

## 7. ISSUES AND BUY BACKS OF SECURITIES

### 7.1 OFFERING DOCUMENTS AND ADVERTISEMENTS

7.1.1 Offering Document: An Issuer or applicant for Listing shall prepare and issue an Offering Document: *(Amended 1/5/04)*

- (a) if required to do so by the Securities Act 1978 or any other legislation; and
- (b) if required to do so by NZX, when an applicant for Listing or Quotation seeks initial Quotation of Securities of the Class in question.; and
- (c) if required to do so by NZX, if there occurs:
  - (i) a change in control of Votes of the Issuer which confer an effective controlling interest in the Issuer, or a change in ownership in all or substantially all of the Securities of the Issuer carrying Votes; or
  - (ii) a sale or other disposition of the whole or the major part of the assets or undertaking of the Issuer; or
  - (iii) a cessation of, or change in the essential nature or direction of, the business or activities of the Issuer

If the Issuer or applicant is required (or but for an exemption granted by the Securities Commission under section 5 of the Securities Act 1978, would have been required) to register a Prospectus under the Securities Act 1978, the Offering Document shall be if the Issuer or applicant has an Investment Statement, an Investment Statement. In other circumstances, the Offering Document shall be a Profile.

*(Amended 10/05/06)*

1. A Profile will generally be required by Rule 7.1.1(b) where an Issuer is applying for Quotation of Securities except where the Issuer is applying for Quotation of Securities which have substantially similar characteristics to Securities of a kind that are already Quoted.

2. NZX may require the Issuer to provide additional information, including information for distribution to Security holders, under Rule 5.2.2(e). *(Inserted 10/05/06)*

7.1.2 Contents of Prospectus and Investment Statement: Every Prospectus and Investment Statement shall comply with, and contain all information required by, the Securities Act 1978 and regulations made under that Act, and by the Rules.

If an exemption has been granted by the New Zealand Securities Commission under a provision of the Securities Act 1978 or Securities Regulations 1983, then a Prospectus or Investment Statement which is in accordance with that exemption will comply with the Securities Act 1978 and Securities Regulations 1983, and will accordingly comply with this Rule 7.1.2. Note however note 2 to Rule 7.1.6. *(Amended 1/5/04)*

7.1.3 Contents of Profile: Every Profile shall:

- (a) comply with, and contain all information required to be contained in a registered prospectus under, the Securities Act 1978 and regulations made under that Act (with such modifications as may be rendered necessary by the circumstances) as if references in that Act or those regulations to the issuer were a reference to the Issuer, and references to the registered Prospectus were a reference to the Profile, and the Securities of the Issuer were being offered to the public for initial flotation, whether or not they are already allotted provided that NZX may determine (in its sole discretion) that some or all of the information referred to above may be omitted from the Profile; and *(Amended 10/05/06)*
- (b) contain all other information required by the Rules; and
- (c) contain all other information NZX, in its sole discretion, might reasonably require. *(Inserted 1/5/04)*

When a Profile is submitted for approval by NZX in accordance with Rule 7.1.6, NZX should be advised of any modifications which have, in accordance with Rule 7.1.3(a), been made to the information required by the Securities Act 1978 and Securities Regulations 1983.  
*(Amended 1/5/04)*

- 7.1.4 Distribution of Profile: A Profile shall be distributed to such persons, and in such manner, as NZX may determine.
- 7.1.5 Statement of Terms: Every Offering Document shall contain:
- (a) a comprehensive statement of the principal terms of the Securities offered by or referred to in that Offering Document, and of the principal terms of the offer of those Securities (if applicable); and
  - (b) if applicable, a timetable of all relevant dates for:
    - (i) opening and closing of the offer; and
    - (ii) allotment, Quotation and trading of the Securities offered and/or Rights to those Securities; and
    - (iii) the payment of initial dividends, interest or other benefits under the Securities; and
  - (c) include in its subscription application a field for subscribers to insert their CSN number (if any). *(Inserted 1/5/04)*

For the assistance of Issuers, a table summarising timing of a new issue is set out in appendix 8.

- 7.1.6 Approval by NZX: Each Prospectus and Investment Statement or Profile shall be approved by NZX in accordance with Rule 6.1. The draft shall be accompanied by the material listed in Rule 5.2.2, insofar as that material has not already been submitted to NZX. NZX may as a condition of its approval of that Prospectus and Investment Statement or Profile require that Prospectus and Investment Statement or Profile

to contain such information, in addition to the information referred to in the Rules, as NZX in its discretion considers appropriate.

*(Amended 1/5/04)*

1. NZX requires a minimum of 10 Business Days to review an Offering Document (see Rule 6.1.4). NZX will not feel obliged to provide approval before the expiry of that period.
2. NZX has a complete discretion whether or not to approve an Offering Document. The fact that a document may comply with the Securities Act 1978, or with any exemption granted under that Act, does not necessarily mean that it will be approved by NZX.

7.1.7 **Statement Relating to NZX:** Every Offering Document or Advertisement relating to an issue or sale in respect of Securities which are Quoted or intended to be Quoted shall contain the relevant words (if any) required by Regulation 23 of the Securities Regulations 1983 together with such other statement as may be required by NZX. Every Offering Document or Advertisement which refers to Primary Market Participants or to NZX or to Listing or Quotation, but which does not relate to Securities which are Quoted or intended to be Quoted, shall contain such statement as NZX may require. *(Amended 10/05/06)*

7.1.8 **Subscriptions Reserved:** Every Offering Document shall state the number and percentage of Securities of any Class which have been reserved for any class of applicant or are otherwise not available for application by Members of the Public, including Securities which are not part of the issue or are not offered under the Offering Document, and the names or description of any class of persons to whom any preference in allotment is to be given. NZX may in any particular case require the inclusion of a statement to this effect in any Advertisement

7.1.9 **Variation of Rates of Commission:** No Offering Document shall include provision for the variation of the rate of commission payable in respect of subscription for the Securities concerned unless it also states the maximum rate which may be payable.

