Guidance Note

Co-operative Products

October 2025
Draft for external consultation

This guidance is published to help issuers of co-operative products understand how the NZX Listing Rules (**Rules**) apply to them, and to clarify the regulatory flexibility (including potential waiver relief) that may be available to issuers of co-operative products. This document is supported by a fact sheet which explains the benefits to co-operative issuers of becoming a NZX Listed Issuer.

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 Issuers of co-operative products. 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 discretion in respect of whether to grant rulings or waivers in respect of, or enforcing, the Rules). Issuers should seek their own legal advice in respect of the application of the Rules to them and their particular circumstances. This guidance note reflects the Rules and law as at October 2025, 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 at www.nzx.com.

Introduction

This Guidance Note is intended to assist co-operatives and their advisers in understanding the regulatory flexibility available to support co-operatives' unique structure and purpose, in the context of an NZX listing process.

The Rules do not differentiate co-operative financial products from other types of financial products. As a result, co-operatives intending to list on the NZX Main Board often seek guidance from NZX regarding waivers for targeted relief from certain requirements that do not reflect co-operative structures.

NZX considers that there are considerable benefits for co-operatives in undertaking a listing on the NZX Main Board, and wishes to support co-operatives in understanding the listing pathway including by providing greater transparency as to NZX's flexible approach to providing tailored regulatory settings in appropriate circumstances.

Unless otherwise defined, capitalised terms in this Guidance Note have the same meaning as given in the Rules. In this Guidance Note a reference to an Issuer is to an Issuer of Quoted Equity Securities.

What is a co-operative?

In order to refer to itself as a co-operative, a company must be registered under the Co-operative Companies Act 1996 (**Co-op Act**). Co-operative company status is available to a company whose constitution states that its principal activity is a co-operative activity, and where not less than 60% of the company's voting rights are held by transacting shareholders.[1]

A co-operative activity[2] occurs where a company primarily exists to provide benefits to its members in their capacity as customers or suppliers of the co-operative, rather than in their capacity as equity owners.

In addition, some New Zealand companies have many features of a co-operative company although they are not formally registered under the Co-op Act.

Many co-operative companies also operate using a closed register structure. This occurs where the co-operative company limits external ownership through imposing restrictions in its constitution on the ability of its shareholders to transfer shares to members of the public.

What should a co-operative consider when applying for a waiver?

This Guidance Note outlines the types of waiver relief that co-operatives commonly apply for, along with the standard conditions that are applied by NZX when granting that relief. The guidance is designed to support co-operatives in understanding how the Rule settings could be tailored to their individual circumstances.

NZX expects that in addition to the common waivers identified in this Guidance Note, co-operatives may need to seek waiver relief from additional Rules based on the unique features of the particular co-operative entity.

[1] Section 2 of the Co-operative Companies Act 1996, registration is available to companies incorporated under the Companies Act 1993.

[2] Section 3 of the Co-operative Companies Act 1996.

Different policy considerations apply to the Rules referred to in this Guidance Note. In some instances there may be stronger grounds for relief for co-operatives that operate using a closed register structure (for example: the Major Transaction and Related Party Transaction Rules), than those that apply to open ended co-operatives or companies with co-operative features that are not registered under the Co-op Act.

A co-operative will need to engage with NZ RegCo who will determine whether waiver relief is appropriate by considering the particular circumstances of the co-operative.

Further information as to the process for applying for waivers and rulings, including the expected content for an application, and how to engage with NZX and NZ RegCo is contained in section 7 of the Issuer Engagement Guidance Note.

1. Governance

Section 2 of the Rules contains requirements relating to governance. Further guidance in relation to those requirements is contained in the Governance Guidance Note.

