

SECTION 13

DELIVERY AND SETTLEMENT

13.1 SETTLEMENT PERIOD FOR SALES

13.1.1 *(Revoked 28/2/07)*

13.1.2 For Trades in Securities quoted on the NZAX or NZSX, the selling client's Delivery and Settlement Participant and the buying client's Delivery and Settlement Participant: *(Amended 28/2/07)*

- (a) Shall be deemed to have contracted to settle on a Value Date of the **3rd Settlement Day** or other settlement period as advised by NZX from time to time after the date on which the Trade takes place; or *(Amended 28/2/07)*
- (b) May agree to settle on a Value Date **earlier than the 3rd Settlement Day** or other settlement period as advised by NZX from time to time after the date on which the Trade takes place. *(Amended 28/2/07)*

13.1.3 For Short Sales, the buying client's Delivery and Settlement Participant and the selling client's Delivery and Settlement Participant shall be deemed to have contracted to settle on a Value Date **no later than the 3rd Settlement Day** after the date on which the Short Sale occurs.

13.1.4 NZX may defer the Value Date ("**delayed delivery**"). If NZX defers the Value Date for specific Securities or specific Trades:

- (a) NZX shall advise the market of the deferral;
- (b) The selling client's Delivery and Settlement Participant shall not be obliged to deliver until the delayed delivery status has been removed from that Trade or Security; and
- (c) Upon such removal, the normal delivery obligations in these **Rules** shall apply, ignoring the period of delayed delivery for that Trade or Security.

13.2 DEBT MARKET (NZDX)

13.2.1 For each Trade executed on the NZDX: *(Amended 28/2/07)*

- (a) Subject to **Rule 13.2.2**, the selling client's Delivery and Settlement Participant and the buying client's Delivery and Settlement Participant shall be deemed to have contracted to settle on a Value Date of the **3rd Settlement Day** after the date on which the Trade takes place (or a date as otherwise mutually agreed by the parties) for each Trade electronically settled through the FASTER System; or
(Amended 28/2/07)
- (b) Subject to **Rule 13.3**, all other Trades shall be deemed to have contracted to settle on the **5th Settlement Day**, after the date on which the Trade takes place.
(Amended 28/2/07)

13.2.2 The selling client's Delivery and Settlement Participant and the buying client's Delivery and Settlement Participant may contract with each other to settle Trades in Debt Securities in the FASTER System on a Value Date not more than **14 days after the Settlement Day**. *(Amended 28/2/07)*

13.2.3 NZX may defer the Value Date ("**delayed delivery**"). If NZX defers the Value Date for specific Securities or specific Trades:

- (a) NZX shall advise the market of the deferral;
- (b) The selling client's Delivery and Settlement Participant shall not be obliged to deliver until the delayed delivery status has been removed from that Trade or Security; and
- (c) Upon such removal, the normal delivery obligations in these **Rules** shall apply, ignoring the period of delayed delivery for that Trade or Security.
(Rule 13.2.3 Inserted 28/2/07)

13.3 NEW ZEALAND NON FASTER SETTLEMENT

In relation to Trades in Securities that are not settled through the FASTER System, the selling client's Delivery and Settlement Participant and the buying client's Delivery and Settlement Participant shall be deemed to have contracted to settle on a Value Date of the **15th Settlement Day** (or less if

mutually agreed by the selling client's Delivery and Settlement Participant and buying client's Delivery and Settlement Participant) after the date on which the Trade takes place. *(Amended 28/2/07)*

13.4 DELIVERY OBLIGATIONS

13.4.1 All Trades effected using the Trading System shall be held in a settlement pool until the selling client's Delivery and Settlement Participant lodges a COD through the FASTER System. The COD must be lodged before the Value Date. Trades not delivered by the Value Date shall be subject to an administrative charge and/or may be referred to **NZX Discipline**. *(Amended 28/2/07)*

13.4.2 All other contracts for the sale and purchase of Securities shall be held in the FASTER System until the MPT is effected through the FASTER System by the Value Date. Contracts that are not completed by the Value Date shall be subject to an administrative charge and/or may be referred to NZX Discipline. *(Amended 28/2/07)*

13.4.3 **Except** as provided for in **Rules 13.3** and **13.9** settlement and registration of Trades and contracts, including the provision of funds, shall be made through the FASTER System in accordance with the requirements of that system. *(Amended 28/2/07)*

13.4.4 *(Revoked 28/2/07)*

13.5 SETTLEMENT ACCOUNTS

Each Delivery and Settlement Participant must maintain a FASTER Settlement Account for the purpose of facilitating payments and receipts associated with its Settlement Obligations. *(Amended 28/2/07)*

13.6 SETTLEMENT BY CLIENTS

Each Delivery and Settlement Participant is obliged as principal to the counterparty Delivery and Settlement Participant and has the Settlement Obligations for the Trade entered into by its Trading Participant's client. The Trading Participant's client owes its Settlement Obligations to the Trading Participant's Delivery and Settlement Participant. *(Amended 28/2/07)*

13.7 FAILURE TO COMPLETE A CONTRACT

13.7.1 Failure by a client to deliver money and/or Securities to a Delivery and Settlement Participant or to accept and pay on the delivery of Securities will not annul a Trade or contract for the sale or purchase of Securities nor will such a Trade or contract for the sale or purchase of Securities be cancelled or be liable to cancellation except by mutual agreement of the Trading Participant for the buying client and Trading Participant for the selling client. *(Amended 28/2/07)*