- 7.1.10 Lodgement of Applications: Every Offering Document, after stating that applications may be made to the Issuer, shall state that they may be lodged with any Primary Market Participant, the Organising Participant or any other channel approved by NZX (in that order) in time to enable forwarding to the appropriate place prior to the application closing date. *(Amended 1/5/04)*
- 7.1.11 Minimum Subscriptions: In any issue of Securities (other than by a Rights issue or issue under Rule 7.3.8(e)), the minimum subscription by any person shall not be less than a Minimum Holding. *(Amended 10/05/06)*
- 7.1.12 Over-subscription: Every Offering Document shall state the method of dealing with over-subscriptions, and the maximum amount of over-subscriptions which will be accepted.
- 7.1.13 Subscription Refunds: Each Offering Document shall specify:
- (a) the period within which a refund of subscription moneys will be made to applicants for Securities to whom allotments are not made; and
  - (b) whether or not interest will be paid on amounts refunded in terms of (a) and, if so, the basis upon which interest will be calculated.
- 7.1.14 Variation of Interest Rates: If an Offering Document contains provision for variation in interest rates or other rates of return, the Issuer shall advise any reduction in rates to subscribers who apply for Securities otherwise than on the basis of the reduced rates. Unless those subscribers confirm their application for Securities, those Subscribers shall be repaid their subscription moneys within the period specified in accordance with Rule 7.1.13, together with any interest referred to in Rule 7.1.13.
- 7.1.15 Statement as to Substantial Security Holders: Every Offering Document other than an Offering Document issued by an Issuer which at the time has Securities Quoted on a market provided by NZX shall include: *(Amended 1/5/04)*

- (a) a statement of the identity of any substantial security holders (as defined in the Securities Markets Act 1988) disclosed to the Issuer (if necessary following a request by the Issuer), the nature of the relevant interests held by each of them, and the consideration and other terms and conditions of any transaction under which the beneficial owner acquired and holds those securities as disclosed to the Issuer;
- (b) a statement of the identity of any person who received from the Issuer a request pursuant to sub-part 3 of Part 2 of the Securities Markets Act 1988 and who failed or refused to provide to that Issuer the information requested; and *(Amended 10/05/06)*
- (c) the date as at which the identity of the persons disclosed under (a) or (b) above is disclosed.

7.1.16 Dividend Policy: Every Offering Document for Equity Securities shall specify the Directors intentions and expectations as to the Issuer’s future dividend policy. *(Footnote Deleted 1/5/04)*

7.1.17 Statements in Offering Documents or Advertisements: Any statement required by the Rules to be contained in an Offering Document or Advertisement shall be sufficiently prominent and legible so as to come to the attention of a reasonable person reading or viewing that Offering Document or Advertisement. *(Amended 29/10/03)*

7.1.18 *(Revoked 1/5/04)*

7.1.19 *(Revoked 1/5/04)*

7.1.20 *(Revoked 1/5/04)*

## 7.2 CONTENTS OF OFFERING DOCUMENTS – ADDITIONAL REQUIREMENTS FOR DEBT SECURITIES

7.2.1 Calculation of Interest: Where the terms of an issue provide for early repayment of Debt Securities, the Offering Document for that issue of Debt Securities shall also state the basis on which interest to the date of repayment will be calculated. *(Amended 1/5/04)*

7.2.2 Repayments before Maturity: If the terms of an issue of any Debt Securities provide for repayment or conversion before maturity on a date to be fixed at the discretion of the Issuer, the Offering Document for that issue of Debt Securities shall state those terms prominently.

*(Amended 1/5/04)*

### 7.3 ISSUES OF NEW EQUITY SECURITIES

7.3.1 Prohibition on Issue: No Issuer shall issue any Equity Securities (including issue on Conversion of any other Security) unless:

*(Amended 1/5/04)*

- (a) the precise terms and conditions of the specific proposal to issue those Equity Securities have been approved (subject to Rule 7.3.3) by separate resolutions (passed by a simple majority of Votes) of holders of each Class of Quoted Equity Securities of the Issuer whose rights or entitlements could be affected by that issue, and that issue is completed within the time specified in Rule 7.3.2; or
- (b) the issue is made in accordance with any of Rules 7.3.4 to 7.3.8.

1. Rule 9.3.1 deals with the persons entitled to vote on a resolution under this Rule 7.3.1.
2. The attention of Issuers is drawn to Rule 8.1, which may apply to the issue of Equity Securities which carry Votes.

7.3.2 Time Limit: An issue authorised by resolutions passed pursuant to Rule 7.3.1(a) shall be completed:

- (a) if that issue is made solely to Employees (as defined in Rule 7.3.6) within 36 months after the passing of those resolutions; or
- (b) in all other circumstances, within twelve months after the passing of those resolutions.

*(Amended 1/5/04)*

7.3.3 Exception: A resolution pursuant to Rule 7.3.1(a) of the holders of a Class of Securities shall not be required if:

- (a) the terms of issue of those Securities expressly reserved the right to make the issue of new Equity Securities in question, and specified at least the maximum number, and Class, of new Equity Securities which could be issued, and the time within which they could be issued; or
- (b) those Securities were issued before 1 September 1994 on terms that the holders of those Securities would not be entitled to Vote on a resolution of the nature referred to in Rule 7.3.1(a); or
- (c) those Securities were issued on terms that the holders of those Securities would Vote together with the holders of another Class or Classes of Equity Securities on a resolution of the nature referred to in Rule 7.3.1(a) and the issue is approved by a resolution (passed by a simple majority of Votes) of holders of all the relevant Classes Voting together.

7.3.4 Pro rata and \$5,000 offers: An Issuer may issue Equity Securities if:

- (a) those Equity Securities are offered to holders of existing Equity Securities of the Issuer on a basis which, if the offer were accepted by all such holders, would maintain the existing proportionate rights of each existing holder (relative to other holders of Equity Securities) to Votes and to Distribution Rights, and that offer is Renounceable; or
- (b) those Equity Securities are issued to holders of existing Equity Securities of the Issuer as fully paid Securities on a basis which maintains the existing proportionate rights of each existing holder (relative to other holders of Equity Securities) to Votes and to Distribution Rights; or
- (ba) those Equity Securities are offered to all holders of existing Equity Securities of the Issuer carrying Votes, for consideration not exceeding \$5,000 per existing Equity Security holder (being the registered holder or, in the case of Securities held through a custodian, the beneficial owners of the Securities) and the number



of Equity Securities to be issued is not greater than 30% of the number of fully paid Equity Securities carrying Votes that are already on issue. *(Amended 10/05/06)*

Notwithstanding (a), (b) and (ba), the Issuer shall be entitled:

