



NEW ZEALAND'S EXCHANGE
TE PAEHOKO O AOTEAROA

Consultation Paper

Omnibus consultation on Issuer Authorised
Representatives, Issuer Delisting, Trading Halts and
Suspensions, and Climate-related Disclosures

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This Consultation Paper has been prepared by NZX to seek comment on the proposals contained in the paper, with a view to ensuring that the proposals will enable NZX to operate its markets on a fair, orderly and transparent basis. The proposals set out in this paper do not reflect NZX’s concluded views of the matters raised. Capitalised terms which are not defined in this Consultation Paper have the same meanings given to them in the NZX Listing Rules.

1. Introduction

NZX is consulting on proposed amendments to certain NZX Listing Rules (**Rules**), guidance notes and practice notes. The proposals outlined in this consultation paper aim to improve NZX's engagement with Issuers and provide greater transparency to the market on NZX's approach relating to Issuer delistings and trading halts; as well as codify the legislative requirements around climate statements published within annual reports.

The omnibus review has been divided into four categories and this consultation paper seeks feedback on the following proposed amendments:

1. Issuer Authorised Representatives

NZX is proposing to introduce a Rule requirement that every Issuer (including NZX Foreign Exempt Issuers) with Quoted securities (equity, debt and funds), appoints and maintains with NZX contact details for an "authorised representative" who is responsible for communication with NZX on Rule matters. It is further proposed that authorised representatives of Issuers of Quoted Equity Securities with NZX as their primary listing, be required to undertake compulsory compliance training. NZX proposes to amend Rule 1.22 to incorporate this new obligation.

2. Issuer Delisting Guidance Note

NZX is proposing to introduce guidance that clarifies NZX's expectations of Issuers that apply to delist from NZX, and accompanying conditions that will be imposed during the delisting process. The proposed Guidance Note also provides circumstances in which NZX through NZX Regulation Limited (**NZ RegCo**) may exercise its discretion under Rule 9.9.3 and cancel an Issuer's Listing.

3. Trading Halts & Suspensions Guidance Note

In the interest of further enhancing market transparency, NZX proposes to publish trading halt applications. The amendments to the Trading Halts & Suspensions Guidance Note clarify this new trading halt application process.

4. Climate-related Disclosures

NZX proposes to amend Rule 3.7.1(b)(ii) to ensure it is clear that Issuers can either include in their annual report a copy of their climate statements, or provide a website address or URL link to where the statements can be accessed, in accordance with the requirements of the legislation¹.

The proposed amendments to the Rules, relevant guidance notes and practice notes are described in more detail in this Consultation Paper and are set out in the following documents which accompany this paper, available linked [here](#):

- Exposure Draft of Issuer Delisting Guidance Note
- Exposure Draft of Trading Halts & Suspensions Guidance Note
- Exposure Draft of Trading Halts & Suspensions Practice Note

¹ Part 7A of the Financial Markets Conduct Act 2013

2. Consultation Process

We invite interested parties to provide their views on the proposals contained in this paper by emailing a written submission to policy@nzx.com. Alternatively, if you would prefer to provide a verbal submission, please email NZX Policy to arrange a time to speak with us.

The closing date for submissions is Monday, 30 October 2023.

NZX may publish the submissions it receives, so please clearly indicate in your submission if you do not wish for your submission to be published, or if part of your submission contains confidential information. If you have any queries in relation to the review, please contact:

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3. Issuer Authorised Representatives

3.1 Issuer Authorised Representatives – Overall Requirements

3.1.1 Background

Currently, the Rules prescribe a requirement for an applicant who wishes to be Listed to provide contact details when applying to List, comprising the applicant's corporate phone number, postal address, and email address.

If an Issuer is a company incorporated outside of New Zealand, the Issuer must identify and provide the contact details of a natural person resident in New Zealand to accept services of notices, and promptly notify NZX if the appointed person, or the person's details change.

NZX has identified that there is currently no requirement for an Issuer to designate a contact person, and that NZX often needs to contact key personnel of Issuers on short notice. NZX may need to contact an Issuer to discuss disclosure or other Rule matters, and during trading hours this is often urgent. In such circumstances, there is a need to ensure that NZX has a key point of contact for each Issuer, that person's contact details are up to date, and that NZX also has a secondary contact point.

3.1.2. Proposal that issuers have an authorised representative

NZX is proposing to amend the Rules to create a new requirement that each Issuer appoint a primary authorised representative (to act as a point of contact for the Issuer on matters relating to the Issuer's NZX Listing Rule obligations), and a secondary authorised representative who can be contacted in the event that the primary authorised representative is uncontactable. The Issuer will be required by the Rules to maintain up-to-date contact information for all of its authorised representatives.

International exchanges with comparable regulatory regimes such as the ASX, SGX and LSE also have listing rule requirements for Issuers to appoint representatives.

The authorised representatives will act as a designated point of contact for NZX and NZ RegCo to engage with an Issuer on operational and regulatory matters related to the Rules such as:

- time-critical communications with an Issuer, for example in situations when NZ RegCo considers that a trading halt may be necessary or market disclosure needs to be corrected; and
- non-time-critical matters, where it is important for NZX or NZ RegCo to ensure that it can communicate with a designated contact person who has an understanding of Rule compliance or operational matters, and that person has authority to respond to queries as appropriate.