13.7.2 In the event a client fails to complete a Trade or contract for the sale or purchase of Securities, or part of a Trade or contract for the sale or purchase of Securities, that client's Delivery and Settlement Participant or Trading Participant may, after making a demand on that client to complete that contract(s) or part thereof and such demand not being satisfied, in the case of a Trading Participant, sell or purchase or, in the case of a Delivery and Settlement Participant instruct a Trading Participant to sell or purchase, some or all of the Securities the subject of that contract(s) at that client's sole risk and expense, which shall include paying any reasonable brokerage. *(Amended 28/2/07)*

Unless otherwise specified in the client agreement or client terms and conditions, any loss which may result from such a sale or purchase will be a liability of that client to its Delivery and Settlement participant. Any profit which results from the sale or purchase shall be attributable to that client.

(Amended 28/2/07)

13.8 SETTLEMENT PAYMENTS

13.8.1 Trades and contracts must be settled using funds available to a Delivery and Settlement Participant on the same day in accordance with procedures set from time to time by NZX.

13.8.2 Settlement Obligations will not be enforced against the selling client's Delivery and Settlement Participant or the buying client's Delivery and Settlement Participant (as the case may be), if the buying client's Delivery and Settlement Participant making payment does not have sufficient funds in NZX's settlement account or sufficient Securities in its FASTER Transfer Account at the time the COD or MPT is lodged.

(Amended 28/2/07)

13.8.3 Following final Settlement Cut-Off Time on each Settlement Day, a Delivery and Settlement Participant shall be repaid surplus cleared funds from NZX's settlement account directly into its nominated Payments System accounts. *(Amended 28/2/07)*

13.8.4 Each Delivery and Settlement Participant must have sufficient same day cleared funds deposited into NZX's settlement account within the Payments System to meet all Settlement Obligations of the Delivery and Settlement Participant's up until final Settlement Cut-Off Time. *(Amended 28/2/07)*

13.8.5 Persistent failure by a Delivery and Settlement Participant to provide sufficient same day cleared funds during a Settlement Day will attract higher administrative charges and may be referred to **NZX Discipline**.

13.9 DELIVERY AND SETTLEMENT OUTSIDE OF THE FASTER SYSTEM

13.9.1 Certain Securities may be designated from time to time by NZX as unavailable for delivery and settlement through the FASTER System. *(Amended 28/2/07)*

13.9.2 Delivery Obligations for Securities designated under **Rule 13.9.1** shall be by physical delivery of documents and payment or as otherwise required by NZX.

13.9.3 On receiving written advice from the buying client's Delivery and Settlement Participant that the selling client's Delivery and Settlement Participant has failed to deliver by the Value Date, NZX may proceed to buy-in those Securities in accordance with the buy-in procedures in **Rule 13.10** and **13.11**.

13.10 NZX BUY-IN

13.10.1 NZX may decide if a Delivery and Settlement Participant acting for a selling client, having sold Securities, fails to deliver those Securities to the buying client's Delivery and Settlement Participant by the Value Date, and the failure to deliver those Securities is not because that buying client's Delivery and Settlement Participant has insufficient same day cleared funds to pay for those Securities, to buy-in against the Delivery and Settlement Participant acting for that selling client. NZX will advise the selling client's

Delivery and Settlement Participant of its intention to buy in to those Securities pursuant to this **Rule 13.10.1**. *(Amended 28/2/07)*

13.10.2 NZX shall have complete discretion to declare a buying client's Delivery and Settlement Participant a Defaulter under these **Rules** in addition to imposing any charges for late settlement where that buying client's Delivery and Settlement Participant, having purchased Securities, fails to have same day clear funds available to pay for those Securities by the Value Date. *(Amended 28/2/07)*

13.10.3 By **10.00 a.m.**, or such other time as NZX may from time to time notify on any Trading Day, NZX may make available for collection or access by each Market Participant a report listing all Trades or contracts for the sale or purchase of Securities effected by a Delivery and Settlement Participant for which NZX will commence buy-in action. Buying-in against a Delivery and Settlement Participant may proceed according to this report at **11.30 a.m.**, or such other time as NZX may from time to time notify, on the same Trading Day. *(Amended 28/2/07)*

13.11 NZX BUY-IN PROCEDURE

13.11.1 At **11.30 a.m.**, or such other time as NZX may from time to time notify on the day of buying-in, NZX shall enter into the Trading System a list of Securities to be bought-in, naming the Securities, the number to be bought, the Delivery and Settlement Participant which is at risk and the price/yield which it is proposed to pay. *(Amended 28/2/07)*

13.11.2 Where the number of Securities to be bought-in exceeds a Minimum Holding, that Delivery and Settlement Participant who has failed to deliver the Securities may deliver a Minimum Holding (or a multiple of a Minimum Holding) to reduce the number of Securities to be bought-in. *(Amended 28/2/07)*

13.11.3 The starting price Bid shall be up to **two percent (2%)** above the current last transacted price or the current bid price, whichever is the highest.