- (c) to issue any Equity Securities in respect of which an offer is not accepted, or which because of fractional entitlements are not otherwise offered, to such persons and in such manner as the Directors consider equitable and in the interests of the Issuer, provided that the price and terms and conditions of the issue of such Equity Securities are not materially more favourable to the persons to whom they are issued than the terms of the original offer and the issue is completed within 3 months after the close of the original offer; and
- (d) to offer and issue Equity Securities to the holders of existing Securities in accordance with specific rights attached to those existing Securities to participate in issues of Equity Securities, notwithstanding that the effect may be that existing proportionate rights to Votes and Distribution Rights are not maintained; and
- (e) to authorise a disproportionate offer to the extent necessary to round up holdings of Equity Securities to a Minimum Holding, or to avoid the creation of holdings which are not Minimum Holdings; and
- (f) to not offer or issue Equity Securities to holders of existing Equity Securities the terms of which expressly exclude the right to participate in the relevant offer or issue; and
- (g) to not offer or issue Equity Securities to holders of existing Securities in a jurisdiction outside New Zealand if the legal requirements of that jurisdiction are such that it is unduly onerous for the Issuer to make the offer in that jurisdiction provided that in the case of Renounceable Rights, the Issuer shall arrange the sale of any Renounceable Rights to the relevant Equity Securities and to account to holders in that jurisdiction for the proceeds.

*(Inserted 10/05/06)*

In this Rule 7.3.4, “Distribution Right” means a right of the nature referred to in paragraph (a) or paragraph (b) of the definition of “Equity Security” in Rule 1.1.2.

1. Rule 7.3.4 allows the Directors to make a pro rata fully paid bonus issue, or pro rata renounceable cash issue, without prior approval of Equity Security holders. *(Amended 1/5/04)*
2. Rule 7.3.4(d) is intended to allow holders of Securities with rights to participate in cash or bonus issues of Equity Securities to participate in those issues. Note however that a security which carries the right to participate in issues of Equity Securities will in itself be an Equity Security (see paragraph (d) of the definition of “Equity Security” and the definition of “Convert” in Rule 1.1.2). Accordingly, the issue of such a Security will itself fall within Rule 7.3.

7.3.5 Issues Within 15% Limit: An Issuer may issue Equity Securities if:

- (a) the issue is not made in whole or in part to any Director of the Issuer, Associated Person of a Director or Employee (as defined in Rule 7.3.6) of the Issuer; and
- (b) the total number of Equity Securities issued, and all other Equity Securities of the same Class issued pursuant to this Rule 7.3.5 during the shorter of the period of 12 months preceding the date of the issue and the period from the date on which the Issuer was Listed to the date of the issue, will not exceed the aggregate of:
  - (i) 15% of the total number of Equity Securities of that Class on issue at the commencement of that period; and
  - (ii) 15% of the number of the Equity Securities of that Class issued during that period pursuant to any of Rules 7.3.1(a), 7.3.4, 7.3.6 and 7.3.8; and
  - (iii) any Equity Securities of that Class issued pursuant to this Rule 7.3.5 during that period, the issue of which has been ratified by an Ordinary Resolution of the Issuer; and

less

- (iv) 15% of the number of Equity Securities of that Class which have been acquired or redeemed by the Issuer during that period (other than Equity Securities held as Treasury Stock).

Provided that for the purposes of this Rule 7.3.5:

- (c) Securities which will, or may, Convert to other Equity Securities shall be deemed to be of the same Class as, and to correspond in number to, the Equity Securities into which they will, or may, Convert; and
- (d) where the conversion ratio is fixed by reference to the market price of the underlying Equity Securities, the market price, unless otherwise specified in the terms of the issue, shall be the volume weighted average market price over the 20 Business Days before the earlier of the day the issue is made or announced to the market.  
*(Amended 10/05/06)*

1. Rule 9.3.1 deals with the persons entitled to vote on a resolution under this Rule 7.3.5.
2. Rule 7.3.5(b)(iii) allows an Issuer to renew its capacity to issue Equity Securities within the 15% limit when it has been used, by obtaining subsequent Equity Security holder ratification of the issue which has already been made. *(Amended 1/5/04)*

7.3.6 Employee Share Issues: An Issuer may issue Equity Securities if:

- (a) the issue is made to Employees of the Issuer; and
- (b) the issue is of a Class of Securities already on issue; and
- (c) the total number of Securities issued, and all other Equity Securities of the same Class issued to Employees of the Issuer pursuant to this Rule 7.3.6 during the shorter of the period of 12 months preceding the date of the issue and the period from the

date on which the Issuer was Listed to the date of the issue, does not exceed 3% of the aggregate of:

- (i) the total number of Equity Securities of that Class on issue at the commencement of that period; and
- (ii) the total number of Equity Securities of that Class issued during that period pursuant to any of Rules 7.3.1(a), 7.3.4, 7.3.5, and 7.3.8.

Provided that for the purposes of this Rule 7.3.6:

- (e) Securities which will, or may, Convert to other Equity Securities shall be deemed to be of the same Class as, and to correspond in number to, the Equity Securities into which they will, or may, Convert; and
- (f) where the conversion ratio is fixed by reference to the market price of the underlying Equity Securities, the market price, unless otherwise specified in the terms of the issue, shall be the volume weighted average market price over the 20 Business Days before the earlier of the day the issue is made or announced to the market.  
*(Amended 10/05/06)*

Directors and Associated Persons of Directors shall not participate in any such issue unless the scheme for such participation and the precise levels of entitlement for each such person have been previously approved by an Ordinary Resolution of the Issuer.

In Rule 7.3.6 and 7.3.7A, “Employee” in relation to an Issuer includes an employee or officer of the Issuer or any of its Subsidiaries, a labour only contractor, consultant, or consultant company who or which contracts with the Issuer or any of its Subsidiaries, any trustee or trustees on behalf of any of the above employees or officers, and any trustee or trustees of or in respect of any pension, superannuation or like fund established for the benefit of any of the above employees or officers.

1. Rule 9.3.1 deals with the persons entitled to vote on a resolution under this Rule 7.3.6.
2. Any agreement involving a transaction referred to in this Rule 7.3.6 which requires prior approval by an Ordinary Resolution of the Issuer must comply with Rule 1.12.