NZX proposes to amend the Rules to require that each Issuer must:

- appoint one primary authorised representative and one secondary authorised representative;

- maintain the contact information for the authorised representatives, including phone number(s) where the authorised representatives will be contactable; and
- promptly and without delay, update the authorised representatives' contact information if an Issuer changes an authorised representative, or appoints a new authorised representative.

3.1.2.1. Application of authorised representative requirement

It is proposed that the authorised representative requirements specified in proposed Rule 1.22.2 apply to all Issuers (including NZX Foreign Exempt Issuers) with Quoted securities (equity, debt and funds).

It is not proposed that the obligations apply to Issuers who only have Wholesale Debt Securities Listed on NZX, as those securities are not Quoted and Issuers of Wholesale Debt Securities have limited functional obligations under the Rules.

In relation to Issuers of Fund Securities, the requirement will apply to the Manager of the Managed Investment Scheme.

While NZX Foreign Exempt Issuers have fewer Rule obligations, NZX considers it appropriate for NZX Foreign Exempt Issuers to have authorised representatives in place to allow NZX and NZ RegCo to engage with an Issuer on matters such as the release of market announcements and implementation of trading halts.

3.1.3 Key aspects of the Issuer authorised representative requirements

NZX proposes to amend the Rules to require Issuers to appoint one authorised representative who has a high degree of familiarity with the operations of the Issuer and ready access to management and the Board in respect of Rules compliance issues. Issuers may appoint any Employee or Director whom it deems suitable to fulfil the role as the Issuer's authorised representative.

3.1.4 Contact information for the authorised representatives

NZX is proposing that Issuers provide and maintain up-to-date records of the following contact information of their authorised representatives:

- name;
- job title;
- corporate landline and/or cell phone numbers (which the authorised representative will remain contactable through during trading hours from 8 a.m. to 6 p.m. NZST); and
- email address.

Contact information provided by Issuers to NZX will be used for internal purposes only and will not be published.

3.1.5 Practice Note covering new Listing Rules requirements

If the authorised representative requirements are added to the Rules, NZX will publish a Practice Note setting out the nature of the information to be provided to NZX, and how Issuers are to provide the relevant information to NZX. The Practice Note will also explain how Authorised Representatives can verify whether they have successfully completed the Authorised Representative Training.

3.2 Authorised Representative Training for Authorised Representatives of Issuers with Quoted Equity Securities

3.2.1 Background

Along with ensuring that Issuers appoint two authorised representatives, NZX also proposes that the primary authorised representative for Issuers of Quoted Equity Securities (other than NZX Foreign Exempt Issuers) must undertake, and successfully complete, prescribed training modules. The purpose of this requirement is to ensure that the primary authorised representative has an appropriate base level awareness of the Issuer's compliance obligations under the Rules. While NZX recommends that the secondary authorised representative also undertakes the training, NZX proposes that the training will only be compulsory for the primary authorised representative.

3.2.2 Proposal for authorised representative training – for Issuers of Quoted Equity Securities

3.2.2.1 Primary authorised representatives – mandatory training

NZX proposes to amend the Rules to require that Issuers of Quoted Equity Securities appoint a primary and secondary authorised representative, and that the primary authorised representative of an Issuer of Quoted Equity Securities (other than an NZX Foreign Exempt Issuer) must undertake authorised representative training.

This proposal reflects that NZX primary-listed Issuers of Quoted Equity Securities have the most substantive and wide-ranging obligations under the Rules. The proposal that only the primary authorised representative be required to undertake training is considered to strike a balance between the burden of undertaking the authorised representative training, and the likelihood that in the vast majority of cases, NZX would be engaging with the primary authorised representative and not the secondary representative.

To ensure that the authorised representative training remains effective, NZX considers that primary authorised representatives must:

- a) where the person is the Issuer's first appointed primary authorised representative (i.e. at the time the Rule amendments are first effective), successfully complete authorised representative training within six months of the effective date of the Rule amendments;
- b) complete and successfully pass the authorised representative training within six months of being appointed as the Issuer's primary authorised representative in

future (for example: where the appointment arises as a result of a change in personnel); and

- c) complete and successfully pass refresher training within six months after the third anniversary of last successfully completing the Authorised Representative Training.

NZX has considered whether existing qualifications or experience could indicate that an authorised representative did not need to complete authorised representative training. In the interest of ensuring up-to-date knowledge on matters of compliance with the Rules, NZX considers it is appropriate that all primary authorised representatives of Issuers of Quoted Equity Securities undertake the training regardless of their experience.

3.2.2.2 Secondary authorised representatives – voluntary training

While NZX recommends that secondary authorised representatives undertake the prescribed training to ensure that their knowledge of the Rules remains up to date, NZX does not propose to require that the secondary authorised representatives successfully complete authorised representative training. Secondary authorised representatives may elect to undergo the authorised representative training on a voluntary basis, and NZX encourages secondary authorised representatives to do so.