In addition, the NZX Corporate Governance Code (**Code**) provides a number of voluntary recommendations in relation to corporate governance. An Issuer must include a statement in its annual report as to the extent to which it has followed a recommendation. If an Issuer has chosen not to adopt a recommendation, it must explain why and describe its alternative governance practice.[3] The Code also contains explanatory commentary which informs the interpretation of the recommendations, but which does not need to be reported against. The introduction to the Code provides further guidance around how to interpret the Code and the Rule reporting obligations.

1.1 Director Independence

Board composition requirements

Rule 2.1.1 requires that an Issuer must have at least three directors, two of whom are ordinarily resident in New Zealand, and two of whom must be Independent Directors. Independence must be assessed by determining whether a director has a 'Disqualifying Relationship'.

> 'Disqualifying Relationship' means any direct or indirect interest, position, association or relationship that could reasonably influence, or could reasonably be perceived to influence in a material way, the director's capacity to:
>
> (a) bring an independent view to decisions in relation to the issuer, or
> (b) act in the best interests of the issuer, or
> (c) represent the interests of shareholders generally,
>
> including having regard to the factors described in the NZX Corporate Governance Code that may impact director independence, if applicable.

The Rules require that all of a director's interests and relationships, are assessed to determine whether a Disqualifying Relationship arises, with regard to the factors set out in recommendation 2.4 of the Code. In doing so the materiality of the Code factor must be assessed to determine whether a Disqualifying Relationship arises.

The Board must release determinations as to a director's independence status to the market in accordance with the timeframes set out in the Rules (these requirements are explained further below).

NZX considers that it will usually be appropriate for a co-operative to meet these requirements, noting the important role that independent directors perform.

[3] NZX Listing Rule 3.8.1(a) and (b).

Assessment of director independence

The Code factors that must be considered by a Board in assessing whether a director has a Disqualifying Relationship are contained in the Table 2.4 of the Code.

The Code factors that are most relevant to co-operatives are discussed below. Co-operatives should be aware that there are additional factors that must be considered beyond those discussed below.

The Code factors **include** where the director:

- is currently, or was within the last three years employed in an executive role by the issuer,
- is currently, or was within the last 12 months deriving a substantial portion of annual revenue from the issuer, or
- is currently, or was within the last three years in a material business or contractual relationship with the issuer.

The factors set out above are designed to ensure that an Issuer considers interests or relationships that could indicate that the director is materially aligned with management, or has a personal financial reliance on the Issuer, when assessing whether a Disqualifying Relationship exists.

As noted above, when the Code factors apply, they must then be assessed to determine whether they are sufficiently material so as to cause a Disqualifying Relationship to arise. NZX considers that it will be reasonable for a co-operative to consider its governance structures and co-operative purpose when making this determination. As a co-operative business is a member owned and controlled structure, there may be reduced agency risk[4] due to the lesser separation of shareholders and management than arises for a standard Issuer.

In assessing whether a director has derived a 'substantial' portion of annual revenue from the co-operative, it is noted that the 'substantial portion' criterion is a high threshold and that NZX would not expect the factor to apply unless a director derived at least one-third of the director's annual revenue from the Issuer. If a director has derived a substantial portion of revenue such that the factor applies, the board must then consider whether this is sufficiently material to the director such that a Disqualifying Relationship arises. It will be reasonable for the board to consider the director's broader financial position and circumstances, ability to substitute revenue sources, and level of financial reliance on the co-operative when making this determination.

A co-operative will need to carefully consider whether a director who is also a transacting shareholder[5] has a Disqualifying Relationship. It is important for the board of a co-operative to consider the effect this could have on the director, including in the director's capacity to neutrally assess supply and pricing decisions, for example: due to horizon span conflicts arising when it is in a director's personal interest to take a short term view of the transaction.

[4] Agency risk arises where owners (shareholders) are separated from those controlling the business (managers). Directors play a critical part in balancing this principal-agent dynamic.

[5] NZX interprets the term 'transacting shareholder' as it is defined in section 4 of the Co-op Act, for the purposes of this Guidance Note.