**7.3.7 Exception:** For the purposes of Rule 7.3.6, an issue to a Director, or an Associated Person of a Director, solely in that person's capacity as a trustee of a bona fide employee share scheme, superannuation scheme, or the like, in which that Director or Associated Person has no beneficial interest, shall be deemed not to be an issue to a Director or Associated Person of a Director, or an issue in which Directors or Associated Persons participate.

NZX may waive the prohibition on a Director or Associated Person having a beneficial interest in the scheme in question if NZX is satisfied that the beneficial interest is determined by criteria applying to employees generally, and would not, if all relevant factors were publicly disclosed, reasonably be seen as being materially influenced by the relevant relationships.

**7.3.7A Repricing:** Except as provided in Rules 8.1.7 and 8.1.9, no Issuer may reprice or amend the terms of any Securities issued with shareholders' approval to or for the benefit of Employees or Directors under Rule 7.3, in their capacity as such, without either the approval of NZX or a further Ordinary Resolution of the shareholders resolving to approve the repricing or amendment. *(Amended 1/5/04)*

**7.3.8 Other Issues:** An Issuer may issue Equity Securities if:

- (a) the issue is made as consideration in an offer made by the Issuer in accordance with:
  - (i) any takeovers code approved under the Takeovers Act 1993; or
  - (ii) the provisions of the Constitution or Trust Deed of another Issuer which comply with section 4 where that other Issuer is not a Code Company; or *(Amended 10/05/06)*

(iii) any takeover law regime of a jurisdiction other than New Zealand which provides for prior notice, publicity and disclosure which in the opinion of NZX is at least as useful to the recipients of the offer as the requirements of one or more of the provisions referred to in (i) or (ii);

and that offer is made to all holders (other than the Issuer and its Related Companies) of Equity Securities in any company or other entity, Listed on NZSX or on a Recognised Stock Exchange, which is not a company or other entity that is an Associated Person of the Issuer or of any Director of the Issuer; or

(b) the issue is made upon Conversion of:

(i) an Equity Security; or

(ii) any other Security, which on issue was approved in the manner set out in Rule 7.3.1(a), as if Rule 7.3.1(a) applied to that Security,

from time to time issued by the Issuer if the terms of issue of those Securities provided for Conversion to the kind of Security issued; or

(c) the issue is made to an existing holder of Equity Securities of the Issuer in order to bring that holder's holding up to a Minimum Holding; or

(d) the issue is made pursuant to an arrangement, amalgamation or compromise effected pursuant to Part XIII or Part XV of the Companies Act 1993.

(e) the issue is made pursuant to a plan for the issue of Securities in lieu of dividends or as part of a dividend re-investment plan that entitles an existing Security holder to subscribe for Securities by applying all or any specified part of any dividend declared by an Issuer and payable to that person, and which issue or dividend reinvestment plan would, except to the extent that the plan excludes existing holders in a jurisdiction outside New Zealand if the legal requirements of that jurisdiction are such that it is unduly onerous for the Issuer to extend the plan to that jurisdiction,

maintain the existing proportionate right of each existing holder relative to other holders of Equity Securities to Votes and Distribution Rights, if the offer were accepted by all such holders.

*(Amended 10/05/06)*

1. NZX may waive the condition which excludes issues in connection with takeovers of Associated Persons where it is satisfied that:
  - (a) the issue is not intended to:
    - (i) increase or entrench any effective controls of the Issuer by persons who are not Members of the Public; or
    - (ii) materially change the relative positions of other holders in relation to the effective control of the Issuer; and/or
  - (b) the likelihood that the proposal to issue the Securities is motivated by the personal interest of those in effective control of the Issuer (in distinction to the interests of the holders not associated with them) is insignificant in relation to the expense and inconvenience involved in obtaining approval under Rule 7.3.1.
2. Issues pursuant to any paragraph of Rule 7.3.8 (and in particular paragraphs (a) and (d)) may require to be approved by Security holders pursuant to Rules 7.5 or 9.2.

7.3.9 Treasury Stock: A transfer, by an Issuer which is a company registered under the Companies Act 1993, of Treasury Stock of that Issuer shall for the purposes of this Rule 7.3 be deemed to constitute an issue of Equity Securities.

7.3.10 *(Revoked 1/5/04)*

## 7.4 ENTITLEMENTS TO THIRD PARTY SECURITIES

Entitlements conferred by the holding of Equity Securities of an Issuer, to Securities of a third party (whether or not that third party is an Issuer), shall not be created or conferred other than in compliance with

Rule 7.3, as if such Securities comprised an issue of Equity Securities of the Issuer.

## 7.5 ISSUES AND BUYBACKS OF SECURITIES AFFECTING CONTROL

Notwithstanding the provisions of Rules 7.3 and 7.6, no issue, acquisition, or redemption of Securities shall be made by an Issuer if:

- (a) there is a significant likelihood that the issue, acquisition, or redemption will result in any person or group of Associated Persons materially increasing their ability to exercise, or direct the exercise of (either then or at any future time) effective control of that Issuer; and
- (b) that person or group of Associated Persons is entitled before the issue, acquisition, or redemption to exercise, or direct the exercise of, not less than 1% of the total Votes attaching to Securities of the Issuer;

unless the precise terms and conditions of the issue, acquisition or redemption have been approved by an Ordinary Resolution of the Issuer.

1. In determining whether a person or group of Associated Persons has materially increased their ability to exercise effective control of an Issuer, regard should be had to all relevant circumstances, such as other holdings of Securities of the Issuer, and the crossing of significant shareholding or control thresholds.
2. NZX will regard Rule 7.5 as applicable where a shareholder or Associated Person underwrites or sub-underwrites a Rights or other issue and a shortfall results in the underwriter or sub-underwriter, or group of Associated Persons including the underwriter or sub-underwriter, materially increasing its ability to exercise effective control of the Issuer. Accordingly, if there is a significant likelihood of that occurring, any such underwriting arrangement should be approved by an Ordinary Resolution or be the subject of a waiver granted by NZX,



before it is entered into.  
*(Amended 1/5/04)*

3. Rule 9.3.1 deals with the persons entitled to vote on a resolution under this Rule 7.5.
4. Any agreement involving a transaction referred to in this Rule 7.5 must comply with Rule 1.12.
5. A resolution required under this Rule 7.5 shall be accompanied by an Appraisal Report. See Rule 6.2.2(a).