13.11.4 The buy-in shall commence at **11.30 a.m.**, or such other time as NZX may from time to time notify, on any Trading Day and Sellers may offer for delivery before **10.00 a.m.**, or such other time as NZX may from time to time notify, the following Trading Day any Securities shown in the list, the first Offer at the price Bid to be matched by the Trading System. Offers

may be in whole or in part of any particular Security, **provided that** where part only is being offered, such Offer shall be in marketable parcels.

(Amended 28/2/07)

13.11.5 If the Securities are not obtained by NZX under Rule 13.11.4, NZX shall have complete discretion to raise the price/bid (in the NZSX and NZAX markets and in the NZDX where quotation by price is permitted) or lower the yield (in the NZDX Market), in increments at the complete discretion of NZX from time to time, throughout the Trading Day and on the following and successive Trading Days until the Securities are bought or delivered to NZX. NZX shall have power to suspend the increase in Bids or lower yield if it is considered advisable.

(Amended 28/2/07)

13.11.6 A Trading Participant selling into the buy-in, unless it is the original buyer, must deliver the Securities bought in by NZX pursuant to this **Rule 13** to the original buying client's Delivery and Settlement Participant no later than **1 hour** before final Settlement Cut-Off Time on the following Trading Day.

(Amended 28/2/07)

13.12 CASH SETTLEMENT IN LIEU OF DELIVERY

13.12.1 If:

- (a) NZX is not able to buy-in all or any of the Securities it requires under **Rule 13.11** after **3 Trading Days**; and
- (b) The selling client's Delivery and Settlement Participant remains unable to deliver the Securities the subject of the confirmed Trade,

then, to the extent that delivery of those Securities cannot be made, NZX may fix a cash price as the basis for settling that Trade.

13.12.2 Where a cash settlement is provided in accordance with **Rule 13.12.1**, the Trade shall be cancelled and such cancellation shall apply to all Market Participants in the transaction.

13.13 BUY-IN SUSPENSION AND LATE SETTLEMENT FEES

13.13.1 Buying-in suspended: NZX may suspend, indefinitely or for such time as it in its complete discretion thinks fit, the buying-in of any Securities when circumstances appear to make such suspension desirable.

(Amended 28/2/07)

13.13.2 Late settlement fees: In respect of any Trade or contract for the sale or purchase of Securities that is not settled as required by **Rules 13.1 or 13.2:**

(Amended 28/2/07)

- (a) It must be Marked to Market daily; *(Amended 28/2/07)*
- (b) A transaction fee as determined from time to time by NZX shall be charged to, and paid by, the Delivery and Settlement Participant failing to complete settlement; and
- (c) One half of any transaction fee received under **Rule 13.13.2(b)** shall be credited by NZX to the account of the Delivery and Settlement Participant disadvantaged by the failure to settle on the Value Date.

(Amended 28/2/07)

13.14 NZX MAY REQUIRE REPORTS

NZX may require a Delivery and Settlement Participant to provide reports and confirmations in writing that the Settlement Obligations of **Rules 13.1 and 13.2** have been complied with for all Trades or contracts for the sale or purchase of Securities.

(Amended 28/2/07)

13.15 FREQUENT BREACHES

If a Delivery and Settlement Participant frequently breaches the delivery requirements of **Section 13**, the matter may be subject to further action by NZX, including, but not limited to, administrative charges and/or referral to NZX Discipline.

(Amended 28/2/07)

13.16 DELIVERY AND SETTLEMENT OBLIGATIONS OF DELIVERY AND SETTLEMENT PARTICIPANTS

13.16.1 A Delivery and Settlement Participant shall be responsible for:

- (a) The authorisation and validity of all transfers executed by it through the FASTER System; *(Amended 28/2/07)*
- (b) Ensuring that all documents required in support of a transfer executed by it are:
 - (i) valid;
 - (ii) retained by that Delivery and Settlement Participant or delivered to the relevant Securities Registry by **12 noon**, or such other time as NZX may from time to time notify, on the Trading Day following the transfer; and *(Amended 28/2/07)*
- (c) Ensuring that it has sufficient same day cleared funds available in its FASTER Settlement Account to meet its Settlement Obligations at all times. *(Amended 28/2/07)*

13.16.2 If the Securities that are sold are Securities of an overseas company which has a New Zealand Securities Register, a Delivery and Settlement Participant must deliver those Securities through the FASTER System on that New Zealand Securities Register. *(Amended 28/2/07)*

13.16.3 Each Delivery and Settlement Participant is responsible for ensuring that Securities transferred by it are free from all liabilities due or payable at the time of transfer.

13.16.4 Subject to **Rule 13.16.4A** any record of a client's FIN held by a Delivery and Settlement Participant may be stored by a Delivery and Settlement Participant on the condition that:

- (a) The Delivery and Settlement Participant enters into a written agreement with the client outlining the storage and use of that client's FIN; and
- (b) Any stored FIN is encrypted.

Any such agreement entered into by a Delivery and Settlement Participant and its client for the purpose of this **Rule** must include an undertaking from the Delivery and Settlement Participant that that Delivery and Settlement Participant will at all times protect that client's FIN from unauthorised use and/or access. Any record of a client's FIN held by that Delivery and

Settlement Participant which is not the subject of an agreement under this Rule or is not encrypted must be disposed of by it upon the completion of the client's transaction.

