apply to each share Class (Ordinary Shares and Superior Shares).

Further guidance in relation to the spread requirements are contained in the [Spread Guidance Note](#).

2. Governance

2.1 Permitted Superior Shareholder Group

Superior Shares must only be held by Permitted Superior Shareholder Group

In addition to the requirements for the Governing Document in relation to the holdings of Superior Shares, Rule 2.15.1(b) imposes a requirement that the holders of Superior Shares at all times fall within the criteria for the Permitted Superior Shareholder Group that have been approved by NZX.

Failure to meet this requirement may trigger the cessation of the DCS structure, as explained further in section 2.8 below.

Criteria cannot be amended

Rule 2.15.1(c) also restricts a DCS Issuer from amending these criteria in future. This does not prohibit Superior Shares from being held by persons who differ from the holders that were identified at the point of Quotation, so long as the holder continues to fall within the approved criteria that were disclosed at the time of Listing.

This requirement is designed to provide sufficient flexibility to a DCS Issuer in relation to ownership, while ensuring that Ordinary Shareholders have confidence that Superior Shares are held by persons whose interests and relationships are aligned with the strategic direction of the DCS Issuer.

Restrictions on further concentration of Superior Holders

Rule 4.14.1(f) places restrictions on a DCS Issuer such that it may not acquire or redeem its Equity Securities in a manner that causes further concentration of the holdings of Superior Shares within the Superior Shareholder group.

While DCS Issuers are permitted to undertake capital raises in certain circumstances, any change in proportionate control of a Superior Holder as a result of a capital raise would only occur in permitted circumstances outlined in section 4 of this Guidance Note that would make it difficult for a Superior Holder's holding to significantly proportionately increase from that which existed at the time of Quotation.

Voting restrictions

Rule 2.15.1(e) only allows holders of Superior Shares to exercise their superior voting rights in relation to resolutions that are tabled at a general meeting (which includes both annual and special meetings).

This requirement ensures that holders of Ordinary Shares have visibility of the matters on which holders of Superior Shares may exercise superior voting rights given the formal notice and disclosure requirements applicable to general meetings.

There are also certain matters contained in Rule 2.15.1(h) where superior voting rights do not apply, and holders of Superior Shares must vote on a 1 vote: 1 share basis. These matters are the:

- amendment of the DCS Issuer's Governing Document
- appointment or removal of a Director,
- appointment or removal of an auditor,
- the issuance of Equity Securities under Rule 4.2.1(b),
- liquidation of the DCS Issuer, and
- delisting of the DCS Issuer.

These matters have serious consequences for the DCS Issuer. It is therefore appropriate for holders of Superior Shares to vote on an equal basis as holders of Ordinary Shares in relation to these decisions.

2.2 Voting ratio restrictions

There are important Rule restrictions on DCS Issuers in relation to the extent to which they are permitted to allow the voting rights of Ordinary Shares to be diluted by the superior voting rights attributable to Superior Shares. These restrictions are contained in Rules 2.15.1(f) and 2.15.1(d).

Together these Rules require that a DCS Issuer:

- does not allow Superior Shares to carry more than 10 times the Votes attached to each Ordinary Share, and
- does not increase the proportion of Superior Shares to Ordinary Shares from the proportion that existed at the date of Quotation.

These settings create a ceiling on the voting power of Superior Shares relative to Ordinary Shares, providing comfort to holders of Ordinary Shares around the extent to which their voting rights may be diluted.

These are important protections, which must be entrenched in a DCS Issuer's Governing Document as required by Rule 2.24.1(b).

These restrictions are important considerations for DCS Issuers who are considering undertaking a capital raise. Guidance on permissible capital raising structures is set out in section 4 of this Guidance Note, and DCS Issuers should also consider the guidance contained in the [Capital Raising Guidance Note](#).

2.3 Board composition and independence

DCS Issuers must comply with the standard board composition requirements in Rule 2.1, including the requirement to have at least two Independent Directors.

An Independent Director is a director who is not an Employee and who does not have a Disqualifying Relationship under the Rules. A DCS Issuer must consider a director's interests and relationships holistically when considering whether a Disqualifying Relationship exists, including by considering the factors contained in Table 2.4 of the [NZX Corporate Governance Code \(Code\)](#).