## 7.6 BUY BACKS OF EQUITY SECURITIES, REDEMPTION OF EQUITY SECURITIES, AND FINANCIAL ASSISTANCE

### 7.6.1 Prohibition on Acquisition: An Issuer shall not acquire or redeem Equity Securities of that Issuer other than by way of:

- (a) an acquisition effected by offers made by the Issuer through NZX's order matching market, or through the order matching market of a Recognised Stock Exchange; or
- (b) an acquisition effected in compliance with section 60(1)(a) (read together with section 60(2)) of the Companies Act 1993; or
- (c) an acquisition of the nature referred to in section 61(7) of the Companies Act 1993; or
- (d) an acquisition or redemption approved in accordance with Rule 7.6.6; or
- (e) an acquisition required by a shareholder of the Issuer pursuant to sections 110 or 118 of the Companies Act 1993; or
- (f) an acquisition effected in compliance with section 60(1)(b)(ii) (read together with section 61) of the Companies Act 1993 and:
  - (i) is made only from any person who is not a Director, Associated Person of a Director or Employee (as defined in Rule 7.3.6) of the Issuer; and

- (ii) the total number of Equity Securities of the same Class acquired together with all other Equity Securities of the same Class as those Equity Securities that are to be acquired, pursuant to this Rule 7.6.1(f) during the shorter of the period of 12 months preceding the date of the acquisition and the period from the date on which the Issuer was listed to the date of the acquisition, will not exceed 15% of the total number of Equity Securities of that Class on issue at the commencement of that period; or
- (g) a redemption from a holder who holds less than a Minimum Holding; or
- (h) a redemption of Equity Securities issued:
  - (i) before 1 September 1994; or
  - (ii) in compliance with Rule 7.3.1(a) or Rule 7.3.4, where the Issuer is bound or entitled to redeem those Equity Securities pursuant to their terms of issue; or
- (i) a redemption in compliance with section 69(1)(a) of the Companies Act 1993; or
- (j) a redemption of Equity Securities that are Debt Securities which may be Converted into shares in an Issuer which is a company, and, before that Conversion, they are redeemed in cash;
 

*(Amended 10/05/06)*

Provided that for the purposes of Rule 7.6.1(f):

- (k) Securities which will, or may, convert to other Equity Securities shall be deemed to be of the same Class as, and to correspond in number to, Securities into which they will, or may, convert; and
- (l) where the Conversion ratio is fixed by reference to the market price of the underlying Securities, the market price for the purposes of Rule 7.6.1(f) shall be the volume weighted average market price over the 20 Business Days before the earlier of the day the acquisition is entered into or announced to the market.
 

*(Amended 10/05/06)*

7.6.2 **Prior Notice of Acquisition:** Before an Issuer acquires Equity Securities of that Issuer, other than an acquisition from a holder who holds less than a Minimum Holding, the Issuer shall give at least 3 Business Days, notice to NZX. That notice shall:

- (a) specify a period of time not exceeding 12 months from the date of the notice within which the Issuer will acquire Equity Securities; and
- (b) specify the Class and maximum number of Equity Securities to be acquired in that period:

Provided that an Issuer may at any time by 3 Business Days notice to NZX vary any notice so given and may cancel such notice at any time.

*(Amended 1/12/99)*

As to subsequent notice of acquisition of Equity Securities, see Rule 7.12.1.

7.6.3 *(Revoked 10/05/06)*

7.6.4 **Prohibition on Financial Assistance:** An Issuer shall not give financial assistance for the purpose of, or in connection with, the acquisition of Equity Securities issued or to be issued by the Issuer unless the giving of that assistance:

- (a) complies with Rule 7.6.5; or
- (b) is approved in accordance with Rule 7.6.6.

7.6.5 **Permitted Financial Assistance:** An Issuer may give financial assistance of the nature referred to in Rule 7.6.4 if:

- (a) the financial assistance is not given in whole or in part to any Director of the Issuer, Associated Person of a Director or Employee (as defined in Rule 7.3.6) of the Issuer, and the amount of the financial assistance, together with the amount of all other financial assistance given under this paragraph (a) by the Issuer during the shorter of the period of 12 months preceding the date of giving of

the financial assistance, and the period from the date on which the Issuer was Listed to the date of giving of the financial assistance, does not exceed 5% of the Average Market Capitalisation of the Issuer; or *(Amended 10/05/06)*

- (b) the financial assistance is given to Employees (as defined in Rule 7.3.6) of the Issuer and:
  - (i) the amount of the financial assistance, together with the amount of all other financial assistance given under this paragraph (b) by the Issuer during the shorter of the period of 12 months preceding the date of giving of the financial assistance, and the period from the date on which the Issuer was Listed to the date of giving of the financial assistance, does not exceed 2% of the Average Market Capitalisation of the Issuer; and *(Amended 10/05/06)*
  - (ii) the amount of the financial assistance, together with the amount of all other financial assistance given under Rule 7.6.5(b)(i) during the shorter of the period of five years preceding the date of giving of the financial assistance and the period from the date on which the Issuer was Listed to the date of giving of the financial assistance, does not exceed 5% of the Average Market Capitalisation of the Issuer; and *(Amended 10/05/06)*
  - (iii) the financial assistance is not given to any Director of the Issuer or Associated Person of a Director; or
- (c) the financial assistance is offered or given so that all holders of Equity Securities of the Issuer are treated, or given the opportunity to be treated, on the same basis.

NZX may waive the restriction in Rule 7.6.5(b)(iii) on Directors and Associated Persons participating in financial assistance given to Employees:

- (a) so far as it affects assistance given to bona fide full time employees who are Directors, or Associated Persons of Directors, where NZX is satisfied that the amounts and terms

of the assistance will be determined according to criteria applying generally to all employees eligible to receive the assistance, and would not, if all relevant factors were publicly disclosed, be reasonably seen as being materially influenced by the relationship; and/or

- (b) where NZX is satisfied that the assistance is not likely disproportionately to benefit the persons controlling the Issuer and those associated with them.

7.6.6 Acquisition, Redemption or Assistance With Approval of Holders: An Issuer may acquire or redeem Equity Securities under Rule 7.6.1(d), or give financial assistance under Rule 7.6.4(b), if the precise terms and conditions of the specific proposal (the "Proposal") to acquire or redeem those Equity Securities, or of the giving of that financial assistance, have been approved by separate resolutions (passed by a simple majority of Votes) of members of each separate group of each Class of Quoted Equity Securities of the Issuer whose rights or entitlements are materially affected in a similar way by the Proposal.