While there may be circumstances where the director is only deriving a very small portion of their annual revenue from the co-operative and whose transacting shareholder activities are fringe, transacting shareholder status is usually likely to affect director's capacity to bring an independent view, act in the best interest of the co-operative, and act in the interests of all co-operative holders generally.

The consideration of whether a Disqualifying Relationship arises requires judgment to be exercised by a board, by holistically considering all of a director's interests and relationships, and considering whether for the specific director the interest or relationship is sufficiently material so as to cause a Disqualifying Relationship to arise. This assessment must be made by considering all of the factors contained in the Code, and not only those factors discussed above.

Disclosing director independence

The Rules require[6] certain disclosures to be included in an annual report, a notice of meeting seeking to appoint, elect or re-elect a director, and an announcement relating to the independence status of the director.

If a factor set out in Table 2.4 of the Code applies to a director, and a board determines that the factor does <u>not</u> give rise to a Disqualifying Relationship (i.e. that the director is independent) specific disclosures are required. These disclosures include a description of the basis on which the relevant factor was triggered along with an explanation as to why it does not cause a Disqualifying Relationship to arise in relation to the director.

NZX would expect that these disclosure obligations would apply to co-operatives, noting that it would be reasonable for a co-operative to consider the matters set out in section 1.1.2 of this guidance when assessing whether a Disqualifying Relationship arises when a Code factor is present.

Code recommendation 2.8

The Code recommends that a majority of a board should be independent directors. As noted above, the Code operates on a 'comply or explain' basis, allowing an Issuer to elect not to adopt a Code recommendation and instead implement an alternative governance practice, so long as this is explained in its annual report.

NZX recognises that a co-operative board may consider it appropriate to determine that a lesser number of independent directors is appropriate, given the reduced agency risk in a co-operative structure where there is greater proximity between shareholders and management. This approach reflects that directors who the board determines are not independent due to their transacting shareholder status, may bring a valuable perspective to the co-operative due to their industry knowledge.

1.2 Interested Directors: Rule 2.10

Rule 2.10 prohibits a director from voting on a board resolution for, or being counted in a quorum for the consideration of, any matter in which the director is *interested* (as that term is defined in section 139 of the Companies Act 1993), except in relation to an indemnity, or a matter for which the Companies Act 1993 expressly requires the director to sign a certificate.

[6] NZX Listing Rule 3.8.1(f), 7.8.3(b) and 2.6.1.

This Rule applies additional obligations above those contained in the Companies Act 1993 (which requires a director to disclose an interest in the company's interest register).

Waiver considerations

Co-operatives frequently have directors who are either transacting shareholder representative directors, or who have industry relationships, such that the co-operative company transacts with the director as part of its business as usual arrangements.

The Co-op Act[7] disapplies the interest disclosure requirements contained in section 140 of the Companies Act 1993 for registered co-operative companies in relation to transactions in the ordinary course of business conducted by a director in the director's capacity as a transacting shareholder. These settings acknowledge that concerns around a director exerting undue influence by being party to a transaction do not arise to the same extent in relation to these types of routine transactions.

NZX considers that it may be appropriate for a co-operative to seek a waiver from Rule 2.10 in relation to routine transactions between the director as a transacting shareholder, and the co-operative, in relation to transactions in the ordinary course of business. This would enable the director to be counted in the quorum for, and vote on, such transactions.

1.3 Director Eligibility: Rule 2.3.2(c)

Rule 2.3.2(c) requires that there must be no restriction on director nominations unless the Constitution requires directors to hold financial products or there are legislative restrictions on eligibility.

Waiver considerations

NZX understands that many co-operatives place restrictions in their constitutions on persons who are eligible to act as a director, that are appropriate in relation to the co-operative's purpose. Sometimes these restrictions are broader than a requirement that the director holds certain financial products, and therefore go beyond the permitted exceptions from Rule 2.3.2(c).