Where a Code factor applies to a director a DCS Issuer should consider the materiality of the interest, position or relationship must be assessed to determine whether it might interfere, or be reasonably be seen to interfere with the director's capacity to bring an independent judgment to bear on issuers before the board, and to act in the best interests of the issuer, and represent the interests of its shareholders generally. In the event that a Code factor applies to a director and the board of a DCS Issuer nevertheless determines the director to be independent certain disclosure requirements are triggered under the Rules.

Where a director holds Superior Shares, the director is not automatically disqualified from being considered independent, however where the director has a relevant interest in 5% of the Superior Shares Code factor 6 will apply to the director, whether or not the Superior Shares are Quoted.

As noted in section 2.1 above, Superior shareholders are not permitted to exercise superior voting rights in relation to the appointment of a director, including an independent director. This ensures that all shareholders have equal Voting rights in relation to the appointment of the directors of a DCS Issuer, on which they are eligible to Vote (see section 2.4, below).

The application of this requirement to the appointment of both Independent and non-Independent Directors ensures that Ordinary Shareholders can meaningfully participate in the appointment of Independent Directors. It also prevents Superior Shareholders from exerting disproportionate influence over the appointment of non-Independent directors, which could dilute the board's independence.

2.4 Representative directors

Rule 2.17 contains additional board composition requirements for DCS Issuers. This includes the requirements that:

- there is one Director who holds Superior Shares, and who has been nominated and appointed by an Ordinary Resolution of Superior Shareholders (**'Superior Shareholder Representative Director'**), and
- there is one Director who holds Ordinary Shares, and who has been nominated and appointed by an Ordinary Resolution of Ordinary Shareholders (**'Ordinary Shareholder Representative Director'**).

The Superior Shareholder Representative Director and Ordinary Shareholder Representative Director (together, **Representative Directors**) will remain subject to directors' duties equally to all shareholders to act in the best interests of the company.

The Representative Director requirements provide shareholders with additional confidence that there are directors on the board who are formally connected to, and able to understand the perspectives of, each Class of shareholder. Representative Directors are not appointed to act as the delegate of the relevant shareholder Class, and must consider the interests of shareholders as a whole when discharging their fiduciary duties. These requirements are intended to support

balanced board deliberations and promote confidence in the governance of DCS Issuers, without detracting from the fundamental principle that all directors owe duties to the company as a whole.

Rule 2.17 prevents a Representative Director from being an Independent Director. This enhances the Board composition requirements by ensuring that the Independent Directors are not affiliated with a particular class of shareholder, which is bolstered by the requirement that Superior Shareholders may not exercise superior voting rights in relation to the appointment of Independent Directors.

Rule 2.17 requires that the board of a DCS Issuer at all times contains a Superior Shareholder Representative Director, and an Ordinary Shareholder Representative Director. Failure to comply with this requirement is a sunset event which is described further in section 2.6 of this Guidance Note.

2.5 DCS Governance Committee

NZX requires DCS Issuers to establish a dedicated governance committee (**DCS Governance Committee**) to oversee the operation of the dual class structure. This requirement is set out in Rule 2.17.2.

The DCS Governance Committee's responsibilities are to ensure that the DCS Issuer has complied with its obligations to ensure that persons holding Superior Shares fall within the criteria for its Permitted Superior Holder Group and that its Board contains Representative Directors (as described in section 2.4. A breach of these obligations will result in a sunset event being triggered for the DCS Issuer (as described in section 2.8 of this Guidance Note) and it is appropriate for there to be additional governance oversight to ensure that these obligations are met.

The DCS Governance Committee must also identify and monitor conflicts of interest between (1) Superior Shareholders and the DCS Issuer, and (2) Superior Shareholders and Ordinary Shareholders. This requirement acknowledges that the interests of holders of each Class of share may differ, and is designed to ensure that there is appropriate governance oversight consideration of the different interests of each Class of holders.

NZX expects that a DCS Governance Committee would review the DCS Issuer's governance arrangements and any transactions between the DCS Issuer and its Shareholders to ensure that conflict of interest matters are appropriately addressed. The DCS Governance Committee should confirm to the DCS Issuer's board whether it considers that the DCS Issuer has adopted sufficient corporate governance measures to manage the potential conflict of interest between the Group and each Class of Shareholder, to ensure that the operations and management of the Company are in the interests of the Shareholders as a whole. It should also confirm whether the DCS Issuer met its obligations under Rules 2.15.1(b) and 2.17.1(d).