*(Amended 10/05/06)*

Any agreement involving a transaction referred to in this Rule must comply with Rule 1.12.

7.6.6A Time Limit: A Proposal authorised by resolutions passed pursuant to Rule 7.6.6 shall be completed:

- (a) if that Proposal is transacted solely with Employees (as defined in Rule 7.3.6) within 36 months after the passing of those resolutions; or
- (b) in all other circumstances, within twelve months after the passing of those resolutions.

*(Inserted 10/05/06)*

7.6.7 Exception: For the purposes of Rule 7.6.5(b)(iii) financial assistance given to a Director or an Associated Person of a Director solely in that person's capacity as a trustee of a bona fide employee share scheme, superannuation scheme, or the like, in which that Director or Associated Person has no beneficial interest, shall be deemed not to be financial assistance given to a Director or Associated Person of a Director.

NZX may waive the prohibition on a Director or Associated Person having a beneficial interest in the scheme in question if NZX is satisfied that the beneficial interest is determined by criteria applying to employees generally, and would not, if all relevant factors were publicly disclosed, reasonably be seen as being materially influenced by the relevant relationships.

#### 7.6.8 Application of Rule 7.6:

##### Equity Securities:

- (a) of an Issuer which is not a company registered under the Companies Act 1993; or
- (b) which are not shares of a company registered under the Companies Act 1993.

may be acquired or redeemed under Rule 7.6.1(b), (c), (f) and (i) if the Issuer complies with the sections of the Companies Act 1993 referred to in Rule 7.6.1(b), (c), (f) and (i), on the basis that references in those sections of the Companies Act 1993 to: *(Amended 10/05/06)*

- (c) “shares” shall be deemed to be references to all Equity Securities of the Class of Equity Securities which is the subject of the acquisition or redemption and references to “shareholders” shall be read accordingly; and
- (d) “company” shall be deemed, in respect of Issuers which are not companies registered under the Companies Act 1993, to be references to the Issuer and references to directors and the board of a company shall be deemed to be references to any person entering into the Listing Agreement on behalf of that Issuer; and
- (e) “constitution” shall be deemed to be references to the document which governs the rights of those Equity Securities.

## 7.7 VENDOR SECURITIES

If Vendor Securities are issued at or about the time of any issue or sale of Securities, or with a view to the issue or sale of those Securities, the Offering Document in respect of those Securities shall state with reasonable prominence either:

- (a) the restrictions which are to be imposed upon the disposal of the effective ownership and control of all or any of those Vendor Securities by the holders of those Vendor Securities (and if the holders are not to be the beneficial owners of those Vendor Securities, by the beneficial owners); or
- (b) that there are no restrictions of the nature referred to in (a).

## 7.8 DISPOSAL OF MAJOR HOLDINGS

### 7.8.1 Major Holdings: If:

- (a) at the time of the initial Quotation of a Class of Equity Securities a person holds more than 20% of the Securities of that Class; or
- (b) at the time of the initial Quotation of a Class of Equity Securities a person is entitled, pursuant to a binding arrangement, to subscribe for more than 20% of the Securities of that Class (other than pursuant to a bona fide underwriting agreement),

Rule 7.8.2 shall apply in respect of the Equity Securities held or to be subscribed by that person (in this Rule 7.8 the "Specified Securities").

### 7.8.2 Statement in Offering Document: The Offering Document in respect of Securities referred to in Rule 7.8.1 shall state with reasonable prominence either:

- (a) the restrictions which are to be imposed upon the disposal of the effective ownership and control of all or any of the Specified Securities by the holders of those Specified Securities (and if the holders are not to be the beneficial owners of the Specified Securities, by the beneficial owners); or

(b) that there are no restrictions of the nature referred to in (a).

7.8.3 Interpretation: For the purposes of Rule 7.8.1, Securities shall be deemed to be held by a person if that person has a Relevant Interest in those Securities, or if a group of Associated Persons of which that person is one have relevant interests (as so defined) in those Securities.

## 7.9 SECURITY AGREEMENTS

7.9.1 Security Agreement: If an Offering Document states, pursuant to Rule 7.7 or 7.8, that restrictions are to be imposed upon disposal of the effective ownership or control of any Securities then: *(Amended 1/5/04)*

(a) the Issuer shall enter into an agreement (a "Security Agreement") with the persons to whom those Securities are to be issued, and if those persons are not the beneficial owners of those Securities, those beneficial owners, and with such other persons (if any) as NZX may consider necessary in order to ensure that the restrictions on disposal of effective ownership or control of those Securities can be effectively enforced; and

(b) that agreement shall be in such form as NZX may require, and shall prohibit the parties to it from taking steps which would cause the effective ownership or control of those Securities to be disposed of otherwise than in accordance with the restrictions specified in the Offering Document; and

(c) where that agreement provides a discretion for lifting the imposed restrictions prior to the expiry of an agreed restriction period, the agreement shall stipulate that the exercise of this discretion requires the consent of non-interested Directors of the Issuer in addition to any other requirements. For this purpose, the term "interested" bears the meaning assigned to that term in section 139 of the Companies Act 1993, on the basis that if an Issuer is not a company registered under that Act, the reference to the "company" in that section shall be read as a reference to the Issuer.

*(Inserted 10/05/06)*



7.9.2 Enforcement: The Issuer shall not agree to variation or amendment of a Security Agreement without the prior approval of NZX and the Issuer shall advise NZX immediately if the Issuer becomes aware of a breach or likely breach of a Security Agreement, and shall in consultation with NZX take such steps as NZX may require to enforce that Security Agreement or prevent or remedy a breach of it. *(Amended 10/05/06)*

## 7.10 RIGHTS ISSUES - ADDITIONAL REQUIREMENTS

7.10.1 Letters of Entitlement: Letters of entitlement to Rights (whether or not Renounceable) are to be mailed to holders of the Rights within five Business Days of the Record Date for the determination of the entitlement and by means that will give the holders reasonable time to deal with their Rights, whether the holders' addresses are in New Zealand or elsewhere.