NZX considers that it would be appropriate for a co-operative to seek a waiver from Rule 2.3.2(c) to enable it to place appropriate restrictions on director eligibility, consistent with the co-operative's purpose, noting that co-operative shareholders are likely to be familiar with a co-operative's director nomination and eligibility processes.

1.4 Restrictions on share transfers

Rule 8.1.4 sets out the permitted circumstances in which an Issuer can decline to accept or register a transfer of its shares. This Rule already permits a co-operative company registered under the Co-op Act to do so when the registration would result in the shares being transferred to a person who is not a transacting shareholder. In accordance with Rule 8.1.6, NZX may also approve restrictions on transfer that are contained in an Issuer's constitution.

NZX understands that some co-operatives may have additional restrictions contained in their constitutions that restrict transfers beyond transfers to transacting shareholders. Co-operative members will be familiar with these restrictions which are designed to ensure that

[7] Section 29(g) of the Co-operative Companies Act 1996.

the co-operative can operate in accordance with its purpose.

NZX considers that it will generally be appropriate to ensure that the Rules do not restrict a co-operative's constitutional settings regarding shareholder eligibility, including by providing waivers or rulings where appropriate, or approving a restriction that is contained in the co-operative's constitution.

2. Capital Raising requirements

2.1 Overview of the capital raising settings

The Rules govern the manner in which Issuers can raise capital, which can be undertaken through a range of specific structures. The Rules recognise that existing shareholders should be offered the ability to participate in a capital raising on a pro-rata basis, and therefore permit certain structures to be used by an Issuer without the need for shareholder approval.

In addition, the Rules recognise Issuers' needs to have flexibility to adjust their capital structure to reflect their funding needs, and allow Issuers the ability to raise up to 15% of their equity securities on a non-pro rata basis within a 12 month period without shareholder approval.

The Capital Raising Guidance Note contains further guidance in relation to the matters an Issuer should consider when considering raising further capital, along with a summary of the Rule requirements in relation to various types of structures (including pro-rata Renounceable offers, pro-rata accelerated non-Renounceable offers (ANREOs), and Share Purchase Plans (SPPs)).

Waiver considerations

NZX understands that co-operatives may issue shares to reflect transacting shareholders' economic participation in the co-operative (for example, as consideration for supply transactions). This approach aligns transacting shareholders' control with their commercial contribution.

NZX understands that the 15% placement capacity threshold[8] generally seems to have provided sufficient flexibility for listed co-operatives to issue shares to transacting shareholders in accordance with their constitutional arrangements. In the event that a co-operative considers that it requires more flexibility in order to issue shares to reflect its co-operative nature (for example: to enable it to comply with its constitution, or perform its principal activity), the co-operative should engage with NZ RegCo to determine whether waiver relief may be appropriate.

[8] Rule 4.2.1(b)

2.2 Code Recommendation 8.4

Code recommendation 8.4 recommends that an Issuer offer further equity securities to existing equity security holders of the same class on a pro rata basis, and on no less favourable terms, before further equity securities are offered to other investors.

As noted in section 1 of this Guidance Note, the Code operates on a ‘comply or explain’ basis, allowing an Issuer to elect not to adopt a Code recommendation and instead implement an alternative governance practice, so long as this is explained in its annual report.

NZX considers that it will be appropriate for a co-operative to consider its principal activity and governance structure including any mechanics in its constitution relating to the issuance of shares to transacting shareholders, when determining whether it is appropriate to adopt Code recommendation 8.4.

2.3 Redemptions

Rule 4.14 prescribes specific circumstances in which acquisitions and redemptions of equity securities may be undertaken. This includes permitting acquisitions and redemptions under section 60(1)(b)(ii) of the Companies Act 1993, which allows acquisitions to be made in accordance with an Issuer’s constitution, and is the primary mechanism by which non pro-rata acquisitions are effected.

