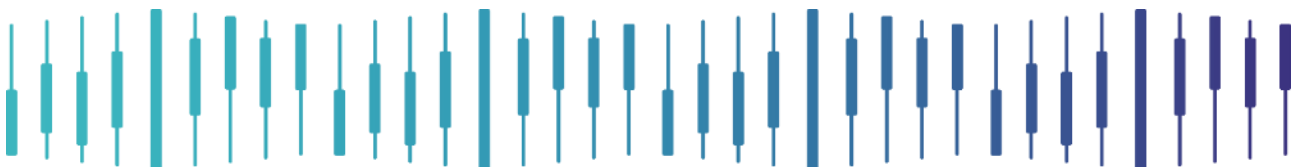


NZ RegCo

NZ'S LISTED
MARKET REGULATOR

NZ RegCo Charter

February 2024



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1. Background and Purpose

NZX Regulation Limited (**NZ RegCo**) is a wholly-owned subsidiary of NZX Limited (**NZX**) established to undertake regulatory decision-making under NZX's market rules (**Market Rules**) in relation to NZX's licensed markets (**Licensed Markets**), subject to delegations of authority in place with the NZX Group. NZ RegCo is governed by the NZ RegCo Board separate from the Board of NZX.

This charter sets out the functions and responsibilities of NZ RegCo within the wider governance structure and systems of NZX ensuring the integrity and stability of the markets and clearing house operated by NZX.

NZ RegCo's purpose is to ensure that investors, issuers, and market participants have confidence in the integrity and regulatory oversight of NZX's markets.

This charter is supported by NZ RegCo's operating and governance procedures (**Procedures**), which set out details of the Board's governance and conflicts management processes, and the exercise of management authorities.

NZ RegCo's regulatory oversight functions are supported by:

- a. the NZ Markets Disciplinary Tribunal, the independent disciplinary body charged with determining and providing remedies for referrals made to it by NZ RegCo under the Tribunal Rules;
- b. the Special Division, the division of the Tribunal with the powers and functions of NZ RegCo in relation to regulatory oversight of NZX or its related entities under the Tribunal Rules; and
- c. the NZ RegCo advisory panel, the panel of external experts who provide consultancy services to NZ RegCo management in relation to the review and assessment of listing documents under the NZX Listing Rules and other matters referred for advisory support.

2. NZ RegCo's objectives

2.1 In pursuing its purpose, NZ RegCo aims to enhance the reputation of, and promote the development and success of, NZX and New Zealand's capital markets. To achieve this, NZ RegCo will:

- a. promote and facilitate the fair, orderly, and transparent operation of NZX's markets;
- b. lead NZX Group efforts to meet the market operator license obligations under the Financial Markets Conduct Act 2013 (**FMCA**) that relate to the regulation of NZX's markets;
- c. ensure regulatory activity is risk-based, collaborative and effective, and drives compliance focussed outcomes;
- d. ensure the delivery of cost-efficient regulatory outcomes reflecting the evolving size of NZX's markets; and
- e. ensure the delivery of its functions takes into account domestic and international regulatory, market and legal trends relevant to the oversight of NZX's markets.

2.2 These objectives, together with the responsibilities outlined in this charter, form the foundation against which NZ RegCo and NZ RegCo Board performance will be benchmarked.

3. Interrelationship with NZX

3.1. NZX will provide NZ RegCo with the infrastructure, resources, personnel and services necessary to enable the NZ RegCo Board and management to perform the regulatory and governance

responsibilities set out in this charter and the Procedures. These are described in the services framework in the Procedures.

- 3.2. This ongoing engagement between NZ RegCo and NZX will include an annual:
 - a. strategy and business planning process;
 - b. budgeting process;
 - c. letter of expectations for the NZ RegCo Board; and
 - d. performance review.
- 3.3. This charter shall be reviewed at the instigation of the NZ RegCo Board or the NZX Board.
- 3.4. Any changes to this charter will require the approval of the NZ RegCo Board and the NZX Board.

4. Governance

- 4.1. The NZ RegCo Board:
 - a. will have a minimum of four directors and a maximum of six directors; and
 - b. will have a majority of directors, including the NZ RegCo Chair, who are independent of the NZX Group.
- 4.2. NZX has the right to appoint one director to the NZ RegCo Board, who is also a director of NZX.
- 4.3. NZ RegCo directors are selected for appointment by the NZ RegCo Board, subject to confirmation of non-objection to the proposed appointment by the NZX Board.
- 4.4. Appointments to the NZ RegCo Board are subject to prior consultation with the Financial Markets Authority.
- 4.5. The NZ RegCo Board will appoint one of its members as NZ RegCo Chair, subject to confirmation of non-objection from the NZX Board.