- 13.16.4A** Any record of a client's FIN held by a Delivery and Settlement Participant but not subject to an agreement pursuant to **Rule 13.16.4** must be disposed of, which may be done by deleting the FIN from the document on which it is recorded such that the FIN is not legible, upon the completion of that client's transaction (which shall be when that client's Securities have been successfully transferred out of the name of that client and that client has been paid the money arising from the transfer of that client's Securities). If a client's FIN can not be destroyed, a Delivery and Settlement Participant must establish appropriate internal procedures to prevent the unauthorised access or use of that client's FIN.
- 13.16.5** Each Delivery and Settlement Participant is responsible for ensuring that only authorised persons have access to a client's FIN until completion of the transfer.
- 13.16.6** For the avoidance of doubt, each Delivery and Settlement Participant must ensure that its systems do not automatically populate a client's FIN as a result of that Delivery and Settlement Participant facilitating a transfer of Securities on behalf of that client on a previous occasion, unless in accordance with **Rule 13.16.4(b)**.
- 13.16.7** Each Delivery and Settlement Participant must be able to provide immediately upon request, details of all transfers of Securities effected by that Delivery and Settlement Participant. The details must, as a minimum, include: *(Amended 28/2/07)*
- (a) The name of the Trading Participant for whom the Delivery and Settlement Participant is delivering and settling the Securities, if applicable; *(Amended 28/2/07)*
 - (b) The quantity and type of Security that Delivery and Settlement Participant is delivering and settling on behalf of the client; *(Amended 28/2/07)*
 - (c) The date when the instructions from the Trading Participant were received by that Delivery and Settlement Participant for delivery and settlement;

- (d) The name of the client who the Securities will be transferred to or from; *(Amended 28/2/07)*
- (e) *(Revoked 28/2/07)*
- (f) Copies of relevant client details obtained by the Trading Participant, if the Delivery and Settlement Participant is not also the Trading Participant, for the buying and/or selling client (if applicable) including, but not limited to:
 - (i) Registered name and address; and
 - (ii) CSN. *(Amended 28/2/07)*
- (g) The date when delivery and settlement of the Securities was completed.

13.16.8 The requirements for the retention and storage of a client's FINs in **Rules 13.16.4, 13.16.4A and 13.16.5** may be satisfied by a client entering into a written agreement with a Client Advising Participant that provides for:

- (a) The Client Advising Participant to provide that client's FIN to the Client Advising Participant's Trading Participant and for that Trading Participant to provide it to that Trading Participant's Delivery and Settlement Participant;
- (b) The Client Advising Participant, Trading Participant and Delivery and Settlement Participant to retain that client's FIN on the condition that the client's FIN is encrypted; and
- (c) The client's FIN at all times to be protected by the Client Advising Participant, Trading Participant or Delivery and Settlement Participant (as applicable), from unauthorised use and or access. *(Rule 13.16.8 Inserted 28/2/07)*

13.17 INABILITY OF CLIENTS TO MEET OBLIGATIONS

If a Delivery and Settlement Participant's client dies or becomes otherwise incapable of receiving and paying for or delivering or transferring Securities which that client has instructed to be bought or sold, that Delivery and Settlement Participant must immediately advise, in writing, the Trading

Participant with whom it has a written agreement in relation to clearing, delivery and settlement of Trades for that client of that client's situation. The Delivery and Settlement Participant must immediately halt all activities in relation to the delivery and settlement of that client's Trade(s) once it becomes aware that a client has died or otherwise incapable.

(Amended 28/2/07)

13.18 GOOD DELIVERY

13.18.1 Each Delivery and Settlement Participant is responsible for the good delivery of all Trades or contracts for the sale or purchase of Securities. Good delivery shall constitute:

(Amended 28/2/07)

- (a) A valid transfer of Securities;
- (b) Receipt of cleared funds for all Trades or contracts for the sale or purchase of Securities; and
- (c) The provision of a client's CSN and CSN details for registration.

(Amended 28/2/07)

13.18.2 Good delivery for a Trade adjusted by the FASTER System shall constitute a valid transfer of Securities, including any Accruals and the receipt of cleared funds, cash adjusted for any cash Accrual.

(Amended 28/2/07)

13.19 PROTECTION

13.19.1 The Delivery and Settlement Participant of the Seller must protect the rights of the client of the Buyer by taking up an Accrued benefit, entitlement or right, unless the Buyer instructs the Seller otherwise in writing.

13.19.2 If the client of the Buyer does not wish to take up all or part of an Accrued benefit, entitlement or right, the Buyer must advise the Seller's Delivery and Settlement Participant in writing prior to the Record Date for that benefit, entitlement or right.

(Amended 28/2/07)

13.19.3 Any outstanding unsettled Trades or contracts in the FASTER System as at the Record Date or Adjustment Date for a benefit, call or instalment payment, entitlement, or right of conversion on a Security will be adjusted automatically in accordance with the rules of the FASTER System.