Rule 4.14.1(b)(ii) however prevents an Issuer from utilising section 60(1)(b)(ii) of the Companies Act if the amount to be acquired is larger than 15% of the Issuer’s equity securities over the last 12 months, or the acquisition is made from a director of the Issuer or an Associated Person of that director.

Waiver and ruling considerations

NZX understands that co-operatives may need to acquire/redeem securities in order to ensure that the voting and supply mechanics operate as anticipated under the terms of the co-operative’s constitution.

NZX has provided rulings to co-operatives in the past to enable co-operative entities to undertake acquisitions and redemptions that are permitted or required to be made under the Co-op Act.

NZX has also historically provided regulatory relief to co-operative Issuers to remove the restriction contained in Rule 4.14.1(b)(ii) that prohibits directors and their Associated Persons from participating in an acquisition undertaken by an Issuer in reliance on section 60(1)(b)(ii) of the Companies Act 1993. This relief was limited to acquisitions being made from all or some of the Issuer’s supplying shareholders where the directors and their Associated Persons were participating in accordance with generic criteria that applied to all supplying shareholders generally.[9] This relief reflects that the policy concerns relating to favourable treatment of directors and their Associated Persons do not arise in these circumstances.

[9] NZ RegCo Decision, Fonterra Co-operative Group Limited, December 2024

3. Major Transactions

3.1 Overview of the Listing Rule requirements

Rule 5.1 requires that an Issuer obtains shareholder approval in relation to a “major transaction”, being a transaction, or series of related transactions, to acquire or dispose of assets if it:

- significantly changes, either directly or indirectly, the nature of the Issuer’s business, and/or
- involves a Gross Value above 50% of the Average Market Capitalisation of the Issuer.

The policy behind the Rule is to regulate transactions that are so significant to the Issuer, and therefore so likely to impact shareholders’ interests, that shareholders should have an opportunity to consider and vote on the transaction before the transaction can take effect.

The manner in which the Rule requirements relating to major transactions should be interpreted, including the types of circumstances that will be interpreted as a significant change in an Issuer’s business are explained further in the Major and Related Party Transactions Guidance Note.

3.2 Waiver considerations

Policy considerations

The Rule requirements relating to major transactions create significant shareholder protections and NZX expects that waivers from Rule 5.1.1 will generally be very rare due to the importance of shareholders considering and voting on major transactions.

The Major and Related Party Transactions Guidance Note recognises certain situations in which it may be appropriate for NZX to grant waivers from the major transaction Rules.

This includes situations where an Issuer enters into an arm’s length long-term contract for services where the Issuer is receiving cash payments for the services it provides. NZX recognizes that in this situation the policy behind the major transaction requirements is not offended as the Issuer is continuing to undertake its business as usual activities, and the long term nature of the contract distorts the materiality of the transaction to the Issuer. This policy rationale has also been applied to historic waivers granted to co-operatives in relation to purchase contracts entered into with supplier transacting shareholders, and supply contracts between the co-operative and its customers.[10]

Standard conditions for Rule 5.1.1 waivers

As outlined in the Major and Related Party Transactions Guidance Note NZX is likely to impose a number of standard conditions in relation to waivers from Rule 5.1.1.

In relation to waivers granted to co-operatives the conditions of the waiver will depend upon whether the co-operative operates using a closed register structure, the

[10] NZ RegCo Decision, Fonterra Co-operative Group Limited, December 2024

composition of the co-operative's board (including the transacting shareholder status of its directors), and the nature of the transaction for which relief is sought.

Standard conditions are likely to include a requirement that:

(a) the non-interested directors of the Issuer certify to NZX that the granting of the waiver is in the best interest of each of:

  (i) the Issuer, and

  (ii) the Issuer's shareholders as a whole, and

(b) the non-interested directors of the Issuer certify to NZX that the transaction:

  (i) does not significantly change the nature of the Issuer's business,

  (ii) is in the ordinary course of the Issuer's business,

(c) the non-interested directors of the Issuer certify to NZX that the transaction is in the best interest of each of:

  (i) the Issuer,

  (ii) the Issuer's shareholders as a whole,

(d) the non-interested directors include in the certificate a summary of the core grounds for the certifications given under each limb of conditions (a), (b), and (c), described above,

(e) the non-interested directors of the Issuer certify to NZX that the transaction is not a major transaction requiring shareholder approval of the Issuer's shareholders for the purposes of the Companies Act 1993, and

(f) the waiver, its conditions and implications being disclosed in the Issuer's next annual report.