This information should be included in the report from the Committee to the board required by Rule 2.17.2 to enable the DCS Issuer to include a summary of the work performed by the DCS Governance Committee in its annual report as required by Rule 3.8.1(h), which is explained in section 3.5 of this Guidance Note.

The DCS Governance Committee must be comprised of a majority of Independent Directors and have an Independent Director as chair. No member of the DCS Governance Committee may hold Superior Shares.

2.6 Board Committee composition requirements

DCS Issuers must ensure that its Audit Committee, and where applicable its Nomination and Remuneration Committees are comprised of a majority of Independent Directors, and are chaired by an Independent Director. This is required by Rule 2.18 and Rule 2.13.2.

Additional recommendations relating to the composition and operation of an Issuer's Board Committees are contained in Principle 3 of the NZX Corporate Governance Code. DCS Issuers must report on a 'comply or explain' basis against the Code recommendations in its annual report in accordance with Rule 3.8.1.

2.7 Constitution

The Governing Document of a DCS Issuer is its constitution. Rule 2.24.1(b) requires that certain Rule requirements are incorporated by reference within the DCS Issuer's constitution.

These include the governance requirements relating to board composition and the ability for Representative Directors to be removed from office by an Ordinary Resolution of the Class of holders who appointed them.

In addition the requirements relating to the Permitted Superior Shareholder Group, including to ensure that holders of Superior Shares fall within the relevant criteria, and the Superior Share voting ratio restriction requirements contained in Rule 2.15.1, must be reflected in the constitution.

The sunset and conversion provisions discussed in section 2.8 of this Guidance Note and contained in Rule 2.16 must also be entrenched within the DCS Issuer's constitution.

The requirement for these provisions to be entrenched in a DCS Issuer's Constitution provides important protections for a DCS Issuer's shareholders.

2.8 Sunset and conversion

Rule 2.16 sets out events which trigger an automatic dissolution of a DCS Issuer's Dual Class nature, because all Superior Shares will convert into Ordinary Shares.

The events which trigger automatic conversion are:

- (a) where a Superior Shareholder ceases to be a Permitted Superior Shareholder due to a failure to fall within the criteria for the Permitted Superior Holder Group, which is required by Rule 2.15.1(b), or
- (b) where the DCS Issuer's board fails to include a Representative Director as required by Rule 2.17.

These events are so significant that it is inappropriate for the DCS Issuer to maintain a structure where superior voting rights continue to apply to the Superior Shares, unless Ordinary Shareholders approve otherwise.

As there may be circumstances where Ordinary Shareholders do not wish the DCS Issuer to cease to operate using a Dual Class structure, despite the DCS Issuer breaching Rule 2.15.1(b) or 2.17, the Rules allow the automatic conversion to be avoided if this is approved by an Ordinary Resolution of Ordinary Shareholders within 30 Business Days of the occurrence of the trigger event.

Where a DCS Issuer wishes to seek this approval it must ensure that the Notice of Meeting provides information as to:

- the circumstances leading to the breach of Rule 2.15.1(b) or Rule 2.17 (as relevant), and
- why the DCS Issuer considers that retaining the DCS structure is in the best interests of each Class of Shareholders (Ordinary and Superior Shareholders).

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3. Disclosure

3.1 Designation

A DCS Issuer will be designated 'DCS'. This will appear on nzx.com after the issuer's name and the designation will also be attached to the DCS Issuer's quoted securities. A DCS designation is a type of non-standard designation that provides visibility to investors as to the unique status of the DCS Issuer.

Rule 1.21.2 requires a DCS Issuer to prominently state that it bears a DCS designation in its advertisements, Offer Documents, Profiles and annual reports.

3.2 Warning statement

A DCS Issuer must include a template 'warning statement' in announcements it makes over the NZX Markets Announcement Platform (MAP), its annual report and any Offer Document or Profile in accordance with Rule 1.4.2, 3.8.1(h)(i) and 7.4.6 respectively.

The form of the 'warning statement' is set out below:

The Issuer operates with a Dual Class Share Structure. Investors should be aware that the voting rights attached to Ordinary Shares are diluted by the superior voting rights attached to the Issuer's Superior Shares. This structure may limit the ability of Ordinary Shareholders to influence the governance and strategic direction of the Issuer.

This statement is designed to ensure that investors and other stakeholders understand how control is exercised within the DCS Issuer. This is particularly important where Superior Shares are not Quoted, so that there is transparency that control may not sit with Ordinary Shareholders.

