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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 GN0006/04 – NZX SPONSORS

Introduction

This Guidance Note is published to provide NZX Sponsors with directions and guidance on the role of an NZX Sponsor in the markets provided by NZX.

In accordance with Section 1 of the NZX Participant Rules (Rules) an NZX Sponsor is defined as:

"A Market Participant that has been accredited by NZX as an NZX Sponsor for the purpose of bringing, but not distributing, Securities to the markets provided by NZX and includes, but is not limited to, those companies, firms and organisations accredited as NZX Sponsors on the NZAX prior to these Rules coming into force".

In addition to reading this Guidance Note all NZX Sponsors should consider their responsibilities under the Rules and in particular Section 7 of those Rules.

Background

The role of an NZX Sponsor was first introduced for the purpose of bringing new issues of securities to the NZX's Alternative Exchange (NZAX). The aim of introducing NZX Sponsors as participants in the NZAX market was to:

- (a) Allow a potential issuer to capitalise on the relationships it has with entities in the market with expertise in the capital markets and bringing issues to the NZX (e.g. solicitors and accountants); and
- (b) Provide a potential issuer with a cheaper alternative to bringing an issue to the NZX.

Under the Rules this traditional role was extended to allow NZX Sponsors to bring issues of new securities to any of the markets provided by NZX, however those NZX Sponsors must establish a relationship with an NZX Firm, Bank Only Participant or a Distribution and Underwriting Sponsor to distribute and/or underwrite an issue.

Eligibility Criteria

To ensure that the reputation and integrity of the markets provided by NZX is maintained, NZX has set a minimum criteria level for all NZX Sponsors. The minimum criteria requirements centre on the expertise of the NZX Sponsor and the individual experience of employees of that company or entity.

As minimum criteria, NZX Sponsors must:

- (a) Be a company or any other entity that NZX has approved from time to time after completing and submitting a written application in the form of Appendix 1 to the Rules;
- (b) Employ principals or full time employees throughout the duration of its tenure as an NZX Sponsor who have practiced in the “relevant transactional areas” for a minimum of two years; and
- (c) To claim experience in “relevant transactional areas”, have principals or full time employees who have acted in a lead role in a particular transaction.

“Relevant transactional areas” include lead roles in the following types of transactions:

- Public offerings under the Securities Act 1978;
- Mergers and acquisitions;
- Joint ventures;
- Takeovers;
- Corporate finance advisory work or transactions

Notwithstanding the above, NZX at its complete discretion may require an applicant to have more than one employee with the requisite experience as set out in this Guidance Note and may decline an application even if an applicant meets the minimum criteria as set out above.

NZX Sponsor Role

All companies or entities wishing to list on a market provided by NZX must be bought to market by a Primary Market Participant (for which an NZX Sponsor is one). Part of the responsibilities of an NZX Sponsor together with their responsibilities under the Rules, include:

- (a) An NZX Sponsor must confirm to NZX in writing certain information (as recorded in this Guidance Note) in relation to the offering document (or disclosure document if the listing is an NZAX Listing) and in relation to a listed NZAX Issuer certain other specified information as required by the NZAX Rules;
- (b) An NZX Sponsor shall at all times observe proper ethical standards and act with honesty, integrity and fairness, due skill and care, diligence and efficiency and within that NZX Sponsors competence;
- (c) An NZX Sponsor shall refrain from any action, conduct, matter to thing which is, or is reasonable likely to:
 - (i) Be detrimental to the well being or proper conduct of NZX; or
 - (ii) Discredit or bring NZX generally into disrepute;
- (d) An NZX Sponsor shall be available to advise and guide the directors of the company or entity for which it acts about their obligations to ensure compliance by that company or

entity with the Listing Rules specific to the market for which that company or entity is listing on;

- (e) An NZX Sponsor must advise NZX in writing as soon as possible when it ceases to be an NZX Sponsor to a potential issuer;
- (f) An NZX Sponsor must ensure that it abides by the eligibility criteria at all times and ensures that it continues to meet the minimum approval criteria. An NZX Sponsor must notify NZX immediately upon the departure from that NZX Sponsor of any of its personnel upon which NZX's assessment of eligibility for the role of NZX Sponsor was made;
- (g) An NZX Sponsor must ensure that it maintains procedures which are sufficient for it to discharge its obligations under this Guidance Note, the NZAX Listing Rules (for NZX Sponsors bringing issues to the NZAX), and the Rules and that all members of staff are properly supervised by approved personnel; and
- (h) An NZX Sponsor must retain sufficient records for a minimum of 7 years and maintain an audit trail of the advice which it has given to an Issuer for which it acts as an NZX Sponsor.

In addition to the above, an NZX Sponsor must provide NZX with any other information as requested by NZX as part of that company or entities application to be an NZX Sponsor.

An NZX Sponsor is not permitted to act as underwriters to an offer unless that NZX Sponsor has been approved and designated as a Distribution and Underwriting Sponsor.

Authority to Act

Once an authority to act is accepted by NZX it is deemed that all Market Participants are able to act in the issue of securities for which the authority to act relates to, however this acceptance by NZX of the authority to act does not give any other Market Participant any right to demand to be allowed to place a portion of that issue.

Fees

NZX Sponsors will incur a fee as outlined in the NZX Fee Schedule as released from time to time by NZX.

NZX Sponsors Prior to 3 May 2004

NZX Sponsors approved as such prior to the introduction of the Rules on 3 May 2004 do not have to re-apply for designation as an NZX Sponsor under the Rules. All NZX Sponsors approved as such prior to 3 May 2004 are considered NZX Sponsors under the Rules and may (subject to paying any applicable fees) bring an issue of new securities to any of the markets provided by NZX.