

Client Assets

Consultation Paper

December 2025

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This Consultation Paper has been prepared by NZX to seek comment on the proposals contained in the paper, with a view to ensuring that the proposals will enable NZX to operate its markets on a fair, orderly and transparent basis. The proposals set out in this paper do not reflect NZX's concluded views of the matters raised. Capitalised terms which are not defined in this Consultation Paper have the same meanings given to them in the NZX Participant Rules, or NZD Depository Rules, as relevant.

Introduction

Background

The NZX Participant Rules (**Rules**) place obligations on Market Participants Accepting Client Assets (**Market Participants**) in relation to the handling of Client Assets, including key requirements to:

- hold Client Assets on trust for clients at all times;
- maintain Client Funds Accounts that meet the requirements of the Rules;
- undertake reconciliations in relation to Client Funds Accounts and total Client Assets; and
- provide disclosure to clients in relation to the use of Depository Accounts to hold Client Assets; and
- notify NZX of certain matters.

NZX has undertaken a review into these obligations, as well as the guidance provided in the Client Assets Guidance Note (**Guidance Note**), with the objectives of ensuring that NZX's regulatory settings:

- clearly articulate the obligations placed on Market Participants in relation to Client Assets;
- continue to ensure appropriate protections for Client Assets while considering existing market practices and observations of the NZ RegCo Participant Compliance team during inspections; and
- apply appropriate obligations on Market Participants relative to their activities, including aligning with legislative settings.

These objectives have been designed to enable NZX to continue to operate its markets on a fair, orderly, and transparent basis, consistent with NZX's obligations under the Financial Markets Conduct Act 2013 (**FMC Act**).

Proposed amendments

The proposed amendments include significant hygiene amendments to both the Rules and Guidance Note to ensure they better articulate the existing requirements and reflect market practice.

We have explained the reasons for any substantive changes to the obligations placed on Participants in this Consultation Paper.

Exposure Drafts

The proposed amendments are described in this Consultation Paper and outlined in the following Exposure Drafts:

- NZX Participant Rules (**Rules Exposure Draft**)
- NZX Participant Rules Appendices C and D (**Appendices Exposure Draft**)
- NZX Participant Procedures (**Procedures Exposure Draft**)
- Client Assets Guidance Note (**Guidance Note Exposure Draft**)

As the hygiene amendments are significant, we have provided the Rules Exposure Draft and Guidance Note Exposure Draft in both mark-up and clean versions, to provide for easier review.

We have also provided a **Navigation Table** to explain how the existing Rules and Guidance have been moved, amended or deleted.

Consultation questions

We are interested in receiving general feedback on the proposed amendments, and in addition we have posed specific consultation questions in some areas.

We wish to ensure that our regulatory settings can accommodate evolving market practices, and enhance efficiency for our markets. We are interested in broader feedback as to whether there are any aspects of the current settings that place an inappropriate burden on Market Participants, or do not accommodate evolving market practices.

Consultation Process

We invite interested parties to provide their views on the proposals described in this Consultation Paper and contained in the Exposure Drafts of the Rules, Procedures, and Guidance Note, by emailing NZX Policy with a written submission. Alternatively, if you would prefer to provide a verbal submission, please email NZX Policy to arrange a time to speak with us.

You can contact NZX Policy, and provide your submission by emailing us at: policy@nzx.com

The closing date for submissions is **5.00pm Friday 27 February 2026**.

NZX may publish the submissions it receives, so please clearly indicate in your submission if you do not wish for your submission to be published, or identify any part of your submission which contains confidential information.

Contact Information

If you have any queries in relation to the review, please contact:

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1. Proposed changes to obligations

While most of the amendments to the Rules are clarifying in nature and intend to reflect existing market practice, there are areas where the proposed changes alter the nature of the obligations placed on Market Participants under the Rules or the Guidance Note. These changes are explained below.

1.1. Continuous Obligation

The current settings require a Market Participant to ensure that, at all times, the total Client Assets it holds including any Buffer, equal or exceed its Outstanding Obligations (this is referred to as the **Continuous Obligation**).

The purpose of the Continuous Obligation is to ensure that Client Assets remain protected throughout the day and are not used for unpermitted purposes, which is vital to the protection of Client Assets.

However, we understand that it is not practical for a Market Participant to continuously monitor its total Client Assets against its Outstanding Obligations to ensure that the Continuous Obligation is met. We are therefore proposing to remove the Continuous Obligation contained in Rule 18.4.1.

Instead we are proposing a new Rule 18.2.2, which states that Client Assets must not be used as payment for, security for, or to otherwise discharge an obligation of the Market Participant or any other person (including any other client). The Guidance Note supports the strict interpretation of this requirement. Assets held for a client must be held exclusively for that client and must only be used for their intended purpose.

