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Disclaimer

This guidance note has been issued to promote commercial certainty and assist market participants. It provides guidance to Issuers and their advisors on NZX's interpretation of the Listing Rules. 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. Guidance Notes do not constitute legal advice and are only a guide to NZX's policy & practice. NZX recommends that Issuers take advice from qualified professionals.

NZX may replace Guidance Notes at any time. Issuers should ensure that they have the most recent version of the Guidance Note. Guidance Notes are posted to NZX's website at www.nzx.com.

GUIDANCE NOTE – POLICY STATEMENTS

Introduction

This guidance note is a restatement of policy statements previously made by the Market Surveillance Panel ("the Panel")¹. To the extent necessary, the policy statements have been updated to reflect the present NZX Conduct Rules. The policy statements which are no longer applicable are not published.

General Guidelines on the adequacy and timeliness of announcements with respect to the acquisition and disposition of assets

Date of policy statement: 31 March 1993 Restated September 2005

- (1) Information on acquisitions or disposals of assets must contain at least four key elements to the extent that they are Material Information:

- price
- material conditions
- settlement
- financial impact of the transaction.

The omission of material conditions can substantially distort the impression the market gets of a transaction. Issuers should never under-estimate this factor. Directors should publicise subsequent material variations immediately.

- (2) Market releases must be timely, clear and concise. For example, it would be Material Information if only part of a division is sold or if some key assets are retained, or if the Issuer is required to give undertakings as to ongoing provision of services. Where applicable, releases should clearly differentiate between assets sold and retained and any continuing obligations or benefits.

- (3) Issuers must carefully consider requests by NZX for reasons for price movements. If there is any doubt, directors should release information perceived as having a likely impact on share price movements rather than withholding it. If subsequent disclosures give substance to concerns that the market was not adequately informed, then investor mistrust and suspicions of insider trading may eventuate.

- (4) Issuers should ensure that proper procedures are in place for media releases.

¹ The Market Surveillance Panel was the regulatory body of NZX prior to 3 May 2004, when NZX introduced the new two tiered structure of NZX Regulation and NZX Discipline. Policy statements made by the Panel were previously set out in Appendix 9 of the NZSX and NZDX Listing Rules, however, Appendix 9 was revoked on 3 May 2004.

Policy on applications for waivers in associated party transactions

Date of policy statement: 31 March 1993 Restated September 2005

NZSX and NZDX Listing Rule 9.2 (and NZAX Listing Rule B4.1) provides a key safeguard to non-associated shareholders. Specifically it requires:

- (i) an independently prepared Appraisal Report on the fairness of the transaction to non-associated shareholders (NZSX and NZDX Listing Rule 9.2.5) or, for Issuers listed on the NZAX market, a certificate from the Directors (other than any Director interested in the transaction) that the terms of the transaction are fair and reasonable to the shareholders and in the best interests of the NZAX Issuer;
- (ii) a shareholders' meeting to approve the transaction (NZSX and NZDX Listing Rule 9.2.1 and 9.2.5; NZAX Listing Rule B4.1 and B4.5); and
- (iii) Associated Person/s to the transaction to abstain from voting at such a meeting (NZSX and NZDX Listing 9.3; NZAX Listing Rule B4.6).

Any waiver application from NZSX and NZDX Listing Rule 9.2 or NZAX Listing Rule B4.1, as the case may be, needs to provide adequate reasons why NZX should grant the waiver. For example, NZX will usually require comfort, including disinterested Director certification, that the Material Transaction was for fair value and the decision to enter the Material Transaction was made independently without undue influence by the Associated Persons.

Directors' Remuneration Packages

Date of policy statement: 25 November 1999 Restated September 2005

This statement reminds Boards of Issuers of their responsibilities under the Listing Rules when authorising remuneration packages for Executive Directors and other officers of the Issuer.

NZSX and NZDX Listing Rule 9.2 requires that remuneration packages paid to Directors or other officers (outside the capacity of their employment agreement; refer NZSX and NZDX Listing Rule 9.2.1(c) and NZAX Listing Rule B4.1(c)) of an Issuer or its Subsidiaries, in excess of 0.5% of the Average Market Capitalisation of the Issuer, are to be approved by shareholders under NZSX and NZDX Listing Rule 9.2.1 (NZAX Listing Rule B4.1).

Attention is drawn to NZSX and NZDX Listing Rule 9.2.4(e) and NZAX Listing Rule B4.4(c) which allows an exemption from this requirement where NZXR is satisfied that the remuneration package is commercial, and has been negotiated at arms' length. Any application to NZXR for approval under this exception should be made before the Issuer enters into the transaction, or the transaction must be made conditional on such approval. Issuers are referred to footnote 2 of the NZSX and NZDX Listing Rule 9.2.4, and footnote 1 of NZAX Listing Rule B4.4 which details the evidence NZXR will consider, including the evidence from independent directors, audit or remuneration committees (of which a majority of members must be non-executive Directors) or other committees of the Board comprised entirely of "non-interested" directors or independent experts will be relevant.

Panel Policy on Independent Reporters

Date of policy statement: 29 June 2000 Restated September 2005

Various NZSX and NZDX Listing Rules require preparation on an Appraisal Report by independent, appropriately qualified, persons approved by NZX.

NZXR takes a view of independence which has meant that any existing or recent involvement of the Appraisal reporter with the Issuer or a party to the transaction may rule out approval by NZXR, unless the involvement has been remote or insignificant.

NZXR will continue to consider each approval on a case by case basis and footnotes 2 and 3 to NZSX and NZDX Listing Rule 1.2.1 will continue to apply.

Under this policy NZXR will need to be satisfied that in the circumstances there is no real danger or real likelihood of bias on the part of the reporter and that there would not be a reasonable apprehension or suspicion of bias on the part of a fair minded and informed shareholder of the Issuer.

The existence of a past or present relationship will not necessarily preclude approval of the Appraisal reporter. The nature, extent and time of the relationship will be considered.

For example:

- (a) a single non-strategic consulting assignment unrelated to the matter to be reported on may not prevent approval;
- (b) a material pecuniary interest is likely to preclude approval;
- (c) an ongoing significant professional advisory role is likely to preclude approval;
- (d) participation in strategic corporate advisory work is likely to preclude approval; and
- (e) the role of auditor alone may not preclude approval.

NZXR may also take into account:

- (a) the number and nature of Appraisal Reports prepared by the proposed person in respect of the Issuer in the past five years;
- (b) any business transacted with the Issuer by the proposed person in the past five years, where the total revenue the proposed person received from that business represented, in any financial year that the business was transacted, in excess of 5% of the proposed person's total revenue; and
- (c) whether the proposed person had any part in the formulation of the transaction proposal or any aspect thereof.

Panel Policy on Appendix 1 - Preliminary Announcements and the treatment of unrealised net changes in the value of investment properties

Date of policy statement: 29 June 2000

This policy statement has been superseded by changes to NZSX and NZDX Listing Rules Appendix 1.