(Amended 28/2/07)

- 13.19.4 Where there are benefits, entitlements, or rights of conversion in relation to outstanding unsettled Trades or contracts in the FASTER System, the Seller's Delivery and Settlement Participant shall not be entitled to require settlement from the Buyer until a COD has been made for the original contract and the benefit, entitlement, right or new deliverable Security can be delivered (as the case may be). *(Amended 28/2/07)*

13.20 NON-FASTER TRANSACTIONS

- 13.20.1 For Accruals relating to transactions for Securities that are not settled through the FASTER System, the Seller's Delivery and Settlement Participant shall enclose payment for any cash adjustment or documents as appropriate. *(Amended 28/2/07)*
- 13.20.2 If payments and/or other documents required pursuant to **Rule 13.20.1** are not included with the delivery of Securities, the Buyer's Delivery and Settlement Participant may reject delivery but the Seller's Delivery and Settlement Participant shall remain liable to the purchaser for the Accrual.

13.21 CLAIMS

- 13.21.1 A claim for any Accrued benefit, entitlement or right relating to a transaction in a Security shall be accompanied by a fee as set from time to time by NZX, which shall be paid by the claiming Delivery and Settlement Participant, **except** if an NZX processing error has occurred.
- 13.21.2 If a claim is caused by the Buyer's Delivery and Settlement Participant's failure to register Securities prior to the Record Date, the Seller shall use its best endeavours to obtain the dividend or benefit claimed from its client, **provided that** the Seller shall not be liable to the Buyer for any loss suffered.

13.22 TRANSFERRING SECURITIES IN THE FASTER SYSTEM

- 13.22.1 If a Trade is facilitated via the Trading System and that Trade has not been settled, a Delivery and Settlement Participant must advise its client within **10 Trading Days** that the Trade has not been settled. *(Amended 28/2/07)*
- 13.22.2 **Transfer of Securities to the FASTER Transfer Account:** Subject to **Rule 13.25**, upon being instructed to sell Securities, a selling client's Delivery and Settlement Participant may either:

- (a) Reserve those Securities using the Stock Reservation process; or
(Inserted 28/2/07)
- (b) Transfer those securities into its FASTER Transfer Account.
(Inserted 28/2/07)

On the agreed Settlement Date, a selling client's Delivery and Settlement Participant must transfer those Securities into the buying client's Delivery and Settlement Participant's FASTER Transfer Account to effect that sale.

(Amended 28/2/07)

13.22.3 Securities to be held on trust: Securities held on behalf of clients, must be held on trust by a separate Nominee Company. Those securities held to effect a transfer or pending completion must be held on trust in the FASTER Transfer Account. If a Delivery and Settlement Participant holds Securities on its own account, such Securities must be held in a separate Nominee Account to that used for clients.
(Amended 28/2/07)

13.22.4 *(Revoked 28/2/07)*

13.22.5 Use of the FASTER System for transfer and settlement only: The electronic information available through the FASTER System is to be used by the Delivery and Settlement Participant only to effect the transfer and settlement of Securities and not for gathering information generally or for any other purposes not related to the transfer of Securities. For the avoidance of doubt this **Rule 13.22.5** does not prevent access by a Market Participant or its Employees to the FASTER System to check Security holdings for the purposes of updating in-house client portfolio records.

(Amended 28/2/07)

13.23 WARRANTY AND INDEMNITY BY DELIVERY AND SETTLEMENT PARTICIPANTS

Each Delivery and Settlement Participant who completes a CIT:

- (a) Warrants to the issuer, as defined at **Rule 13.23A**, of the Securities that the CIT relating to the transfer is valid and has been authorised by the registered holder of the Securities being transferred; and

(Amended 28/2/07)

- (b) Indemnifies the issuer, as defined at **Rule 13.23A**, of the Securities for any loss suffered by that issuer due to a breach by the Delivery and Settlement Participant of the warranty in **Rule 13.23(a)** without prejudice to any right or remedy of a Delivery and Settlement Participant under **Rule 11.3.2** of the **NZSX Listing Rules** or **Part A Rule 4.8.2** of the **NZAX Listing Rules**. *(Amended 28/2/07)*

13.23A TRANSACTIONS IN SECURITIES NOT LISTED ON AN NZX MARKET

For the purposes of **Rules 13.23, 13.24, 13.25** and **13.41**, the definition of issuer shall include any issuer of Securities cleared and settled in the FASTER System regardless of whether that issuer is listed on a market provided by NZX, on a Recognised Securities Exchange, or otherwise.

(Inserted 28/2/07)

13.24 CAUSE OF ACTION

Each Delivery and Settlement Participant's warranty and indemnity in **Rule 13.23**:

- (a) Constitutes a promise which confers, and is intended to confer, a benefit on an issuer, as defined at **Rule 13.23A**, under **section 4** of the **Contracts (Privity) Act 1982**, and
- (b) Gives rise to a cause of action by an issuer, as defined at **Rule 13.23A**, against a Delivery and Settlement Participant, **provided that** this **Rule 13.24** shall not affect or prejudice any other right a Delivery and Settlement Participant may have. *(Amended 28/2/07)*

13.25 TRANSFERS OF CLIENT SECURITIES

13.25.1 No Seller's Delivery and Settlement Participant may transfer a client's Securities into its FASTER Transfer Account unless the sale of those Securities has been confirmed and the Seller's Delivery and Settlement Participant has properly verified the identity and authority of that client to transfer those Securities. *(Amended 28/2/07)*