3.3 Offer Documents and Profiles

Rule 7.4 requires certain information to be included in an Offer Document or Profile, this includes the principal terms of the Financial Products, and an Issuer's dividend policy.

Rule 7.4.6 requires specific information to be included in an Offer Document or Profile of a DCS Issuer. Along with the warning statement referred to in section 3.2 of this Guidance Note, the following information must be included:

- (a) the rationale for adopting a Dual Class Share structure
- (b) the name of each Superior Shareholder, and for that person:
 - the number of Superior Shares held,
 - the proportion of Votes attached to Superior Shares held by that person, compared to:
 - the total number of Votes of all Superior Shares,
 - the total number of Votes of all Shares on issue,

- the number of Ordinary Shares held by each Superior Shareholder, and
 - the proportion of Votes held by each Superior Shareholder compared to the total Votes attached to all Shares on issue,
- (c) a description of the criteria for the Permitted Superior Shareholder Group, and
- (d) a description of the circumstances in which the Superior Shares will convert to Ordinary Shares, including as a result of compulsory conversion under Rule 2.16.1.

Aspects of these disclosures are explained in more detail below.

3.3.1 Superior Shareholder Voting rights

The information required by Rule 7.4.6(c) to be included in an Offer Document or Profile is intended to ensure transparency in relation to the ownership and control of the DCS Issuer. Disclosure of the identity of each Superior Shareholder, together with their respective holdings of Superior Shares and Ordinary Shares, and the voting power attached to those holdings, allows investors to assess how control is distributed within the DCS Issuer. In particular, disclosure of the proportion of Votes held relative to both the total Votes attached to Superior Shares and to all Shares on issue provides transparency of the extent to which Superior Shareholders may influence or determine Shareholder outcomes.

A DCS Issuer may wish to present the information required by Rule 7.4.6(c) as follows:

Disclosure of Superior Shareholders and Voting Interests

Superior Shareholder	Number of Superior Shares held	% of Votes attaching to Superior Shares held of total Votes attaching to all Superior Shares	% of Votes attaching to Superior Shares held of total Votes attaching to all Shares	Number of Ordinary Shares held	% of total Votes held by the Superior Shareholder of total Votes attaching to all Shares
[Name]					
[Name]					
...					
Total		100%			100%

This information is also required to be included in a DCS Issuer's annual report to provide ongoing transparency as to the level of each Superior Shareholder's ownership and control. In addition the Rules impose the FMC Act substantial product holder regime disclosure requirements on DCS Issuers, as explained further in section 3.6 of this Guidance Note.

3.3.2 Conversion events

Rule 7.4.6(e) is intended to ensure transparency on when Superior Shares convert into Ordinary Shares, by requiring:

- DCS Issuers to clearly describe the trigger events in Rule 2.16 that result in compulsory conversion of Superior Shares and the unwinding of the DCS structure, and
- where a DCS Issuer has also provided for additional, voluntary conversion events, that these should be disclosed alongside the Rule 2.16 triggers.

These disclosures ensure both Superior and Ordinary Shareholders understand when the DCS Issuer will revert to a standard single-class structure.

3.4 Ongoing Disclosure

3.4.1 Continuous Disclosure

DCS Issuers must comply with the continuous disclosure obligations contained in Rule 3.1, which requires the disclosure of Material Information promptly and without delay through MAP, once the DCS Issuer becomes Aware of the Material Information.

DCS Issuers should consider whether a transfer of Superior Shares from one Superior Shareholder to a person who falls within the criteria for its Permitted Superior Holder Group is Material Information, by considering the nature of the relationship that exists between each of the transferee and transferor Superior Shareholders with the DCS Issuer, the effects of the transfer on the DCS Issuer's strategy, and the implications of the transfer in relation to control. In addition the substantial product holder requirements of the FMC Act apply to DCS Issuers, by operation of Rule 3.24, as explained in more detail in section 3.6 of this Guidance Note.

In the event that an event occurred which triggered the conversion provisions of Rule 2.16 (which are explained in section 2.8 of this Guidance Note), this is likely to be Material Information and should be announced promptly and without delay through MAP. The DCS Issuer should disclose the consequences of the trigger event on both Ordinary and Superior Shareholders.