While we consider the purpose of the Continuous Obligation continues to be met through proposed new Rule 18.2.2, we are interested in feedback from submitters on this point, and have included consultation questions below, to seek specific feedback.

1.2. Bank acknowledgement for Client Funds Account

The current settings require Market Participants to obtain (for any Client Funds Account that is not a Depository Account) a written acknowledgement from the Bank where the Client Funds Account is held, that acknowledges the trust status of the Client Funds Account. The existing Guidance Note provides wording at Appendix 3 for these Bank acknowledgements.

NZX has observed scenarios where the Bank acknowledgements provided by Market Participants were insufficient.¹ The proposed amendments at Rule 18.4.1 require the Bank acknowledgement to be in a form acceptable to NZX.

In the proposed Guidance Note we have provided four different examples of sample wording that would be acceptable to NZX. NZX may also accept other wording beyond the examples provided.

NZX does not expect Market Participants that have already provided Bank acknowledgements for existing Client Funds Accounts to resubmit those acknowledgements. Any acknowledgements

¹ Refer to NZMDT Decision 2/2020, NZX Limited vs Tiger Brokers (NZ) Limited, 10 July 2020.

already provided to the NZ RegCo Participant Compliance team can be considered as being in a form acceptable to NZX for the purposes of this proposed amendment.

1.3. Permitted use of Client Funds

Our review uncovered inconsistencies within the Rules in relation to permitted use of Client Funds, as well as inconsistencies in relation to when the requirement to hold Client Assets on trust is discharged.

Rule 18.10 currently permits the application of Client Funds, including:

- (a) for the purposes of settlement of, or reimbursement in respect of the settlement of, the purchase of Securities for a client;
- (b) in payment of the sale price for a client's Securities transferred into a Market Participant's Transfer Account;
- (c) in payment to any other person for whom Client Funds have been held in the Client Funds Account; and
- (d) in payment of brokerage and other charges properly payable to the Market Participant by its clients for transactions referred to at (a) and (b) above.

However, Rule 18.5.2 currently requires a Market Participant to hold Client Assets on trust until the point that either:

- (a) the client has received clear funds from the Market Participant; or
- (b) the legal title of Securities has been registered into the client's name on an Issuer's Securities Register.

The impact of these requirements is that a Market Participant is not able to use Client Funds in a number of the permitted circumstances described in Rule 18.10, as this would be a breach of the requirement to hold such funds on trust under Rule 18.5.2.

The proposed changes clarify that the obligation to hold Client Funds on trust is discharged at the point the Client Funds are applied for a permitted purpose.

The proposed changes also clarify that the permitted application of Client Funds includes where Client Funds are:

- (a) transferred into a Settlement Account to facilitate the purchase of Securities through the Clearing House;
- (b) applied for the purpose of buying units in a Registered MIS, where the Client Funds are paid directly to the manager of the Registered MIS; and
- (c) for any other reason as expressly directed by the relevant client in writing.

The proposed addition at (b) above reflects the existing Class Ruling for client investments in registered Managed Investment Schemes.²

The proposed addition at (c) above to allow Market Participants to use Client Funds where this is expressly directed by the relevant client in writing aligns with the requirements of the FMC Act. The Guidance Note provides that NZX expects that a direction from a client should be both specific and informed, and it is important the client understands that its funds may not be protected to the same standards as required by the Rules if transferred to another party.

1.4. Notification of breach in relation to Client Asset obligations

Rule 18.6 requires a Market Participant to notify NZX in certain scenarios, including:

- (a) if the reconciliations required under the Rules cannot be completed;
- (b) if a Client Funds Account becomes overdrawn;
- (c) if any changes are made to a Client Funds Account; and
- (d) if a Market Participant breaches certain Rules, including the Continuous Obligation and requirement to not deposit Client Funds into an account that is not a Client Funds Account.

In relation to requirement (b) above, we are proposing moving the notification template that is to be used when a Client Funds Account is overdrawn (which is currently at appendix 4 of the Guidance Note) into the Procedures. Any notification should contain the information required by the Procedures, but does not need to be in the form of the table.

In addition to the above, the proposed changes to the Guidance Note provide that NZX considers any breach of the Client Asset requirements at section 18 of the Rules would constitute a significant breach for the purposes of Rule 21.7.1, and as such must be promptly notified to NZX in writing. This reflects the importance of the Client Asset obligations to the integrity of NZX's markets.

Consultation questions

1. Do you consider that the removal of the Continuous Obligation, and substitution of new Rule 18.2.2, leaves any potential gaps or risks in relation to the protection of Client Assets?
2. If you are currently a Market Participant required to comply with the Continuous Obligation, are there any specific compliance challenges associated with this obligation? If the Continuous Obligation is removed and replaced with Rule 18.2.2, what would the impact be on your internal processes?