7.10.2 Closing Date for Applications: Without limiting Rule 7.10.1, the closing date and time for applications under Rights issues (whether or not renounceable) shall not be earlier than the 18th Business Day after the day of mailing of the last of the letters of entitlement.

7.10.3 Closing Date for Renunciations: The closing date for receipt of renunciations of a Renounceable Rights issue shall be the same date as the closing date for receipt of applications.

7.10.4 Amount of Entitlement: Entitlements to Rights may be scaled up to a minimum number not greater than a Minimum Holding, and shall be altered to disregard fractions. The announcement of the Rights issue and any Offering Document shall state the terms on these matters.

7.10.5 Entitlement: A Renounceable Right shall not entitle the holder of the Right to apply for more than the entitlement of Securities except to enable acquisition of the number of Securities needed to give that holder a Minimum Holding.

7.10.6 *(Revoked 1/12/02).*

7.10.7 Form of Renunciation and Acceptance: Issuers shall use a standard form of renunciation and acceptance previously approved by NZX

which shall be distributed with, or form part of, the letter of entitlement. A non-standard form may be used only if:

- (a) the non-standard form has been approved by NZX; and
- (b) the Issuer agrees to accept the standard “brokers acceptance” form in an emergency; and
- (c) an adequate supply of the non-standard form is provided by the Issuer for Trading Participants at least three Business Days before the day appointed for the commencement of trading in the Rights.  
*(Amended 1/5/04)*

**7.10.8 Renunciation to Take Priority Over Acceptance:** The terms of a Renounceable Rights Issue shall provide that if the Issuer receives, on or before the closing date for renunciations, both a renunciation and an acceptance in respect of the same Right(s), the renunciation shall be given effect in priority to the acceptance.

**7.10.9 Quotation of Rights:** An Issuer may apply to NZX for Quotation of Rights under a Rights issue of Securities. Appendix 7 shall be completed and supplied to NZX with the application required by Rule 5.2.2. If such Quotation is granted:

- (a) the Quotation of Rights will commence on the Ex Date for that Rights issue or such other date approved by NZX; and  
*(Amended 10/05/06)*
- (b) the Head Security under the Rights issue will be quoted ex rights on the Ex Date for that Rights issue; and
- (c) Quotation of Rights for a Renounceable Rights issue will cease at the close of trading on the day two Business Days before the closing date for receipt of acceptances and renunciations.

**7.10.10 Information on Rights Issues for Which Quotation Not Sought:** Where a Rights issue is to be made but Quotation is not sought the Issuer shall give to NZX forthwith after the decision has been made and at least 10 Business Days before the Record Date to determine entitlements, on the form in appendix 7, full details of the issue,

including the nature, entitlement and timing of the issue of Rights and conversion, pricing, amounts payable and ranking of Securities for future benefits.

## 7.11 ALLOTMENT

7.11.1 Time of Allotment: An Issuer making an issue shall proceed to allotment within five Business Days after the latest date on which applications for Securities close. *(Amended 10/05/06)*

7.11.2 Payments in Advance of Allotments: Where the issue price of an issue may be paid by instalments, the Issuer shall acknowledge payments made in advance of due date on the advice of allotment.

7.11.3 Commission Statements: Issuers shall ensure that commission statements rendered to Primary Market Participants contain sufficient detail to allow the Primary Market Participants to check allotments to clients. *(Amended 1/5/04)*

7.11.4 Common Shareholder Numbers: An Issuer making an issue shall ensure that on allotment a CSN is recorded for each person to whom the Securities are issued. *(Inserted 10/05/06)*

## 7.12 ANNOUNCEMENTS

7.12.1 Information Required to be Supplied to NZX: Where an Issuer issues Securities, or acquires Securities of that Issuer, the Issuer shall forthwith give to NZX details of the issue or acquisition, including:

- (a) Class of Security and ISIN; and
- (b) the number issued or acquired; and
- (c) the nominal value (if any) and issue or acquisition price; and
- (d) whether payment was in cash; and
- (e) any amount paid up (if not in full); and
- (f) the percentage of the total Class of Securities issued or acquired; and
- (g) the reason for the issue or acquisition; and
- (h) the specific authority for the issue or acquisition (if any); and
- (i) any terms or details of the issue or acquisition (such as an escrow provision); and

- (j) the total number of Securities of the Class in existence after the issue or acquisition; and
- (k) in the case of an acquisition of shares by an Issuer which is a company registered under the Companies Act 1993, whether those shares are to be held as Treasury Stock; and
- (l) the dates of issue or acquisition.

For the purposes of this Rule 7.12.1, the sale of Treasury Stock by an Issuer shall be deemed to constitute an issue of Securities. Without limiting the obligation in this Rule to supply information forthwith, details of the acquisition by an Issuer of Securities of that Issuer, and of the sale of Treasury Stock, shall be given to NZX not later than the end of the Business Day in which that acquisition or sale takes place.

7.12.2 Notification: Where any benefit is to be paid or distributed on Quoted Securities (including dividends, interest or bonus issues) or any Conversion of Securities or call on Securities is to take place, the Issuer shall give to NZX, forthwith after any Director’s recommendation and at least 10 Business Days before the Record Date to determine entitlements or obligations, full details of the benefit, Conversion or call, including the information in the table below. That information shall be supplied in the form set out in appendix 7.

EVENT	INFORMATION REQUIRED
Dividend	<ul style="list-style-type: none"> <li>- Security description</li> <li>- ISIN</li> <li>- Total amount of dividend</li> <li>- Cents per share</li> <li>- Imputation tax credits per share (where applicable to six decimal places)</li> <li>- Withholding tax cents per share (where applicable to six decimal places)</li> <li>- Source of dividend</li> <li>- Payable date</li> <li>- Record Date</li> <li>- Strike price for any issue in lieu of dividend</li> </ul>
Interest	Details no less than the equivalent required above for a dividend.

EVENT	INFORMATION REQUIRED
Bonus Issue	Full details of the issue including timing, entitlement and tax information.
Conversions	Full details of the nature and timing of the Conversion including pricing, entitlement and conversion ratio information.
Calls	Full details of the call including the Securities affected, and payment details.