The requirement described in (d) above, for the certification to include a summary of the core grounds on which the certificate is given (including why the non-interested directors have determined that the transaction, and granting of the waiver, are in the best interests of the Issuer and its shareholders), is an important shareholder protection. This summary must address the core grounds applicable to each limb of the certification, and draft form certificates should be included with the waiver application.

In some circumstances, NZX may consider it appropriate for each director on the co-operative's board to provide the required certifications rather than solely the non-interested directors. This aspect should be discussed with NZX in the context of the specific waiver application.

NZX will publish the certification to market at the time it releases the waiver decision, reflecting the importance of shareholders being provided with transparency of the reasons for certain Board decisions.

4. Related Party transactions: Rule requirements

4.1 Overview of Listing Rule requirements

Rule 5.2.1 prohibits an Issuer from entering into a Material Transaction with a Related Party unless the transaction is first approved by the Issuer's shareholders by ordinary resolution, or is conditional upon such approval. Rule 5.2.1 applies where:

- the transaction is a Material Transaction, and is not exempt from the Rule, and
- a Related Party is either a direct party to the Material Transaction, or a beneficiary of a guarantee or other transaction that is a Material Transaction.

The policy underlying the Rule is to ensure that shareholders have an opportunity to consider, and vote on, such transactions where there is, or may be a perception of, the potential for undue influence by a Related Party on an Issuer's decision to enter into a transaction or agree to its terms.

The Rules also require certain disclosures to be provided to shareholders in relation to Material Transactions with Related Parties to enable shareholders to have appropriate information on which to assess the transaction. This includes a requirement that an Appraisal Report accompany the notice of meeting that seeks approval for the transaction.[11] The Rules also restrict which shareholders are eligible to vote in relation to a Material Transaction with a Related Party (being in essence shareholders who benefit or are interested in the transaction).[12]

The manner in which the Rule requirements relating to Material Transactions with Related Parties, should be interpreted along with a description of certain specific exceptions from Rule 5.2.1 are explained further in the Major and Related Party Transactions Guidance Note.

4.2 Waiver considerations

Policy considerations

Similar to the requirements in relation to Major Transactions, NZX regards the Rule requirements in relation to Material Transactions with Related Parties as creating a fundamental shareholder protection. NZX is therefore very unlikely to grant waivers from this requirement and considers that the threshold for the granting of a waiver is very high.

As set out in the Major and Related Party Transactions Guidance Note NZX may waive the requirement to obtain shareholder approval of a Material Transaction with a Related Party if it is satisfied that the personal connections with, or involvement or personal interest of, any Related Party are immaterial or have not influenced the promotion of, or the decision to enter into, the transaction or its terms and conditions.

The definition of a Related Party includes an Issuer's Directors and Senior Managers, and any holder of a Relevant Interest in 10% or more of the Issuer's Equity Securities, along with Associated Persons of each of those persons.[13] It is therefore likely that a co-

[11] Listing Rule 7.8.8
[12] Listing Rule 6.3
[13] Refer to the definition of Related Party in Part A of the Listing Rules

operative may enter into a Material Transaction with a Related Party due to the manner in which it engages with such persons in their capacity as a transacting shareholder.

