

## 5. LISTING AND QUOTATION

### 5.1 LISTING

**5.1.1 Application:** Any person may apply to NZX for Listing regardless of whether or not that person is domiciled or incorporated outside New Zealand. Such Listing may be either:

- (a) with NZX as the Home Exchange;
- (b) a Dual Listed NZAX Issuer; or
- (c) 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 NZAX Issuer**”)

**5.1.2 NZX Sponsor:** An Applicant for Listing on the NZAX must appoint an NZX Sponsor. The NZX Sponsor must have the prior approval of NZX to act as an NZX Sponsor in relation to that Listing.

#### 5.1.3 Non Standard NZAX Issuers:

- (a) An Applicant for Listing on the NZAX which:
  - (i) has a defined or limited set of Security holders; or
  - (ii) imposes restrictions or limitations on the ability of certain holders of its Securities to vote.

may apply to NZX for Listing as a Non Standard NZAX Issuer or NZX may determine the Applicant shall only be Listed as a Non Standard NZAX Issuer.

- (b) where an NZAX Issuer has been classified as Non Standard, the NZAX Listing Rules will only apply to those Securities of the Non Standard NZAX Issuer which are Quoted on the NZAX and as otherwise set out elsewhere in these NZAX Listing Rules.

- (c) any Offering Document, Disclosure Document or statement issued or distributed by a Non Standard NZAX Issuer which refers in any way to the Listing of the Non Standard NZAX Issuer or Quotation of its Securities and each annual or interim report of the Non Standard NZAX Issuer, shall contain a statement to the effect that the NZAX Issuer has been classified Non Standard and where necessary details reasonably likely to inform the recipients of the reasons for the Non Standard designation.
- (d) Non Standard NZAX Issuers must provide to NZX prior to Listing on the NZAX Market, a complete list of the Common Shareholder Numbers for all those eligible to hold Securities in that Non Standard NZAX Issuer.
- (e) Non Standard NZAX Issuers must provide to NZX on a daily basis, either prior to 8am or after 5pm, all additions or deletions to the list of Common Shareholder Numbers for all its eligible Security Holders, provided to NZX prior to Listing.

**5.1.4 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.

**5.1.5 Dual Listed NZAX Issuers:** The Rules set out in appendix 8 to the NZAX Listing Rules do not apply to a Dual Listed NZAX Issuer, provided always that:

- (a) that Dual Listed NZAX Issuer satisfies and complies at all times with any conditions set out in appendix 8 to the NZAX Listing Rules regarding the non-application of those NZAX Listing Rules; and
- (b) that Dual Listed NZAX Issuer complies at all times with the ASX Listing Rules (subject to any applicable waiver or ruling obtained by that Dual Listed NZAX 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 NZAX Issuer, declare that any NZAX Listing Rule set out in appendix 8 to the NZAX Listing Rules shall thereafter apply to that Dual Listed NZAX 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 NZAX Issuer is then complying with any such provision.

**5.1.6 Notice Requirements:** A Dual Listed NZAX 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 NZAX 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 NZAX Issuer lists on an NZX market other than those which could not, in any circumstances, be relevant to that Dual Listed NZAX Issuer. For avoidance of doubt, if a Dual Listed NZAX Issuer is unsure whether such change could or may affect that Dual Listed NZAX Issuer, notice of such change should be given to NZX.

**5.1.7 Overseas Listed NZAX Issuers:** An Overseas Listed NZAX Issuer shall:

- (a) be deemed (subject to NZAX Listing Rule 5.1.8) to satisfy and comply with all the NZAX Listing Rules so long as it remains Listed on its Home Exchange, provided that NZX may, at any time, by notice to any Overseas Listed NZAX Issuer, declare that any of the NZAX Listing Rules shall thereafter apply to that NZAX Issuer, whether or not the rules of its Home Exchange contain a similar or analogous provision, and whether or not that NZAX 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 NZAX Listing 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.