NZX has published a [Continuous Disclosure Guidance Note](#) that provides further guidance in relation to the continuous disclosure framework contained in the Rules, including in relation to the interpretation of Material Information, when an Issuer is treated as having become Aware of Material Information, and the safe harbours that apply under the Rules.

3.4.2 Prescribed Disclosures

In addition, the Rules require disclosure to be made in relation to the following events.

Capital changes

Rule 3.13.1 requires the disclosure of certain information in relation to any issuance, acquisition or redemption of Quoted Financial Products or Financial Products that are Convertible into Quoted Equity Securities. A DCS Issuer's Ordinary Shares will be Quoted, and its Superior Shares whether Quoted or not will always be Convertible into Ordinary Shares due to the operation of Rule 2.16. Therefore a DCS Issuer will be required to provide a capital change notice in relation to the issuance, acquisition or redemption of Superior Shares or Ordinary Shares.

A capital change notice is also required by Rule 3.15.2 where Superior Shares Convert into Ordinary Shares.

NZX has created a bespoke capital change notice for DCS Issuers which is available [here](#) [*Consultation Note: this will be created prior to the introduction of the Rule amendments to introduce the Dual Class Share amendments*].

This includes the disclosure required by Rule 3.13.1(k) of the proportion of Superior Shares to Ordinary Shares following the issue, acquisition or redemption and the proportion of Superior Shares to Ordinary Shares at the date of Quotation of the Ordinary Shares. It also includes the disclosure required by Rule 3.15.2(d) of the proportion of Superior Shares to Ordinary Shares following the Conversion, and the proportion of Superior Shares to Ordinary Shares as at the date of Quotation of the Ordinary Shares.

These disclosures support transparency in relation to the DCS Issuer's compliance with the Voting ratio restriction requirement contained in Rule 2.15.1(f) and Rule 2.15.1(d) which is explained in section 2.2 of this Guidance Note.

In addition Rule 4.17.7 and 4.17.8 requires a corporate action notice to be provided to NZX and release through MAP in relation to certain types of issuances. NZX has created a bespoke corporate action notice for DCS Issuers which is available [here](#). [*Consultation Note: this will be created prior to the introduction of the Rule amendments to introduce the Dual Class Share amendments*].

Superior Share dividend payments

A DCS Issuer must release through MAP, at least 5 Business Days before the Record Date, the details of a proposal to pay or distribute a benefit on its Ordinary Shares (which will be Quoted Financial Products) and Superior Shares (whether or not Quoted). Issuers must publish a Distribution Notice in relation to distributions and dividends. A bespoke DCS Issuer Template Distribution Notice is available on MAP. [*Consultation Note: this will be created prior to the introduction of the Rule amendments to introduce the Dual Class Share amendments*].

NZX has published a [Practice Note](#) in relation to dividend and distribution payments which provides further guidance in relation to these requirements.

3.5 Annual Report

Rules 3.6, 3.7 and 3.8 require Issuers of Quoted Equity Securities to prepare and deliver an annual report through MAP. These Rules include general content requirements for an annual report, including that an Issuer of Quoted Equity Securities reports on the extent to which the Issuer has followed the recommendations contained in the [Code](#). Guidance is included in the introduction to the Code as to how it should be applied, and NZX's expectations in relation to annual report disclosure.

Rule 3.7.1(c) requires that an Issuer includes the names and holdings of the registered holders who have the 20 largest of holdings of Quoted Financial Products in its annual report. Where a DCS Issuer has both Quoted Ordinary Shares and Quoted Superior Shares, each registered holder's Ordinary Shares and Superior Shares should be aggregated to determine the identity of the registered holders who have the 20 largest holdings. In addition Rule 3.8.1 (h) (ii) requires certain information to be included in relation to the holders of Superior Shares, whether or not

those shares are Quoted. This is the same information that is required to be included in the Profile or Offer Document that is explained in section 3.3.1 of this Guidance Note.

Rule 3.8.1(h) also imposes further bespoke content requirements on DCS Issuers, as follows:

- the template warning statement (which is explained in section 3.2 of this Guidance Note),
- the reasons why the DCS Issuer considers it appropriate to continue with a Dual Class Share Structure,
- the circumstances in which Superior Shares convert to Ordinary Shares (including the circumstances set out in Rule 2.16.1) and the effect of conversion on the Issuer's share capital,
- a summary of the work performed by its DCS Governance Committee, with regard to its responsibilities under Rule 2.17.2(b), and
- a statement as to which of its Directors were holders of Superior Shares and which were holders of Ordinary Shares, during the financial year to which the annual report relates.