3.2.3 Voluntary training available for all issuers

NZX does not propose to require authorised representatives of Issuers of Quoted Debt and Fund Securities (or NZX Foreign Exempt Issuers) to undergo compulsory authorised representative training, although such training is encouraged to be undertaken voluntarily. NZX intends that the training materials will be publicly available.

3.2.3.1 Issuers of Quoted Fund Securities

Issuers of Quoted Fund Securities are subject to continuous disclosure obligations under the Rules, with other obligations tailored to reflect the statutory obligations which apply to Managed Investment Schemes. Rules that do not apply to continuous Issuers of Quoted Fund Securities include:

- the corporate governance provisions of Rules 2.1 to 2.14;
- the periodic reporting obligations of Rules 3.5 to 3.10;
- the obligations relating to changes to capital (i.e. new issuances) outlined in section 4 of the Rules (other than Rules 4.18 and 4.19);
- the major and related party transaction obligations outlined in section 5 of the Rules; and
- the requirements relating to voting rights contained in section 6 of the Rules.

Due to these exclusions, NZX does not propose that authorised representatives for Issuers of Quoted Fund Securities be required to undertake compulsory authorised representative training.

Close-ended Funds

NZX notes that close-ended funds would have obligations under Rule 4.18 relating to certain changes of capital requirements, however due to the other exclusions close-ended funds share with continuous Issuer funds, NZX considers close-ended funds should be treated the same as continuous Issuers of Quoted Fund Securities and should not be subject to authorised representative training.

3.2.3.2 Issuers of Quoted Debt Securities

Although Issuers of Quoted Debt Securities are subject to continuous disclosure obligations under the Rules, these disclosure obligations are tailored to reflect the price drivers for Debt Securities, and are less likely to be triggered in practice. Issuers of Quoted Debt Securities are also exempt from the corporate governance provisions of Rules 2.1 to 2.14, certain reporting obligations in section 3 of the Rules, changes to capital obligations in section 4 of the Rules, the major and related party transaction obligations outlined in section 5 of the Rules, the voting obligations contained in section 6 of the Rules and Rule 7.5 and 7.8. NZX does therefore not consider it appropriate to require primary authorised representatives of Issuers of Quoted Debt Securities to undergo compulsory authorised representative training.

3.2.3.3 NZX Foreign Exempt Issuers

NZX Foreign Exempt Issuers are largely exempt from the Rules, on the basis that they comply with the Listing Rules of their home exchange. Although NZX Foreign Exempt Issuers have some administrative obligations under the Rules, NZX does not consider that these justify compulsory authorised representative training.

3.2.4 Training modules

NZX recognises that there are varying levels of sophistication, resourcing, and technical understanding of the Rules across the Issuer cohort, and therefore envisages a set of modules which will provide each trainee with the specific knowledge required to support the NZX listed entity. NZX expects each module to take no more than 40 mins to complete. NZ RegCo is developing the following modules:

- 1) Continuous Disclosure
- 2) Corporate Governance
- 3) Shareholder Meetings
- 4) Periodic and Financial Reporting
- 5) Issuing Securities and Raising Capital
- 6) Major and Related Party Transactions
- 7) Regulatory Landscape for NZX Listed Issuers
- 8) Trading Halts and Suspensions

NZ RegCo expects all modules to be available by the time any Rule changes are implemented.

NZX notes that many directors and senior managers will belong to regulated occupations that specify continuing professional development (**CPD**) requirements for their members, and thus training requirements of this kind will not be unfamiliar. NZX expects the Issuer training modules to qualify for CPD time.

3.3 Listing Rule amendments

3.3.1 Proposed changes to the Listing Rules

NZX proposes to amend Rules 1.7.2, 1.12.2 and 1.13.2; introduce new rules 1.22.2, 1.22.3, and 1.22.4; and add new definitions related to these requirements. The proposed implementation date for the amended Rules is discussed further in section 3.3.3 of this consultation paper.

The proposed amendments are as follows:

- 1) amend Rule 1.7.2 to include a requirement for a NZX Foreign Exempt Issuer to comply with the Authorised Representative requirements specified in the newly added Rule 1.22.2;
- 2) amend Rule 1.12.2 to include a requirement that an applicant seeking to List must provide details of its authorised representatives as part of the application for Listing;
- 3) amend Rule 1.13.2 to include a requirement that an applicant seeking to Quote Equity Securities on the Main Board must, prior to the Issuer Listing, provide confirmation that its primary authorised representative has successfully completed the authorised representative training;
- 4) introduce a new rule 1.22.2 to outline the requirement that an Issuer must appoint a primary and secondary authorised representative, provide their contact information to NZX, and the instances in which the information provided needs to be updated;
- 5) introduce a new rule 1.22.3 to outline the additional training obligations which apply exclusively to primary authorised representatives under the amended rules; and
- 6) introduce a new rule 1.22.4 to clarify that NZX has the sole discretion to require an Issuer to appoint a new authorised representative.

Exposure drafts of the amended Rules are available below:

1.7 Compliance with rules of Home Exchange
1.7.2 An NZX Foreign Exempt Issuer must: ... (f) comply with the following Rules with all necessary modifications: (i) Rule 1.7.2, Rule 1.19, Rule 1.21, <u>Rule 1.22.2</u> , Rule 1.23.1, Rule 3.26, and Rule 3.29, (ii) Section 9, and (iii) any other Rules that NZX may declare, at any time by notice to the Issuer, to apply to such Issuer regardless of whether the listing rules (or their equivalent) of its Home Exchange contain a similar provision.