- 7.12.3 Notification of Decision to Make Call: Where the date of a call on Quoted Securities has not been stated in an Offering Document, the Issuer shall notify NZX as soon as a decision has been taken to make a call.
- 7.12.4 Non-Convertible Debt Securities: No notification is required of routine payment of interest on non-Convertible Debt Securities.
- 7.12.5 Dividend Policy Deviation: If the Directors recommend or pay dividends other than in accordance with the policy stated in any Offering Document, or any previous public forecast made for the relevant period, they shall fully explain in the notice the reasons for any difference.
- 7.12.6 Notice of Decision Not to Pay: Where an Issuer will not pay on the due date the interest on any Convertible or non-Convertible Debt Securities, the Issuer shall notify NZX thereof immediately following the making of the decision.
- 7.12.7 Supplementary Dividends: A supplementary dividend paid in terms of the Income Tax Act 2004 shall be deemed not to be a dividend for the purposes of Rule 7.12.2. An Issuer which pays a supplementary dividend shall notify NZX not less than 10 Business Days before the supplementary dividend is paid of:
- (a) the amount of the proposed supplementary dividend and the amount (in cents) per Security; and

(b) the date upon which it will be paid.

7.12.8 Optional Conversion: Where Securities are Convertible at the option of the holder before final maturity the Issuer shall give notice to NZX, and all holders of those Securities, of the option to Convert. That notice:

(a) shall be given:

- (i) if the Securities are Convertible on a fixed date or dates, at least six weeks before each such date; or
- (ii) if the Securities are Convertible by reason of the occurrence of some event, as soon as practicable after the occurrence of that event, or before the occurrence of that event if it becomes apparent that that event will occur; and

(b) need not be given if the Securities are Convertible at the option of the holder at any time; and

(c) shall disclose any option for Conversion which may be exercised at a later date; and

(d) shall contain a statement to the effect that if a holder of Securities is in any doubt as to whether Conversion is desirable, that holder should seek advice from an Advisor or other financial adviser.

7.12.9 Notice Upon Conversion: Immediately following each Conversion of Securities (including Options), the Issuer shall notify NZX of:

*(Amended 1/5/04)*

(a) the number of Securities Converted and the number and Class of Securities into which they have been Converted; and

(b) details of any interest or dividend conditions attaching to the Securities Converted, and allotted upon Conversion; and

(c) how many Securities of the same Class remain to be Converted.

## 7.13 EARLY AND LATE SUBSCRIPTION CLOSURE

7.13.1 Early Closure: Where an issue is closed before the stated closing date, the Issuer shall notify NZX thereof forthwith after the closure.

Where an issue is filled (or full subscription is assured) before the stated closing date, NZX recommends that the issue be closed immediately.

7.13.2 Extension of Closing Date: An Issuer shall not extend the closing date for applications to subscribe for new Securities unless, at least five Business Days prior to the original closing date, the Issuer has notified NZX of the extension, and of the new closing date. An Issuer shall not, without the prior consent of NZX, extend a closing date more than once.

## 7.14 NOTIFICATION OF LEVEL OF SUBSCRIPTION

7.14.1 Undersubscription - Underwritten: Where an offer of Securities has been underwritten, the Issuer shall notify NZX immediately the under subscription is ascertained, and in any event not later than five Business Days after the closing date of the offer, whether any of the Securities have been or are to be taken by any underwriter or any sub-underwriter in any capacity and if so, how many were or are to be taken up in that way.

7.14.2 Undersubscription - Not Underwritten: Where an offer of Securities has not been underwritten, the Issuer shall notify NZX of any under subscription immediately the under subscription is ascertained, and in any event not later than five Business Days after the closing date of the offer. In the case of a Renounceable issue, NZX must be notified of any under subscription of an issue which is not underwritten within five Business Days after the closing date for applications and renunciations.

7.14.3 Oversubscription: If an offer of Securities is oversubscribed, the Issuer shall make no announcement of that oversubscription unless that announcement specifies the precise percentage by which the offer has been oversubscribed.

## 7.15 PRIMARY MARKET PARTICIPANTS

7.15.1 Use of Primary Market Participant's name: No Issuer shall state a Primary Market Participant's name in any Offering Document or Advertisement relating to any Securities unless:

- (a) the Primary Market Participant has consented thereto; and  
*(Amended 1/5/04)*
- (b) if those Securities are Quoted or to be Quoted, the applicable requirements of the NZX Participant Rules have been complied with by the Primary Market Participant. *(Amended 1/5/04)*

7.15.2 Advertising Restriction: No Issuer shall publish any Advertisement referring to a Primary Market Participant or to NZX (other than for a reference complying with Rule 7.1.7) without the consent of the Primary Market Participant or NZX as the case may be, or before compliance by an Organising Participant with Rule 7.15.1 in respect of the issue or sale. No Advertisement shall be published which refers to NZX or to Primary Market Participants generally (as opposed to a specific Primary Market Participant) without previous approval of its form by NZX.

*(Amended 1/5/04)*

7.15.3 Primary Market Participants' Responsibilities: Every person seeking Listing, or having Listing, shall fully inform the Organising Participant in respect of an issue or sale, of all matters necessary to enable that Organising Participant to be satisfied that the Rules are complied with in respect of that issue or sale. If at any time prior to Quotation the Organising Participant considers that any provision of the Rules in relation to that issue or sale has not been complied with, the Organising Participant may request that the issue or sale not proceed and notify NZX accordingly, and NZX shall thereupon delay any Quotation of the relevant Securities until a Primary Market Participant accepting responsibility as Organising Participant requests that it proceed.

*(Amended 1/5/04)*



The Organising Participant is primarily responsible for lodging with NZX all the documents required to support the application. Notwithstanding that the Directors are responsible for the accuracy of the information provided to NZX and the market in the course of Listing, NZX attaches particular importance to the Organising Participant's role in preparing the Issuer for Listing. That role involves satisfying themselves, on the basis of all available information, that the Issuer is suitable to be Listed. Organising Participants should pay particular attention to the composition of the board of Directors of the applicant and to whether the necessary range of skills and experience is available. Possible minorities should be represented through the appointment of non-executive independent Directors.

In particular, therefore, Organising Participants should satisfy themselves that the Directors:

- (a) can be expected to prepare and publish all information necessary to create and maintain an informed market in the Issuer's securities; and
- (b) appreciate the nature of the responsibilities they will be undertaking as directors of a Listed Issuer; and
- (c) can be expected to honour their obligations under the Rules as well as generally to holders of Securities. *(Amended 1/5/04)*