NZX considers that where a co-operative is transacting with its shareholders on an arm's length basis in its ordinary course of business in accordance with criteria that apply equally to all transacting shareholders where the Related Party does not receive favourable treatment by virtue of their Related Party status that the policy of the Rule is unlikely to be offended and that waiver relief may be appropriate.[14]

Requirements when applying for a waiver

NZX expects to receive certain information in relation to waiver applications seeking relief from Rule 5.2.1 this is described in more detail in the Major and Related Party Transactions Guidance Note. Information that should be included in an application may include the following (depending on the nature of the transaction for which relief is sought, and whether the co-operative operates a closed register or includes non-transacting shareholders):

- that entry into, and the terms of, the Material Transaction were negotiated on an arm's length basis,
- the basis on which the agreed consideration for the transaction has been determined to support the view taken by the non-interested Directors, including where applicable whether third-party validation of the proposed consideration has been obtained,
- that the Related Party has not and will not be in a position to exercise undue influence over the Issuer's decision to enter into the transaction,
- if applicable, that the terms of the transaction are not materially different to similar transactions entered into with non-related parties,
- drafts of the certificates referred to in the standard conditions (b) to (d) below (as applicable) including the core grounds for the certificates.

Standard conditions for Rule 5.2.1 waivers

When granting a waiver from Rule 5.2.1, NZX will likely make it conditional upon certain matters. In relation to waivers granted to co-operatives the conditions of the waiver will depend upon whether the co-operative operates using a closed register structure, the composition of the co-operative's board including the transacting shareholder status of its directors, and the nature of the transaction for which relief is sought.

These conditions reflect the fact that shareholders will not have the ability to vote on the Material Transaction, and also that an Appraisal Report that would normally be required by the Rules will not be published with a notice of meeting, if a waiver is granted.

The likely conditions are as follows:

(a) the non-interested directors of the Issuer certifying that the terms of the Material Transaction have been entered into, and negotiated, on an arm's length commercial basis,

[14] NZ RegCo Decision, Fonterra Co-operative Group Limited, December 2024

(b) the non-interested directors of the Issuer certifying that the Issuer was not influenced to enter into the Material Transaction by the Related Party,

(c) the non-interested directors of the Issuer certifying that the granting of the waiver is in the best interests of:

(i) the Issuer, and

(ii) the Issuer's shareholders who are not precluded from voting under Rule 6.3,

(d) the non-interested directors of the Issuer certifying that the entry into the Material Transaction is in the best interests of:

(i) the Issuer,

(ii) all of the Issuer's shareholders, and

(iii) the Issuer's shareholders who are not precluded from voting under Rule 6.3,

(e) the non-interested directors include in the certificate a summary of the core grounds for the certifications given under each limb of conditions (a), (b), (c), and (d), described above, and

(f) the waiver, its conditions and implications being disclosed in the Issuer's next annual report.

As noted above, Issuers should submit a draft certification to NZX when applying for a waiver. The requirement for the certification to include a summary of the core grounds on which the certificate is given (including why the non-interested directors have determined that the transaction, and granting of the waiver, are in the best interests of the issuer and its shareholders), is an important shareholder protection. This summary must address the core grounds applicable to each limb of the certification.

In some circumstances, NZX may consider it appropriate for each director on the co-operative's board to provide the required certifications rather than solely the non-interested directors. This aspect should be discussed with NZX in the context of the specific waiver application.

NZX will publish the certification to market at the time NZX releases its waiver decision, reflecting the importance of shareholders being provided with transparency as to why certain Board decisions have been made.

5. Non-Standard Designation

In order to ensure transparency to the market, it is a standard condition of listing that NZX applies a "NS" non-standard designation to a co-operative Issuer. This ensures that investors are alerted to the unique features contained in a co-operative's constitution in relation to its governance arrangements and legal status.

6. Contact us

NZX would be happy to engage with any co-operative considering a listing on the NZX Main Board. If you have any questions about the listings process, please contact the NZX Listings team:

Jeremy Anderson,
General Manager - Listings
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If you have any questions on the matters in this Guidance Note, please contact NZ RegCo at issuer@nzregco.com or (04) 495 2825.