It is appropriate for a DCS Issuer to explain to investors and other stakeholders why it considers a DCS structure to be appropriate. The nature of that disclosure will depend on the DCS Issuer's circumstances and strategy. However, it may include, for example, an explanation that the structure enables the issuer to continue to benefit from the Superior Shareholders' founder status or strategic relationship with the issuer, or to align with the governance structures of its international peers (particularly within the technology sector).

The role and remit of a DCS Issuer's Corporate Governance Committee is explained in section 2.5 of this Guidance Note. The summary of the work performed by the DCS Governance Committee should confirm the number of meetings of the Committee that were held during the reporting period. The report should confirm whether the Committee:

- considered any transactions between the DCS Issuer and Superior Shareholders or Ordinary Shareholders from a conflict of interest perspective during the reporting period,
- considered whether the DCS Issuer's corporate governance practices were sufficient to manage conflicts of interest between the DCS Issuer and each Class of Shareholder,
- confirmed that the DCS Issuer met its obligations under Rules 2.15.1(b) and 2.17.1(d).

NZX expects these confirmations to be general in nature, and does not expect detail to be provided as to the nature of any transactions considered.

3.6 Substantial Product Holder Disclosures

Part 5, subpart 5 of the FMC Act contains a regime for the disclosure of interests of substantial

product holders in listed issuers. This regime requires that holders with a relevant interest in 5% of a class of quoted financial products of an issuer listed on NZX's markets (**substantial holding**) must disclose that interest via MAP along with subsequent movements of 1% or more in that substantial holding, and the cessation of that substantial holding.

These requirements apply on a per Class basis, therefore the legislation requires disclosure of substantial holding information in relation to Quoted Ordinary Shares, and Quoted Superior Shares on an individual Class basis.

As the legislative regime only applies to quoted financial products, it will only apply to Superior Shares of a DCS Issuer when those shares are Quoted on NZX's markets. In order to ensure that substantial holding information is available in relation to non-Quoted Superior Shares, Rule 3.24.2 requires a DCS Issuer to provide disclosure of substantial holding information through MAP. The information to be disclosed relates to the commencement or cessation of a substantial holding arising, along with a 1% or more movement in a substantial holding. The disclosure must be made as soon as the Issuer knows, or ought reasonably to know that the commencement, cessation or movement of the substantial product holding has occurred.

A DCS Issuer should apply the statutory requirements of subpart 5 of Part 5 of the FMC Act as if a reference in that legislation to 'quoted voting products' were a reference to Superior Shares that are not Quoted, when interpreting whether a substantial holding disclosure is required. This includes applying the calculation methodology included in the legislation and applying the exemptions contained in sections 284 to 288 of the FMC Act.

A bespoke DCS Issuer SPH Notice is available on MAP. [*Consultation Note: this will be created prior to the introduction of the Rule amendments to introduce the Dual Class Share amendments*].

NZX expects that a DCS Issuer will have visibility of the holdings of non-Quoted Superior Shares through its share register.

The disclosure of substantial holding information for non-Quoted Superior Shares is important for Ordinary Shareholders, given the enhanced voting rights of Superior Shares, and the ability for substantial holders of Superior Shares to exert control over the DCS Issuer.

4. Capital Raising

4.1 Issuance of Ordinary Shares

The Rules recognise that it is appropriate to allow Issuers, to issue further Equity Securities where the issuance is approved by Ordinary Resolution or is otherwise permitted by Rule 4.1.2 which recognises that certain types of issuances (including issuances through a pro-rata structure and within an Issuer's 15% placement capacity) do not require shareholder approval. These requirements apply in the usual manner to issuances of Ordinary Shares by a DCS Issuer.

NZX has published a [Capital Raising Guidance Note](#) which provides further guidance in relation to these requirements.

4.2 Restrictions on the issuance of Superior Shares

The Rules impose further restrictions in relation to the issuance of Superior Shares (whether Quoted or not Quoted) of a DCS Issuer. This is because Rule 1.3 provides that Rules 4.1.2(b) to (d) (inclusive) and Rules 4.5 to 4.9 (inclusive) do not apply to the issuance of Superior Shares by DCS Issuers.

