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Disclaimer

This Guidance Note has been issued by NZX to promote market certainty and assist market participants. This Guidance Note sets out NZX's general approach to the subject, but is not to be regarded as a definitive statement of the application of the Rules in every situation. NZX may replace Guidance Notes and Practice Notes at any time and a Market Participant should ensure it has the most recent versions of these documents. Guidance Notes do not constitute legal advice. NZX recommends that Market Participants take advice from qualified persons.

GUIDANCE NOTE GN0009/05 – ONE-OFF SALES

Introduction

This Guidance Note is published to provide guidance to Client Advising Participants in the interpretation of those NZX Participant Rules (Rules) that relate to One Off Sales under Rule 9.14 of the Rules and in relation to the Class Waiver granted by NZX from Rules 9.14.1 and 9.14.2 which was released to the market via the Market Announcement Platform on 25 July 2005.

Under Section 1 of the Rules a Client Advising Participant is defined as:

“...Any Market Participant that provides investment advice and/or Securities recommendations to a client and may be responsible for that client's assets at any time and includes:

- (a) An NZX Trading and Advising Firm;*
- (b) An NZX Advising firm;*
- (c) A Bank Only Participant; and*
- (d) Any Approved Organisation designated and approved as a Client Advising Participant from time to time by NZX pursuant to Rule 3.19.”*

This Guidance Note should be read in conjunction with Guidance Note GN0001/04 which provides Client Advising Participants with assistance in relation to the Know Your Client obligations of Section 9 of the Rules and the Class Waiver granted by NZX from Rules 9.14.1 and 9.14.2 which was released to the market via the Market Announcement Platform on 25 July 2005.

Background

There are some situations where people own shares, for example, as a result of a demutualisation or other entitlement, and then want to sell those shares without having to become a client of a Market Participant under section 9 of the Rules.

The Rules in relation to One-Off Sales are aimed at addressing these situations. These provisions provide relief from the normal “Know Your Client” obligations applicable when a sharebroking account is opened.

Verifying a person's identity – Rule 9.14.1(b)

Rule 9.14.1(b) requires a Client Advising Participant to obtain two forms of identification from a person requesting a One-Off Sale. This information should ideally be obtained by the Client Advising Participant prior to the transaction being performed. However Client Advising Participants will meet this obligation if they obtain the information after the transaction has been effected but prior to payment of the money received from the sale of the Securities being paid into the registered holder's bank account. The Client Advising Participant may choose to take this course of action but does so at its own risk (say of default or fraud by the client).

In the event of an initial public offer, NZX suggests that Client Advising Participants may want to include information in their advertising materials for the IPO about the procedure for opening a client account with the firm and the value in opening such account in advance of wishing to conduct a sale.

AML Legislation (Financial Transactions Reporting Act 1996 and Anti-Money Laundering and Countering Financing of Terrorism Act 2009) – Rule 9.14.5

NZX reminds Client Advising Participants that the Rules do not diminish Client Advising Participants obligations under the AML Legislation when applicable.

Class Waiver from Rules 9.14.1 and 9.14.2

On 22 July 2005 NZX granted a Class Waiver from Rules 9.14.1 and 9.14.2 (formerly 9.8.1 and 9.8.2) which was released to the market via the Market Announcement Platform on 25 July 2005. The waiver decision stated that:

“11. NZX hereby grants a waiver, on the terms set out in paragraphs 11-14 below, to all Client Advising Participants to perform One-Off Sales by non-natural persons under Rule 9.8.1 where the non-natural person has subscribed for and been allotted Securities *in any IPO undertaken by an issuer who is not already listed on any of NZX's markets* and those Securities are sold within 6 weeks of the Securities being quoted on any NZX market...” and

“13. NZX also waives the prohibition in Rule 9.8.2 against multiple One-Off Sales in respect of any One-Off Sales by a natural or non-natural person of Securities acquired *in any IPO undertaken by an issuer who is not already listed on any of NZX's markets* and those Securities are sold within 6 weeks of the Securities being quoted on any NZX market”.

Relief under the class waiver is restricted to any IPO undertaken by an issuer who is not already listed on the same NZX market as the market on which the Securities in the IPO are being quoted. For example, relief would not be available in respect of an IPO where the issuer is already listed on the *NZDX* and the Securities in the IPO are being quoted on the *NZDX*. However, relief would be available in an IPO where the issuer is already listed on the *NZDX* and the Securities in the IPO are being quoted on the *NZSX*.