1.12 Application for Listing

1.12.2 The following information and material must be provided with any application to List: ...

- (k) contact information for a Primary Authorised Representative and Secondary Authorised Representative, in the form prescribed by NZX from time to time, and
- (l) any other information or documents that NZX may request.

1.13 Application for Quotation of Equity Securities

1.13.2 The following information and material must be provided with an application under Rule 1.13.1: ...

- (d) notwithstanding Rule 1.22.3(a), confirmation that the Primary Authorised Representative has successfully completed the Authorised Representative Training.
- (e) all other documents or information as specified in any guidance published by NZX from time to time, and
- (f) any other information or documents that NZX may request.

1.22 Authorised Representatives and Nominated Contact for service and other communications

1.22.1. Unless the Issuer (or the Manager of the Managed Investment Scheme) is a company incorporated in New Zealand, an Issuer which has NZX as its Home Exchange must at all times while it is Listed:

- (a) appoint and authorise a natural person resident in New Zealand to accept service of notices or legal proceedings from NZX and provide the contact details (being a phone number, postal address and email address) of such person, and
- (b) notify NZX promptly and without delay if the person so appointed, or such person's contact details, changes.

1.22.2. An Issuer of Quoted Financial Products must:

- (a) appoint a Primary Authorised Representative (who must be a person who possesses a high degree of familiarity with the operations of the Issuer and has ready access to management and the Issuer's Board in respect of Rule compliance) and a Secondary Authorised Representative;

- (b) in the event an Authorised Representative is unavailable for a consecutive period of more than 3 months, revoke that person's status as an Authorised Representative and appoint a new Authorised Representative;
- (c) provide to NZX (not for market release), the contact information of the Primary Authorised Representative and Secondary Authorised Representative in the form prescribed by NZX from time to time; and
- (d) promptly and without delay notify NZX, in the form prescribed by NZX from time to time, of updates to the Primary Authorised Representative or Secondary Authorised Representative's contact information upon:
 - (i) the Issuer being notified of a change to an Authorised Representative's contact information that has previously been provided to NZX; or
 - (ii) the Issuer replacing an Authorised Representative.

1.22.3. An Issuer of Quoted Equity Securities must ensure that its Primary Authorised Representative:

- (a) who is the Issuer's first appointed Primary Authorised Representative, has successfully completed the Authorised Representative Training within 6 months of the effective date of this Rule;
- (b) who is a replacement Primary Authorised Representative, has successfully completed the Authorised Representative Training not later than six months after being appointed as a Primary Authorised Representative; and
- (c) successfully completes refresher Authorised Representative Training within six months after the third anniversary of last having successfully completed the Authorised Representative Training.

1.22.4 NZX may, at its sole discretion, require that an Issuer appoint a new Authorised Representative.

3.3.2 Proposed new definitions

<u>Authorised Representative</u>	<u>means a Primary Authorised Representative or a Secondary Authorised Representative.</u>
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<u>Authorised Representative Training</u>	<u>means training on Listing Rules and other Issuer compliance matters that is prescribed by NZX from time to time.</u>
<u>Primary Authorised Representative</u>	<u>means an Employee or Director appointed by the Issuer as its representative and contact person for time-critical regulatory matters, and meets the criteria set out in Rule 1.22.2(a).</u>
<u>Secondary Authorised Representative</u>	<u>means an Employee or Director appointed by the Issuer as its representative and contact person for time-critical regulatory matters.</u>

3.3.3 Rule implementation date

NZX is working towards the Rule amendments becoming effective early in Q2 2024. NZX will provide three months' notice of the amendments to Rule 1.7 and Rule 1.22 coming into effect, to provide a three-month window for Issuers to appoint an Authorised Representative, and the associated obligations to apply.

It is expected that the Authorised Training modules will start becoming available towards the end of 2023, and that all of the Authorised Training will be available at the time the Rule 1.22 amendments are effective.

Rule 1.22.3(a) will provide an Issuer's Primary Authorised Representative who is first appointed at the time the amendments become effective, a 6 month window from the effective date of the Rules in which to successfully complete the Authorised Representative Training.

3.3.4 Illustrative examples of the application of the proposed Rules

Outlined below is additional detail illustrating the application of the proposed requirements.

Please note that the dates included in the examples below are for illustrative purposes only.

3.3.4.1 Transition phase to implementation of proposed rule 1.22.2

NZX proposes to provide three months' notice of the amendments to Rule 1.22. The primary authorised representatives appointed for the first time in order to comply with the amendments to Rule 1.22 will have six months from the date of the Rules coming into effect to successfully complete Authorised Representative Training.

Example:

Assuming the amendments to the Rules are notified to the market on 1 May 2024, Rule 1.22.2 will come into effect on 1 August 2024. Issuers will therefore have until 1 August

2024 to appoint their authorised representatives and notify NZX of the authorised representative's appointment.

The Issuer's first primary authorised representative will be required to have successfully completed authorised representative training 1 February 2025 as Rule 1.22.2 became effective on 1 August 2024.