**5.1.8 NZAX Listing Rules Applicable to Overseas Listed NZAX Issuers:**

Notwithstanding NZAX Listing Rule 5.1.7, NZAX Listing Rules Section 3, 5.1.7, 5.3, 5.4 and 5.5.3, and this NZAX Listing Rule 5.1.8 shall apply, with the necessary modifications, to each Overseas Listed NZAX Issuer.

- 1. The intention of NZAX Listing Rules 5.1.7 and 5.1.8 is that a company or other entity which is Listed on a Recognised Overseas Stock Exchange, and is accepted by NZX for Listing on the NZAX as well, is not required to comply with the NZAX Listing Rules, so long as that company or other entity complies with the rules of the Recognised Overseas Stock Exchange. NZX may however in its discretion at any time require that company or other entity to comply with any provisions of the NZAX Listing Rules.**
- 2. Where an Overseas Listed NZAX Issuer wishes to quote a class of Securities on the NZAX only but not on its Home Exchange, all the NZAX Listing Rules shall apply in relation to that Overseas Listed NZAX Issuer.**
- 3. As a general rule, NZX will cancel the Listing of an Overseas Listed NZAX Issuer if the Listing of that NZAX 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 NZAX Issuer.**

**5.1.9 Listing Requirements:** The Application for Listing must be made through an NZX Sponsor and the following information and documentation must be submitted to NZX for approval:

- (a) the Offering Document (in accordance with NZAX Listing Rule 7.1.1) or the Disclosure Document (in accordance with NZAX Listing Rule 7.1.3) for approval by NZX; and
- (b) in the case of an Offering Document, the financial statements and audit report required by the Securities Act (New Zealand Exchange Limited – NZAX Market) Exemption Notice 2005; and

- (c) a Listing Agreement, in a form specified by NZX and requiring the applicant to comply with the NZAX Listing Rules from the date the Application for Listing is accepted by NZX, duly executed by the NZAX Issuer; and
- (d) substantial security holder notices as at the date of execution of the Listing Agreement; and
- (e) acknowledgements by Directors regarding compliance with the NZAX Listing Rules and as required by NZAX Listing Rule 2.2.2; and
- (f) a declaration from the NZX Sponsor in accordance with the requirements contained in the NZX Participant Rules; and
- (g) a copy of the NZAX Issuer's Constitution at the time of Listing and certificate of incorporation (or commensurate document for the Issuer's entity (if applicable), together with a solicitor's certificate from the NZAX Issuer's solicitor in accordance with NZAX Listing Rule 6.1.2; and
- (h) in the case of a Non Standard NZAX Issuer, where applicable, confirmation as to the defined group of Security holders (and qualifications for being a Security holder) and any limitations on the ability of Security holders to vote; and
- (i) copies of annual reports for the last five years, if available; and
- (j) details of the number and each class of Security the NZAX Issuer has on issue as at the time of the Application, and details of any issue or allotment intended prior to Listing (other than the Securities to be Quoted); and
- (k) any Advertisement that is proposed to be issued in relation to the offer; and
- (l) contact details (in accordance with the requirements of NZX as prescribed from time to time) of the applicant and the NZX Sponsor; and

- (l) 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
- (m) confirmation that the bond or deposit required by NZAX Listing Rule 2.6.2 has been provided; and
- (n) any other information or documents that NZX may, at the time of submission or subsequently, request.

**5.1.10 Additional Requirements:** If NZX grants approval of the Application for Listing made pursuant to NZAX Listing Rule 5.1.9, NZX will advise the NZAX Issuer of the approval in writing. Following such notification of approval, the NZAX Issuer shall, in addition to complying with the provisions of the Securities Act 1978 in relation to the allotment of Securities:

- (a) post on the NZAX Internet website for public inspection, the Offering Document or the Disclosure Document, financial statements, audit reports and all other material information as required by NZX from time to time; and
- (b) retain and make available to an investor upon request, copies of any Offering Document or Disclosure Document, financial statements, audit reports and material contracts.