5. Role and responsibilities of NZ RegCo Board

Subject to the delegated authorities conferred on the NZ RegCo Board and the NZ RegCo constitution, the responsibilities of the NZ RegCo Board are to:

5.1 Business strategy and processes

- a. provide strategic leadership and governance in relation to the regulation of the Licensed Markets, ensuring that NZ RegCo planning aligns with NZX planning and budgeting programmes;
- b. oversee management's implementation of NZ RegCo's strategic objectives and performance;
- c. approve delegations to management and transactions and other matters, outside delegation limits;

5.2 Reporting

- a. report to the NZX Board in respect of the NZ RegCo Board's and NZ RegCo's activity;
- b. report to the NZX Board on any matters that the NZ RegCo Board considers should be brought to the attention of the NZX Board relating to the operation of the Licensed Markets that could impact on the strategy, brand, FMCA licence obligations or obligations of the NZX Group under the Financial Market Infrastructures Act 2021 (**FMI Act**);

- c. in connection with the annual licensed market operator review under Part 5 of the FMCA, oversee the preparation of, and approve, the components of:
 - i. the annual self-assessment report to be delivered by NZX to the Financial Markets Authority; and
 - ii. any submissions made by NZX in response to the Financial Markets Authority's draft report,
 that relate to the NZ RegCo regulatory arrangements that support NZX meeting its statutory and licence obligations as a market operator under the FMCA;
- d. oversee the preparation of, and approve, the components of any report, audit materials or self-assessment to be delivered by the NZX Group to the Reserve Bank of New Zealand and Financial Markets Authority (as Joint Regulators), or external auditor, in respect of the NZ RegCo regulatory arrangements that support the NZX Group meeting its obligations under the FMI Act;
- e. consult with the NZX Board on any recommendations or proposed actions arising out of any oversight reviews or audits undertaken of any member of the NZX Group in relation to the regulatory functions of NZ RegCo, including (i) any licensed market operator review under Part 5 of the FMCA, and (ii) any review under the FMI Act; and
- f. oversee other material periodic and ad hoc reporting by NZ RegCo;

5.3 **Regulatory decision-making and oversight**

- a. make decisions in respect of any Reserved Matters (as defined in clause 6 below);
- b. in the context of NZ RegCo's enforcement policy, formulate and provide direction to NZ RegCo management on the approach to assessing regulatory risk, in support of arrangements for investigation and possible enforcement of breaches of the Market Rules, and to review and provide feedback on NZ RegCo management's compliance with those arrangements;
- c. review and provide feedback in respect of the quality of NZ RegCo's regulatory decisions, and the performance of NZ RegCo's regulatory function against applicable service levels;
- d. review and approve material changes to the policies, processes and procedures relate to regulatory decision-making by NZ RegCo management;
- e. consider issues referred to it by the NZ RegCo CEO;
- f. meet with the chairperson of the Tribunal at least annually;
- g. oversee the periodic review of NZ RegCo's enforcement policy; and
- h. review and provide recommendations and feedback to NZX management in respect of possible:
 - i. new Market Rules or changes to existing Market Rules; and
 - ii. changes to NZX's regulatory policy (including changes to guidance),
 including in respect of proposals submitted to the NZ RegCo Board for consideration under applicable delegated authorities;

5.4 **Conflicts oversight**

- a. review at least annually the adequacy of the arrangements within the NZX Group for dealing with any potential or actual conflict between the interests arising from the regulation of the Licensed Markets or NZX Clearing, and the commercial interests of NZX and its accountability to its shareholders, and making recommendations to the NZX Board;

- b. review proposed changes to the NZX Group's policies and procedures for dealing with conflicts, submitted to the NZ RegCo Board for consideration under applicable delegated authorities;
- c. oversee the annual review of NZ RegCo's compliance with NZX Conflicts Management Policy;
- d. oversee the review of, and determine, at least annually the identification of associated entities (for the purposes of the associated entity protocol of the NZX Group Conflict Management Policy) and related entities (for the purposes of the Tribunal Rules), in consultation with Special Division;

5.5 **People and resources**

- a. monitor and review NZ RegCo's performance against its annual budget and business plans;
- b. review at least annually the adequacy of the plans, budget and resources of NZ RegCo in relation to its regulatory functions and report to the NZX Board in respect of such reviews;
- c. annually review the performance of the NZ RegCo CEO, including via feedback obtained by the NZ RegCo Board from the NZX CEO, and advise the NZX Human Resources and Remuneration Committee of the outcome of that review;
- d. approve and/or make recommendations in relation to the appointment, termination, and remuneration of the NZ RegCo CEO and NZ RegCo employees in line with applicable delegated authorities; and
- e. consider and recommend matters relating to the appointment, rollover and removal of members to the Tribunal, including succession planning.