Assuming the Issuer's primary authorised representative successfully completed their authorised representative training on 15 December 2024, they would then be required to successfully complete their refresher training between 15 December 2027 and 15 June 2028.

3.3.4.2 Compliance with proposed rule 1.22.3 for newly listed Issuers through proposed amendments to Rule 1.13

NZX proposes to amend Rules 1.12 to require all new applicants for Listing to provide NZX with contact details for the applicant's authorised representatives. Where the applicant is seeking to Quote Equity Securities, the applicant must also confirm that the primary authorised representative has successfully completed the Authorised Representative Training at the time the application is made. These requirements will take effect after one month of notice being provided of the Rule amendments.

Example:

The amendment to the Rules requiring authorised representatives to undergo authorised representative training was announced to the market on 1 May 2024 and became effective on 1 June 2024. An applicant who is submitting its application for Quotation of Equity Securities under Rule 1.13 on 1 July 2024, must ensure that the applicant's primary authorised representative has successfully completed the authorised representative training before 1 July 2024.

3.3.4.3 Primary authorised representative goes on leave for more than 3 months

NZX proposes that should a primary authorised representative go on leave for more than 3 months, the Issuer would be required to appoint a new primary authorised representative to replace the former. Issuers may exercise their discretion as to whether to appoint the secondary authorised representative as the new primary authorised representative, or appoint someone new entirely, provided they meet the requirements outlined in Rule 1.22.2(a). If an Issuer decides to appoint its secondary authorised representative as its newly designated primary authorised representative, the Issuer will also be required to appoint a new secondary authorised representative.

According to the provisions of proposed rule 1.22.2(d), once the primary authorised representative has been consecutively unavailable for more than 3 months, their status must be revoked. NZX encourages issuers to appoint a new primary authorised representative as soon as possible, where the Issuer knows in advance that its current primary authorised representative will be on leave for an extended period. Issuers appointing a new primary authorised representative must promptly notify NZX of the updated contact details of the authorised representative using the prescribed form.

The new primary authorised representative will then have a six month compliance window to successfully complete the authorised representative training from the date of their appointment.

Example:

A primary authorised representative is going to Europe on a family holiday for 3 and a half months beginning on 1 December 2024. On 28 November 2024, the Issuer decides to appoint their secondary authorised representative as their new primary authorised representative. The Issuer notifies NZX of this change using the prescribed form on the same day in accordance with proposed rule 1.22.2(d). The newly appointed primary authorised representative must now successfully complete the authorised representative training before 28 May 2025 to be compliant with the Rules.

Given that Issuers must appoint both a primary and secondary authorised representative according to proposed rule 1.22.2(a), the Issuer must also appoint a new secondary authorised representative upon the former secondary authorised representative being newly appointed as a primary authorised representative. Issuers must notify NZX of the newly appointed secondary authorised representative in accordance with proposed rule 1.22.2(d) within the same prescribed form on 28 November 2024.

3.3.5 Practice Note covering new Listing Rules requirements

In the event that NZX's proposed Rule amendments are accepted, NZX intends to publish a Practice Note providing information on how to comply with the new Rule requirements.

Questions:

1. Do you have any comments on the proposed new Rules.
2. Do you consider that requiring just the primary authorised representative to undergo authorised representative training, as opposed to both authorised representatives, would fulfill the purpose of ensuring that there is a representative of an Issuer with the ability to engage with NZX on regulatory matters at all times?
3. NZX proposes that authorised representatives captured by the Rule be required to undertake refresher training at prescribed intervals – NZX considers it be appropriate that refresher training be completed once every three years, and that the completion of one module cannot reset the clock for the completion of the refresher training for the suite of modules. Do you agree with this approach, and the drafting of the requirements in this area?
4. Do you consider that existing qualifications or experience should be taken into account to exempt a primary authorised representative from the requirement to complete authorised representative training? If so, what existing qualifications or experience would you consider adequate grounds to

exempt an authorised representative from the authorised representative training requirement?

5. Is it suitable to require that new authorised representatives (for example as a result of a change in personnel) to complete authorised representative training within a 6 month compliance “window”?
6. NZX proposes that an Issuer notify it of any changes to an authorised representative’s contact details promptly and without delay. This timing will allow issuers to notify NZX of upcoming changes, or ensure changes are advised when they occur. Do you agree with this approach?
7. Do you consider a 3 month period of unavailability is an appropriate period after which the re-appointment of an authorised representative should be required, or should this time period be revised? If so, what would you consider an appropriate period of unavailability to warrant the requirement for re-appointment of an authorised representative?

4. Delisting from NZX

4.1. Background to the new Delisting Guidance Note

Under Rule 9.9, Issuers have the ability with one month's notice to apply to delist from NZX. NZX has discretion to either accept or reject such applications. NZX also has the ability to cancel the Listing of any Issuer and the Quotation of its securities at NZX's absolute discretion.

When an Issuer delists, its securities will no longer be Quoted on NZX's markets, and the Issuer will no longer be subject to the Rules. The Issuer will also no longer be a Listed Issuer under the Financial Markets Conduct Act 2013. Delisting will often have a material impact on the Issuer's investors due to the change in their ability to transfer the Issuer's securities, the regulatory and disclosure requirements that apply to the Issuer, and the manner in which trading of the Issuer's securities can be undertaken.