**5.1.11 Acceptance and Quotation:** Acceptance of the offer will proceed in the usual manner, and on closure of the offer the Securities will be Quoted on the NZAX and available for trading provided all NZAX Listing Rules are complied with on completion of the allotment procedures.

## 5.2 QUOTATION OF SECURITIES

**5.2.1 Quotation Requirements:** The following information and material shall be submitted in relation to an application for Quotation of Securities:

- (a) details of the Security for which application for Quotation is sought including the number, Security Class, ISIN and face value (if any);

- (b) a declaration from the NZX Sponsor in accordance with the requirements contained in appendix 2 to the NZAX Listing Rules;
- (c) the Offering Document (in accordance with NZAX Listing Rule 7.1.1) or the Disclosure Document (in accordance with NZAX Listing Rule 7.1.3) for approval by NZX;
- (d) any Advertisement that is proposed to be issued in relation to the offer;
- (e) confirmation that the fees prescribed by NZX from time to time have been paid to NZX; and
- (f) any other information or documents that NZX may, at the time of submission or subsequently, request.

**5.2.2 Types of Securities Eligible for Listing:** Where an NZAX Issuer wishes to quote any Security other than Equity Securities, Quotation of such securities shall be governed by such of the NZAX Listing Rules applicable to the type of non Equity Security the NZAX Issuer wishes to quote or any other NZX Listing Rules as NZX may determine in its absolute discretion.

**5.2.3 Spread:** A Class of Securities will generally not be considered for Quotation on the NZAX Market unless those Securities are held by at least 50 members of the public

**5.2.4 Spread – Ongoing Obligations:** An NZAX Issuer shall inform NZX without delay if it becomes aware that the number of Listed Securities which are in the hands of the public have fallen below the prescribed minimum set out in NZAX Listing Rule 5.2.3. Once an NZAX Issuer becomes aware of such a fall, the NZAX Issuer shall take steps to ensure compliance at the earliest possible moment.

**5.2.5 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 NZAX 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.

**5.2.6 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 NZAX Listing 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 of any person or Quotation of any Securities, whether or not the NZAX Issuer or person concerned complies with all applicable provisions of the NZAX Listing Rules. NZX may refuse Listing or Quotation in its absolute discretion and without giving any reasons for such refusal.

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 Listing 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 to the NZX Listing Rules.

**5.3.2. Additional Conditions:** NZX may at any time or times impose conditions (whether or not additional to the NZAX Listing Rules) that must be fulfilled by any NZAX Issuer in order to obtain or maintain Listing, or Quotation of all or any of its Securities on the NZAX, 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 NZAX Listing Rules.

- 1. For example, NZX may require NZAX Issuers to appoint independent directors to their boards, or to make other arrangements for the monitoring of the rights of minority holders of Securities, as a condition of Listing or continued Listing.**
- 2. NZX may also, as a condition of Listing, impose restrictions for a specific period on the sale or other disposal of Vendor Securities.**

**5.3.3 Specific Matters:** Without limiting NZAX Listing Rules 5.3.1 or 5.3.2 NZX may:

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

**NZAX Listing Rule 5.3.3(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.**

## **5.4 TRADING HALTS, SUSPENSION, CANCELLATION AND OTHER POWERS**

**5.4.1 Request:** An NZAX 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 NZAX Issuer in accordance with:

- (c) NZAX Listing Rule 5.4.1(a), NZX may halt trading; or
- (d) NZAX Listing 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,

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

- 1. Where an NZAX Issuer is requesting a trading halt, pursuant to NZAX Listing Rule 5.4.1(a), it must provide information to NZX on each of the following:**
  - (a) its reasons for the trading halt; and**
  - (b) how long it wants the trading halt to last; and**
  - (c) the event it expects to happen that will end the trading halt; and**
  - (d) that it is not aware of any reason why the trading halt should not be granted; and**
  - (e) 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 NZAX Issuer's request for a trading halt.**
- 3. Among the conditions which NZX may require in the case of a request, pursuant to NZAX Listing Rule 5.4.1(b), for cancellation of Listing or Quotation of some or all of its Securities (or both) are:**
  - (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**

(b) Arrangements to protect rights of any Class of Security holders which arise under the NZAX Listing 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 NZAX Issuer's Securities 5 Business Days after it receives a copy of an acquisition notice under the Takeovers Code.