6. **Board Reserved Matters**

6.1. Reserved Matters are decisions:

- a. in relation to any application for delisting by an equity issuer or fund issuer under the NZX Listing Rules and Fonterra Shareholders Market Listing Rules (other than applications for delisting in connection with (i) a takeover under the New Zealand Takeovers Code, (ii) a scheme of arrangement under the Companies Act 1993, or (iii) liquidation/administration of the listed equity issuer or fund issuer under the Companies Act 1993, FMCA (or equivalent overseas or successor regime));
- b. to commence actions under the NZ Markets Disciplinary Tribunal Rules;
- c. to decline any designation application under any of the NZX Derivatives Market Rules, NZX Participant Rules, Clearing and Settlement Rules, or Depository Operating Rules;
- d. to decline any listing and/or quotation application (including in relation to any backdoor or reverse listings) under the NZX Listing Rules or Fonterra Shareholders Market Listing Rules;
- e. to approve any listing and/or quotation application in respect of which the NZ RegCo Advisory Panel has raised significant concerns or noted the issuer or product as presenting a potential conflict or risk for NZX and/or NZ RegCo;
- f. to grant any class waiver or class ruling under any of the Market Rules; and
- g. to take any action that is contrary to any view expressed by the Financial Markets Authority, or where in respect of any such matter there is a significant divergence of opinion between NZ RegCo and the Financial Markets Authority.

7. Meetings

- 7.1. NZ RegCo Board meetings will be conducted in accordance with the NZ RegCo constitution and the Procedures.

8. Conflicts of interest

- 8.1. NZ RegCo will maintain an interests register that contains directors' disclosures in relation to certain financial interests or other potential interests or conflicts that directors have in relation to listed issuers and/or accredited participants, and organisations of which they are substantial shareholders, directors, officers or trustees.

9. Duties of directors

- 9.1. Directors must comply with their duties as set out in the Companies Act 1993, including the duty to act in good faith and in what the director believes to be the best interests of NZ RegCo. Directors are also expected to comply with all other legal duties and obligations.
- 9.2. The FMCA requires NZX to operate its markets in a fair, orderly and transparent manner. The FMI Act requires New Zealand Clearing and Depository Corporation Limited (**NZCDC**) to operate the NZCDC clearing house and designated settlement system in accordance with the regulatory requirements of that Act, including the Financial Market Infrastructures Standards. Those standards require NZCDC to have objectives that place a high priority on the safety and efficiency of the NZCDC settlement system, and that explicitly support financial stability and other relevant public interest considerations. The directors must take these requirements into consideration when making decisions and advising NZ RegCo, the NZ RegCo Board and/or the NZX Board on matters which impact these parts of NZX's or NZ RegCo's operations.
- 9.3. Directors are to conduct themselves in a manner of the highest ethical and professional standards that would reasonably be expected of them.
- 9.4. Directors shall give the proper attention to all materials forwarded to them to ensure that they are thoroughly prepared for the next commitment (e.g., Board meetings).
- 9.5. Directors shall continue to educate themselves to ensure that they have the necessary skills to perform their functions as a director to the standards expected of them.

10. Role and Responsibilities of the CEO and Management

- 10.1. The NZ RegCo CEO has delegated accountability for the overall management of NZ RegCo and proper discharge of its operational functions and responsibilities.
- 10.2. The CEO is accountable for:
- a. achieving the outcomes as stated in the NZ RegCo strategic plan;
 - b. monitoring and enforcing compliance with the Market Rules; and
 - c. surveillance of the Licensed Markets,
- in accordance with applicable delegations of authority, the Procedures and such other relevant NZ RegCo processes and procedures established from time-to-time.
- 10.3. Subject to delegations made by the NZX Board and the NZ RegCo Board and a services agreement in place with NZX and the NZCDC Group, NZ RegCo management under the authority and accountability of the CEO is authorised to undertake regulatory decision-making for the NZX Group, including in relation to:
- a. approving listing and quotation applications under the Market Rules;

- b. granting rulings, waivers and/or approvals under the Market Rules;
 - c. approving designations under the Market Rules; and
 - d. investigating complaints and alleged breaches of any of the Market Rules, and bringing actions under, or utilising any provision of, the Tribunal Rules.
- 10.4. In addition to the requirements for decisions in respect of Reserved Matters, the CEO will:
- a. consult with the NZ RegCo Board prior to making any decision or taking any action in respect of a matter that the NZ RegCo CEO considers to be high profile, which may have a significant market impact, or which relates to or may affect a group of listed issuers or accredited participants; and
 - b. provide the NZ RegCo Board with regular information regarding key regulatory activity and on any matters that may be material in terms of NZX’s ongoing compliance with its market operator licence obligations under the FMCA.

11. Secretarial

- 11.1. The NZ RegCo company secretary (or his/her delegate) will act as the secretary to NZ RegCo.
- 11.2. The NZ RegCo company secretary will take minutes at each meeting and circulate them to members and the NZ RegCo CEO.

12. Authority

- 12.1. NZ RegCo has authority to undertake any activity set out in this charter or authorised by a separate resolution of the NZX Board.

13. Performance

- 13.1. The NZ RegCo Board will assess its performance against the responsibilities and objective set out in this charter at least annually.
- 13.2. The NZX Board will review the NZ RegCo Board’s performance at least annually.

REVIEW

Version	Date	Author / Reviewer	Nature of amendment
1.0	December 2020	Joost van Amelsfort	Implementation version
2.0	August 2021	Joost van Amelsfort	Reflecting team changes
3.0	February 2023	CEO/Board	Full review
4.0	August 2023	CEO/Board	Reflecting Advisory Panel
5.0	February 2024	CEO/Board	Reflecting full enactment of FMI Act