NZX proposes introducing a new Guidance Note to provide further information on NZX's expectations for when an Issuer seeks to delist from NZX, and when NZX may exercise its discretion to cancel the listing of an Issuer under the Rules.

4.2. Delisting at the request of an Issuer

4.2.1. Application process

The proposed Guidance Note provides information on the delisting application process. It confirms that upon receipt of a delisting application, NZX will consider the application and may request further information.

While Issuers can apply to delist at any time, a Board's decision to delist an Issuer is always likely to be Material Information requiring disclosure to the market. The proposed Guidance Note outlines that Issuers must always consider their continuous disclosure obligations under Rule 3.1.1 when considering a decision to delist, including when the "safe harbour" provisions relating to incomplete proposals set out in Rule 3.1.2 cease to apply.

4.2.2. Application information and process for an issuer considering delisting

4.2.2.1. Application information required for a delisting application or enquiry

The proposed Guidance Note sets out the application information required of any Issuer seeking to delist at the outset of their decision to delist. Upon receipt of the delisting application, NZX will consider the application and may request further information.

The Guidance Note outlines the information that Issuers should submit when applying to delist. This includes the reason for delisting, the proposed delisting timetable, and other relevant background.

4.2.2.2. Application review and process for a delisting application

The proposed Guidance Note provides information on different conditions that will apply depending on the Issuer's circumstances. The exact conditions that will apply depend on the NZX listing status of the Issuer, and what the Issuer proposes to do after delisting. NZX expects the standard delisting application review to involve the following:

- a) NZX requires 10 business days to review delisting applications;
- b) NZX may request additional information during the review; and
- c) at the conclusion of its review, NZX will inform the Issuer of its decision, which might include specific conditions for the Issuer to fulfil.

If approved, the standard conditions that NZX will apply are as follows:

- 1) submission of draft market announcements to NZX for review;
- 2) payment of all NZX fees;
- 3) issuance of a one-month notice of the delisting to the market; and
- 4) if NZX requires financial product holder approval, the Issuer must seek approval from its Non-Affiliated Holders, and submit the relevant notice of meeting for NZX review.

These conditions are designed to ensure sufficient investor protections as a delisting represents a significant change to the nature of a financial product holding, and the liquidity available to financial product holders. The voting exclusion allows Non-Affiliated Holders (investors who (individually or together with Associated Persons) hold less than 10% of the Issuer's securities (each in aggregate) and do not have the power to appoint a Director of the Issuer), to determine whether to approve the delisting by voting on the ordinary resolution. This is a long-standing condition for voting on delisting resolutions and NZX does not propose to alter this setting as it strikes an appropriate balance in ensuring the protection of minority shareholders.

The proposed Guidance Note sets out further detail on what information an Issuer should include in a Notice of Meeting that seeks financial product holder approval of a delisting.

4.2.3. Timetable

The proposed Guidance Note also sets out the minimum acceptable timetables for a delisting from NZX.

4.3. NZX discretion to delist an Issuer

Under Rule 9.9.3, NZX may at its absolute discretion at any time, cancel the listing of an Issuer, and cancel the quotation of an Issuer's financial products. The drafting of Rule 9.9.3 is broad and NZX sets out in the proposed Guidance Note when it may exercise this discretion.

4.3.1. Non-payment of annual listing fees

Issuers must pay all relevant fees under the NZX Fee Schedule in a timely manner. If an Issuer does not pay its annual listing fee within 30 business days after the due date, the Guidance Note confirms that NZX will suspend quotation of the Issuer's securities. If the fees are then not paid within a further period, NZX may cancel the Issuer's listing.

4.3.2. Ongoing compliance breaches

NZX has discretion under the Rules to suspend the trading of an Issuer's securities, including if an Issuer is not complying with the Rules. If an Issuer has ongoing egregious Rule breaches, it may not be appropriate for the Issuer to remain listed on the NZX.

Examples of when NZX may suspend trading include if the Issuer:

- does not, or is unable to, provide sufficient disclosure to the market to satisfy its continuous disclosure obligations in order for market participants to price the Issuer's financial products;
- is over 5 Business Days late in publishing half or full year Results Announcements, or its annual report;
- commits persistent or egregious breaches of periodic reporting obligations; or
- no longer has a minimum of three Directors, or two Independent Directors on its Board.

A continued breach of continuous disclosure, periodic reporting, or corporate governance requirements has implications for wider market integrity. If an Issuer does not rectify the breach such that the suspension is lifted, the Guidance Note confirms that NZX reserves the right to exercise its discretion to cancel the listing of an Issuer and quotation of its securities. However, in such circumstances, NZX will consider the effect of the delisting on existing security holders.

4.3.3. Administration, receivership or liquidation

NZX does not automatically delist an Issuer that is in administration, receivership or liquidation, although it would suspend an Issuer in such circumstances. The Guidance Note confirms that as Issuers in receivership or liquidation are subject to a statutory or regulatory process, NZX will usually exercise its discretion to cancel the listing of an Issuer and quotation of its securities 10 Business Days after a receiver or liquidator is appointed.