These settings prevent a DCS Issuer from issuing Superior Shares, including:

- in reliance on its 15% placement (under Rules 4.1.2(b) and 4.5) capacity,
- through an Employee share scheme (under Rule 4.1.2(c) and 4.6),
- as Director remuneration (under Rules 4.1.2(d) and 4.7),
- through a dividend reinvestment plan (under Rule 4.1.2(d) and 4.8), and
- as consideration for a takeover or amalgamation (under Rule 4.1.2(d) and 4.9).

These restrictions recognise the general principle that it is not appropriate to allow the issuance of additional Superior Shares without the approval of shareholders, except where the purpose of the issuance is to ensure that the Superior Shareholders are not diluted as a result of a broader issuance of both Ordinary and Superior Shares.

In addition the requirement that DCS Issuers must ensure that the proportion of Superior Shares to Ordinary Shares does not increase from the proportion that exists at the time of Quotation of the Ordinary Shares, makes some of the structures that would otherwise be permitted (such as dividend reinvestment plans) impracticable.

The issuance of additional Superior Shares as Director remuneration, or through an Employee share scheme without shareholder approval, is not permitted given that this would provide Directors and Employees with an inappropriate level of control over the DCS Issuer.

Issuances as consideration for a takeover or amalgamation under Rule 4.9 are not permitted given that the shareholders of the Offeror are unlikely to fall within the DCS Issuer's criteria for its Permitted Superior Shareholder Group.

4.3 Shareholder approval for issuance of Superior Shares

The Rules recognise that Issuers should be permitted to issue further Equity Securities where this is approved by Shareholders in accordance with Rule 4.2.1.

Rule 4.2.1(a) requires that the precise terms and conditions of the issue must be approved by each Class of Quoted Equity Securities whose rights or entitlements could be affected. This means that Superior Shares (whether or not those Shares are Quoted) may only be issued with the approval by an Ordinary Resolution of Ordinary Shareholders.

Where a DCS Issuer issues Superior Shares that are Quoted on terms that Ordinary Shareholders could vote together with Superior Shareholders on a single resolution to approve the terms and conditions of the issuance of Superior Shares, Rule 2.15.1(f) requires that Superior Shareholders can only exercise one Vote per Superior Share in relation to that resolution.

4.4 Permitted issuance of Superior Shares without Shareholder approval

As noted in section 4.2 above, DCS Issuers must at all times comply with the requirements under Rule 2.15.1(d) and (f) to ensure that each Superior Share does not carry more than 10 times the Votes attached to each Ordinary Share and to ensure that the proportion of Superior Shares to Ordinary Shares, does not increase from the proportion that exists at the time of Quotation of the Ordinary Shares. These settings provide important protections to ensure that any issuance of Superior Shares does not unduly dilute holders of Ordinary Shares by allowing Superior Shareholders inappropriate levels of control over the DCS Issuer from that which existed at the time of Quotation of the DCS Issuer's Ordinary Shares.

The Rules recognise the principle that it is appropriate to provide some flexibility for DCS Issuers to issue Superior Shares without Shareholder approval, where the purpose of the issuance is to ensure that the Superior Shareholders are not diluted as a result of a broader issuance of both Ordinary and Superior Shares. Rule 4.1.2(a) therefore permits the issuance of Superior Shares through a pro-rata Rights issue, bonus issue or a Share Purchase Plan (**SPP**).

The definition of a SPP is 'an offer of Equity Securities to all holders of existing Equity Securities of the Issuer' which meets certain criteria contained in limbs (a) to (e) of the definition. NZX considers that where a DCS Issuer is offering Superior Shares to Superior Shareholders and Ordinary Shareholders, a DCS Issuer must ensure that the issuance through a SPP does not result in the proportion of Superior Shares to Ordinary Shares increasing from the proportion that exists at the time of Quotation of the Ordinary Shares. A DCS Issuer will need to design the terms of its SPP carefully to meet this requirement and also ensure that the consideration payable for Shares issued under the SPP does not in any 12 month period exceed \$50,000 per registered holder in accordance with limb (a) of the SPP definition.

The [Capital Raising Guidance Note](#) provides further guidance in relation to the requirements relating to pro-rata Rights and SPP issuance structures.

5. Contact us

If you have any questions on the matters in this guidance note, please contact NZ RegCo at issuer@nzregco.com or (04) 495 2825. However, it is the issuer's obligation to comply with the Rules and any assistance from NZ RegCo should not be taken to constitute legal advice on the Issuer's obligations.

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