**5.4.2 Powers of NZX:** 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 NZAX Listing Rule 5.4.4) without giving prior notice to the NZAX Issuer concerned:

- (a) cancel the Listing of any NZAX Listed Issuer; or
- (b) cancel, halt or suspend for such period as NZX thinks fit, the Quotation of any or all of an NZAX Issuer's Securities; or
- (d) refer the conduct of any NZAX Issuer, or of any Director or Associated Person of any NZAX Issuer, to NZX Discipline or any statutory or governmental authority.

**5.4.3 Examples of Reasons** Without limiting NZAX Listing Rule 5.4.2, NZX may exercise any of its powers under NZAX Listing Rule 5.4.2 if it considers that:

- (a) a false market exists in any or all of an Issuer's Securities; or
- (b) any provision of the NZAX Listing Rules has not been complied with by an NZAX Issuer or any Director or officer of that NZAX Issuer; or
- (c) the spread requirements specified in NZAX Listing Rule 5.2.3 are not being met in respect of any or all of an NZAX Issuer's Securities and the NZAX Issuer has failed to inform NZX pursuant to NZAX Listing Rule 5.2.4 that it has become aware that the requirements are not being met or the NZAX Issuer has failed to take steps to ensure compliance with the spread requirements at the earliest possible time; or

- (d) it is in the best interests of the market, or attainment of the intent and objects of the NZAX Listing Rules, to exercise such a power; or
- (e) there occurs in respect of an NZAX Issuer:
  - (i) a change in control of Votes of that NZAX Issuer which confers an effective controlling interest in the NZAX Issuer, or a change in ownership in all or substantially all of those Securities of the NZAX Issuer carrying Votes; and
  - (ii) a cessation of, or change in the essential nature or direction of, the business or activities of that NZAX Issuer.

**1. NZX may, but generally will not, remove Listing from an NZAX Issuer or Quotation of a Class of Securities only because the minimum spread requirements in NZAX Listing Rule 5.2.3 cease to be satisfied. Listing or Quotation 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 NZAX 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 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 NZAX Issuer or Quotation of all or**

any Class of its Securities could mislead people as to the value of investment in its Quoted Securities.

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

**5.4.4 Absence of Prior Notice:** If NZX exercises its power under NZAX Listing Rule 5.4.2 without giving prior notice or reasons to the NZAX Issuer concerned it shall, as soon as practicable thereafter, give notice to the NZAX 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 NZAX Issuer concerned from any obligation (whether to pay fees or otherwise) it has under the NZAX Listing Rules, and the cancellation of Listing or Quotation shall not release the NZAX Issuer concerned from any such obligation it has under the NZAX Listing Rules in respect of any period or matter occurring before the cancellation.

## 5.5 GENERAL OBLIGATIONS OF NZAX ISSUERS WHILE LISTED

- 5.5.1 NZAX Listing Rules:** Upon the execution of a Listing Agreement with NZX, an NZAX Issuer shall comply with the NZAX Listing Rules from the date the Application for Listing is accepted by NZX pursuant to NZAX Listing Rule 5.1.9.
- 5.5.2 NZAX Internet Website:** Every NZAX Issuer shall maintain its NZAX Internet website and ensure that it is up to date at all times and contains all necessary information and disclosures as required by the NZAX Listing Rules.
- 5.5.3 Payment of Fees:** NZAX Issuers shall pay to NZX all fees prescribed by NZX from time to time.