4.4. Other related transactions

4.4.1. Takeovers and Schemes of Arrangement

NZX will generally suspend an Issuer's securities 5 Business Days after the Issuer receives a compulsory acquisition notice under the Takeovers Code. NZX interprets this to mean 5 Business Days after an Issuer receives a notice that the 90% threshold has been reached and that the offeror intends to compulsorily acquire all remaining shares in the Issuer.

NZX will also generally suspend trading of an Issuer's securities two Business Days after the Issuer obtains final Court orders for a Scheme of Arrangement. The record date for entitlements must be at least two Business Days after the suspension, with the final quotation day and delisting occurring afterwards in line with the timetable approved by the High Court.

The Guidance Note sets out the conditions that will apply in each delisting scenario.

4.4.2. Debt issuers with no Quoted Securities

The Guidance Note sets out that NZX's preference is that Issuers delist if they have no Quoted securities. NZX will contact Issuers to discuss scheduled debt maturity, and when NZX identifies that the Issuer has no other Quoted instruments will confirm whether the Issuer also seeks to delist from NZX's markets. The Guidance Note also sets out the conditions that will apply for these delisting decisions.

Questions:

8. The voting exclusion of only allowing Non-Affiliated Holders to vote on delisting resolutions is long-standing and while NZX does not propose to alter this setting, do you consider this setting remains appropriate? If not, do you have any suggested changes?
9. Do you agree with the approach proposed in the Guidance Note that shareholder approval is appropriate for all delistings from NZX of Issuers of Equity Securities, other than if an issuer migrates to the ASX? If not, please provide further detail why.

5. Trading Halts and Suspensions

5.1. Amendments to the Trading Halts and Suspensions Guidance Note and Practice Note

5.1.1. Introduction

The NZX Trading Halts and Suspensions Guidance Note (**Trading Halts Guidance Note**) sets out NZX's practices for implementing trading halts, as well as regulatory guidance for Issuers in relation to trading halts and suspensions. As a general rule, trading interruptions on NZX's markets should be kept to a minimum and a security should be allowed to trade if it is able to do so. However, NZX, acting by and through NZ RegCo, has the discretion to halt or suspend trading in an Issuer's Quoted financial products under Rule 9.9.

To further enhance market transparency, NZ RegCo proposes to publish trading halt applications at the time a trading halt is put in place to ensure the reasons why an Issuer has sought the trading halt is made clear to the market.

NZX is consulting on proposed amendments to the Trading Halts Guidance Note and Practice Note in relation to this change.

5.1.2. Reasons for the change

The primary purpose of a trading halt is to ensure that the market trades on a fair, orderly and transparent basis. An Issuer may apply to NZX for a trading halt in order to assist it to manage its continuous disclosure obligations in certain circumstances, or to provide time for the Issuer to consider whether information is Material Information. Trading halts may also be used in other situations where trading needs to be halted to ensure the fair, orderly and transparent operation of the markets.

NZX notes that Issuers may apply for a trading halt (or suspension) and also that NZ RegCo has full discretion to apply a trading halt where it deems a halt or suspension to be necessary. The changes being proposed by NZX and NZ RegCo relate only to trading halt and suspension applications made by Issuers, rather than those initiated by NZ RegCo.

While this consultation paper mostly refers to trading halts, the process applies equally to suspensions.

NZX does not consider that the proposed changes present a major departure from current practice. However, the reasons behind the proposed changes go to the core matters of market integrity, transparency, and efficiency. These reasons include:

- a) Ensuring clear disclosure is provided directly from the Issuer at the time of the trading halt about why it sought the trading halt which. This is intended to create greater discipline around Issuers ensuring they are clear to shareholders and the market about why the trading halt was sought.

- b) Removing any risk of NZ RegCo inaccurately summarising the reason an Issuer has sought a trading halt.
- c) Alignment of practice across ASX and NZX for Issuers with a secondary listing.
- d) The potential for more efficient processes across the teams at NZX who are responsible for approving and actioning trading halts.

5.1.3. Proposed amendments to the Trading Halts Guidance Note and Practice Note

NZX proposes amending the Trading Halts Guidance Note to ensure the market understands the process that NZ RegCo will follow when considering and applying a trading halt. The changes are primarily to account for the change in process relating to the publication of applications along with other minor amendments.

NZX proposes removing the reference to a suspension applying where an Issuer does not meet shareholder spread requirements due to spread being an initial eligibility consideration, and not an ongoing listing requirement.

Unless urgent, trading halt applications are made in writing using a template application letter. Upon receipt, NZ RegCo considers the information provided and will clarify with the Issuer or its advisers any matters that are not clear. At present, once a trading halt or suspension has been put in place, NZX publishes a market memorandum which includes a short summary setting out the reason the halt was granted. However, NZ RegCo does not publish the underlying trading halt application from the Issuer. This practice differs from the ASX, where the Issuer's application is published. As a result, asymmetric information is available about trading halts of dual-listed Issuers, including in relation to the background to the trading halt application and the grounds on which it is sought.