² NZ RegCo Decision – Class Ruling on the application of NZX Participant Rule 18.2.1(b) in relation to client investments in Managed Investment Schemes, 20 September 2024 (the **Class Ruling**).

2. Key clarification changes

We have made a number of hygiene and cosmetic changes designed to improve the clarity of the obligations contained in the Rules, and associated guidance. The key changes in this area are described below.

2.1. Client Asset reconciliation

The requirement for a Market Participant to ensure that its total Client Assets equal the Market Participant's total Outstanding Obligations contained in Rule 18.4.2 and proposed Rule 18.7.1 is critical to ensure the continued protection of Client Assets.

The requirement for a Market Participant to undertake daily reconciliations is an important control to assist a Market Participant in determining whether it is meeting this obligation.

We understand that the existing settings in the Rules do not align with market practice in terms of the way Outstanding Obligations and total Client Assets are calculated through the reconciliation process.

We have proposed changes to these definitions to better reflect the intention that an Outstanding Obligation will arise for a Market Participant where it receives Client Assets to hold on behalf of a client, whether or not the Client Asset received is associated with a transaction being facilitated on behalf of that client.

We have also proposed changes to the total Client Asset calculation, to ensure that client Securities held by a Market Participant on behalf of a client outside of a Transfer Account are included in the calculation.

The proposed updates to the Rules and the Guidance Note also reflect the existing expectations of NZX in relation to:

- calculations of Outstanding Obligations being completed on a client-by-client basis; and
- the approach where funds are held in one currency to cover an Outstanding Obligation in another currency, which is only acceptable in the short-term.

We are also proposing to provide the Client Asset reconciliation and Client Asset log required to be reported monthly to NZX (currently included as appendices 1 and 2 in the Guidance Note) as Appendix C and Appendix D to the Rules, and to publish these as excel spreadsheets with in-built formulas.

We understand that the above amendments reflect existing market practice, as well as expectations that have been communicated by NZX to Market Participants through the annual inspection process.

2.2. Monthly Reporting

Rule 18.7.6 requires a Market Participant to provide prescribed monthly reporting to NZX. The form of that reporting is currently contained in the appendices to the Guidance Note.

We have moved these appendices so that they are now appendices to the Rules. These appendices (Appendix C (Client Asset reconciliation) and Appendix D (Client Asset log)) are now

provided in excel format which we consider will be more useful to Participants. The appendices also now include in-built formulas.

We have amended Appendix C to align with the proposed changes to the Rules in relation to the Client Asset reconciliation, described in further detail at section 2.1 above.

2.3. Aligning Buffer requirements with legislation

Currently Rules 18.3.3 and 18.3.4 provide for Buffer (being money belonging to a Market Participant) to be deposited and retained in a Client Funds Account for the purposes of facilitating settlement and to manage any shortfalls that may arise in respect of settlement. These provisions seek to reflect the situation at law, being that co-mingling client and firm money is prohibited except for in the prescribed circumstances.³

We are proposing amendments to the Rules in relation to Buffer, to better align with the requirements of legislation in relation to the prescribed circumstances where a Market Participant may deposit and hold its own funds in a Client Funds Account. This includes proposed updates to the Rules to:

- (a) include the prohibition on co-mingling Client Funds and house monies;
- (b) better reflect the prescribed circumstances contained in the Regulations where co-mingling is allowed; and
- (c) reflect the position of the legislation that Buffer is deemed to be treated as Client Funds until it is rightfully withdrawn.

In addition to the proposed changes to the Rules, we are proposing updates to the Guidance to align with the requirements of Schedule 21C of the Regulations, in particular regarding the interpretation of where Buffer is considered reasonably necessary to be held in a Client Funds Account, and where the calculated Buffer amount is considered reasonable.

These proposed amendments do not seek to change the existing requirements, as they align with the requirements that already apply at law. These proposed changes are intended to be hygiene amendments to ensure that NZX's settings align with the relevant legislation.

Consultation questions

3. Do the proposed changes to the calculation of total Client Assets and Outstanding Obligations raise any significant issues from an internal process perspective? Will they require changes to existing systems for undertaking the required reconciliations?
4. Are there any areas that are unclear in relation to the expectations placed on Market Participants through the Rules, Procedures, and Guidance in relation to the reconciliation requirements?
5. Do the proposed changes to the Buffer requirements to align NZX's regulatory settings with legislation result in any changes to internal processes currently being undertaken by Market Participants to calculate Buffer?

³ FMC Act section 431ZC.