13.25.2 If documents of any kind are required to support a transfer of Securities pursuant to **Rule 13.25.1**, a Seller's Delivery and Settlement Participant must deliver the documents to the Securities Registry used by the issuer, as

defined at **Rule 13.23A**, of those Securities by **12.00 noon** on the Trading Day following that transfer. *(Amended 28/2/07)*

13.25.3 Following any reported failure to comply with **Rules 13.25.1** or **13.25.2**, NZX may, as well as proceeding with immediate disciplinary action:

- (a) If **Rule 13.25.1** is breached, immediately buy-in the Securities against the Seller's Delivery and Settlement Participant, in accordance with the buy-in procedures in **Rules 13.11.1** to **13.11.6** and **13.12**, (**provided that Rules 13.10.1** to **13.10.3** shall not apply) for credit to the original owner of the Securities; and
- (b) If **Rule 13.25.2** is breached, and it is established that non-delivery was due to loss or failure in transit and not due to any failure by the Seller to arrange for normal proper delivery, allow the Seller's Delivery and Settlement Participant **5 Trading Days** to complete delivery of proper documents and then, if the documents have still not been delivered, immediately proceed to buy-in the Securities against the Seller, in accordance with the buy-in procedures in **Rules 13.11.1** to **13.11.6** and **13.12**, (**provided that Rules 13.10.1** to **13.10.3** shall not apply) for credit to the original owner of the Securities. If non delivery was due to the Seller's failure to arrange for normal proper delivery, NZX may buy-in the Securities immediately without waiting **5 Trading Days**. *(Amended 28/2/07)*

13.26 TRANSFERS OUTSIDE THE FASTER SYSTEM

13.26.1 Transfers of Securities outside the FASTER System shall be by means of a proper instrument of transfer in accordance with the Securities Transfer Act 1991 or, in the case of an overseas market, a proper instrument of transfer relevant to the market. *(Amended 28/2/07)*

13.26.2 A Delivery and Settlement Participant must advise its client within **10 Trading Days** that the Trade has not been settled where settlement is occurring outside the FASTER System and settlement has not occurred. *(Amended 28/2/07)*

13.27 CORRECTIONS TO FORMS

13.27.1 Any correction to Part 1 of a transfer or renunciation form prior to delivery by the Seller's Delivery and Settlement Participant of the Securities the subject of the relevant Trade or contract for the sale or purchase of Securities must be endorsed "Correction Guaranteed" by a stamp showing the broker code number of the relevant Delivery and Settlement Participant and the identification code of the Delivery and Settlement Participant. Failure to do this will render the transfer "Not Good Delivery".

(Amended 28/2/07)

13.27.2 Numeric and value amounts can only be altered downwards and, accordingly, the original detail and its correction must both remain visible.

13.27.3 The Buyer's Delivery and Settlement Participant must also, in the same manner as the Seller's Delivery and Settlement Participant, certify any correction or alteration of Part 2 of the form prior to lodgement with the Issuer.

(Amended 28/2/07)

13.28 MINOR CORRECTIONS

Minor corrections to the transferor's name may be made, **provided** they are correction guaranteed under **Rule 13.27**. Such corrections should only be to bring the detail into line with that on the supporting scrip. In terms of the Securities Transfer Act 1991, all transfers of Securities must include the full name of the transferor(s).

13.29 NO ADDITIONS UNLESS CORRECTION GUARANTEED

No information may be added to a transfer form unless that is also correction guaranteed.

13.30 CORRECTION GUARANTEE STAMPS

Correction guaranteed stamps from non Market Participant originators who are authorised to use securities transfer forms in terms of the Securities Transfer Act 1991 are acceptable. Such originators presently comprise:

- (a) Solicitors;
- (b) Chartered accountants;

- (c) Trustee corporations;
- (d) Banks; and
- (e) Authorised public security dealers.

13.31 CLASS AND AMOUNT ON TRANSFER

The class of Securities to be transferred must be shown on the transfer form. For fully paid shares, the amount to which the share is paid up need not be shown but for partly paid shares that amount must be shown.

13.32 QUANTITY TO BE SHOWN ON TRANSFER

Each transfer form must contain the quantity of Securities in figures. If both words and figures are used, then they must correspond.

13.33 DATES AND STAMPING

The date of signing by the transferor must be shown on all transfers, together with the stamp and the code of the Buyer's and Seller's Delivery and Settlement Participant(s), and the date on which the stamps and codes were affixed. *(Amended 28/2/07)*

13.34 NON-CORRESPONDING COMMON SHAREHOLDER NUMBERS OR ADDRESSES

Transfer forms supported by scrip with the same name and address but with different Common Shareholder Numbers or with the same name and shareholder numbers but different addresses will be acceptable. *(Amended 28/2/07)*

13.35 TRANSFERS WITH MATCHING NAME ONLY

Transfers supported by scrip with only the name matching will be acceptable as good delivery if such transfers are accompanied by confirmation in writing from the Seller that the transferor in each case is the same person.

13.36 ABBREVIATIONS

Abbreviations such as “Ltd” “N.Z.” or “Corpn” are acceptable on transfers, or such other abbreviations as are commonly understood and accepted acronyms acceptable to NZX.