There is also a risk that due to NZ RegCo summarising the reason for the trading halt, the summary overlooks or misrepresents a relevant aspect of the reasons for the trading halt. This can result in limited information being available about the basis for the exercise of NZ RegCo's regulatory discretion in granting the halt. NZ RegCo is therefore proposing to amend its current trading halt procedure so that where NZ RegCo grants a trading halt, the Issuer's trading halt application will be released to the market.

As it is Issuers who apply for the trading halt, it is appropriate that the application be released to the market, so shareholders have full understanding of the reason behind the trading halt from the Issuer. This is consistent with the general approach to Issuers disclosing information to the market.

5.1.4. Trading halt application process

The revised trading halt process will be as follows:

- 1) the Issuer applies for trading halt in a form that is appropriate for public announcement (or, in urgent cases, verbally via telephone);
- 2) NZ RegCo clarifies any points, and then confirms trading halt;

- 3) NZ RegCo instructs NZX Product Operations to apply the trading halt and sends NZX Product Operations the Issuer's trading halt application;
- 4) NZX Product Operations releases an announcement that confirms the time that trading was halted, along with the Issuer's application that explains the Issuer's reasons for applying for the trading halt; and
- 5) NZ RegCo will confirm to NZX Product Operations when the trading halt can be lifted, with NZX Product Operations then releasing a 'halt off' announcement. The 'halt off' announcement confirms the time that trading is to resume.

Trading halt applications are sometimes urgent, and NZ RegCo acknowledges that it will take time for Issuers to prepare a written application that is able to be released to the market. In urgent situations, NZ RegCo will instruct NZX Product Operations to release an announcement that confirms that the trading halt is in place and that further information will follow. The Issuer's trading halt application will then be released consecutively as a second announcement.

5.1.5. Templates are available

Template trading halt application documents remain available for Issuers and no material amendments are proposed to the templates. The templates remain available on NZX.com and the NZX Market Announcement Platform. The templates will be updated after completion of the market consultation to remove the reference to market memoranda.

5.1.6. Amendments to the Practice Note

NZ RegCo also proposes amendments to the Practice Note on trading halts. The Practice Note sets out further practical considerations and should be read alongside the Trading Halts Guidance Note. The changes are to ensure the Practice Note aligns with the guidance.

This consultation therefore seeks feedback on the changes to the Trading Halts Guidance Note and Practice Note that are set out in the exposure drafts which accompany this consultation paper.

Questions:

10. NZX is aware there could be a delay from when an issuer verbally applies or requires a trading halt, to when the issuer is able to submit a written application that is appropriate for release to market. Do you have any comments on this potential delay or the process that Issuers will need to undertake to have a trading halt application letter approved for release by the relevant decision makers at the issuer?
11. NZX does not consider the proposed changes present a major departure from current practice. However, the reasons behind the proposed change go

to the core matters of market integrity, transparency, and efficiency. Do you agree?

6. Climate-related Disclosures

6.1. Background

Rule 3.7.1(b)(ii) requires that the annual report of an Issuer of Quoted Equity or Quoted Debt Securities must contain climate statements in accordance with the requirements of Part 7A of the Financial Markets Conduct Act 2013 (unless the Issuer is exempt from Part 7A), or other applicable law.

NZX proposes to amend Rule 3.7.1(b)(ii) to ensure it is clear that Issuers can either include in their annual report a copy of their climate statements, or provide a website address or URL link to where the statements can be accessed, in accordance with the requirements of the legislation.

NZX notes the recent FMA consultation on Climate-related disclosures timing challenges, linked [here](#), and intends that the proposed Rule would allow Issuers to rely on any class exemption that is granted by the FMA through that consultation process.

6.1.1. Amendment to Rule 3.7.1(b)(ii)

The proposed amendment to Rule 3.7.1(b)(ii) is set out below:

3.7 Contents of Annual Report
<p>3.7.1. The annual report of an issuer of Quoted Equity Securities or Quoted Debt Securities must contain:</p> <ul style="list-style-type: none">a) The information required to be published by subpart 5 of Part 5 of the FMC Act and, in the case of a company registered under the Companies Act 1993, the information required by section 211 of that Act,b)<ul style="list-style-type: none">(i) audited financial statements and the associated audit report in accordance with the requirements of Part 7 of the FMC Act (unless the Issuer is exempt from Part 7 of that Act) or other applicable law,(ii) <u>a copy of climate statements or the address of (or a link to) the internet site where a copy of those statements can be accessed</u> prepared by the Issuer in accordance with the requirements of Part 7A of the FMC Act (unless the Issuer is exempt from any reporting obligations outlined within Part 7A of that Act), or other applicable law.

6.1.2. ESG Guidance Note amendments

In the event that NZX's proposed Rule amendments are accepted, NZX intends to publish an amended ESG Guidance Note to conform with the amendments to the Rules.

Questions:

12. Do you consider that the proposed drafting of Rule 3.7.1(b)(ii) is consistent with the requirements of the legislation? If not, why?
13. Do you consider the proposed amendment to Rule 3.7.1.(b)(ii) to be suitable to enable Issuers to rely on the FMA's proposed timing exemption from section 461ZJ of the Financial Markets Conduct Act 2013?
14. Do you have any other drafting changes to propose for this Rule?