13.37 MAXIMUM NUMBER OF TRANSFER FORMS

The maximum number of separate transfer forms acceptable on a delivery shall be **15**. Any greater number shall be acceptable only by agreement between the Buyer’s and Seller’s Delivery and Settlement Participant.

(Amended 28/2/07)

13.38 TRADING PARTICIPANT STAMPS

Each Trading Participant or Delivery and Settlement Participant (as the case may be) who affixes a stamp to identify that Trading Participant or Delivery and Settlement Participant (as the case may be) on any formal documents shall use a stamp in a form and style approved by NZX, bearing the name of that Trading Participant or Delivery and Settlement Participant (as the case may be) and the words “authorised Trading Participant or Delivery and Settlement Participant”, and the Trading Participant’s or Delivery and Settlement Participant’s code (including as the last character an identifier as necessary to identify an office of that Trading Participant or Delivery and Settlement Participant (as the case may be)).

(Amended 28/2/07)

13.39 *(Revoked 28/2/07)*

13.40 DELIVERY AND SETTLEMENT PARTICIPANT’S TERMS OF BUSINESS

Each Delivery and Settlement Participant shall specify in its client agreement that:

(Amended 28/2/07)

- (a) Where a client of that Delivery and Settlement Participant has failed to meet a Delivery Obligation, that Delivery and Settlement Participant shall have the right to pass on, and the client shall have the obligation to meet, any charge or levy incurred by that Delivery and Settlement Participant as a result of that client’s failure to make delivery within the time needed to enable that Delivery and

Settlement Participant to meet the time limits imposed by these **Rules**; *(Amended 28/2/07)*

- (b) Where a client or Trading Participant Acting as Principal has failed to settle with a Delivery and Settlement Participant, the parties shall have the rights and obligations imposed by these **Rules** regarding cancelling the contract and mitigating any loss relating to that failure to settle; *(Amended 28/2/07)*
- (c) Once an Order has been entered into the Trading System and a Trade created, and apart from the Delivery Obligation and Settlement Obligations, completed and formalised by a Trading Participant, all obligations and responsibilities for that Trade are transferred to the Delivery and Settlement Participant(s). Once the responsibility of a Trade is transferred, the Delivery and Settlement Participant shall be liable as principal unless agreed otherwise by that Trading Participant and the Delivery and Settlement Participant in the parties' Post Trade Agreement; and *(Amended 28/2/07)*
- (d) Any information held by a Delivery and Settlement Participant may be subject to review by a regulator including, but not limited to NZX. *(Amended 28/2/07)*

13.41 CLIENT INWARD TRANSFERS

13.41.1 Before submitting a CIT, each Delivery and Settlement Participant must:

- (a) Have a copy of the relevant client details for that client (if applicable) obtained by the Trading Participant pursuant to **Rule 9.2**; *(Amended 28/2/07)*
- (b) Have from that client and/or that Trading Participant, in a valid and genuine form, all necessary FIN(s), Common Shareholder Number(s) and any other details necessary for the CIT to be correctly submitted;
- (c) Verify that client's holdings of Securities on the register used by the issuer, as defined at **Rule 13.23A**, of those Securities and note any special conditions that exist against that client's holdings; and *(Amended 28/2/07)*
- (d) Do anything necessary to ensure the validity of the proposed transfer

of Securities.

- 13.41.2 Each Delivery and Settlement Participant who forwards a CIT to an issuer's, as defined at **Rule 13.23A**, Securities Registry warrants to that registry that the transfer the subject of the CIT is valid and is duly authorised by the registered holder of the Securities being transferred. *(Amended 28/2/07)*
- 13.41.3 For the avoidance of doubt, each Delivery and Settlement Participant who forwards a CIT to a Securities Registry indemnifies the registry for that issuer's, as defined at **Rule 13.23A**, Securities for any loss suffered due to a breach by the Delivery and Settlement Participant of the warranty provided pursuant to **Rule 13.41.2**. *(Amended 28/2/07)*
- 13.41.3A Each Delivery and Settlement Participant's warranty and indemnity in **Rule 13.41.2 and 13.41.3**:
- (a) Constitutes a promise which confers, and is intended to confer, a benefit on an Issuer, as defined at **Rule 13.23A**, under **Section 4** of the Contracts (Privity) Act 1982, and
 - (b) Gives rise to a cause of action by an issuer, as defined at **Rule 13.23A**, against a Delivery and Settlement Participant, provided that this **Rule 13.41** shall not affect or prejudice any other right a Delivery and Settlement Participant may have. *(Rule 13.41.3A Inserted 28/2/07)*
- 13.41.4 All Securities that are transferred to a Delivery and Settlement Participant's FASTER Transfer Account via a CIT are held in the Delivery and Settlement Participant's FASTER Transfer Account on trust for the selling client.
- 13.41.5 Each Delivery and Settlement Participant must monitor and maintain an exception report for all completed CITs where the returned registration name and address at the registry differs from the records held by that Delivery and Settlement Participant. All discrepancies between addresses must be tracked and verified before the release of funds to a client to ensure that cheques and/or advice of settlement are sent to the correct client at their correct mailing address. *(Amended 28/2/07)*

13.41B STOCK RESERVATION

(Inserted 28/2/07)

13.41B.1 Before submitting a Stock Reservation instruction, each Delivery and Settlement Participant must:

- (a) Have a valid client instruction;
- (b) Have a copy of the relevant client details for that client (if applicable) obtained by the Trading Participant pursuant to **Rule 9.2**;
- (c) Have obtained from that client and/or that Trading Participant, all necessary FIN(s), Common Shareholder Number(s) and any other details necessary for the Stock Reservation instruction to be correctly submitted;
- (d) Verify that client's holdings of Securities on the register used by the Issuer of those Securities and note any special conditions that exist against that client's holdings; and
- (e) Do anything necessary to ensure the validity of the proposed Stock Reservation instruction.

13.41B.2 Each Delivery and Settlement Participant who forwards a Stock Reservation instruction to an Issuer's Securities Registry warrants to that registry that the reservation the subject of the Stock Reservation instruction is valid and is duly authorised by the registered holder of the Securities being reserved.

13.41B.3 For the avoidance of doubt, each Delivery and Settlement Participant who forwards a Stock Reservation instruction to a Securities Registry indemnifies the Securities Registry for that Issuer's Securities for any loss suffered due to a breach by the Delivery and Settlement Participant of the warranty provided pursuant to **Rule 13.41.2B**.

13.42 PAYMENT AND METHOD OF PAYMENT

13.42.1 Each Delivery and Settlement Participant must pay its client all monies received from the sale of that client's Securities less any reasonable fee charged by the Delivery and Settlement Participant for the delivery and settlement of that client's Trade.

13.42.2 For any CIT completed each Delivery and Settlement Participant must produce for internal purposes a daily exceptions report of client addresses which are recorded differently on the Issuer's register to those addresses recorded by the Delivery and Settlement Participant. All discrepancies between addresses must be tracked and verified before the release of funds to a client.
(Amended 28/2/07)

13.43 CLAIM OF DELIVERY

13.43.1 Each Delivery and Settlement Participant must open and maintain a nominated settlement account solely for the purpose of settling transactions via the FASTER System
(Amended 28/2/07)

13.43.2 Each Delivery and Settlement Participant must grant NZX operating authority to access that Delivery and Settlement Participant's nominated settlement account established pursuant to **Rule 13.43.1**.

13.43.3 Each Delivery and Settlement Participant must ensure that the required funds for the settlement of each Trade have been deposited into its nominated settlement account by **9.30 a.m.** or such later time as determined by NZX from time to time **each Trading Day**.

13.43.4 Each Delivery and Settlement Participant facilitating the delivery and settlement of sold Securities on behalf of a selling client is responsible for the valid delivery of those Securities to the buying client's Delivery and Settlement Participant by the Value Date pursuant to these **Rules**.
(Amended 28/2/07)

13.43.5 Each Delivery and Settlement Participant facilitating the delivery and settlement of purchased Securities on behalf of a client is responsible for ensuring that it has sufficient funds available to settle all Trades. For the avoidance of doubt this includes funding requirements for early settlement.
(Amended 28/2/07)

13.44 CLIENT REGISTRATIONS (CLIENT OUTWARD TRANSFERS)

13.44.1 A buying client's Delivery and Settlement Participant(s) is responsible for delivering those Securities to its client using a Client Outward Transfer.
(Amended 28/2/07)

13.44.2 A Delivery and Settlement Participant must:

- (a) Ensure the purchaser of Securities has an allocated CSN. For the avoidance of doubt, a Securities Registry number will not be sufficient to deliver and settle the Trade; *(Amended 28/2/07)*
- (b) Ensure that any documentation required to effect and authorise a Client Outward Transfer is obtained from the relevant Trading Participant; and
- (c) Ensure that the documents required to effect and authorise a Client Outward Transfer are delivered to the Securities Registry by **12.00 p.m.**, or such other time as determined by NZX from time to time, on the next Trading Day to secure the Trade. *(Amended 28/2/07)*

13.45 SYSTEMS AND CONTROLS

13.45.1 Only accredited and approved FASTER Settlement Officers can effect the delivery and settlement of a Trade through the FASTER System.

(Amended 28/2/07)

13.45.2 Each Delivery and Settlement Participant must establish internal controls to prevent unauthorised access to the FASTER System. *(Amended 28/2/07)*

13.45.3 To ensure compliance with **Rule 13.45.2**, a Delivery and Settlement Participant must ensure that all of its FASTER Settlement Officers have individual passwords to enable them to access the Delivery and Settlement Participant's connection to the FASTER System. Each Delivery and Settlement Participant is responsible for ensuring that access to a FASTER Settlement Officer's password is not accessed by any unauthorised parties.

(Amended 28/2/07)

13.46 RECONCILIATION REQUIREMENTS

13.46.1 Each Delivery and Settlement Participant must:

- (a) Keep an accurate and up-to-date written record of all Trades and related matters entered into by the Delivery and Settlement Participant whether those Trades have been successfully completed or not; and

- (b) Perform daily reconciliation of its internal records against the FASTER System records for Securities and funds.

(Amended 28/2/07)

13.46.2 All reconciliations performed in the FASTER System by a Delivery and Settlement Participant pursuant to **Rule 13.46.1(b)** must be signed off as accurate by the Delivery and Settlement Participant's operational department manager.

(Amended 28/2/07)